

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

<b>In the matter of the Application by )</b>	
<b>Aquila, Inc. for authority to As- )</b>	
<b>sign, Transfer, Mortgage or Encum- )</b>	<b>EF-2003-0465</b>
<b>ber its Franchise, Works or System )</b>	

**SEDALIA INDUSTRIAL ENERGY USERS' ASSOCIATION  
AND AG PROCESSING, INC.  
STATEMENT OF POSITION**

COMES NOW Sedalia Industrial Energy Users' Association (SIEUA) and Ag Processing Inc. (AGP) and submit their statement of position on the previously identified issues as follows:

1. What standard should the Commission use when evaluating whether to grant to Aquila, Inc. the authority it seeks in its application?

**Section 393.180 recognizes that when a regulated utility such as Aquila seeks to encumber its property situated in Missouri, doing so is a "specific privilege." Based upon the specific facts and circumstances of each case, the Commission should determine whether or not to grant the special privilege to encumber Missouri regulated assets. In a more general sense, we believe that the Commission has been charged by the General Assembly with balancing the interests of the utility with the public interest. That is the essence of the *St. Louis***

case. Some argue that the test should be "public detriment" and assert that detriment must immediately result from the approval of the transaction. This is an illogical position and results in the exception swallowing the rule. SIEUA/AGP believe that the "public detriment" test that is urged by some is often misstated as though it requires *immediate* detriment or an *immediate* change from what some term the "status quo" to constitute detriment. SIEUA/AGP believe that the *St. Louis* case instead recognizes that detriment may result from *setting into motion a process that would work to the detriment of the public or the ratepayers*. If that process would be set in motion or facilitating that result constitutes detriment sufficient to require rejection of the proposed transaction.

2. Should the Commission approve Aquila's Application to encumber its Missouri jurisdictional regulated assets to secure its three-year \$430 million Term Loan Facility and related First Mortgage Bonds?

**No. The Commission should reject the pending Aquila Applications to mortgage its Missouri jurisdictional assets as security for its three-year \$430 million Term Loan Facility and related First Mortgage Bonds. The**

**testimony of SIEUA/AGP witness Gorman discusses why this application should be rejected.**

3. If the Commission approves Aquila's Application to encumber its Missouri jurisdictional regulated assets to secure its three-year \$430 million Term Loan Facility and related First Mortgage Bonds should the Commission grant Aquila authority to use the Missouri regulated assets as collateral to secure future replacement debt offerings for working capital requirements not to exceed \$430 million after the three-year term of the current Term Loan Facility expires?

**Absolutely not. The Commission should reject the request to use Aquila's Missouri regulated assets as collateral to secure future replacement debt offerings for working capital requirements. These future offerings have not been justified and are likely to result in public utility assets being used to finance restructuring necessitated by Aquila's boondoggles in unregulated activities or will finance further unregulated escapades. The dependability of this utility as a public trustee has been demonstrated to be problematic. Thus it requires virtually continuous monitoring to ensure protection of the public interest. The testimony**

**of SIEUA/AGP witness Gorman discusses why this part of the Aquila request should be rejected.**

4. Should the Commission order Aquila, Inc. to submit to the Staff on a monthly basis within 21 days of the last day of each month (except on a quarterly basis for MAIFI), until Aquila, Inc.'s financial condition attains investment grade and the Staff determines that reporting is no longer necessary, the following service quality measurements:

Average Speed of Answer - All other calls

Average Speed of Answer - Emergency calls

Abandoned Call Rate

Service Level - All other calls

Service Level - Emergency calls

Percentage of Total Electric and Gas Meters Read

Number of Consecutive Estimated Meters Read

SAIFI (number of service interruption occurrences per customer)

SAIDI (hours or minutes of service interruption per customer served)

CAIDI (hours or minutes of service interruption per customer interrupted)

MAIFI (momentary average interruption frequency index)?

**SIEUA members and AGP have businesses to run and are extremely concerned about the quality and reliability of service. Thus SIEUA/AGP agree that this reporting should be required as needed protection of the public interest.**

5. Should the Commission order Aquila, Inc. to submit to the Staff the service quality measurements listed in the preceding issue description for each state in which it provides service when it completes implementing the capability to do so, and should the Staff be kept apprised of the progress of Aquila, Inc.'s implementation of its capability to capture data to report these measurements on a state-by-state basis?

**Yes for the reasons stated above.**

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



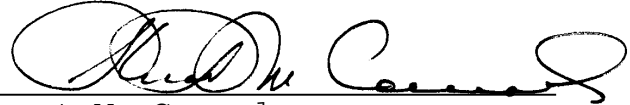
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ATTORNEYS FOR SEDALIA INDUSTRIAL  
ENERGY USERS' ASSOCIATION and AG  
PROCESSING INC. A COOPERATIVE

September 30, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Application to Intervene by U.S. mail, postage prepaid or by electronic means to all parties by their attorneys of record as provided by the Secretary of the Commission.

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

Stuart W. Conrad

Dated: September 30, 2003