

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Tariffs of Aquila, Inc., d/b/a)	
Aquila Networks – MPS and Aquila Networks – L&P)	
Increasing Electric Rates for the Services Provided)	<u>Case No. ER-2007-0004</u>
to Customers in the Aquila Networks – MPS and)	Tariff Nos. YE-2007-0847
Aquila Networks – L&P Service Areas)	and YE-2007-0858

ORDER GRANTING EXPEDITED TREATMENT,

APPROVING CERTAIN TARIFF SHEETS AND REJECTING

CERTAIN TARIFF SHEETS

Issue Date: May 25, 2007

Effective Date: May 31, 2007

On May 17, 2007, the Missouri Public Service Commission issued its Report and Order rejecting the tariff sheets filed by Aquila, Inc. d/b/a Aquila Networks – MPS and Aquila Networks – L&P, on July 3, 2006, and directing Aquila to file tariff sheets to effectuate the terms of the Report and Order. On May 18, 2007, Aquila filed revised tariffs sheets designed to effectuate the terms of the Report and Order. Those tariff sheets bore an effective date of May 31, 2007. Also on May 18, Aquila filed a motion for expedited treatment requesting the Commission approve the revised tariffs to be effective May 31, 2007. On May 21, 2007, Aquila filed revised tariff sheets, identical in all respects to the May 18 tariff sheets, with the exception of bearing the effective date of June, 20, 2007. Aquila stated the tariff sheets have been filed in compliance with the Commission's Report and Order.

On May 18, 2007, Aquila also filed a Motion for Clarification of the Report and Order regarding the treatment of hedging costs. On May 22, 2007, the Commission granted Aquila's motion and provided that clarification.¹

On May 22, 2007, the Commission's Staff filed its recommendation regarding the Aquila's May 18 tariff filing and motion for expedited treatment. Based upon its review of the tariff sheets, Staff found they did not comply with the Commission's Report and Order and were deficient in various aspects. Staff recommended the Commission reject those tariff sheets, deny Aquila's motion for expedited treatment and allow Aquila to file substitute tariff sheets that were in compliance with the Report and Order and the Stipulation and Agreement as to Certain Issues (Stipulation), which the Commission approved by order dated April 12, 2007.

On May 23, 2007, Aquila filed replacement revised tariff sheets 30 and 33, restoring two sentences to each of these tariff sheets regarding the metering loss adjustment.

On May 23, 2007, the Office of the Public Counsel, Sedalia Industrial Energy Users Association (SIEUA) and AG Procession, Inc., (AGP) objected to Aquila's Motion for Expedited Treatment of the tariff filings as it does not provide parties an opportunity to review the revised tariffs. Also, on May 23, 2007, SIEUA and AGP filed a Motion for Scheduling of a Hearing and an objection to the filing of Staff's Recommendation and Memorandum under the Affidavit of James Watkins. Both filings were based upon

¹ The Commission clarified that hedging costs were to be treated in accordance with the Stipulation and Agreement as to Certain Issues. On April 12, 2007, the Commission approved the Stipulation and Agreement. Under the Stipulation and Agreement, prudently incurred hedging costs will flow through the fuel adjustment clause, but Aquila's 2006 hedge settlement losses of \$11.5 million were expressly excluded. The Stipulation and Agreement further provides that the ultimate settlement values of Aquila's hedge contracts in place on March 27, 2007, will not be subject to prudence review. Any hedge position taken after March 27, 2007, however, is subject to a prudence review and potential disallowance.

SIEUA and AGP's inaccurate impression that Aquila's May 18 tariff filing constitutes a contested case.

SIEUA, AGP and Public Counsel fail to recognize the different posture of the tariffs that initiate rate cases, and the compliance tariffs following the Commission's Report and Order. The Commission's Report and Order, after full evidentiary process pursuant to Chapters 386, 393, and 536, does four things pertinent to the pending motions. First, it finds that Aquila's current tariffs and rates are not just and reasonable; second, it finds that Aquila's proposed tariffs and rates are not just and reasonable; third, it prescribes the terms upon which Aquila's service will be just and reasonable; and, finally, it directs Aquila to file tariffs and rates that comply with the terms prescribed in the Report and Order.

The inquiry conducted on the tariffs that initiated Case No. ER-2007-0004 is conducted pursuant to section 393.150, and provided all parties the full panoply of due process to permit the Commission to determine just and reasonable rates. The inquiry to determine whether Aquila's compliance tariffs comport with the Commission's Report and Order is much more limited.

Aquila's May 18 tariff filing did not initiate a contested case under Section 537.070 RSMo 2000. The Commission has decided the contested issues before it in this case and its decisions on those issues are set out in the Report and Order. The only question before the Commission regarding the compliance tariff filing is whether that filing actually complies with the Report and Order and Order Approving Stipulation. In reaching a decision regarding the tariff filing, the Commission reviews the tariff filing and makes its determination. The Commission is entitled to interpret its

own order and ascribe to that order a proper meaning.² The appropriate place to question and/or challenge the Commission's determination that the tariff complies with the Report and Order is through rehearing and/or appellate review of that underlying Report and Order. Accordingly, SIEUA and AGP's Objection to Affidavit and Motion for Scheduling of a Hearing will be denied.

On May 23, 2007, the Staff of the Commission filed its verified Staff Recommendation to Approve Certain Tariff Sheets Filed by Aquila to Comply with the Commission's April 12, 2007 Order Approving Stipulation and Agreement as to Certain Issues and the Commission's May 17, 2007 Report and Order. Staff recommends the Commission approve tariff sheets 1 through 59, of the 62 tariff sheets Aquila filed on May 21, 2007, as substituted on May 23, 2007, as being in compliance with the Report and Order and Order Approving Stipulation. Staff further recommends that the Commission should reject tariff sheets 60, 61 and 62, which are intended to implement the fuel adjustment clause the Commission ordered for Aquila, because they do not comply with the Report and Order, Order Approving Stipulation, Section 386.266 RSMo (Cum. Supp. 2006), or Commission Rule 4 CSR 240-20.090, as set out in detail in Staff's May 23 Recommendation. Staff further supports expedited approval of the tariff sheets 1 through 59.

The Commission has reviewed the proposed tariff sheets, Staff's May 22 Recommendation, and Staff's May 23 Memorandum and Recommendation. After considering Staff's recommendation, and for good cause shown pursuant to Section 393.140(11), RSMo 2000, the Commission concludes that proposed tariff sheets 1

² *Ex rel. Beaufort Transfer Company v. Public Service Commission of Missouri*, 610 S.W.2d 96, 100 (Mo.App. W.D. 1980).

through 59 are consistent with the Commission's Report and Order and Order Approving Stipulation and should be approved to become effective for service rendered on and after May 31, 2007. The Commission also concludes that proposed tariff sheets 60 through 62 are not consistent with the Report and Order, Order Approving Stipulation, Section 386.266 RSMo (2006 Cum. Supp.), or Commission Rule 4 CSR 240-20.090, and should be rejected.

Aquila will be directed to file revised tariff sheets 60 through 62 that are in compliance with the Report and Order, Order Approving Stipulation, Section 386.266 RSMo (2006 Cum. Supp.), and Commission Rule 4 CSR 240-20.090. The Commission further concludes that the requests for delay and further suspension are not reasonable and would preclude Aquila from earning the just and reasonable rates the Commission allowed through the Report and Order.

IT IS ORDERED THAT:

1. The Motion for Expedited Treatment filed by Aquila, Inc., d/b/a Aquila Networks – MPS and Aquila Networks – L&P, is granted.

2. The proposed electric service tariff sheets number 1 through 59 submitted under Tariff File No. YE-2007-0847 on May 21, 2007, as substituted on May 23, 2007 by Aquila, Inc. d/b/a Aquila Networks – MPS and Aquila Networks – L&P for the purpose of increasing rates for retail electric service to customers are hereby approved.

The specific sheets approved are:

P.S.C. MO. No. 1, Electric Rates

**3rd Revised Sheet No. 2, Canceling 2nd Revised Sheet No. 2
2nd Revised Sheet No. 18, Canceling 1st Revised Sheet No. 18
2nd Revised Sheet No. 19, Canceling 1st Revised Sheet No. 19
2nd Revised Sheet No. 21, Canceling 1st Revised Sheet No. 21**

2nd Revised Sheet No. 22, Canceling 1st Revised Sheet No. 22
2nd Revised Sheet No. 23, Canceling 1st Revised Sheet No. 23
2nd Revised Sheet No. 24, Canceling 1st Revised Sheet No. 24
2nd Revised Sheet No. 25, Canceling 1st Revised Sheet No. 25
2nd Revised Sheet No. 28, Canceling 1st Revised Sheet No. 28
2nd Revised Sheet No. 29, Canceling 1st Revised Sheet No. 29
2nd Revised Sheet No. 30, Canceling 1st Revised Sheet No. 30
2nd Revised Sheet No. 31, Canceling 1st Revised Sheet No. 31
2nd Revised Sheet No. 33, Canceling 1st Revised Sheet No. 33
2nd Revised Sheet No. 34, Canceling 1st Revised Sheet No. 34
2nd Revised Sheet No. 35, Canceling 1st Revised Sheet No. 35
1st Revised Sheet No. 36, Canceling Original Sheet No. 36
2nd Revised Sheet No. 41, Canceling 1st Revised Sheet No. 41
2nd Revised Sheet No. 42, Canceling 1st Revised Sheet No. 42
2nd Revised Sheet No. 43, Canceling 1st Revised Sheet No. 43
2nd Revised Sheet No. 44, Canceling 1st Revised Sheet No. 44
1st Revised Sheet No. 46, Canceling Original Sheet No. 46
2nd Revised Sheet No. 47, Canceling 1st Revised Sheet No. 47
2nd Revised Sheet No. 48, Canceling 1st Revised Sheet No. 48
1st Revised Sheet No. 49, Canceling Original Sheet No. 49
2nd Revised Sheet No. 50, Canceling 1st Revised Sheet No. 50
2nd Revised Sheet No. 51, Canceling 1st Revised Sheet No. 51
2nd Revised Sheet No. 52, Canceling 1st Revised Sheet No. 52
2nd Revised Sheet No. 53, Canceling 1st Revised Sheet No. 53
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2nd Revised Sheet No. 56, Canceling 1st Revised Sheet No. 56
2nd Revised Sheet No. 57, Canceling 1st Revised Sheet No. 57
1st Revised Sheet No. 58, Canceling Original Sheet No. 58
2nd Revised Sheet No. 59, Canceling 1st Revised Sheet No. 59
2nd Revised Sheet No. 60, Canceling 1st Revised Sheet No. 60
2nd Revised Sheet No. 61, Canceling 1st Revised Sheet No. 61
2nd Revised Sheet No. 66, Canceling 1st Revised Sheet No. 66
2nd Revised Sheet No. 67, Canceling 1st Revised Sheet No. 67
2nd Revised Sheet No. 68, Canceling 1st Revised Sheet No. 68
1st Revised Sheet No. 69, Canceling Original Sheet No. 69
2nd Revised Sheet No. 70, Canceling 1st Revised Sheet No. 70
2nd Revised Sheet No. 71, Canceling 1st Revised Sheet No. 71
2nd Revised Sheet No. 74, Canceling 1st Revised Sheet No. 74
2nd Revised Sheet No. 76, Canceling 1st Revised Sheet No. 76
2nd Revised Sheet No. 79, Canceling 1st Revised Sheet No. 79
2nd Revised Sheet No. 80, Canceling 1st Revised Sheet No. 80
1st Revised Sheet No. 82, Canceling Original Sheet No. 82
2nd Revised Sheet No. 88, Canceling 1st Revised Sheet No. 88
2nd Revised Sheet No. 89, Canceling 1st Revised Sheet No. 89
2nd Revised Sheet No. 90, Canceling 1st Revised Sheet No. 90

2nd Revised Sheet No. 91, Canceling 1st Revised Sheet No. 91
2nd Revised Sheet No. 92, Canceling 1st Revised Sheet No. 92
1st Revised Sheet No. 94, Canceling Original Sheet No. 94
2nd Revised Sheet No. 95, Canceling 1st Revised Sheet No. 95
2nd Revised Sheet No. 97, Canceling 1st Revised Sheet No. 97
2nd Revised Sheet No. 99, Canceling 1st Revised Sheet No. 99
2nd Revised Sheet No. 100, Canceling 1st Revised Sheet No. 100
2nd Revised Sheet No. 103 Canceling 1st Revised Sheet No. 103
2nd Revised Sheet No. 104, Canceling 1st Revised Sheet No. 104

3. The proposed electric service tariff sheets number 60 through 62 submitted on May 21, 2007, by Aquila, Inc. d/b/a Aquila Networks – MPS and Aquila Networks – L&P, originally assigned Tariff File No. YE-2007-0847 and subsequently assigned Tariff File No. YE-2007-0858, for the purpose of increasing rates for retail electric service to customers are hereby rejected. The specific sheets rejected are:

P.S.C. MO. No. 1, Electric Rates

Original Sheet No. 124

Original Sheet No. 125

Original Sheet No. 126

4. 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.

5. The Objection to Affidavit and Motion for Scheduling of a Hearing filed by Sedalia Industrial Energy Users Association and AG Processing, Inc., on May 23, 2007, are denied.

6. All pending motions regarding the tariff sheets filed by Aquila, Inc., d/b/a Aquila Networks MPS and Aquila Networks L&P, on May 18, May 21 or May 23, not otherwise disposed of herein, are hereby denied.

7. This order shall become effective on May 31, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Cherlyn D. Voss, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 25th day of May, 2007.