

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

In the Matter of the Application of Aquila,       )  
Inc., d/b/a Aquila Networks-MPS, and       )  
Osage Valley Electric Cooperative for       )  
Approval of Addendum No. 1 to a Written       )  
Territorial Agreement Designating the       )  
Boundaries of Exclusive Service Areas       )  
Within Cass County, Missouri

Case No. EO-2005-

**JOINT APPLICATION**

COME NOW Aquila, Inc., d/b/a Aquila Networks-MPS, ("Aquila") and Osage Valley Electric Cooperative ("Osage"), sometimes hereinafter referred to collectively as "Applicants," by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission ("Commission"), pursuant to 4 CSR 240-2.060, 4 CSR 240-3.130, 4 CSR 240-3.135, and §394.312 RSMo 2000, for an order approving Applicants' Addendum No. 1 to the Territorial Agreement, respectfully state as follows:

1.     **The Applicants** – Aquila is a Delaware corporation with its principal office and place of business at 20 West 9<sup>th</sup> Street, Kansas City, Missouri 64138. Aquila is engaged in the business of providing electrical, natural gas and industrial steam utility services in Missouri to customers in its service areas through its Aquila Networks-MPS and Aquila Networks-L&P operating divisions. Aquila is an "electrical corporation," a "gas corporation," a "heating company" and a "public utility" as those terms are defined in §386.020 RSMo 2000, and is subject to the jurisdiction and supervision of the Commission as provided by law. Aquila has pending or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer

service or its rates, which have occurred within the three years immediately preceding the filing of this application. Aquila has no overdue Commission annual reports or assessment fees. A certified copy of Aquila's Amended Certificate of Authority to do business in this state as a foreign corporation was filed with the Commission in Case No. EU-2002-1053 and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). Likewise, copies of the registrations of fictitious name of Aquila Networks-MPS and Aquila Networks-L&P were filed in Case No. EU-2002-1053 and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G).

2. Osage is a rural electric cooperative organized and existing under the laws of Missouri and has its principal office on at P.O. Box 151, Butler, Missouri. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri Counties. Osage has no pending or final judgments or decisions against it from any state or federal agency or court which involve its customer service or rates within the three years immediately preceding the filing of this Joint Application. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for Osage was filed in Case No. EO-2004-0603 and said document is incorporated herein by reference in accordance with 4 CSR-2.060(1)(6).

3. **Correspondence and Communication** – Correspondence, communications, and orders in regard to this Application should be directed to:

Paul A. Boudreau  
Brydon, Swearngen & England, P.C.  
312 E. Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
573-635-7166 (telephone)  
573-635-3847 (fax)  
[paulb@brydonlaw.com](mailto:paulb@brydonlaw.com)

Craig S. Johnson  
Andereck, Evans, Milne, Peace & Johnson, L.L.C.  
700 E. Capitol Avenue,  
P.O. Box 1438  
Jefferson City, MO 65102-1438  
(573) 634-3422 (telephone)  
(573) 634-7822 (fax)  
[cjohnson@aempb.com](mailto:cjohnson@aempb.com)

4. **The Territorial Agreement** – Subject to the terms and conditions of a Territorial Agreement dated as of June 1, 2004, between Aquila and Osage (the “Agreement”), Applicants have specifically designated the boundaries of three (3) exclusive electric service areas within the community of Peculiar, Cass County, Missouri which are more particularly described in the Agreement. A copy of the Agreement was filed in Case No. EO-2004-0603 and is incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(6). The Commission in that case issued on September 30, 2004 a Report and Order approving The Agreement and providing, among other things, that “any future addendums to this Territorial Agreement must be approved or rejected by the Commission.” Paragraph Ordered: 3.

5. **Addendum No. 1 to the Territorial Agreement** – Subject to the terms and conditions of Addendum No. 1 to the Territorial Agreement (“Addendum”),

Applicants have specifically designated the boundaries of an additional exclusive electric service area within the community of Peculiar, Cass County, Missouri by the addition of Parcel D to the First Amended Exhibit A to the Addendum. Parcel D is a sewer lift station owned by the City of Peculiar, which is located within Aquila service territory. Applicants have attached a copy of the Addendum to this Application as **Appendix A**, which is incorporated by reference into this Application and made a part hereof for all purposes. **As provided in Article 7, paragraph 4 of the Agreement, the Commission's Staff and the Office of Public Counsel have forty-five (45) days to oppose the terms of the Addendum or it "shall be deemed approved" by those parties.**

6. **No Changes of Suppliers** – The Addendum does not require transfer of any facilities or customers between the Applicants, so no list of persons whose utility service would be changed by the Agreement, as required by 4 CSR 240-3.130(1)(D), is included.

7. **Authority** – Aquila already has a certificate of public convenience and necessity to provide utility service in this portion of Cass County, Missouri. As a result, Aquila has not included with this application an "illustrative tariff" reflecting proposed changes to its certification, as required by 4 CSR 240-3.130(1), since there will be no changes in the present boundaries of its certificated area as a result of this proceeding.

8. **Other Electric Suppliers** – To Applicants' knowledge and belief there are no other electric suppliers serving in the area covered by this Addendum.

9. **Agreement is in the Public Interest** – The Agreement is in the public interest because it establishes exclusive service obligations for new structures as

between the Applicants in the described area. The establishment of exclusive service territories will prevent future duplication of electric service facilities, address the special circumstances of customers located therein and will also allow electric service customers within the area to know with certainty the supplier of their electric service.

10. **Limited Applicability of Agreement** – Each of the Applicants will continue to have service responsibilities beyond the boundaries parcels specified in the First Amended Exhibit A to the Addendum unaffected by the terms of the Agreement, as amended.

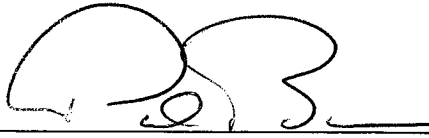
11. **Application Fee** – Article 7, paragraph 2 of the Agreement states that no filing fee is required for the filing of any addenda thereto.

WHEREFORE, Applicants respectfully request that the Commission issue its order:

(a) Finding the designation of electric service area is not detrimental to the public interest and approving the Applicants' Addendum; and

(b) Authorizing Applicants to perform in accordance with the Agreement, as amended by the terms and conditions of the Addendum.

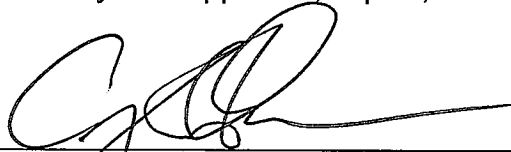
Respectfully submitted,



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Paul A. Boudreau MO #33155  
BRYDON, SWEARENGEN & ENGLAND, P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166 Phone  
(573) 635-0427 Fax  
paulb@brydonlaw.com

Attorneys for Applicant, Aquila, Inc.



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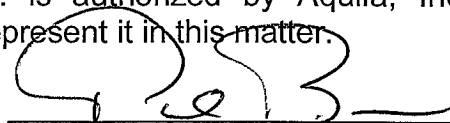
Craig S. Johnson MO #28179  
Andereck, Evans, Milne, Peace & Johnson, L.L.C.  
700 E. Capitol Avenue,  
P.O. Box 1438  
Jefferson City, MO 65102-1438  
(573) 634-3422 (telephone)  
(573) 634-7822 (fax)

Attorneys for Osage Valley Electric Cooperative

### VERIFICATION

STATE OF MISSOURI     )  
                                  )ss  
COUNTY OF COLE     )

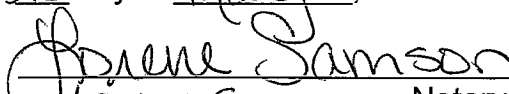
Being first duly sworn, Paul A. Boudreau states as follows: that he has read the foregoing application and the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief and that the law firm of Brydon, Swearingen & England P.C. is authorized by Aquila, Inc., d/b/a Aquila Networks-MPS to make this filing and represent it in this matter.

  
\_\_\_\_\_  
Paul A. Boudreau

Subscribed and sworn to before me this 23<sup>rd</sup> day of May, 2001.



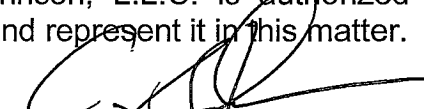
LORENE SAMSON  
Osage County  
My Commission Expires  
July 16, 2006

  
\_\_\_\_\_  
Lorene Samson, Notary Public

### VERIFICATION

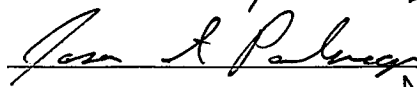
STATE OF MISSOURI     )  
                                  )ss  
COUNTY OF COLE)

Being first duly sworn, Craig S. Johnson states as follows: that he has read the foregoing application and the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief and that the law firm of Andereck, Evans, Milne, Peace & Johnson, L.L.C. is authorized by Osage Valley Electric Cooperative to make this filing and represent it in this matter.

  
\_\_\_\_\_  
Craig S. Johnson

Subscribed and sworn to before me this 10<sup>th</sup> day of May, 2004

JASON A. PAULSMEYER  
Notary Public - Notary Seal  
STATE OF MISSOURI  
County of Callaway  
My Commission Expires: August 26, 2008

  
\_\_\_\_\_  
Jason A. Paulsmeier, Notary Public

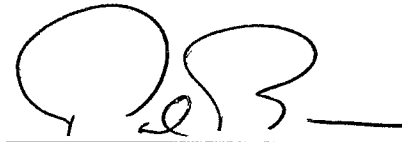
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 27<sup>th</sup> day of May 2005 to the following:

General Counsel's Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102-0360

Office of the Public Counsel  
Governor Office Building  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102-2230

Craig S. Johnson  
Andereck, Evans, Milne, Peace &  
Johnson, L.L.C.  
700 E. Capitol Ave.  
Jefferson City, MO 65102



A handwritten signature, likely of Craig S. Johnson, is written above a horizontal line.