

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)	<u>Case No. ER-2005-0436</u>
Retail Electric Service Provided to Customers)	Tariff No. YE-2005-1045
in its MPS and L&P Missouri Service Areas.)	

SUSPENSION ORDER AND NOTICE,
ORDER DIRECTING FILING,
ORDER SETTING HEARINGS,
AND ORDER ADOPTING PROTECTIVE ORDER

Issue Date: May 31, 2005

Effective Date: May 31, 2005

Procedural History:

On May 24, 2005, Aquila, Inc., which does business as Aquila Networks – MPS and as Aquila Networks – L&P, submitted to the Missouri Public Service Commission certain proposed tariff sheets, Tariff File No. YE-2005-1045. The purpose of the filing, according to Aquila, is to implement a general rate increase for retail electric service provided by the Company in its MPS and L&P service areas. Aquila states that the new retail electric service rates are designed to produce an additional \$69.2 million in gross annual electric revenues excluding gross receipts, sales, franchise, and occupational taxes in its MPS service area, a 20.3% increase over existing revenues, and \$9.4 million in additional gross annual electric revenues in its L&P service area, exclusive of gross receipts, sales, franchise, and occupational taxes, a 9.6% increase.

Aquila states that the "rate increases [are] primarily driven by higher fuel costs and new investments Aquila has made to serve the demand of our customers. The cost of

fuel, both gas and coal, necessary to operate our generating facilities has continued to escalate dramatically since our last rate adjustment in 2004. In addition, we have added significant investments in plant, particularly new generation facilities in our MPS service territory, to support customer growth." The tariff sheets attached to Aquila's pleading bear an issue date of May 24, 2005, and are proposed to become effective on June 23, 2005. Together with its proposed tariff sheets and other minimum filing requirements, Aquila also filed prepared direct testimony in support of its requested rate increase, including the prepared testimony of twelve witnesses with supporting schedules. Aquila also noted that depreciation studies were filed in Case No. ER-2004-0034.

The Commission's Authority to Suspend Proposed Tariffs:

The Commission is authorized to suspend the effective date of a proposed tariff of an electric company for 120 days plus an additional six months so that the Commission may have a hearing on the matter.¹ The statute states:

Whenever there shall be filed with the commission by any . . . electrical corporation . . . any schedule stating a new rate . . . the commission . . . may suspend the operation of such schedule . . . one hundred and twenty days beyond the time when such rate . . . would otherwise go into effect. [T]he commission may, in its discretion, extend the time of suspension for a further period not exceeding six months

The same statute further imposes the burden of proof on the Company to show that its proposed increased rate is just and reasonable. The statute also directs the Commission to give the rate increase matter preference over other pending items and to decide the matter expeditiously. The statute states:

¹ Section 393.150, RSMo 2000. All subsequent statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the . . . electrical corporation . . . and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

Thus, in order to allow sufficient time to study the effect of the proposed tariffs and to determine if they are just, reasonable, and in the public interest, the proposed tariffs will be suspended for a period of 120 days beyond the requested effective date. Furthermore, because a hearing on the proposed tariffs cannot be concluded within the period of suspension above stated, the proposed tariffs will be suspended for an additional six months beyond the 120th day following the requested effective date.

Test Year, True-up and Local Public Hearing Recommendations:

Inasmuch as the Commission is required by law to give rate increase cases preference over all other questions pending before it and to decide such cases as quickly as possible, and since the burden of proof that the proposed rates are just and reasonable is upon the company proposing the rates, the Company must file both its recommendation concerning the proper test year to be used in these proceedings and any request for a true-up not later than two weeks after the date of this order. Any true-up request must include a proposed date to which the Company's financial data is to be brought forward. The Company's proposal should also specify a complete list of accounts or items of expense, revenues, and rate base designed to prevent any mismatch in those areas. The Commission will not consider a true-up of isolated adjustments, but will examine only a

“package” of adjustments designed to maintain the proper revenue-expense-rate base match at a proper point in time.²

The Staff, the Public Counsel, and all intervenors must state their positions regarding the Company’s true-up and test year proposals as hereinafter ordered. The test year is the 12-month period used to audit a company’s books to determine the proper amounts of rate base, expenses, and revenues to use in calculating a revenue requirement for a company. A resolution of the test year issue must be made early in the proceedings so that the parties’ testimony can be reconciled to the same period. The test year involves an audit of all books and records of a company so that a total revenue requirement can be calculated.

All test year proposals must include a specific 12-month period as a test year and should include any additional period for which a party has updated significant items from the test year. The test year with the additional period will be called a “test year as updated” or “updated test year.” In addition to a proposed test year or a proposed updated test year, a party may request isolated changes, such as those imposed by governmental bodies, as part of its case and the Commission will consider whether those isolated changes are known and measurable and whether they should be included in Company’s revenue requirement. An issue to be considered in this determination is whether the proposed adjustment affects the matching of rate base, expenses and revenue.

In addition to test year and true-up recommendations, the Commission will direct the parties to file recommendations as to the number, date, time, and location of local public hearings to be held in this matter. Local public hearings should not be scheduled

² See *In re Kansas City Power & Light Company*, 26 Mo. P.S.C. (N.S.) 104, 110 (1983).

until at least a week has passed after the filing of all direct testimony; that is, both revenue requirement and rate design.

Hearing Dates, Customer Notice, and Prehearing Conference:

The Commission will schedule the evidentiary hearing dates in this order and will reserve dates for a true-up hearing. By establishing the hearing dates now, the Commission will ensure that this matter is heard as expeditiously as possible. Additionally, the early establishment of the hearing dates will allow ample time for notice to be sent to customers. Aquila must give notice to customers as directed in the ordered paragraphs below. The Commission will also set an early prehearing conference and require the parties to file a proposed procedural schedule, with additional filing dates for testimony, a second prehearing conference, the statement of issues, the position statements of the parties, and the reconciliation. The Staff of the Commission will have primary responsibility for preparing the proposed procedural schedule. Staff should coordinate the proposed schedule with Aquila, the Office of the Public Counsel, and any intervenors, where possible.

Intervention:

The Commission finds that proper persons should be allowed 20 days from the issuance of this order to file an application to intervene. The Commission's Data Center must serve a copy of this order upon the county commission of each county in Aquila's service areas and upon every party to Aquila's last rate case. In addition, the Commission's Public Information Office must make notice of this order available to the media serving Aquila's service areas and to the members of the General Assembly representing the residents of Aquila's service areas.

Excess Earnings Complaint Authorized:

The Commission will authorize its Staff to file a complaint seeking a reduction in Aquila's revenues if its audit reflects that Aquila's earnings are excessive.

Adoption of Protective Order:

Although no party has, as yet, moved for the adoption of a protective order, the Commission will adopt its standard protective order for the purposes of this proceeding. General rate cases often involve confidential financial and business information, the release of which could be harmful to the utility, its contracting parties and its customers.

IT IS THEREFORE ORDERED:

1. That the proposed electric service tariff sheets submitted under Tariff File No. YE-2005-1045 on May 24, 2005, by Aquila, Inc., doing business as Aquila Networks – MPS and as Aquila Networks – L&P, for the purpose of increasing rates for retail electric service to customers are hereby suspended for 120 days, from June 23, 2005, to October 21, 2005. The specific sheets suspended are:

P.S.C. Mo. No. 1, Electric Rates

1st Revised Sheet No. 1, Canceling Original Sheet No. 1
2nd Revised Sheet No. 2, Canceling 1st Revised Sheet No. 2
1st Revised Sheet No. 18, Canceling Original Sheet No. 18
1st Revised Sheets Nos. 19-29, Canceling Original Sheets Nos. 19-29
1st Revised Sheet No. 31, Canceling Original Sheet No. 31
1st Revised Sheets Nos. 34 & 35, Canceling Original Sheets Nos. 34 & 35
1st Revised Sheets Nos. 37-44, Canceling Original Sheets Nos. 37-44
1st Revised Sheets Nos. 47 & 48, Canceling Original Sheets Nos. 47 & 48
1st Revised Sheets Nos. 51-54, Canceling Original Sheets Nos. 51-54
1st Revised Sheets Nos. 56 & 57, Canceling Original Sheets Nos. 56 & 57
1st Revised Sheets Nos. 59-62, Canceling Original Sheets Nos. 59-62
1st Revised Sheets Nos. 64-68, Canceling Original Sheets Nos. 64-68
1st Revised Sheets Nos. 70-72, Canceling Original Sheets Nos. 70-72
1st Revised Sheet No. 74, Canceling Original Sheet No. 74
1st Revised Sheet No. 76, Canceling Original Sheet No. 76

1st Revised Sheets Nos. 79 & 80, Canceling Original Sheets Nos. 79 & 80
1st Revised Sheets Nos. 83-92, Canceling Original Sheets Nos. 83-92
1st Revised Sheet No. 95, Canceling Original Sheet No. 95
1st Revised Sheet No. 99, Canceling Original Sheet No. 99
1st Revised Sheet No. 100, Canceling Original Sheet No. 100
1st Revised Sheets Nos. 103-104, Canceling Original Sheets Nos. 103-104
1st Revised Sheet No. 109, Canceling Original Sheet No. 109
Original Sheets Nos. 120-124

2. That the proposed electric service tariff sheets suspended in ordered paragraph 1, above, under Tariff File No. YE-2005-1045, are hereby suspended for an additional six months beyond October 21, 2005, to April 21, 2006, unless otherwise ordered by the Missouri Public Service Commission.

3. That any proper person or entity desiring to intervene in this matter must file an application no later than Monday, June 20, 2005, with:

Colleen M. Dale, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102-0360

and send copies to:

James C. Swearengen, Esq.
Brydon, Swearengen & England
312 East Capitol Avenue
Post Office Box 456
Jefferson City, Missouri 65102-0456

and:

Office of the Public Counsel
Post Office Box 2230
Jefferson City, Missouri 65102-7800

4. That Aquila, Inc., must file, on or before Tuesday, June 14, 2005, a pleading stating its recommendation concerning the proper test year for use in this case.

5. That Aquila, Inc., must file any request for a true-up audit and hearing in a separate pleading, concurrent with its test year recommendation.

6. That the Staff of the Missouri Public Service Commission, the Office of the Public Counsel, and any persons or entities requesting intervention must file, on or before June 28, 2005, a pleading either indicating concurrence in Aquila, Inc.'s recommended test year or recommending alternatives to Aquila, Inc.'s recommended test year.

7. That the Staff of the Missouri Public Service Commission, the Office of the Public Counsel, and any intervenors must file, on or before June 28, 2005, a pleading stating their recommendation concerning a true-up.

8. That an early prehearing conference is hereby scheduled for this case on June 30, 2005, at 10:00 a.m. The early prehearing conference will be held in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a facility which meets the accessibility standards of the Americans with Disabilities Act (ADA). If any person needs additional accommodations to participate in the early prehearing conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or dial 711 for Relay Missouri prior to the hearing or prehearing conference. All parties have the option of attending the early prehearing conference telephonically. However, arrangements for telephonic attendance must be made in advance by calling the presiding officer at 573-751-6514.

9. That the parties must file a proposed procedural schedule as described in this order on or before July 7, 2005. The Staff of the Missouri Public Service Commission will have the primary responsibility for preparing and filing the proposed procedural schedule.

10. That the Missouri Public Service Commission will conduct local public hearings on the proposed rate increase and will set the times, dates, and locations of these local public hearings in a subsequent order. The parties and intervenors, if any, shall file recommendations as to the times, dates and locations for local public hearings in this case on or before July 7, 2005.

11. That an evidentiary hearing is hereby scheduled for this case as follows: January 2, 2006, through January 6, 2006; January 9, 2006, through January 13, 2006; and January 16, 2006, through January 20, 2006. The hearing will commence at 9:00 a.m. on January 2, 2006. The evidentiary hearing will be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a facility which meets the accessibility standards of the Americans with Disabilities Act (ADA). If any person needs additional accommodations to participate in the early prehearing conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or dial 711 for Relay Missouri prior to the hearing or prehearing conference.

12. That January 17 and 18, 2005, are reserved for a true-up hearing in this case, in the event that such a hearing is requested, and the Missouri Public Service Commission grants the request. The true-up hearing will be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a facility which meets the accessibility standards of the Americans with Disabilities Act (ADA). If any person needs additional accommodations to participate in the early prehearing conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or dial 711 for Relay Missouri prior to the hearing or prehearing conference.

13. That Aquila, Inc., must notify each affected customer of the hearings scheduled in this case, either by a notice on or accompanying a bill or by a separate notice, at least ten days, but not more than 45 days, prior to any local public hearings, unless otherwise ordered by the Missouri Public Service Commission. The Company is hereby authorized to provide notice either less than ten days or more than 45 days prior to a hearing if by doing so the notice may be included on or with a regular billing. The notice must be substantially in the following form, unless otherwise ordered:

NOTICE

Aquila, Inc., doing business as Aquila Networks – MPS and as Aquila Networks, L&P, has filed revised electric service tariff sheets with the Missouri Public Service Commission (PSC) which would increase the Company's Missouri jurisdictional annual gross revenues in its MPS service area by approximately 20.3 percent and in its L&P service area by approximately 9.6 percent. For the average MPS residential customer using 1,000 kilowatt hours of electricity, the proposed increase would be approximately \$11.48 each month. For the average L&P residential customer using 1,000 kilowatt hours of electricity, the proposed increase would be approximately \$4.54 each month.

A local public hearing (or evidentiary hearing) has been set before the PSC at ____ o'clock __.m., ____, at ____ Street, ____, Missouri. If you wish to comment or secure information, you may contact the Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, telephone (573) 751-4857.

The building where the hearing will be held meets accessibility standards required by the Americans with Disabilities Act. If a customer needs additional accommodations to participate in these hearings, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

14. That Aquila, Inc., must notify each affected customer of the evidentiary hearing and any true-up hearing scheduled in this case, either by a notice on or accompanying a bill or by a separate notice, at least ten days, but not more than 45 days,

prior to the first day of the hearing, unless otherwise ordered by the Missouri Public Service Commission. The Company is hereby authorized to provide notice either less than ten days or more than 45 days prior to a hearing if by doing so the notice may be included on or with a regular billing. The notice must be substantially in the form stated in ordered paragraph 13, above, unless otherwise ordered.

15. That the Data Center of the Missouri Public Service Commission must serve a copy of this order upon the county commission of each county in Aquila, Inc.'s Missouri service areas and upon every party to Aquila, Inc.'s last rate case, Case No. ER-2004-0034.

16. That the Missouri Public Service Commission's Public Information Office must make notice of this order available to the members of the General Assembly representing the residents of Aquila, Inc.'s Missouri service areas and to the news media serving the residents of Aquila, Inc.'s Missouri service areas.

17. That the Staff of the Missouri Public Service Commission is hereby authorized to file a complaint seeking a reduction in Aquila, Inc.'s revenues if its audit reflects that Aquila, Inc.'s earnings are excessive. Any such complaint must be filed in this case.

18. That the Protective Order attached hereto as Attachment A is adopted for this case. All parties and intervenors are directed to comply with the terms of the Protective Order.

19. That this order will become effective on May 31, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale
Secretary

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by
delegation of authority under
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 31st day of May, 2005.