

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

In the Matter of the Tariff Filing of Aquila,)	<u>Case No. ET-2006-0466</u>
Inc., d/b/a Aquila Networks – L&P to Remove)	Tariff File No. JE-2006-0865
Limitations on the Metering Loss Adjustment)	

**MOTION TO REJECT TARIFF OR, IN THE ALTERNATIVE,
MOTION TO SUSPEND TARIFF**

COMES NOW the Office of the Public Counsel and for its Motion To Reject Tariff or, in the Alternative, Motion to Suspend Tariff states as follows:

1. On January 31, 2006, many of the parties to Case No. ER-2005-0436 filed a Nonunanimous Stipulation and Agreement (the “Agreement”)¹ that resolved all issues in that case and all issues in Case No. EO-2002-384. Attached to that Agreement were illustrative tariff sheets.

2 On February 23, 2006, the Commission issued a Report and Order approving that Agreement, treating it as unanimous pursuant to 4 CSR 240-2.115.

3. On February 24, Aquila filed tariffs designed to comply with the Agreement and the Commission’s order approving it. That tariff filing was assigned Tariff No. YE-2006-0647.

4. On February 28, the Staff of the Commission filed its recommendation to approve those tariffs, in which it stated:

The Staff has reviewed the filed tariff sheets to determine if they conform to the illustrative tariff sheets in the Nonunanimous Stipulation and Agreement and if they otherwise comply with the Commission’s Order Approving Stipulation and Agreement. The Staff concludes they do. In the attached Memorandum (Appendix A), the Staff recommends the Commission issue an Order that both (1) approves

¹ The signatories on the Agreement were Aquila, Inc., d/b/a Aquila Networks – MPS and Aquila Networks – L&P (“Aquila”), the Staff of the Missouri Public Service Commission, the Sedalia Industrial Energy Users’ Association, AG Processing, Inc., the City of Kansas City, the Missouri Department of Natural Resources, the Federal Executive Agencies, and the City of St. Joseph.

the electric tariff sheets listed in Appendix A, as filed on February 24, 2006, to become effective March 1, 2006 and (2) cancels Aquila's present electric tariff sheets listed to be canceled in Appendix A.

5. Later on February 28, the Commission issued an order approving the tariffs in compliance with the Report and Order. The tariffs approved by the Commission were, at least with respect to the sheets at issue in this case, identical to those attached to the Agreement.

6. On May 19, Aquila filed two tariff sheets designed "to remove limitations on the Metering Loss Adjustment, so that it can continue to be applied to Large General Service and Large Power Service customers." This filing was assigned Tariff File No. JE-2006-0865, and bears an effective date of June 19, 2006. The proposed tariffs would undo changes just implemented in ER-2005-0436. In its cover letter, Aquila states that it "believes that the parties did not intend to eliminate the energy discount for these customers and that this unintended consequence makes inclusion of the subject language a mistake." The effect of this tariff change would be to decrease the revenue Aquila receives from some L&P customers in the former St. Joseph Light and Power service territory served under the Large General Service (LGS) and Large Power Service (LPS) rate schedules.

7. Unless Aquila agrees that it will impute the revenues it seeks to forego under the proposed tariffs, approval of the tariffs will skew the balance (as between rate classes) of revenues agreed to and approved in Case No. ER-2005-0436 and EO-2002-0384. If the overall revenue shortfall in Aquila's next rate case is spread equally among the classes, all the other rate classes will have to cover a share of this discount awarded to LGS and LPS customers after the close of ER-2005-0436.

8. The tariff filing seeks to make changes to Aquila's revenue requirement, and to the way in which the classes contribute to that revenue requirement, outside of a general rate

case. As such, it violates the “all relevant factors” standard that the Commission must adhere to when setting rates.²

WHEREFORE, Public Counsel respectfully requests that the Commission reject, or in the alternative, suspend Tariff File No. JE-2006-0865.

Respectfully submitted,

OFFICE OF THE Public Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 12th day of June 2006:

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/s/ Lewis R. Mills, Jr.

² State ex rel. Missouri Water Co. v. Public Service Com., 308 S.W.2d 704, (Mo. 1957)