

*Exhibit No.:*  
*Issue:* Chapter 100 financing  
*Witness:* John M. Kiebel II  
*Sponsoring Party:* MoPSC Staff  
*Type of Exhibit:* Rebuttal Testimony  
*Case No.:* EO-2005-0156  
*Date Testimony Prepared:* June 13, 2005

**MISSOURI PUBLIC SERVICE COMMISSION**  
**UTILITY SERVICES DIVISION**

**REBUTTAL TESTIMONY**

**OF**

**JOHN M. KIEBEL II, CPA, CMA, CIA, CFM**

**AQUILA, INC.**

**CASE NO. EO-2005-0156**

*Jefferson City, Missouri*  
*June 2005*

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

In the Matter of the Application of Aquila, )  
Inc., for Authority to Acquire, Sell and )  
Lease Back Three Natural Gas-Fired )  
Combustion Turbine Power Generation )  
Units and Related Improvements to be )  
Installed and Operated in the City of )  
Peculiar, Missouri )

**Case No. EO-2005-0156**

AFFIDAVIT OF JOHN M. KIEBEL II, CPA, CMA, CIA, CFM

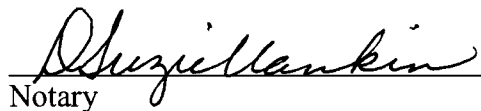
STATE OF MISSOURI     )  
                                  )     ss.  
COUNTY OF COLE     )

John M. Kiebel II, CPA, CMA, CIA, CFM, being of lawful age, on his oath states: that he has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 11 pages to be presented in the above case; that the answers in the following Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

  
John M. Kiebel II, CPA, CMA, CIA, CFM

Subscribed and sworn to before me this 10<sup>th</sup> day of June 2005.

**D. SUZIE MANKIN**  
Notary Public - Notary Seal  
State of Missouri  
County of Cole  
My Commission Exp. 07/01/2008

  
Notary



Rebuttal Testimony of  
John M. Kiebel II, CPA, CMA, CIA, CFM

1           A.     I worked for the Office of the Comptroller of the Currency in Sioux City,  
2 Iowa, from January 1980 through February 1982. I was an assistant national bank examiner,  
3 participating in the examination of approximately 40 national banks in northwest Iowa and  
4 northeast Nebraska. The examinations focused on a review of the banks' capital structure,  
5 quality of assets, overall opinion of management, adequacy of earnings, and the composition  
6 of the banks' liquidity.

7           I worked for Central Bancompany, Incorporated, in Jefferson City, Missouri, from  
8 February 1982 through July 1984. I was an assistant internal auditor for a large Missouri  
9 privately held multi-bank holding company. My responsibilities included performing  
10 operational audits in the banks' major balance sheet classifications. I also assisted the firm of  
11 Peat Marwick (now KPMG) in its annual audit of the holding company's financial  
12 statements.

13           I worked as an adjunct instructor for State Fair Community College (SFCC) in  
14 Jefferson City, Missouri, from January 2000 through December 2003. I taught Principles of  
15 Financial Accounting for seven semesters, and served on the SFCC Accounting Advisory  
16 Committee for two years. I also taught Principles of Managerial Accounting for one  
17 semester at Lincoln during 2002.

18           I worked as a subcontractor for American College Testing (ACT), Incorporated, in  
19 Iowa City, Iowa, from January 2002 through December 2004. I wrote and reviewed  
20 examination questions for three of the four sections of the computerized CPA examination  
21 test bank being developed by ACT and the American Institute of Certified Public  
22 Accountants (AICPA).

Rebuttal Testimony of  
John M. Kiebel II, CPA, CMA, CIA, CFM

1 I worked for Liberty Tax Service in Jefferson City, Missouri, from January 2005  
2 through April 2005. I prepared electronic Federal and State income tax returns for individual  
3 and business clients for the 2004 income tax season.

4 I have been working for the Commission's Management Services Department (MSD)  
5 since August 1984, assessing management controls and operational efficiencies. I transferred  
6 to the Accounting Department in January 1996, and transferred back to MSD in  
7 January 1998. The MSD was renamed in February 2000 to the Engineering and  
8 Management Services Department (EMSD).

9 In addition to my present duties in EMSD, I am currently assisting the Commission's  
10 Financial Analysis Department on a temporary basis, helping to determine the appropriate  
11 cost of capital.

12 Q. What has been the nature of your duties while in the employ of the  
13 Commission?

14 A. I have conducted and jointly participated in numerous docketed and  
15 undocketed cases over the past 20-plus years. I have participated in several operational  
16 reviews of utility companies, including many focused reviews of utility customer service  
17 practices.

18 Q. Describe your current position with the PSC staff.

19 A. I was transferred from the EMSD to the Financial Analysis Department on a  
20 temporary full-time basis in April 2004. The transfer occurred as a result of the Manager of  
21 Financial Analysis being deployed in the war against Iraq. The Manager was originally  
22 scheduled to be deployed for one year, but recently was scheduled to be deployed for a  
23 second year.

Rebuttal Testimony of  
John M. Kiebel II, CPA, CMA, CIA, CFM

1 Q. Have you worked in Financial Analysis Department before?

2 A. Yes. I worked in Financial Analysis for approximately four months in 1998  
3 when another employee of the department was on an extended leave.

4 Q. Have you filed testimony in other cases before the Commission?

5 A. Yes. Please refer to Schedule 1 for a list of these cases.

6 Q. What is the purpose of your rebuttal testimony in this case?

7 A. The purpose of my rebuttal testimony is to recommend to the Commission  
8 that Aquila, Inc. (Aquila), subject to certain conditions, be granted permission to enter into  
9 the proposed transaction with the City of Peculiar, Missouri (Peculiar) related to the  
10 construction of an electric power generation station in an unincorporated area of Cass County  
11 located near Peculiar by making payments to Peculiar in lieu of property tax payments  
12 through tax-advantaged Chapter 100 revenue bonds.

13 Q. Under what standard are you evaluating this proposed transaction?

14 A. The standard of not detrimental to the public interest.

15 Q. Are there other Staff witnesses in this case?

16 A. Yes. Staff witnesses Cary G. Featherstone and Philip K. Williams provide  
17 information regarding other aspects of Aquila's application in their rebuttal testimony. My  
18 testimony focuses on the financing aspects of Chapter 100.

19 Q. What is Chapter 100?

20 A. Chapter 100 refers to the Missouri economic development laws found in  
21 Chapter 100 of the Missouri Revised Statutes (RSMo). This financing option was created by  
22 the Missouri Legislature during the late 1990s to allow entities, including public utilities, the  
23 opportunity to make capital investments by entering into contractual agreements with

1 political subdivisions such as municipalities so that the political subdivision owns legal title  
2 to the property and the entities make payments to the political subdivision in lieu of property  
3 taxes. It appears to be the lowest cost financing option for Aquila and its ratepayers.

4 Q. What sections of Chapter 100 deal with economic development?

5 A. According to a July 2004 presentation Aquila made to school districts,  
6 Sections 100.000 through 100.200 grant political subdivisions (typically counties and cities)  
7 the right to offer economic incentives, without size restrictions. Section 100.250 through  
8 100.297 created the Missouri Development Finance Board (Finance Board) within the  
9 Department of Economic Development. Sections 100.300 through 100.620 grant each city  
10 the right to create a Planned Industrial Expansion Authority. Sections 100.700 through  
11 100.850 grant additional authority to the Finance Board to provide economic development  
12 incentives to large-scale businesses, with some size restrictions.

13 Q. Has this financing option been used by Missouri utilities before?

14 A. Yes. Aquila used this financing mechanism to construct the Aries I project in  
15 2001. That plant is now owned by Calpine. AmerenUE used this financing mechanism to  
16 construct its Bowling Green power plant.

17 Q. Has a financing case, using this option ever been presented to the Commission  
18 for approval before?

19 A. Yes. The Commission considered and approved the option for AmerenUE's  
20 Bowling Green power plant in Case No. EO-2003-0035.

21 Q. What is Peculiar's role in this financing with Aquila?

22 A. Peculiar has authority under Section 100.010 through 100.200 to issue and sell  
23 revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing or

1 improving any project to be leased to a private person or corporation for industrial  
2 development purposes.

3 Q. What does Aquila gain from using this financing vehicle?

4 A. It obtains tax abatement.

5 Q. How will tax abatement financing work in this case?

6 A. This tax-abated financing will be effected through:

- 7 • a trust indenture, pursuant to which Peculiar will issue Chapter 100  
8 revenue bonds;
- 9 • a lease agreement, pursuant to which Peculiar will lease the project to  
10 Aquila;
- 11 • the Agreement, pursuant to which Aquila will make ‘payment in lieu of  
12 taxes’ (PILOT) payments to Peculiar while Peculiar owns the project and  
13 purchases the Chapter 100 revenue bonds, and
- 14 • a deed of trust, pursuant to which Peculiar will encumber the project and  
15 favor Aquila as security for the Chapter 100 revenue bonds and the PILOT  
16 payments to Peculiar.

17 Q. Is Aquila requesting anything else in this Application?

18 A. Yes. Aquila is requesting authorization to cause the project’s assets to be  
19 pledged and conveyed to the trustee under the indenture as security for the benefit of the  
20 bondholders. The specific and additional related elements of relief being requested by  
21 Aquila are set forth in the prayer of the Application

22 Q. What is the total amount of the payments that Aquila will be making to  
23 Peculiar over the course of the Agreement?

24 A. Aquila will pay Peculiar approximately \$7.3 million through December 31,  
25 2035. According to Aquila, 100% of the PILOT payments will stay in Cass County.



Rebuttal Testimony of  
John M. Kiebel II, CPA, CMA, CIA, CFM

1           Aquila will make two payments during 2005. The first payment of \$214,455 is  
2 scheduled to be made when the transaction closes this summer. The second payment of  
3 \$241,832 is scheduled to be made on or around September 1, 2005. Subsequent annual  
4 payments of \$241,832 are scheduled to be made on each December 31 from 2006 through  
5 2031. Smaller annual payments are scheduled to be made from 2032 through 2035.

6           Q. Can you quantify the benefit to Aquila from this arrangement?

7           A. Yes. According to Aquila, the PILOT payments are sufficiently lower than  
8 the property taxes it would otherwise pay. Aquila expects the PILOT payments to generate a  
9 net saving of \$14 million to \$17 million over the expected 30-year life of the revenue bonds.

10          Q. How will the transaction be structured?

11          A. The transaction will be structured through a capital lease arrangement with  
12 Aquila controlling the property and, as long as Peculiar owns the project, the property will be  
13 exempt from property taxes by any applicable taxing authority.

14          Q. What portion of the value of its assets assessed by the state does Aquila  
15 believe would be assigned to the Cass County school system for school tax purposes?

16          A. Aquila believes that Cass County would receive 9.4% of the value assigned by  
17 the Missouri State Tax Commission (Tax Commission).

18          Q. Does the Tax Commission concur with Aquila's stated position?

19          A. Yes.

20          Q. Please explain.

21          A. According to the Tax Commission's July 13, 2004 letter to Aquila, Aquila  
22 "...correctly characterizes the assessment of the distributable property of electric power

1 companies. The property of such companies is categorized either as distributable property,  
2 which is assessed by the state, or as local property, assessed by the county assessor.”

3 Q. Are there any entities that could potentially be adversely affected by Aquila’s  
4 use of Chapter 100 financing?

5 A. Yes. The Superintendent of the East Lynne School District has alleged a  
6 potential loss of more than \$500,000 in property tax revenues that would be paid to that  
7 district if Aquila were to use conventional financing rather than Chapter 100 financing.

8 Q. Has the Tax Commission addressed this concern?

9 A. Yes. The Tax Commission stated in a July 2004 letter to Aquila that Aquila’s  
10 interpretation of the availability of Chapter 100 financing is correct and that the interpretation  
11 of the local school district is incorrect.

12 In that letter, the Tax Commission states that:

13 “...the major components of power plants are distributed property.  
14 The State Tax Commission assessed this property, and certifies the  
15 value to the county based upon the proportion of pole miles within the  
16 political subdivision to the total pole miles over the electric utility’s  
17 service territory....In 2004, Cass County has about 1,058 pole miles of  
18 the 11,228 pole miles in the Aquila system, or about 9.4% of the  
19 allocation of the assessed value of Aquila’s distributable property.”

20 Q. Do you know how the Tax Commission determines what tax revenues to  
21 distribute to schools in Missouri?

22 A. Yes. According to the Tax Commission letter:

23 “The disbursement to schools differs slightly in that a county wide  
24 average tax rate is determined and applied to the certified value and  
25 distributed to the schools within the county based upon the number of  
26 children (membership) in each school....However, the assessed value  
27 to which this rate is applied is the assessed value of the distributable  
28 property of Aquila--certified by the State Tax Commission based upon  
29 the proportion of pole miles....Taxes on local property are figured  
30 using the same rate and disbursement method as other property.”

1           The letter continues:

2                   “Therefore, the value of the plant built in Cass County, once  
3                   completed, will be distributed proportionately throughout company’s  
4                   system based upon pole miles. The various taxing entities apply their  
5                   levies to the value certified for their jurisdiction, with the exception of  
6                   schools, which apply their average levy to the value certified to the  
7                   county for that purpose. The value certified to the county to which the  
8                   average levy is applied is based upon the proportion of that county’s  
9                   pole miles to the total pole miles of the system.”

10           Q.     Should Aquila use the Chapter 100 financing option regardless of the local  
11 school district receiving less tax revenue than it would if Aquila owned the property rather  
12 than the City of Peculiar?

13           A.     Yes. It appears that Aquila has selected the lowest cost financing option  
14 available. Aquila has a fiduciary responsibility to its shareholders and an obligation to its  
15 customers to utilize low cost financing whenever it is practical.

16           Q.     Do you believe that the Commission should consider the potential lost school  
17 district tax revenue in determining the outcome of this application?

18           A.     No.

19           Q.     Why?

20           A.     The legislation was established about a decade ago to encourage investments  
21 of this type. If the school district or the Commission believes that local school districts are  
22 irreparably harmed, either could seek redress from the Missouri legislature to change the law.

23           This is at least the third time that such a financing mechanism has been used to help  
24 investor-owned utilities in Missouri try to encourage infrastructure requirements with a low  
25 cost financing option.

26           Q.     Is the school district part of the public that the Commission is charged with  
27 protecting?

1           A.     Yes. However, the school district is just one of many constituencies that the  
2 Commission must protect during the course of this proceeding. If the Commission were to  
3 deny the Application as proposed by Aquila, ratepayers would be unfairly subsidizing the  
4 local school district through unnecessarily higher rates as well as the current level of property  
5 tax.

6           Q.     Please summarize your testimony.

7           A.     Aquila has made a prudent business decision to seek Chapter 100 financing in  
8 this Application. It is my recommendation that the Commission approve this aspect of  
9 Aquila's application under the not detrimental to the public interest standard, subject to the  
10 following conditions that are similar to the conditions ordered by the Commission in the  
11 Bowling Green case to AmerenUE (Case No. EO-2005-0035):

- 12           • Aquila continues to record the land and improvements (combustion turbines)  
13           that are the subject of this transaction as a regulatory assets on the books of  
14           the MPS division similar to other utility property that Aquila owns.
- 15           • Aquila records the investment described above in accordance with the  
16           Uniform System of Accounts as adopted by the Commission for record  
17           keeping purposes.
- 18           • Aquila depreciates the combustion turbines at the annual rate of 4.00%, which  
19           reflects a 25-year useful life. This is the present depreciation rate for Account  
20           No. 344 (Other Production Plant – Generators).
- 21           • Aquila records each PILOT payment to operating expense during the 30-year  
22           term of the loan as each PILOT payment is made.
- 23           • Aquila must seek Commission approval before it transfers any of the rights it  
24           will hold pursuant to the lease where such rights are necessary or useful in the

1                   provision of regulated utility service, including the right to purchase the  
2                   facility at the end of the lease.

- 3                   • The Commission's Order should reflect that no ratemaking determination is  
4                   being made by the Commission in this proceeding.

5                   Q. Does this conclude your testimony?

6                   A. Yes.

## CASE PARTICIPATION

### JOHN M. KIEBEL, II

Date Filed	Issues	Case Number	Exhibit	Case Name
9/20/2004	Customer Service	ER-2004-0570	Direct	The Empire District Electric Company
06/21/2000	Customer Service	EM-2000-369	Rebuttal	UtiliCorp United Inc. / Empire District Electric Company
03/13/1998	Automated Meter Reading	GR-98-140	Direct	Missouri Gas Energy, A Division of Southern Union Company
09/05/1997	Payroll Taxes; Pension; Payroll; Post Retirement Benefits	GR-97-393	Direct	Union Electric Company
02/13/1997	Cash Working Capital; Property Taxes; Miscellaneous Taxes	ER-97-81	Direct	The Empire District Electric Company
06/05/1990	Management Duplication	ER-90-101	Direct	Missouri Public Service
03/22/1990	Management Efficiency/Service Line Replacement Program	GR-90-50	Direct	Kansas Power & Light Company of Topeka, Kansas
08/12/1989	Affiliated Companies	TC-89-14	Direct	Southwestern Bell Telephone Company