

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

Application of Aquila, Inc. for an Order Authorizing )  
Applicant (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**

**ORDER DIRECTING FILING**

Issue Date: November 16, 2006

Effective Date: November 16, 2006

On October 31, 2006,<sup>1</sup> Aquila, Inc. (“Aquila”) filed an application with the Commission seeking a determination that assumption of a lease and related documents pertaining to the purchase of the Aries combustion turbine facility (“Aries Facility”) in Cass County, Missouri, does not require Commission approval pursuant to Section 393.190, RSMo 2000. Alternatively, Aquila seeks expedited approval of its referenced assumption of the lease prior to December 8 so that it may purchase the Aries Facility in accordance with an Asset Purchase and Sale Agreement (“APA”) it executed with the facilities’ owner, MEP Pleasant Hill, L.L.C. (“MEP”). The Aries Facility has been in commercial operation as part of an Industrial Revenue Bond project approved by Cass County, Missouri, pursuant to Chapter 100, RSMo.

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<sup>1</sup> All dates throughout this order refer to the year 2006 unless otherwise noted.

Aquila further requested that should the Commission be unable to enter an order in this matter by December 8, it issue an Interim Order by December 8 tolling the time period during which any penalties may arise from assuming the Lease from the closing date and up to thirty days after the Commission's final order. This would allow Aquila sufficient time to unwind the Chapter 100 Industrial Revenue Bond and own the Aries Facility outright.

On November 1, the Commission issued notice, set an intervention deadline and directed the Staff of the Missouri Public Service Commission to file a recommendation or preliminary response to the application. No requests for intervention or for a hearing were filed. On November 15, Staff filed its preliminary response indicating that it is waiting for Aquila to respond to a follow-up data request. Staff indicates that it will file its final recommendation by November 22, or within three days of receiving Aquila's last outstanding data request, whichever is later.

Staff will be directed to file its final recommendation, or a status report, no later than November 22. Should Staff be unable to file its final recommendation by November 22, it shall file a recommendation on Aquila's alternative request for interim order tolling the time period during which any penalties may arise from assuming the Lease from the closing date and up to thirty days after the Commission's final order.

**IT IS ORDERED THAT:**

1. No later than November 22, 2006, the Staff of the Missouri Public Service Commission shall file its final recommendation regarding Aquila, Inc.'s October 31, 2006 application, or a status report regarding the anticipated date for filing its final recommendation.

2. Should the Staff of the Missouri Public Service Commission be unable to file its final recommendation by November 22, 2006, then no later than November 24, 2006, it shall file a recommendation on Aquila Inc.'s alternative request for an interim order tolling the time period during which any penalties may arise from assuming the Lease from the closing date and up to thirty days after the Commission's final order.
3. This order shall become effective on November 16, 2006.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Harold Stearley, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 16th day of November, 2006.