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May, 22, 2002

Mr. Dale Hardy Roberts
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: **Aquila, Inc.** - Case No. GO-2002-175

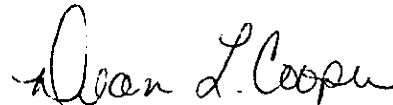
Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and eight copies of Aquila's Statement of Position on Contested Issues. Please stamp the enclosed extra copy "filed" and return same to me.

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

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.



Dean L. Cooper

DLC/rhg

Enclosures

cc: Mr. David Meyer, PSC
Mr. Doug Micheel, OPC
Mr. Stuart Conrad
Mr. Bob Amdor

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

In the Matter of Missouri Public Service
and St. Joseph Light and Power, Divisions
of UtiliCorp United Inc., for Recognition of
Uncollectibles Expense under the Terms of
4 CSR 240-13.055(10)1.

Case No. GO-2002-175

**A VILA'S STATEMENT OF POSITION
ON CONTESTED ISSUES**

COMES NOW Aquila, Inc. (formerly UtiliCorp United Inc.), d/b/a Aquila Networks
- MPS and Aquila Networks - L&P ("Aquila"), and states to the Missouri Public Service
Commission ("Commission") its positions on the list of issues to be heard at the
evidentiary hearing in this case:

1. Should the Commission grant Aquila's motion for leave to amend its application?

Company Position: Yes. Commission Rule 4 CSR 240-2.075(21) provides that a pleading may be amended at any time by leave of the Commission. Granting the requested leave to amend will allow the issues in this case to be better defined and clearly identify the applicant as it exists today, thereby assisting with the efficient and economic progress of this litigation. No party should be prejudiced by such a result and, in fact, all parties should benefit from this clarification and refinement of the issues and the relief sought.

2. Should the Commission grant Aquila's request for an Accounting Authority Order (AAO) to permit Aquila to defer recognition of the levels of uncollectibles expense resulting from or incurred during the winter of 2000-2001?

Company Position: Yes. The winter months of November and December 2000-

2001 were among the coldest in recorded history across the United States. The winter of 2000-2001 was also marked by nationwide increases in wholesale natural gas price that were higher than at any previous time in this country. This cold weather and high-priced natural gas posed a significant financial hardship on both gas customers and gas utilities throughout the country, Missouri included, during the winter of 2000-2001. As a consequence of the foregoing extraordinary event, Aquila has experienced extraordinarily high levels of uncollectible expense that significantly exceed the operating expense levels included in Aquila's revenue requirements used by the Commission for rate setting purposes. Consequently, Aquila presently has no meaningful opportunity to recover these costs. A grant of the requested Accounting Authority Order will provide Aquila the opportunity to present these costs for review and possible recovery in a future rate case without impacting customer rates at this point in time.

3. Should the Commission grant Aquila's request for an AAO to permit Aquila to defer uncollectible expenses attributed to compliance with the Commission's Cold Weather Rule (4 CSR 240-13.055(10))?

Company Position: The Commission's Cold Weather Rule provides, in part, that "[t]he Commission shall recognize and permit recovery of reasonable operating expenses incurred by a utility because of [the Cold Weather Rule]." Aquila's uncollectible expenses are directly impacted by the Cold Weather Rule's requirement that customers be kept on the system during the winter even as their outstanding balances get larger. The Cold Weather Rule certainly serves a compassionate and reasonable public policy purpose. However, as the Cold Weather Rule recognizes,

there are costs associated with this policy that should be recovered by the utility.

4. Were Aquila's (then UtiliCorp) uncollectible expenses resulting from the winter of 2000-2001 "extraordinary, unusual, unique, and non-recurring?"

Company Position: Yes. The Commission has already found in its Case No. AX-2002-203 that the "combination of extremely high gas prices in combination with extremely cold weather in November and December of 2000" was an extraordinary event. Certainly the resulting costs (write-offs for the April-October period), which represent 46% of Aquila Networks - L&P's operating income, 897% of Aquila Networks - L&P's operating income and 562% of the total Aquila Missouri gas operation's operating income, are material and also extraordinary, unusual, unique and non-recurring.

5. Should the Commission adopt the four criteria proposed by the Staff for this Accounting Authority Order application?

Company Position: No. Limiting the Commission's discretion in this fashion unnecessarily eliminates a regulatory option which the Commission might otherwise choose to utilize in performing its duties. The standards found in the uniform system of accounts are sufficient to guide the Commission's action in regard to Accounting Authority Orders.

A. Do Staffs proposed criteria constitute an unlawful change in statewide policy because such change would not be made through a rule making proceeding?

Company Position: Yes. Section 536.010(4), RSMo defines "rule" as an "agency statement of general applicability that implements, interprets, or prescribes law

or policy, or that describes the organization, procedure or practice requirements of any agency." The Missouri Supreme Court has stated that "[f]ailure to follow rule making procedures renders void purported changes in statewide policy." *NME Hospitals, Inc. v. Department of Social Services*, 850 S.W.2d 71, 74 (Mo. banc 1993). The Commission Staff has announced a change in statewide policy and statement of general applicability in asserting that it plans to apply its four criteria to all accounting authority order applications. The statutorily established rule making procedures have not been followed. The criteria are thus void.

B. If the Commission adopts the Staff's four criteria:

- (1) Are the costs resulting from the event at least 5% of Aquila's regulated Missouri income, computed before extraordinary items?

Company Position: Yes, by leaps and bounds. The resulting costs (write-offs for the April-October period) represent 46% of Aquila Networks - L&P's operating income, 897% of Aquila Networks - L&P's operating income and 562% of the total Aquila Missouri gas operation's operating income.

B. If the Commission adopts the Staff's four criteria:

- (2) Are Aquila's current rates inadequate to cover the event (i.e. are Aquila's existing rates sufficient to cover the extraordinary cost and still provide Aquila with a reasonable expectation of earning its authorized return)?

Company Position: No. Even without taken into consideration the uncollectible

expenses that are the subject of this case, the Aquila Missouri natural gas operations have never achieved their authorized rate of return in either 2001 or 2002.

B. If the Commission adopts the Staff's four criteria:

- (3) Did the expenses result either from an extraordinary capital addition or an extraordinary event that is beyond the control of the utility's management?

Company Position: Yes. The "combination of extremely high gas prices in combination with extremely cold weather in November and December of 2000" experienced during the winter of 2000-2001 constituted an extraordinary event beyond the control of Aquila's management.

B. If the Commission adopts the Staff's four criteria:

- (4) Is there a sufficient reason why Aquila cannot file a rate case to recover the costs resulting from the extraordinary event?

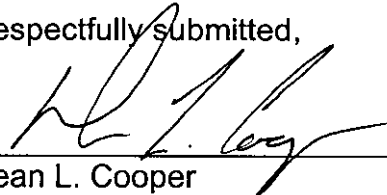
Company Position: Yes. Aquila is not in a position to file a rate case today because additional increases to its base rate would negatively impact its price competitiveness.

6. If the Commission grants Aquila an Accounting Authority Order:

A. How shall the deferral be calculated?

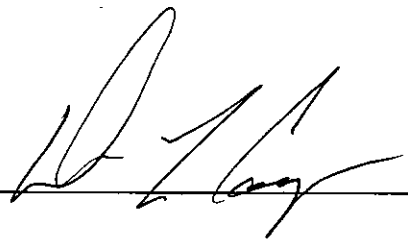
Company Position: Aquila should be allowed to defer that amount of uncollectible expense that exceeds the amount the Commission has approved for annual bad debts in the last rate case for each of the operating divisions. In the alternative, Aquila should be allowed to defer that amount of uncollectible expense that

Respectfully submitted,



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ATTORNEYS FOR AQUILA, INC.
D/B/A AQUILA NETWORKS - MPS AND
AQUILA NETWORKS - L&P

A handwritten signature in black ink, appearing to be 'D. Long', is written over a horizontal line.