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RICHARD T. CIOTTONE

December 17, 2002

Secretary
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED²
DEC 17 2002
Missouri Public
Service Commission

RE: Case No. GC-2003-0131

Dear Mr. Roberts:

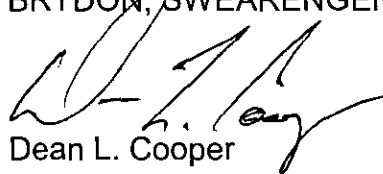
Enclosed please find an original and eight copies of Aquila's Motion to Set Aside Order Granting Default and Motion for Leave to File Answer. Please file stamp the enclosed extra receipt copy and return to me for my records.

If you have any questions concerning this matter, then please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Dean L. Cooper

DLC/tli

Enclosures

cc: Office of the Public Counsel
General Counsel
Mr. Whitney R. Hunt

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

DEC 17 2002

Missouri Public
Service Commission

Whitney R. Hunt,

Complainant,

v.

Aquila, Inc.,

Respondent.

Case No. GC-2003-0131

MOTION TO SET ASIDE ORDER GRANTING DEFAULT
AND MOTION FOR LEAVE TO FILE ANSWER

COMES NOW Aquila, Inc. ("Aquila") and, as its Motion To Set Aside Order Granting Default and Motion for Leave to File Answer, states as follows to the Missouri Public Service Commission ("Commission"):

1. On October 4, 2002, Complainant Whitney R. Hunt ("Complainant") filed a complaint with the Commission concerning Aquila. On October 9, 2002, the Commission issued its Notice of Complaint directing Aquila to file its answer, if any, to the Complaint by November 8, 2002.

2. The Notice of Complaint states that it was sent by certified mail to the following address:

*Legal Department
Aquila, Inc.
P.O. Box 219703
Kansas City, MO 64121-9703*

3. The described post office box does not belong to the Aquila Legal

Department.¹ This post office box is owned and operated by United Missouri Bank, under contract with Aquila, for the receipt of customer payments made to Aquila.

4. Accordingly, the Notice of Complaint was not received by Aquila personnel. Conversations with Commission personnel seem to confirm this as it is Aquila's understanding that the Commission has thus far been unable to locate a return receipt associated with the mailing of this Notice of Complaint.

5. The Commission finds its power to adjudicate complaints in Section 386.390, RSMo 2002. Section 386.390.3 states in part that "[u]pon the filing of a complaint, the commission shall cause a copy thereof to be served upon the public utility . . . complained of."

6. Section 386.390.4 states that "[s]ervice in all hearings, investigations and proceedings pending before the commission may be made upon any person upon whom summons may be served in accordance with the provisions of the code of civil procedure of this state, and may be made personally or by mailing in a sealed envelope with postage prepaid."

7. Summons may be served upon a corporation "by delivering a copy of the summons and petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process." Rule 54.13(b)(3), Mo.R.Civ.P.

¹ It is the post office box and zip code that Mr. Hunt appears to have recorded on his Complaint.

8. The address identified above is not Aquila's agent for the service of process as is registered with the Missouri Secretary of State, nor is it any of the other persons "upon whom summons may be served." Aquila additionally believes this is not even one of the many of the addresses that the Staff commonly uses to contact and discuss matters with the Company.

9. The fact that Aquila was never properly served with the underlying Complaint is good cause to set aside the previously issued Order Granting Default. Furthermore, even if the Commission finds that Aquila was properly served, Aquila's failure to file a timely answer is not due to a disregard for the Commission or its procedure, but because the Complaint was delivered to non-employees who were not sensitive to the nature of the documents. Justice would be better served by the Commission's consideration of the matters alleged in the Complaint, rather than the entry of a default judgment.

10. Attached as Appendix A is Aquila's Answer to Complaint. Aquila's proposed response and defense to the Complaint is contained therein. Aquila moves the Commission for leave to file this answer.

11. Lastly, Aquila asks that the Commission use the following address for future contacts with the Company concerning natural gas matters:

Aquila Networks
Regulatory Department
1815 Capitol Avenue
Omaha, NE 68102

This is the address that is found in EFIS for Aquila's natural gas operations. Use of this address should avoid similar situations in the future and allow Aquila to address

such matters promptly.

WHEREFORE, Aquila prays for an order setting aside the Order Granting Default and granting Aquila leave to file its attached Answer to Complaint.

Respectfully submitted,



Dean L. Cooper MBE#36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
(573) 635-7166
(573) 635-3847 facsimile
dcooper@brydonlaw.com

ATTORNEYS FOR AQUILA, INC.


CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was hand-delivered or sent by U.S. Mail, postage prepaid, on December 17, 2002 to the following:

Robert Berlin
Office of the General Counsel
Governor Office Building
Jefferson City, MO 65101

Douglas Micheel
Office of the Public Counsel
Governor Office Building
Jefferson City, MO 65101

Whitney R. Hunt
P.O. Box 97
Maryville, Missouri 64468



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

Whitney R. Hunt,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2003-0131
)	
Aquila, Inc.,)	
)	
Respondent.)	

AQUILA’S ANSWER TO COMPLAINT

COMES NOW Aquila, Inc. (“Aquila”), by and through its counsel, and, pursuant to 4 CSR 240-2.070, respectfully states the following to the Missouri Public Service Commission (“Commission”) as its answer and affirmative defenses to the Complaint filed by Whitney R. Hunt (“Complainant”):

1. MAWC admits that it is a public utility subject to the jurisdiction of the Commission, as provided by law.
2. Correspondence, communications, orders and decisions regarding this matter should be addressed to:

Dean L. Cooper
Brydon, Swearngen & England P.C.
312 E. Capitol Avenue
Jefferson City, MO 65101
(573) 635-7166
(573) 635-0427 facsimile
dcooper@brydonlaw.com

3. Aquila admits that it previously provided natural gas and electric service to one Whitney R. Hunt at 623 W. 3rd, Maryville, Missouri.

4. Aquila previously received an informal inquiry from the Commission Staff on August 16, 2002 regarding Whitney R. Hunt. This inquiry was addressed with responses on August 16 and August 30.

5. The Hunt family had a number of rental properties in Maryville, Missouri, which were sublet with utilities included in the monthly rent. The Hunts consistently paid the minimum on their utility bills to keep them accounts from being disconnected. Payments were consistently timed to take advantage of the cold weather rules and summer heat index rules. Over the past several years, the arrearages related to these accounts have grown substantially. Aquila's attempts to collect past due amounts have been hampered as the Hunts transferred accounts from the parents to children and changed account names. The following names have been used to shift service to new accounts so that service could be maintained: Adrian Hunt, Bud Hunt, Cyndi Hunt, Cindy Hunt, Adrienne Hunt, Ashley Hunt, Brandon Hunt, Whitney Hunt, and a variety of similar names with similar spellings.

6. Over the past several years, the Hunts have been forced to put the rental accounts into the names of their renters. The family now owns a small number of rentals in the parent or Complainant's (Whitney) names. Approximately \$14,000 in arrearages relating to the Hunt's rental properties have been transferred to a single account, which was disconnected in August.

7. After the account was disconnected, the Hunts attempted to reestablish service through the Aquila call center. Cyndi Hunt previously visited the Maryville office, and was offered the opportunity to reconnect service with a \$3,500 initial payment and a payment agreement for three \$3,500 monthly payments. This offer was rejected by the Ms. Hunt.

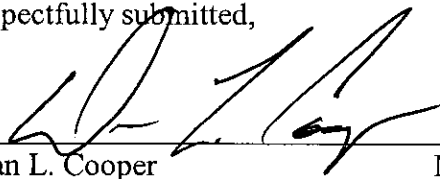
8. Except as expressly admitted in this answer, MAWC denies each and every other allegation contained in Complainants' Complaint.

9. Further answering, Aquila states that it has acted in accordance with its tariffs.

10. Further answering and for its first affirmative defense, Respondent states that the Complaint fails to state a claim upon which relief may be granted.

WHEREFORE, having fully answered and set forth its affirmative defenses, Respondent Aquila, Inc. d/b/a Aquila Networks - MPS, prays the Commission dismiss Respondent's Complaint and discharge Respondent with its costs herein expended and enter such other orders and relief as the Commission deems reasonable and just.

Respectfully submitted,


Dean L. Cooper MBE#36592
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P.O. Box 97
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