

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

In the Matter of the Application of Aquila, Inc.)	
d/b/a Aquila Networks – MPS and Aquila Networks)	
– L&P for Authority to Transfer Operational Control)	Case No. EO-2008-0046
of Certain Transmission Assets to Midwest)	
Independent Transmission System Operator, Inc.)	

**STAFF RESPONSE TO MISO’S MOTION FOR LEAVE
TO FILE SUPPLEMENTAL REBUTTAL TESTIMONY
AND STAFF MOTION TO MODIFY PROCEDURAL SCHEDULE**

Comes now the Staff of the Missouri Public Service Commission (“Staff”) and, in response to the motion of Midwest Independent Transmission System Operator, Inc. (“MISO”) for leave to file supplemental rebuttal testimony submitted December 28, 2007, and for the Staff’s motion to modify procedural schedule, states:

1. On November 30, 2007, as agreed to by the parties and ordered by the Commission, the parties filed rebuttal testimony in this case.
2. While, as MISO points out in its motion, MISO witness Johannes P. Pfeifenberger expressed in his November 30, 2007 rebuttal testimony his desire to perhaps supplement that testimony, there was no indication at that time of when he might tender that supplement to his rebuttal testimony, other than after additional production cost simulations were run.
3. MISO witness Pfeifenberger's supplemental rebuttal testimony was not filed until December 28, 2007.
4. MISO witness Pfeifenberger's supplemental rebuttal testimony includes both major revisions to his rebuttal testimony filed on November 30, 2007 and a new production cost simulation study.

5. As MISO states in its motion, the parties are actively engaged in discovery in this case and, if Mr. Pfeifenberger's supplemental rebuttal testimony is to be allowed in this case, the Staff needs to engage in discovery regarding said supplemental rebuttal testimony, much of which will be sought and reviewed by Staff witness Michael S. Proctor.

6. Currently the response times to discovery requests are 10 days to object and 20 days to answer and, as MISO points out in its motion, under the current schedule, surrebuttal testimony is due January 18, 2008. With a 20-day response time, it is obvious discovery likely will not be completed as to Mr. Pfeifenberger's supplemental rebuttal testimony before the ordered surrebuttal filing date of January 18, 2008.

7. In early December 2007 Staff witness Michael S. Proctor underwent planned major surgery. While the Staff was aware of the planned surgery and considered it in the procedural schedule the parties agreed to and the Commission approved, the addition of supplemental rebuttal testimony in late December was not anticipated. In addition, the surgery has impacted the stamina of Staff witness Michael S. Proctor more than was anticipated when the parties were developing the proposed procedural schedule the Commission adopted. These two unanticipated events result in insufficient time for the Staff to evaluate Mr. Pfeifenberger's supplemental rebuttal testimony in time for the scheduled January 18 filing of cross surrebuttal testimony.

8. The remainder of the current procedural schedule follows:

<u>EVENT</u>	<u>DATE</u>
Surrebuttal & Cross-Surrebuttal Testimony – all parties	Jan. 18, 2008 – Friday
Prehearing Conference	Feb. 4, 2008 – Monday 10:00 a.m.
Joint Stipulation of Facts, List of Issues, Order of Witnesses & Order of Cross-Examination	Feb. 8, 2008 – Friday

Position Statements, Exhibit Lists & Objections To Prefiled Testimony	Feb. 15, 2008 – Friday
Evidentiary Hearing (Commission’s Offices in Jefferson City)	Mar. 3-5, 2008 10:00 a.m. first day, 8:30 a.m. thereafter

9. The Staff prefers that the supplemental rebuttal testimony of MISO witness Pfeifenberger be part of the record in these proceedings, but the Staff requires a reasonable opportunity to respond to that testimony.

10. In light of all the foregoing, the Staff proposes the time for objecting to discovery requests be shortened to five business days, the time for responding to discovery requests be shortened to ten calendar days and the remainder of the existing procedural schedule be modified as follows:

<u>EVENT</u>	<u>CURRENT DATE</u>	<u>PROPOSED DATE</u>
Surrebuttal & Cross-Surrebuttal Testimony – all parties	Jan. 18, 2008 – Friday	Feb. 22, 2008 – Friday
Prehearing Conference	Feb. 4, 2008 – Monday 10:00 a.m.	Mar. 3, 2008 – Monday 10:00 a.m.
Joint Stipulation of Facts, List of Issues, Order of Witnesses & Order of Cross-Examination	Feb. 8, 2008 – Friday	Mar. 7, 2008 – Friday
Position Statements, Exhibit Lists & Objections To Prefiled Testimony	Feb. 15, 2008 – Friday	Mar. 18, 2008 - Friday
Evidentiary Hearing (Commission’s Offices in Jefferson City)	Mar. 3-5, 2008 10:00 a.m. first day, 8:30 a.m. thereafter	Apr. 14-16, 2008 10:00 a.m. first day, 8:30 a.m. thereafter

Wherefore, the Staff requests and moves the Commission to modify the remainder of the procedural schedule in this case to the following:

<u>EVENT</u>	<u>PROPOSED DATE</u>
Surrebuttal & Cross-Surrebuttal Testimony – all parties	Feb. 22, 2008 – Friday
Prehearing Conference	Mar. 3, 2008 – Monday 10:00 a.m.
Joint Stipulation of Facts, List of Issues, Order of Witnesses & Order of Cross-Examination	Mar. 7, 2008 – Friday
Position Statements, Exhibit Lists & Objections To Prefiled Testimony	Mar. 18, 2008 – Friday
Evidentiary Hearing (Commission's Offices in Jefferson City)	Apr. 14-16, 2008 10:00 a.m. first day, 8:30 a.m. thereafter

And, further, that the time for responding to discovery requests be shortened to five business days to object and ten calendar days to respond.

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 7th day of January 2008.

/s/ Nathan Williams