

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

In the Matter of the Resource Plan of Aquila, Inc.,     )  
d/b/a Aquila Networks – MPS and Aquila             )  
Networks – L&P Pursuant to 4 CSR 240-22.             )

**Case No. EO-2007-0298**

**STAFF’S RESPONSE TO ORDER DIRECTING FILING**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), and for its response to the Commission’s March 14, 2007, *Order Directing Filing*, states:

1. On March 14, 2007, the Commission ordered Staff to “respond to the application to intervene of Dogwood Energy, LLC and the response of Aquila, Inc., d/b/a Aquila Networks – MPS and Aquila Networks – L&P, no later than March 21, 2007.”

2. The Commission’s rule governing applications to intervene, in pertinent part, provides:

(2) An application to intervene shall state the proposed intervenor’s interest in the case and reasons for seeking intervention, and shall state whether the proposed intervenor supports or opposes the relief sought or that the proposed intervenor is unsure of the position it will take.

\* \* \* \*

(4) The commission may on application permit any person to intervene on a showing that—

(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

3. In its reply to Aquila’s response to its application to intervene Dogwood states:

5. Dogwood, as a potential supplier, can provide facts and expertise in this proceeding that could be valuable to the Commission and other participants. Moreover Dogwood may be significantly affected by the outcome of this case. This proceeding could result in a policy determination that could have a direct effect on how Dogwood operates its facilities in Missouri and elsewhere.

6. Finally, in addition to being a potential supplier, Dogwood is also a customer of Aquila. As a result, Dogwood has a direct interest in the results of this proceeding based on the impact it could have on Dogwood's future bills for service from Aquila.

4. The Staff concurs that, as the owner of a generating plant located in the heart of Aquila's Missouri service area, Dogwood has an interest different than the general public. The Commission has expressed its purpose for integrated resource planning by electric utilities in Commission Rule 4 CSR 240-22.010(1) and (2) which provide:

(1) The commission's policy goal in promulgating this chapter is to set minimum standards to govern the scope and objectives of the resource planning process that is required of electric utilities subject to its jurisdiction in order to ensure that the public interest is adequately served. Compliance with these rules shall not be construed to result in commission approval of the utility's resource plans, resource acquisition strategies or investment decisions.

(2) The fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that serves the public interest. This objective requires that the utility shall--

(A) Consider and analyze demand-side efficiency and energy management measures on an equivalent basis with supply-side alternatives in the resource planning process;

(B) Use minimization of the present worth of long-run utility costs as the primary selection criterion in choosing the preferred resource plan; and

(C) Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall document the process and rationale used by decision makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing contingency options. These considerations shall include, but are not necessarily limited to, mitigation of--

1. Risks associated with critical uncertain factors that will affect the actual costs associated with alternative resource plans;

2. Risks associated with new or more stringent environmental laws or regulations that may be imposed at some point within the planning horizon; and

3. Rate increases associated with alternative resource plans.

5. It appears Dogwood may be in a position to provide information that would further the integrated resource planning objectives the Commission has expressed in Rule 4 CSR 240-22.010.

6. Aquila raised concerns about Dogwood gaining access to competitive information. Dogwood directly responded as follows:

2. Aquila's Opposition to Dogwood's intervention is based upon the premise that Dogwood, as a potential supplier and competitor, will use information obtained in this proceeding to gain an unfair competitive advantage. Dogwood is not seeking intervention to uncover commercial data. Even if such material is disclosed through the course of this case the Commission may, at the request of any party, issue its standard protective order which provides that only counsel and outside experts may possess or review "highly confidential" material. There is absolutely no reason to believe Aquila's premise has any validity, and it presents no facts to support its unfounded assumption.

3. Outside counsel for Dogwood has appeared and represented a broad spectrum of clients in innumerable Commission proceedings over approximately twenty (20) years and there has never been a single incident where properly classified information has been disclosed or used in an inappropriate manner. There is no basis upon which this case can be distinguished.

4. Aquila has made these very arguments in prior proceedings. In Case No. ER-2005-0436 (Aquila's most recent rate case) Aquila opposed the intervention of Calpine Central, L.P. (Calpine) on the same grounds asserted in this instance. Calpine is the previous owner of the Dogwood Plant. (f/k/a Aries Plant) and was thus in a position with interests nearly identical to those of Dogwood. The Commission rejected Aquila's arguments and granted Calpine's Application to Intervene.

Aquila's concerns may be addressed by restricting who and what Aquila information may be seen by Dogwood and its agents. The Commission could issue a protective order that would address those concerns.

**WHEREFORE** the Staff suggests to the Commission that it issue its standard protective order in this case, and grant Dogwood Energy, LLC's application to intervene.

Respectfully submitted,

/s/ Nathan Williams

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### **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 21<sup>st</sup> day of March 2007.

/s/ Nathan Williams