

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 28th day of
February, 2006.

In the Matter of the Tariff Filing of Aquila, Inc.,)	
to Implement a General Rate Increase for)	
Retail Steam Heat Service Provided to)	<u>Case No. HR-2005-0450</u>
Customers in its L&P Missouri Service Area.)	Tariff No. YH-2005-1066

ORDER REGARDING STIPULATION AND AGREEMENT

Issue Date: February 28, 2006

Effective Date: March 6, 2006

Syllabus: This order approves the stipulation and agreement submitted by the parties.

On May 27, 2005, Aquila, Inc., submitted proposed tariff sheets (YH-2005-1066) intended to implement a general rate increase for steam service provided to retail customers in its L&P operating division in Missouri. On June 1, the Commission suspended the Company's proposed tariff sheets until April 24, 2006.

On February 17, 2006, Aquila, Inc., the Staff of the Missouri Public Service Commission, AG Processing, Inc., and the City of St. Joseph filed a nonunanimous stipulation and agreement. That stipulation and agreement resolves all disputes between the parties regarding the proposed steam rate increase. A copy of the stipulation and agreement is attached to this order as Attachment 1.

Not all parties signed the stipulation and agreement. However, Commission Rule 4 CSR 240-2.115(2) provides that if no party objects to a nonunanimous stipulation and agreement within seven days of its filing, the Commission may treat that stipulation and

agreement as unanimous. No party has filed a timely objection to the stipulation and agreement and the Commission will treat it as unanimous.

Staff filed suggestions in support of the stipulation and agreement on February 24. On February 27, the Commission held an on-the-record presentation regarding the proposed stipulation and agreement. At that proceeding, the Commission questioned the signatory parties, as well as those parties that did not sign but did not object to the stipulation and agreement.

As a part of the stipulation and agreement, the parties agreed to specific tariff language that Aquila will file to implement the agreed upon rate increase. That tariff has not yet been filed but the stipulation and agreement asks the Commission to authorize Aquila to file such a tariff. The stipulation and agreement also asks the Commission to allow that tariff, after it is filed, to become effective on March 1, 2006.

The parties agree that if the Commission approves the stipulation and agreement without modification or condition, then the prefiled testimony of all witnesses may be included in the record of this proceeding. The Commission will admit such evidence into the record.

The Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case.¹ Furthermore, Section 536.090, RSMo Supp. 2005, provides that when accepting a stipulation and agreement, the Commission does not need to make either findings of fact or conclusions of law. The requirement for a hearing is met when the opportunity for hearing has been provided and

¹Section 536.060, RSMo Supp. 2005.

no proper party has requested the opportunity to present evidence.² Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the stipulation and agreement.

Based on the agreement of the parties and the testimony received at the on-the-record presentation, the Commission believes that the parties have reached a just and reasonable settlement in this case.

IT IS ORDERED THAT:

1. The Stipulation and Agreement filed on February 17, 2006, is approved as a resolution of all issues in this case (See Attachment 1).

2. All signatory parties are ordered to comply with the terms of the Stipulation and Agreement.

3. The proposed steam heat service tariff sheets (YH-2005-1066) submitted on May 27, 2005, by Aquila, Inc., are rejected.

4. Aquila, Inc., is authorized to file the tariff sheets agreed to as part of the Stipulation and Agreement. Aquila, Inc., may request that the tariff sheets be allowed to become effective on March 6, 2006.

5. The prefiled testimony of all witnesses is admitted into evidence and is included in the record of this proceeding.

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

6. This order shall become effective on March 6, 2006.

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)

Davis, Chm., Murray, Clayton and Appling, CC., concur
Gaw, C., dissents, dissenting opinion to follow

Woodruff, Deputy Chief Regulatory Law Judge