

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

**In the matter of Aquila, Inc. d/b/a )  
Aquila Networks L&P and Aquila )  
Networks MPS to implement a general ) ER-2004-0034  
rate increase in electricity )**

**REQUEST FOR SUSPENSION OF PROPOSED TARIFF BY  
AG PROCESSING, INC. A COOPERATIVE**

This pleading by AG PROCESSING, INC. A COOPERATIVE ("AGP") requests suspension for the maximum statutory period of the proposed tariffs that were filed by Aquila Inc. ("Aquila") on July 3, 2003. In support of its request AGP states:

1. AGP has contemporaneously filed an Application to Intervene in this proceeding. The statements made in that Application are incorporated herein by reference.

2. Absent Commission action to suspend them, the proposed tariffs will take effect on August 4, 2003. The increase proposed is certainly significant; the reasonableness of this proposed increase has not been shown nor have Aquila's testimony and filings been verified or reviewed. There is insufficient time between this date and August 4, 2003 to permit any meaningful investigation or review of the basis of this filing.

3. News regarding Aquila's current financial condition appears almost daily in the newspapers. Yet, in Aquila's last MPS rate case, the utility settled at a **revenue reduction** of \$4.3 million. That settlement was approved by the Commission in

only late February of this year, scarcely 4 1/2 months prior to this filing. It thus appears that Aquila's financial condition has not resulted from utility operations, rather from its decidedly unprofitable unregulated activities. While AGP's interest is not well served by a utility that is bankrupt and unable to meet its public utility obligation, the utility as a public trustee should not look to its ratepayers as ultimate guarantors against management improvidence. Given these circumstances, a full statutory suspension by the Commission that will permit a thorough investigation of this filing and the claimed need for rate relief is essential and is in the public interest.

4. In Case No. EM-2000-292 this Commission approved the merger of St. Joseph Light & Power Company and UtiliCorp United, Inc., predecessor of Aquila. Included in that merger request was a \$92 million acquisition premium that Aquila paid to acquire the shares of St. Joseph Light & Power. The Commission did not decide whether the ratepayers of St. Joseph Light & Power should be required to pay that premium or whether the shareholders of Aquila should be required to pay that premium. By failing to decide that issue, and also failing to direct that rates in the St. Joseph Light & Power Company service territory be reduced by at least the amount claimed as "merger savings" by Aquila, the Commission required the ratepayers of St. Joseph Light & Power to continue to pay that premium by the amount the existing rates recovered revenues that exceeded proper cost levels. No account-

ing has been made of these claimed merger savings, nor of the amount of the acquisition premium that St. Joseph Light & Power Company ratepayers were required to pay because rates were not reduced. The Commission postponed that decision until some future rate case. This is that rate case. Further or continued increases to these ratepayers should not be permitted without thorough investigation and verification of the claims made by Aquila.

5. At the time of the approval of the merger, St. Joseph Light & Power had an A or AA credit rating. Aquila at that time had a BBB rating, a significant differential in cost of money and capital. Aquila's credit rating is currently somewhere below junk levels and certainly far from investment grade. At the time of the merger, its shares were valued at roughly \$40 each; they are now valued at less than \$2 each, rendering virtually valueless the life savings of many former employees of St. Joseph Light & Power and many residents of St. Joseph who had faithfully invested to support the activities of their local utility. The present application appears to not only to employ a hypothetical capital structure, but also appears to use more costly debt as a basis of that capital structure and cost of money. This claim should be investigated thoroughly and not permitted to be the basis of an increase to these customers without such thorough investigation.

6. The claims of benefits in the merger were hotly disputed. The Staff of this Commission -- the source of its technical expertise -- opposed the merger as not being in the public interest and as detrimental to that interest. The Commission's Staff further recommended that the merger be rejected by the Commission. All other parties save the two applicant utilities also urged that the merger be rejected as detrimental to the public interest. Regardless, the Commission rejected this counsel and approved the merger. Subsequent events have validated the Staff's and the other parties' positions, projections and recommendations. Now the Commission is faced with a proposed increase that appears largely based on allocations of costs from corporate sources and other accounting machinations that have little or nothing to do with St. Joseph Light & Power Co. ratepayers nor with providing them with electricity at just and reasonable rates. Following the merger roughly 1/3 of former SJLP personnel were laid off, the Board of Directors and senior management team was dismissed, and the SJLP corporate office building in St. Joseph was sold, for presently unknown but presumably valuable consideration. Yet, even before judicial review of the merger is complete, the surviving merger partner has returned to the Commission seeking nearly \$15 million of additional revenue from those same ratepayers. The "benefits" and "merger savings" that were trumpeted by the merger partners appear to have evaporated like morning Missouri River mist.

Perhaps some of these "benefits" and "savings" were directed to Aquila executives in the form of large severance allowances and bonuses as rewards for their careful trusteeship of their shareholders' assets. Time has shown that the Staff's projections of damage and public detriment were correct and that the utilities' claims were without merit. Only a full and thorough investigation will permit the level of scrutiny required to ferret out the detriments that have occurred, charge them against those responsible and identify the benefits that were claimed to be certain and attribute them to the benefit of the ratepayers.

7. The allocation of corporate costs as a source of benefits was also disputed in the merger proceeding. The Commission permitted the applicant utilities to submit only "draft" allocations of these corporate costs. Now allocations are actually occurring and producing the need for a sizeable increase for the SJLP territory ratepayers. These claims of allocations should be subjected to full and thorough scrutiny before they are allowed to become the basis of a significant rate increase to the SJLP ratepayers or even a perpetuation of existing rate levels.

8. Investigation of these issues, as well as others including the damage that Aquila's hapless forays into power marketing and other unregulated adventures have inflicted on its financial condition, management approach and ability to obtain needed operational financing at rates that reflect the proper level of credit rating, will take time. And certainly far more

time than that remaining between this date and the proposed August 4 effective date for these proposed tariffs. The Commission has ample authority under state law to suspend such proposed tariffs for the full statutory period to permit thorough investigation, to direct that its Staff make such investigation and provide through that suspension period opportunity for the Staff and for others to investigate Aquila's claims. Accordingly, these proposed tariffs should be suspended for the full statutory period to permit such investigation.

WHEREFORE, AGP prays (without prejudice to later requests for relief): (a) that the proposed tariffs filed in by Aquila on July 3, 2003 be suspended for the full statutory period permitted; (b) that the Commission Staff be directed to investigate Aquila's claims; (c) that notice of the filing be directed to be sent to all public entities in the service territories affected; (d) that parties desiring to intervene be permitted to do so; (e) that public hearings at appropriate times and places in the affected service territories and particularly in the St. Joseph service territory be ordered; and (f) that all other

needful relief to permit the full investigation of these claims and the protection of the interest of ratepayers be afforded.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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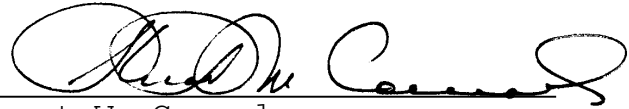
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ATTORNEYS FOR AG PROCESSING INC., A  
COOPERATIVE

July 17, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading to all parties by their attorneys of record as provided by the Secretary of the Commission, by electronic mail, by facsimile or by the United States Mail, postage prepaid.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad

Dated: July 17, 2003