

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 5th day of
May, 2005.

In the Matter of the Application of Aquila, Inc., for)	
Approval of Its Experimental Regulatory Plan and)	
for a Certificate of Convenience and Necessity)	
Authorizing It to Participate in the Construction,)	
Ownership, Operation, Maintenance, Removal,)	
Replacement, Control and Management of a Steam)	<u>Case No. EO-2005-0293</u>
Electric Generating Station in Platte County, Missouri,)	
or Alternatively for an Order Specifically Confirming)	
That Aquila, Inc., Has the Requisite Authority under)	
Its Existing Certificate(s))	

ORDER DENYING INTERVENTION

On March 2, 2005, Aquila, Inc., applied for a certificate of convenience and necessity to participate in a steam electric generation station (Iatan Unit 2), and to get Commission approval of an experimental regulatory plan to fund its participation in that plant. As Aquila asked in its application, the Commission gave public notice of the application, and set an April 1 intervention deadline.

On April 15, Calpine Central, L.P., filed its Application to Intervene Out of Time. Calpine sells power to Aquila as owner of the Aries Power Plant. Calpine states that its unfamiliarity with Commission procedure, and its lack of counsel, are good cause to allow Calpine to intervene out of time. Also, Calpine states that the Commission should allow it to intervene so Calpine can bring its expertise as a wholesale power provider to the case.

On April 22, Aquila filed its Objection to Application of Calpine to Intervene Out of Time. Aquila states that Calpine fails to state good cause for its untimely application. Aquila cites a pending agreement in Commission Case No. EO-2005-0329. If approved, that agreement would require Aquila to show that it has a feasible financing plan for Iatan 2 no later than August 1. According to Aquila, to meet that deadline, the parties in this case hope to resolve their dispute no later than June 1. Allowing Calpine to intervene at this late date would severely damage the parties' ability to process this case by June 1.

Further, Aquila objects because Calpine fails to meet the Commission's intervention standard. Aquila claims that Calpine fails to assert how its interest is different from that of the general public, or how its intervention would serve the public interest. In addition, Aquila states that Calpine is a potential bidder to supply Aquila power. Allowing Calpine to intervene would give Calpine access to Aquila's highly confidential and proprietary information, and would therefore give Calpine an unfair business advantage against Aquila.

The Commission finds that Calpine fails to show good cause for its late-filed application. The Commission fails to see how Calpine's unfamiliarity with Commission procedure, and its lack of counsel, rises to the level of good cause. Further, the Commission finds that allowing Aquila's potential power supplier to intervene at such a late date would not serve the public interest.

IT IS THEREFORE ORDERED:

1. That Calpine Central, L.P.'s Application to Intervene Out of Time is denied.

2. That this order shall become effective on May 5, 2005.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Davis, Chm., Murray and Clayton, CC., concur
Gaw and Appling, CC., dissent

Pridgin, Regulatory Law Judge