

**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 Aquila Networks—MPS and Aquila)
Networks—L&P Missouri Service Areas.)

Case No. ER-2007-0004
Tariff No. JE-2007-0860

STAFF’S RECOMMENDATION TO REJECT TARIFF SHEETS

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and for its Recommendation the Commission Reject Tariff Sheets Aquila filed on May 25, 2007 to comply with the Commission’s *Report and Order* and the Commission’s May 25, 2007 *Order Granting Expedited Treatment, Approving Certain Tariff Sheets and Rejecting Certain Tariff Sheets*, states:

1. In the attached Memorandum, which is labeled Appendix A, the Staff recommends the Missouri Public Service Commission reject the four (4) tariff sheets Aquila filed on May 25, 2007. Aquila filed the tariff sheets to comply with the Commission’s *Report and Order* and the Commission’s *Order Granting Expedited Treatment, Approving Certain Tariff Sheets and Rejecting Certain Tariff Sheets*. These four (4) sheets are intended to implement the fuel adjustment clause the Commission ordered for Aquila. The Staff recommends the Commission reject them as not complying with the Commission’s *Report and Order* and the Commission’s *Order Granting Expedited Treatment, Approving Certain Tariff Sheets and Rejecting Certain Tariff Sheets*.

2. Until passage of section 386.266, RSMo Supp 2006, fuel adjustment mechanisms for electrical corporations were unlawful. Therefore, the Staff understands the fuel adjustment

clause the Commission authorized for Aquila in its *Report and Order* allows Aquila only to recover from ratepayers those costs the Commission expressly stated in its *Report and Order* are recoverable through the authorized fuel adjustment clause. The Commission did not expressly state in its *Report and Order* that either SO₂ emission allowance costs or calculating interest on deferred electric energy costs on a monthly basis are costs that Aquila may recover from its ratepayers through a fuel adjustment clause.

3. In its *Report and Order*, at page 44, the Commission states: “The Commission concludes Aquila will only be allowed to flow variable fuel and purchased power costs, including variable transportation costs, through its fuel adjustment clause.” Fuel and purchased power costs vary directly with Aquila’s kWh sales of electricity; SO₂ emission allowance costs do not. SO₂ emission allowance costs are influenced by market prices. When the price of allowances is high, Aquila may decide to reduce or even suspend its purchases of allowances, and *vice versa*. SO₂ emission allowance costs are not “variable fuel and purchased power costs” within the meaning of the Commission’s *Report and Order*.

4. Aquila’s fuel adjustment clause provisions call for the calculation of interest on deferred electric energy costs on a monthly basis. The Staff finds no support for such a practice in the Commission’s *Report and Order* and believes that it would result in the payment of interest on interest (compounded interest), which is not a variable fuel or purchased power cost.

5. Section 386.266.4 RSMo Supp 2006 provides that the Commission may authorize a fuel adjustment clause, provided it:

(2) Includes provisions for an annual true-up which shall accurately and appropriately remedy any over- or under-collections, including interest at the utility’s short-term borrowing rate, through subsequent rate adjustments or refunds;

and further,

(4) In the case of an adjustment mechanism submitted under subsections 1 or 2 of this section, includes provisions for prudence reviews of the costs subject to the adjustment mechanism no less frequently than at eighteen-month intervals, and shall require refund of any imprudently incurred costs plus interest at the utility's short-term borrowing rate.

By associating interest with the “remedy” in connection with the true-up audit, and with the “refund” of imprudently incurred costs in the case of the prudence review, the statute mandates the computation and application of interest only at those respective stages of the fuel adjustment clause process. The statute does not call for the computation and application of interest on a monthly basis during the accumulation period.

The Commission's implementing rule clearly reflects this view. With respect to the true-up process, 4 CSR 240-20.090(5)(A) states: “The subsequent true-up rate adjustment or refunds shall include interest at the electric utility's short-term borrowing rate.” Likewise, 4 CSR 240-20.090(7)(A), which addresses the prudence review, provides: “All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.”

6. Accordingly, the Staff recommends the Commission reject the four (4) tariff sheets Aquila filed on May 25, 2007 because they would allow Aquila to recover through the fuel adjustment clause: a) SO₂ emission allowances, and b) interest on deferred electric energy costs on a monthly basis.

WHEREFORE, because the Commission's *Report and Order* does not allow recovery of SO₂ emission allowance costs or interest on deferred electric energy costs on a monthly basis from ratepayers through a fuel adjustment clause, the Staff of the Missouri Public Service Commission recommends the Commission reject the four (4) proposed tariff sheets Aquila, Inc. filed on May 25, 2007, to wit:

Aquila Networks – L&P and – MPS, P.S.C. MO. No. 1, Electric Rates

Original Sheet No. 124
Original Sheet No. 125
Original Sheet No. 126
Original Sheet No. 127

Respectfully submitted,

/s/ Nathan Williams

Nathan Williams
Deputy General Counsel
Missouri Bar No. 35512

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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 29th day of May, 2007.

/s/ Nathan Williams

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. ER-2007-0004
File No. JE-2007-0860
Aquila, Inc., d/b/a Aquila Networks - MPS and Aquila Networks - L&P

FROM: James Watkins, Project Coordinator
Mack McDuffey, Rate & Tariff Examiner II

/s/ James Watkins 5/29/07
Project Coordinator/Date

/s/ Nathan Williams 5/29/07
General Counsel's Office/Date

SUBJECT: Staff Recommendation For **Rejection** Of Tariff Sheets Filed To Comply With The Commission's May 17, 2007 Report and Order And The Commission's May 25, 2007 Order Granting Expedited Treatment, Approving Certain Tariff Sheets And Rejecting Certain Tariff Sheets

DATE: May 29, 2007

On May 25, 2007, Aquila, Inc., d/b/a Aquila Networks - MPS and Aquila Networks - L&P (Aquila) filed with the Commission four (4) rate tariff sheets with an issue date of May 25, 2007, and a proposed effective date of June 25, 2007. These tariff sheets are designed to comply with the Commission's May 17, 2007 Report and Order (Order), as required in Ordered Paragraph 4, which states, "Aquila shall file proposed electric service tariff sheets in compliance with this Report and Order no later than midnight on May 20, 2007" and with the Commission's May 25, 2007 Order Granting Expedited Treatment, Approving Certain Tariff Sheets And Rejecting Certain Tariff Sheets, as required in Ordered Paragraph 4, which states, "Aquila Inc., d/b/a Aquila Networks MPS and Aquila Networks L&P shall file revised tariff sheets 60 through 62 in compliance with the Report and Order."

The Missouri Public Service Commission Energy Department Staff (Staff) has reviewed the filed tariff sheets and is of the opinion that in regard to the recovery of emission allowance costs and interest on deferred electric energy costs, tariff sheets 124 through 127 are not in compliance with the Commission's Orders as related in the General Counsel's Office cover pleading. Staff therefore recommends that the Commission **reject** the following proposed tariff sheets, as filed on May 25, 2007:

Aquila Networks – L&P and – MPS, P.S.C. MO. No. 1, Electric Rates

Original Sheet No. 124

Original Sheet No. 125

Original Sheet No. 126

Original Sheet No. 127

The Staff has verified that Aquila has filed its 2006 annual report and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

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

In the matter of Aquila, Inc. d/b/a Aquila Networks-MPS)	
and Aquila Networks-L&P, for authority to file tariffs)	
increasing electric rates for the service provided to)	<u>Case No. ER-2007-0004</u>
customers in the Aquila Networks-MPS and Aquila)	File No. JE-2007-0860
Networks-L&P service area.)	

AFFIDAVIT OF JAMES C. WATKINS

STATE OF MISSOURI)
) ss
COUNTY OF COLE)


James C. Watkins, of lawful age, on oath states: that he has participated in the preparation of the foregoing Staff Recommendation; that he has knowledge of the matters set forth in such recommendation; and that such matters are true to the best of his knowledge and belief.



Subscribed and sworn to before me this 29th day of May, 2007.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



Notary Public

My commission expires 9-21-10