

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	)	ER-2007-0004
tariffs increasing electric rates	)	
for the service provided to custom-	)	
ers in the Aquila Networks-MPS and	)	
Aquila Networks-L&P service areas	)	

SUPPLEMENTAL OBJECTION TO PROPOSED TARIFF  
OF SIEUA and AGP

On May 24, 2007 Aquila once again attempted to file tariffs compliant with the Commission's May 17, 2007 Report and Order.<sup>1/</sup> Once again Aquila failed. The Office of the Public Counsel ("OPC") objected to these proposed tariffs, noting that Aquila back-dated them in a apparent attempt to expunge its earlier errors, but thereby violating the requirement that all tariffs must be filed with a proposed effective date 30 days following filing. On May 25, 2007, Ag Processing, Inc a Cooperative ("AGP") and Sedalia Industrial Users' Association ("SIEUA") joined in OPC's objection.

AGP and SIEUA here supplement their joinder in OPC's objection with additional specific grounds justifying rejection of the May 24, 2007 proposed tariffs. The proposed tariffs filed on May 24, 2007 do not comply with the Commission's May 17, 2007

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<sup>1/</sup> For other good and sufficient reasons, these parties have sought rehearing of that Report and Order. These Supplemental Objections are filed without prejudice to any of the assertions made in that request for rehearing.

Report and Order in at least three areas: *First*, they fail to comply with the May 17, 2007 Report and Order and applicable Commission Rules in regard to their treatment of the costs and revenues associated with off-system sales. *Second*, they fail to specify the rate, method of calculation and base amount on which interest is proposed to be charged and included in the surcharge. *Third*, the proposed tariffs allow interest to be charged at all, even though it is not permitted by either the May 17, 2007 Report and Order or the new Commission Rules governing rate adjustment mechanisms.

**A. The May 24, 2007 Proposed Tariffs Fail to Comply With the May 17, 2007 Report and Order and Commission Rules In Their Proposed Handling of the Costs and Revenues Associated With Off-System Sales.**

1. The May 17, 2007 Report and Order states that the proposal "would net 100% of off-system sales revenue against fuel and purchased power costs. In other words, off-system sales revenue would offset rising fuel and purchased power costs."<sup>2/</sup>

2. Aquila's May 24, 2007 proposed tariffs would purport to allow the inclusion of all costs incurred and booked to Account 501 described as "Actual variable cost of fuel in FERC Accounts 501 & 547."<sup>3/</sup>

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<sup>2/</sup> ER-2007-0004 Report and Order, p. 30 (May 17, 2007).

<sup>3/</sup> Proposed Sheet No. 125, May 24, 2007.

3. The May 24, 2007 proposed tariffs do **not** require that revenues from these off-system sales be offset against fuel and purchased power costs.

4. In other words, the May 24, 2007 proposed tariffs would charge the variable costs associated with the generation of energy that Aquila sells off-system to non-native load customers to Aquila's native load retail customers (presumably for a profit), but **does not require the offset** of even the costs of this generation, much less the profits gained by such off-system sales, to the native load customers. Aquila's attempted over-reach is shameful.

5. According to Aquila's May 24, 2007 proposed tariffs, the native load retail customers will be charged Aquila's generation costs so that it can sell energy off-system and permit Aquila to retain 100% of the revenues of these off-system sales.

6. Commission Rule 4 CSR 240-20.090(1)(B)(1) provides as follows:

1. If off-system sales revenues are not reflected in the rate adjustment mechanism (RAM), fuel and purchased power costs only reflect the prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers.

2. If off-system sales revenues are reflected in the RAM, fuel and purchased power costs reflect both:

A. The prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers; and

B. The prudently incurred fuel and purchased power costs associated with the electric utility's off-system sales.

7. The mechanism proposed by Aquila in its May 24, 2007 proposed tariff does not include off-system sale revenues in the calculation of the fuel adjustment, but in outright violation of the requirements of this Commission Rule, Aquila's proposal ***does include all generation costs included in FERC Account 501.*** No calculation or credit to identify the portion of cost that is intended to identify and charge only "incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers" as required by the Rule.<sup>4/</sup>

8. The arrangement proposed by Aquila in its May 24, 2007 proposed tariff is manifestly discriminatory, unjust, unreasonable and is not in accord with the Commission's rules.

**B. Aquila's May 24, 2007 Proposed Tariffs Do Not Address the Calculation of Interest.**

1. Tariffs are required to be complete in themselves and provide on their face the means of calculating the charges so that any person with reasonable intellect can verify the calculation that would be made on their bill. The public and Aquila ratepayers must be able to verify what the Commission has

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<sup>4/</sup> Aquila may attempt to defend its overreach by pointing to earlier language suggesting that "allocations" will take care of the problem. However, the proposed tariffs fail on that score because they do not specify any method of allocation or make clear what it is that is to be allocated and to whom.

allowed the utility to charge for its services and those charges and the complete basis for them must be specified in the tariff.

2. As regards interest, the May 24, 2007 proposed tariffs, sheet 125, simply specify the addition of interest as part of the recovery but completely fail to specify the rate of such interest, the period during which such interest is to be charged, and even the amount on which the interest is to be calculated. Moreover, the May 24, 2007 proposed tariffs, sheet 127, provides no information on the calculation that is to be made.

3. Without specific information as to the method proposed by Aquila to calculate this "interest" charge, there is no means by which the Commission can approve this charge as a part of Aquila's tariff.

4. Should a dispute arise, there is no means of resolving such dispute based on the language proposed in the tariff. Neither Staff, Commission, nor a reviewing court can discern what charge, what basis for that charge and what calculation methodology has been approved by the Commission. Commission Staff cannot even evaluate whether a customer's billing is in accord with the tariff. This is not consistent with law and requires rejection of these tariffs.

C. Neither the May 17, 2007 Report and Order Nor Commission Rules Permit Interest to Be Recovered in the Fuel Adjustment Clause.

1. Beyond the issue raised above, there is a more basic problem with the proposed tariffs handling of interest. Plainly, the proposed tariffs do permit the recovery of interest, but this is just as plainly not permitted under either the May 17, 2007 Report and Order or Commission Rules.

2. Section 386.266 RSMo clearly contemplates interest calculations on **refunds** found necessary after the annual true-up.

3. Interest is provided in the enabling statute to protect and compensate **customers** on overcollections, not the utility. There is no authorization for this provision of the May 24, 2007 proposed tariffs in either Commission Rules, the enabling statute or the May 17, 2007 Report and Order. An attempt to collect interest in this manner justifies rejection of the proposed tariffs.

WHEREFORE, the May 24, 2007 proposed tariffs should be rejected as not in compliance with the May 17, 2007 Report and Order, Commission Rules and governing Missouri law.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



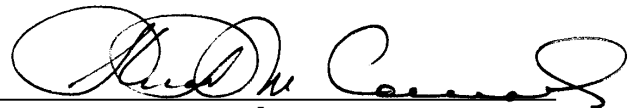
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ATTORNEYS FOR AG PROCESSING INC., A  
COOPERATIVE and SEDALIA INDUSTRIAL  
ENERGY USERS' ASSOCIATION

May 29, 2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Application for Leave to Intervene by U.S. mail, postage prepaid or by electronic mail addressed to all parties by their attorneys of record as provided by the Secretary of the Commission.



Stuart W. Conrad

Dated: May 29, 2007