

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

In the Matter of the Tariff Filing of Aquila,)
Inc., to Implement a General Rate)
Increase for Retail Electric Service)
Provided to Customers in its MPS and)
L&P Missouri Service Areas.)

Case No. ER-2005-0436

**AQUILA'S RESPONSE AND OBJECTION TO
CALPINE CENTRAL, L.P.'S APPLICATION TO INTERVENE**

COMES NOW Aquila, Inc. ("Aquila"), by counsel, and for its Response and Objection to Calpine Central, L.P.'s ("Calpine") Application to Intervene, respectfully states to the Missouri Public Service Commission (the "Commission") as follows:

**Calpine's Application Should be Denied
for Failure to Satisfy Commission Criteria**

1. Calpine's Application to Intervene fails to meet the Commission's criteria for intervention. The standard for intervention in Commission proceedings is set forth at 4 CSR 240-2.075. The Commission may authorize intervention on a showing that: (a) the proposed intervenor has an interest different than that of the general public that may be adversely affected by a final order in the case; or (b) granting the proposed intervention would serve the public interest. Calpine's proposed intervention does not meet either of these tests. The Application should be denied.

2. Calpine, an independent power producer and merchant of electric power, asserts that it should be allowed to intervene (1) so that the Commission "will have available as many relevant facts as possible," and (2) to provide "expertise in the energy market." Calpine's assertions regarding possessing "relevant facts" and "expertise in the energy market" do not establish that Calpine's interest in the case is different from

that of the general public or that Calpine will somehow be adversely impacted by an order of the Commission or that the intervention would serve the public interest pursuant to 4 CSR 240-2.075(4)(A)–(B). The existing parties to this proceeding, including Aquila, the Office of the Public Counsel, and the Commission's Staff, are aware of the facts relevant to this rate case proceeding. Aquila doubts that Calpine has any relevant facts which are unknown to Aquila or the other parties and which Aquila or the other parties would not provide to the Commission. Additionally, the existing parties are well-versed in the energy market and will provide the Commission with sufficient expertise.

3. There is no legitimate basis for Calpine's intervention in this rate case proceeding. Calpine's intervention will not add factually to this case, Calpine will not be impacted by any policy established by the Commission in this case, and Calpine cannot be impacted by a final order in this matter. As such, Calpine's intervention can only serve to frustrate and delay the rate case process.

4. The possibility for consultation and advice by a third party is not a sufficient basis for intervention in any case. Pursuant to 4 CSR 240-2.075(6), Calpine may request leave to file a brief as an *amicus curiae*, without being allowed access to Aquila's confidential information and without being afforded all rights of a party to this proceeding.

Calpine's Application Should be Denied
Due to Potential for Harm to Aquila and its Customers

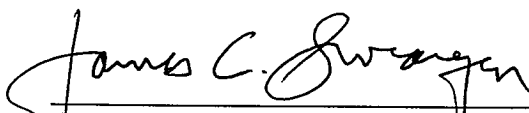
5. Not only has Calpine failed to satisfy the Commission's intervention criteria, but, more significantly, Calpine's intervention in this proceeding has the potential to harm the public interest.

6. Calpine, an independent power producer and merchant of electric power, is a potential bidder to meet Aquila's future power needs through purchased power contracts. Permitting Calpine's intervention -- and thus allowing Calpine access to highly confidential and proprietary materials and information concerning Aquila's finances and power needs -- could result in Calpine being given an unfair advantage in the purchased power bidding process with respect to Aquila. Moreover, simply allowing Calpine to intervene could create the perception that Calpine is being given an unfair advantage. This is because Calpine's mere participation in this case and access to information, even if limited, could chill the interest of other potential bidders for Aquila's purchased power needs.

7. The Commission's standard Protective Order is not adequate protection against this potential harm or a guaranty that higher purchased power costs for Aquila and its customers will not result. In the future, Aquila may not be able to get the best deal for its customers with respect to purchased power, simply because other merchants perceived that Calpine gained an advantage by participating in this rate case proceeding. In other words, Calpine's participation in this case could result in Aquila not being able to secure the lowest possible purchased power contract price, which, in turn, would likely result in higher than necessary rates for Missouri ratepayers.

WHEREFORE, for the reasons aforesaid, Calpine's proposed intervention should be denied.

Respectfully submitted,



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ATTORNEYS FOR AQUILA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 16TH day of June, 2005 to the following:

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