

**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)	Case No. ER-2005-0436
Retail Electric Service Provided to Customers)	
In its MPS and L&P Missouri Service Areas)	

**AQUILA'S REPLY TO THE RESPONSES OF
STAFF AND OFFICE OF THE PUBLIC COUNSEL TO MOTION TO STRIKE**

Comes Now, Aquila, Inc. ("Aquila"), by and through counsel, and for its Reply to the Responses of Staff and Office of the Public Counsel to Motion to Strike, states to the Missouri Public Service Commission ("Commission") as follows:

1. Staff's assertions, in paragraphs 9 and 13 of its November 18, 2005, Response, that only the costs and revenues need to be modified in order to update the class cost of service ("COS") model in the rate case, ignore a number of critical factors that demonstrate that the "simple" solution Staff suggests is not practical and that retrying the COS and rate design issues in the rate case will be problematic.

2. First, the costs and revenues which are the subject of Aquila's pending electric rate case, Case No. ER-2005-0436, are still in contention and will not be resolved until the Commission decides that case. The costs and revenues in the COS and rate design case, Case No. EO-2002-384, however, are agreed to among the parties. With the hard work of gathering the data and preparing the studies completed and the case having been tried, all that is left to be done in the COS case, consistent with the Commission's August 23, 2005 Order Regarding Consolidation and Procedural Schedule, is for the Commission to identify any adjustments necessary to match costs

with revenues and eliminate any subsidies and make a decision with respect to Aquila's proposed rate restructuring proposals.

3. Second, the Staff has created a confusing situation in the rate case by simply dumping new data into a cost of service model that was created for and built around a different time period. That is to say, Aquila believes part of the problem with the Staff's COS results in the rate case may have occurred because of an imbalance between the allocation factors - which the Staff said it did not change. The Staff indicated that it applied the same allocation factors to both the earlier data in the COS case and the current data in the rate case. If the customer, demand, and energy allocators are not modified to reflect current levels of customers by class, while the current cost and revenue data do reflect current levels of customers by class, the result will be incongruous.

4. Third, Staff's contention, in paragraph 13, that there is no need for additional discovery or effort on the part of others regarding the COS and rate design issues in the rate case ignores the fact that the Staff has admitted it has problems with the results of its new COS study, problems which it cannot resolve. If the Staff doesn't know what is wrong with its new COS study, clearly Aquila and others will require time for discovery and for further analysis in order to sort things out and respond. How all of this can be accomplished in the rate case given the established schedule and deadlines is unclear. Moreover, how any of this can be done consistent with the due process rights of those who relied on the Commission's prior Order Regarding Consolidation and Procedural Schedule issued on August 23, 2005, in Case Nos. EO-2002-384 and ER-2005-0436, is also unclear. That order directed that the COS and rate design issues be

resolved in Case No. EO-2002-384 separate from the rate case and Aquila has proceeded accordingly.

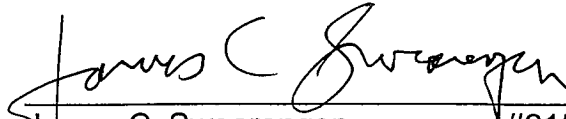
5. The Staff also appears to be attempting to delay the implementation of the results of a class COS study. The Commission will recall that in the COS case the Staff recommended 3+% increases for Aquila's residential customers. The COS studies of Aquila and the industrial intervenors support an even greater increase for that class. Now, however, Staff's new COS study in the rate case, which mixes accounting data from one time period with customer data from another, produces a different result than did its study in the COS case. Thus, it appears that all the Staff now wants out of the COS case is an endorsement of its allocation method. Armed with that, the Staff apparently suggests that **another** study be undertaken to resolve the issues with its new COS study either in the context of the pending rate case or later, all of which would simply postpone the inevitable - - an upward adjustment for the residential class.

6. All of this is further complicated by the Response of the Public Counsel filed in the rate case on November 18, 2005. The Public Counsel now argues that class responsibilities for Aquila's revenue requirement, encompassing all class COS issues, must be heard in the context of Aquila's pending electric rate case and that the Commission cannot preclude a party from addressing such issues in that proceeding. Without commenting on the merits of these arguments, it is clear that if the class COS and rate design issues are not addressed in the context of Aquila's pending rate case, it is likely that litigation will result.

7. As a consequence, it appears to Aquila that the Commission has the following practical options with respect to the COS and rate design issues:

- Adopt Aquila's position and preclude consideration of COS and rate design issues in the rate case (grant the Motion to Strike), decide and implement the results of the COS and rate design case (Case No. EO-2002-384) at the time of the decision in the rate case (by applying said results to the rate case revenues), or at some later point in time.
- Follow the Public Counsel's advice and allow COS issues to be heard in the rate case, (a wasteful and duplicative process) to the extent this does not result in a denial of due process and is feasible given the problems with the Staff's study, the established schedule and the reliance of some parties on the Commission's prior order that the COS issues would be heard in the COS case.
- Postpone immediate resolution of the COS issues, as apparently suggested by Staff, by directing that new or updated COS studies be prepared which presumably would then be taken up, considered and resolved in conjunction with Aquila's next rate case along with all other issues, the "consolidation" result which the Staff has sought all along.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, hand delivery, or electronic transmission, on this 30th day of November, 2005, to all counsel of record.

