

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

In the Matter of the Tariffs of Aquila, Inc.,)
d/b/a Aquila Networks - MPS and Aquila)
Networks - L&P, Increasing Electric Rates)
for the Services Provided to Customers in)
the Aquila Networks - MPS and Aquila)
Networks - L&P Service Areas.)

Case No. ER-2007-0004

**MOTION FOR EXPEDITED CONSIDERATION AND APPROVAL OF TARIFF SHEETS
FILED IN COMPLIANCE WITH COMMISSION REPORT AND ORDER**

COMES NOW Aquila, Inc. ("Aquila"), by and through counsel, and for its Motion for Expedited Consideration and Approval of Tariff Sheets Filed in Compliance with Commission Report and Order, respectfully states as follows to the Missouri Public Service Commission (the "Commission"):

1. On May 17, 2007, the Commission issued its *Report and Order* herein, bearing an effective date of May 27, 2007, authorizing Aquila to increase its annual revenues by approximately \$58.7 million.

2. Among other things, the *Report and Order* authorizes Aquila to file revised tariff sheets in compliance with the *Report and Order* no later than midnight on May 20, 2007. The *Report and Order* is silent, however, as to the authorized effective date of the tariff sheets.

3. On this date, Aquila has caused to be filed with the Commission revised tariff sheets designed to effectuate the decisions made by the Commission in the *Report and Order*. Those revised tariff sheets bear an issue date of May 18, 2007, and an effective date thirty days thereafter.

4. Aquila does not believe that thirty days' notice is necessary or appropriate under the circumstances, and, as explained herein, Aquila does not believe the

effective date of the revised tariff sheets may lawfully be extended beyond May 30, 2007, by the Commission. While RSMo. §393.140(11) specifies that, unless the Commission orders otherwise, a change shall not be made to any rate filed by an electrical corporation except after thirty days' notice to the Commission and publication for thirty days as required by order of the Commission, this statute has been satisfied in the case at hand.

5. Aquila initiated this rate case on July 3, 2006, by the filing of tariff sheets that bore a proposed effective date of August 2, 2006. The thirty day notice period has therefore been fulfilled. The Commission and the public have had significantly more than thirty days to consider a possible rate increase, and the Commission, through the rate case hearing process, has had ample time to consider all aspects of Aquila's request and the possible impact of a rate increase. Furthermore, §393.140(11) provides that, for good cause shown, the Commission may allow changes without requiring thirty days' notice.

6. Aquila hereby requests that its revised tariff sheets be allowed to become effective for electric service rendered on and after May 30, 2007. Aquila has been working with the Commission's Staff in developing the revised tariff sheets, and believes that the Staff should be able to file its recommendation to approve the revised tariff sheets on May 24, 2007.

7. Aquila requests approval of the revised tariff sheets to be effective on May 31, 2007, because the 30-day notice provision has been satisfied, and such approval would be consistent with the requirements of the law and long-standing Commission custom, practice and precedent. In the event that the Commission determines that

"good cause" must be shown in order to grant Aquila's request, Aquila states that sufficient good cause exists, in that: (a) the tariff sheets have been filed in compliance with the Commission's *Report and Order* issued herein; (b) the Commission and the public have been aware of Aquila's request for a rate increase for almost one year; (c) the Commission, through the rate case process, has been able to consider all aspects of Aquila's request and the possible impact of a rate increase on Aquila's customers; and (d) unless the Commission approves the revised tariff sheets filed by Aquila to be effective on May 31, 2007, the Commission will be in violation of RSMo. §393.150.

8. RSMo. §393.150.1 authorizes the Commission to suspend the effectiveness of rate schedules for a period of one hundred and twenty days beyond the proposed effective date. Section 393.150.1 contemplates the possibility of a new rate taking effect prior to completion of a hearing, but the Commission, in its discretion and if the hearing cannot be completed within the 120 day suspension period, may extend the time of suspension for "a further period not exceeding six months." §393.150.2.

9. As a creature of statute, the Commission has only such powers as are expressly conferred by the statutes and those reasonably incidental thereto. *State ex rel. Kansas City Transit, Inc. v. Public Service Comm'n*, 406 S.W.2d 5 (1966). Accordingly, the Commission has no authority to suspend the effectiveness of rate schedules for a period longer than one hundred and twenty days plus six months beyond the originally proposed effective date.

10. Aquila initiated this rate proceeding on July 3, 2006, by the filing of tariff sheets that bore a proposed effective date of August 2, 2006. The Commission suspended the effectiveness of those tariff sheets until May 30, 2007, the full

suspension period permitted under the law. Accordingly, unless the Commission approves the revised tariff sheets filed by Aquila to be effective on May 30, 2007, the Commission will be in violation of RSMo. §393.150.

11. As demonstrated below, the Commission itself has an extended history of acting in accordance with this interpretation of Section 393.150.

- *In re Missouri Gas Energy*, 5 Mo. P.S.C. 3d 437, Case No. GR-96-285, Report and Order issued January 22, 1997 ("the tariffs sheets to be filed pursuant to this Report And Order shall become effective for natural gas service rendered on and after February 1, 1997") (partial stipulation);
- *In re St. Louis County Water Company*, 4 Mo. P.S.C. 3d 94, Case No. WR-95-145, Report and Order issued September 19, 1995 (company "authorized to file revised tariff sheets . . . to become effective for service on and after September 30, 1995") (partial stipulation);
- *In re Capital City Water Company*, 3 MPSC 3d 333, Case No. WR-94-297, Report and Order issued February 8, 1995 ("the tariff sheets to be filed pursuant to this Report And Order shall become effective for water service rendered on and after February 22, 1995") (contested);
- *In re St. Joseph Light & Power*, 3 Mo. P.S.C. 3d 51, Case No. ER-94-163, Report and Order issued June 3, 1994 ("the tariffs to be filed pursuant to this Report and Order shall become effective for electric service rendered on and after June 15, 1994") (stipulation);
- *In re Western Resources, Inc.*, 2 Mo. P.S.C. 3d 378, Case No. GR-93-240, Report and Order issued October 5, 1993 ("the tariffs to be filed pursuant to this Report And Order shall become effective for gas service rendered on and after October 15, 1993") (stipulation);
- *In re Missouri Public Service*, 2 Mo. P.S.C. 3d 325, Case No. GR-93-172, Report and Order issued August 13, 1993 ("the tariffs to be filed pursuant to this Report And Order shall become effective for gas service rendered on and after September 1, 1993") (stipulation);
- *In re United Cities Gas Co.*, 2 Mo. P.S.C. 3d 280, Case No. GR-93-47, Report and Order issued July 2, 1993 ("the tariffs to be filed pursuant to this Report And Order shall become effective for gas service on and after July 17, 1993") (stipulation);

- *In re St. Joseph Light & Power Co.*, 2 Mo. P.S.C. 3d 248, Case Nos. ER-93-41 and EC-93-252, Report and Order issued June 25, 1993 ("the tariffs to be filed pursuant to this Report and Order shall be effective for service rendered on or after July 5, 1993") (contested);
- *In re Missouri Public Service*, 2 Mo. P.S.C. 3d 206, Case No. ER-93-37, Report and Order issued June 18, 1993 (company "authorized to file revised electric tariff sheets . . . to become effective for service on and after June 29, 1993") (non-unanimous stipulation);
- *In re Missouri Pipeline Company*, 2 Mo. P.S.C. 3d 173, Case No. GR-92-314, Report and Order issued May 19, 1993 ("the tariffs filed pursuant to this Report and Order shall become effective for service on or after May 30, 1993") (contested);
- *In re Missouri Cities Water Company*, 2 Mo. P.S.C. 3d 60, Case Nos. WR-92-207 and SR-92-208, Report and Order issued January 8, 1993 ("the tariffs to be filed pursuant to this Report And Order shall become effective for service on and after January 21, 1993") (partial stipulation);
- *In re Raytown Water Company*, 1 Mo. P.S.C. 3d 367, Case No. WR-92-85, Report and Order issued September 8, 1992 ("the tariffs to be filed pursuant to this Report and Order shall become effective for service rendered on and after September 20, 1992") (partial stipulation);
- *In re Kansas Power & Light Company*, 1 Mo. P.S.C. 3d 235, Case No. GR-91-291, Report and Order issued January 22, 1992 ("the tariffs to be filed pursuant to this Report and Order shall become effective for service rendered on and after February 5, 1992") (partial stipulation);
- *In re Missouri Cities Water Company*, 1 Mo. P.S.C. 3d 119, Case Nos. WR-91-172 and SR-91-174, Report and Order issued September 20, 1991 ("the tariffs to be filed pursuant to this Report and Order shall become effective for service rendered on and after October 3, 1991") (contested);
- *In re St. Louis County Water Company*, 29 Mo. P.S.C. (N.S.) 425, Case No. WR-88-5, Report and Order issued May 27, 1988 ("the tariffs to be filed pursuant to this Report and Order shall become effective for service rendered on and after June 8, 1988") (contested);
- *In re Union Electric Company*, 90 P.U.R.4th 400, Case Nos. EC-87-114 and EC-87-115, Report and Order issued December 21, 1987 ("the tariffs to be filed pursuant to this Report and Order shall be effective for service rendered on and after December 31, 1987") (contested);

- *In re Union Electric Company*, 66 P.U.R.4th 202, Case Nos. EO-85-17 and ER-85-160, Report and Order issued March 29, 1985 ("The tariffs to be filed pursuant to this Report And Order under the first year of the phase-in shall become effective for service rendered on and after April 9, 1985") (contested);
- *In re Union Electric Company*, 24 Mo. P.S.C. (N.S.) 434, Case No. ER-81-180, Report and Order issued July 13, 1981 ("the revised tariffs to be filed pursuant to this Report and Order may be effective for service rendered on and after July 17, 1981") (stipulation).

Accordingly, Aquila requests nothing more than compliance with the law and past Commission precedent and practice.

12. Should the Commission deny this motion and delays beyond May 31, 2007, the effectiveness of the revised tariff sheets Aquila has filed in compliance with the *Report and Order*, Aquila will be denied recovery of a certain portion of the rate relief to which the Commission has already found Aquila to be entitled. This would be unlawful, unjust, unreasonable, confiscatory, and, in Aquila's opinion, a result not intended by the Commission.

WHEREFORE, for good cause shown, Aquila respectfully requests that the Commission grant this Motion for Expedited Consideration and Approval of Tariff Sheets Filed in Compliance with Commission Report and Order and approve the tariff sheets Aquila has filed to be effective for service rendered on and after May 31, 2007.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 18th day of May, 2007, to the following:

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