

Exhibit No:

Issues:

Bidding Process
Sales Transaction

Witness:

Type of Exhibit:
Sponsoring Party:

Thomas Fleener
Direct Testimony
Aquila Networks – MPS

Case No:

Date Testimony to be filed:

GM-2004-0244
December 4, 2003

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. GM-2004-0244

DIRECT TESTIMONY

OF

THOMAS FLEENER

ON BEHALF OF

AQUILA, INC.

d/b/a

AQUILA NETWORKS – MPS

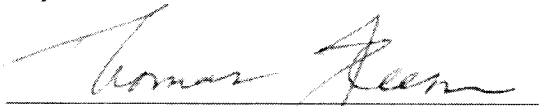
**Kansas City, Missouri
December, 2003**

NP

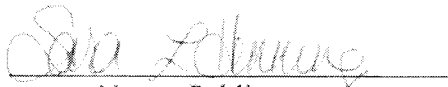
State of Missouri)
) ss
County of Jackson)

AFFIDAVIT OF THOMAS FLEENER

Thomas Fleener, being first duly sworn, deposes and says that he is the witness who sponsors the accompanying testimony and schedules entitled "Direct Testimony of Thomas Fleener"; that said testimony was prepared by him and/or under his direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his knowledge, information, and belief.



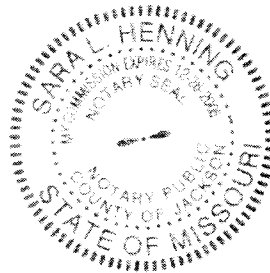
Subscribed and sworn to before me this 18th day of November, 2003.


Notary Public

My Commission expires:

12/28/2005

SARA L. HENNING
Notary Public-Notary Seal
STATE OF MISSOURI
County of Jackson
My Commission Exp. 12/28/2005



1
2 **DIRECT TESTIMONY OF THOMAS FLEENER**
3

4 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

5 A. My name is Thomas Fleener and my business address is 20 West 9th Street,
6 Kansas City, Missouri.

7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 A. I am presently employed by Aquila, Inc. ("Aquila") as Vice President in the
9 Strategic Initiatives group doing corporate development, mergers and
10 acquisitions work.

11 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
12 **EMPLOYMENT HISTORY.**

13 A. I have been with Aquila since 2001 in my current capacity. Prior to this, I worked
14 for Verizon Corporation doing corporate development and finance work. I have
15 an MBA from the University of Texas at Austin and a Bachelors of Science
16 degree in business from Trinity University.

17
18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

19 A. The purpose of my testimony is to describe the bid process that Aquila utilized to
20 sell its Aquila Networks – MPS ("MPS") Eastern System, and to discuss the
21 Asset Purchase Agreement ("Agreement") ultimately reached by and between
22 Aquila and Union Electric Company, d/b/a AmerenUE ("Ameren").

1 **Q. PLEASE BRIEFLY DESCRIBE THE PROCESS THAT AQUILA UTILIZED TO**
2 **SELL ITS EASTERN SYSTEM?**

3 A. Aquila followed a classic two-step auction process to offer the Eastern System.
4 This process began in May of 2003. Aquila solicited and received non-binding
5 indications of interest from multiple prospective buyers.

6 **Q. ONCE THESE INDICATIVE OFFERS WERE RECEIVED, WHAT WAS THE**
7 **NEXT STEP?**

8 A. From the group of indicative offers, Aquila identified finalists who were invited to
9 hear management presentations and conduct due diligence. Upon completion of
10 these tasks, bidders were invited to make final offers for the property. These
11 bids were due in the middle of August. After this, Aquila chose to enter into
12 negotiations with Ameren with the intent of reaching an agreement on the sale of
13 the Eastern System.

14 **Q. WHEN WAS THE FINAL AGREEMENT REACHED WITH AMEREN?**

15 A. The Agreement was executed on September 24, 2003.

16 **Q. WHAT ARE THE MAJOR PROVISIONS OF THE AGREEMENT?**

17 A. The following summarizes the major parts of the Agreement:

18 Ameren has agreed to pay ** _____
19 _____
20 _____
21 _____
22 _____

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Q. WHAT TYPES OF REPRESENTATIONS AND WARRANTIES WERE MADE IN THE AGREEMENT?

A. Aquila has provided Ameren with customary representations and warranties for a transaction of this nature relating generally to Aquila’s authority to enter into the transaction and the physical and financial condition of the Eastern System. Similarly, Ameren has provided Aquila customary representations and warranties regarding its ability to enter into the transaction. All representations and warranties **

_____.**

Q. WHAT COVENANTS WERE MADE FOR THE PERIOD BETWEEN SIGNING AND CLOSING?

A. Aquila has agreed to continue the operation of the Eastern System in its customary manner prior to closing. Both parties have agreed to cooperate in securing all consents and approvals necessary for consummation of the transaction.

Q. DESCRIBE THE CONDITIONS PRECEDENT TO CLOSING THE TRANSACTION?

The obligations of Ameren and Aquila, respectively, to close the transaction are conditioned upon: **

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____.

**

8 **Q. DOES THIS INCLUDE APPROVAL BY THE MISSOURI PUBLIC SERVICE**
9 **COMMISSION?**

10 A. Yes. For the transaction to close, the Commission must issue an order
11 approving the sale. The Agreement states that ** _____

12 _____
13 **

14 **Q. PLEASE SUMMARIZE THE INDEMNITY PROVISIONS.**

15 A. Both Aquila and Ameren have agreed ** _____

16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____

1 _____

2 _____.

3 **Q. WHEN DOES AQUILA EXPECT THIS TRANSACTION TO CLOSE?**

4 A. The closing date will be ** _____

5 _____

6 _____.

7 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

8 A. Yes.

9