

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

In the Matter of the Application of Aquila, Inc., for an)
Order Authorizing Aquila, Inc., (if and to the Extent)
the Transaction Described Herein Would Impose a)
Mortgage or Encumbrance under Section 393.190,)
RSMo.) to Execute, Deliver and Perform the)
Agreements and Instruments Necessary to Assume a)
Lease and Related Documents Pertaining to the Aries)
Combustion Turbine Generator Facility Owned by a)
Subsidiary of Calpine Corp. and Cass County, Which)
Was Constructed as Part of a Revenue Bond Project)
under Chapter 100 RSMo.)

Case No. EO-2007-0172

STAFF'S PRELIMINARY RESPONSE TO APPLICATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and as ordered by the Commission in its November 1, 2006, "Order Adding Party, Directing Notice, and Directing Filing" submits this preliminary response to Aquila, Inc.'s application as follows:

1. On November 1, 2006, the Commission issued an order directing, "No later than November 15, 2006, the Staff of the Missouri Public Service Commission shall file its recommendation or a preliminary response to the application."

2. The Staff issued to Aquila, Inc. on November 3, 2006, a number of data requests, and did not receive responses to several of them until November 14, 2006. The Staff issued a follow-up data request for clarification of a data request response received before November 14, 2006, to which the Staff has not yet received a response; however, the Staff anticipates it will receive one soon. The Staff anticipates filing its final recommendation by the latter of November 22, 2006, or within three days after receiving Aquila, Inc.'s response to the last outstanding data request the Staff has directed to Aquila, Inc.

3. It is not clear § 393.190, RSMo. 2000, does not confer jurisdiction over Aquila, Inc. if it assumes a lease and related documents pertaining to an existing Chapter 100 financing of the Aries plant.¹ In three other cases where utilities have requested authority from the Commission to take actions to effectuate Chapter 100 financing arrangements—Case Nos. EO-2003-0035 (AmerenUE Bowling Green plant), EO-2005-0156 (Aquila South Harper plant) and EF-2006-0278 (Audrain County NRG plant)—the Staff has supported those requests. Based on the information it has reviewed to date, the Staff anticipates the Staff will ultimately take the position the Commission should grant Aquila, Inc. the relief it requests in its application pending in this case; however, the Staff has not finalized its review, and there remains the possibility that review could cause the Staff to oppose the request.

WHEREFORE, as directed by the Commission, the Staff submits this preliminary response to Aquila, Inc.’s application in this case.

Respectfully submitted,

/s/ Nathan Williams

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¹ The Staff notes it, in Case No. EO-2004-0224, requested the Commission to investigate whether the Commission had jurisdiction regarding the proposed sale by Aquila, Inc., d/b/a Aquila Networks – MPS, to Calpine Corporation, of Aquila’s remaining interest in Merchant Energy Partners Pleasant Hill, LLC (MEPPH), an unregulated subsidiary of Aquila Inc.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 15th day of November 2006.

/s/ Nathan Williams_____