

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

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| In the Matter of the Tariff Filing of Aquila, Inc., |) | |
| to Implement a General Rate Increase for Retail |) | <u>Case No. ER-2005-0436</u> |
| Electric Service Provided to Customers in its |) | |
| MPS and L&P Missouri Service Areas. |) | |

**RESPONSE TO MOTION FOR EXPEDITED CONSIDERATION AND
MOTION TO SHORTEN RESPONSE TIME**

COMES NOW the Office of the Public Counsel and for its response states as follows:

1. Public Counsel is at a loss to understand the Industrial Intervenors’¹ professed surprise at Public Counsel filing testimony on a topic ordered by the Commission on a date ordered by the Commission.

2. The Industrial Intervenors’ Motion for Expedited Consideration and Motion to Shorten Response Time (as well as the underlying motion) should be denied. If the Industrial Intervenors had an objection to the filing of “Rate Design, Class Cost of Service” Direct Testimony, that objection should have been raised when the Commission ordered that filing, not when parties complied with the Commission order. The Industrial Intervenors have waited until November 4, 2005 to attack a Commission order that was issued July 21, 2005.

3. Public Counsel suggests that any urgent need to interpret a Commission scheduling order is of the Industrial Intervenors’ own making. Their failure to timely request reconsideration of the July 21, 2005 order does not merit requiring Public Counsel and Staff to drop everything and respond in an expedited fashion.

¹ Sedalia Industrial Energy Users’ Association, AG Processing, and the Federal Executive Agencies

4. Public Counsel disagrees with the Industrial Intervenors' characterization of the issues raised in its motion to strike as limited and simple. At the least, the doctrine of collateral estoppel, the "all relevant factors" requirement, and due process concerns are implicated.

5. Public Counsel requests, due to other scheduled Commission matters (including roundtable meetings on November 14 and 15, 2005 to address rules to implement Senate Bill 179), that it and the Staff be allowed until November 16, 2005, to respond to the Industrial Intervenors' Motion to Strike.

WHEREFORE, Public Counsel respectfully requests that the Commission set November 16, 2005 as the deadline for responses to the Motion to Strike.

Respectfully submitted,

OFFICE OF THE Public Counsel

/s/ Lewis R. Mills, Jr.

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 10th day of November 2005:

/s/ Lewis R. Mills, Jr.
