

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

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(14) Time-Based)
Metering and Communications Standard as)
Required by Section 1251 of the Energy Policy)
Act of 2005)

Case No. EO-2006-0496

**THE RESPONSE OF AQUILA, INC., TO STAFF'S MOTION TO OPEN
RULEMAKING DOCKET**

Aquila, Inc. ("Aquila" or "Company"), through its undersigned counsel, hereby submits the following response in opposition to the *Motion to Open Rulemaking Docket* ("Motion") filed by the Staff ("Staff") of the Missouri Public Service Commission ("Commission") on October 31, 2006. In that filing, Staff proposed that the Commission open a single rulemaking docket to address any and all rulemaking considerations related to Case Nos. EO-2006-0493, EO-2006-0494, EO-2006-0495, EO-2005-0496, and EO-2006-0497. Staff's Motion also requested that the Commission order parties and/or Staff to file, on or before April 30, 2007, either: 1) proposed rules that address two standards that were included in the "Energy Policy Act of 2005" ("EPAAct 2005") – time-based metering/communications and interconnection – that are currently under consideration in Case Nos. EO-2006-0496 and EO-2006-0497, respectively; or 2) pleadings explaining why rulemaking is not required to bring the State of Missouri into compliance with those standards.

Aquila notes that the position taken by Staff in its motion differs significantly from the position expressed in the *Suggestions Regarding Future Proceedings* that Staff filed on September 29, 2006. In that filing, Staff proposed that a case-specific technical conference be scheduled to discuss whether rulemaking or a statement of Commission policy can best address the federal time-based metering and communications standard in 16 U.S.C. § 2621(d)(14) that is under consideration in this case.

As stated in the *Response to Order Directing Filing* that the Company filed on September 15, 2006, Aquila believes this case can be terminated under the “prior state action” provisions of EPAAct 2005.¹ However, if the Commission believes this case cannot or should not be terminated at this time, the Company believes that Staff’s previous proposal for a technical conference to allow the parties additional time to discuss the federal time-based metering and communications standard is much preferable to its current proposal for a large and unwieldy rulemaking docket that considers all of the EPAAct 2005 standards simultaneously. Among the issues that should be considered at such a conference are the company-specific revenue and cost implications of the federal standard and whether, because of those implications, the Commission should consider this issue on a company-by-company basis, in the context of each individual utility’s future rate proceeding(s), or generically, in a rulemaking docket.

WHEREFORE, Aquila urges the Commission to reject Staff’s suggestion that a rulemaking docket be opened to address any and all rulemaking

¹ 16 U.S.C. § 2622(d).

considerations related to the time-based metering and communications standard that is the subject of the current case as well as the other federal energy standards that are the subjects of Case Nos. EO-2006-0493, EO-2006-0494, EO-2006-0495, and EO-2006-0497. The Commission should, instead: 1) terminate the current case pursuant to the "prior state action" provisions of EPLA 2005, or 2) schedule a technical conference to allow the parties to further discuss how best to deal with the federal time-based metering and communications standard.

Respectfully submitted,



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ATTORNEYS FOR AQUILA, INC.

Certificate of Service

The undersigned hereby certifies that a true copy of the foregoing document was served upon the following by electronic mail, facsimile or U.S. mail, postage prepaid, this 10th day of Novemberber, 2006:

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