BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Aquila, Inc. d/b/a Aquila Networks-MPS and Aquila Networks-L&P, for authority to file tariffs increasing electric rates for the service provided to customers in the Aquila Networks-MPS and Aquila Networks-L&P area	)))))))	ER-2005-0436

PREHEARING BRIEF OF
SEDALIA INDUSTRIAL ENERGY USERS ASSOCIATION
AND AG PROCESSING INC

COMES NOW Sedalia Industrial Energy Users' Association (SIEUA) and Ag Processing Inc (AGP) pursuant to the ordered schedule herein and submit their prehearing brief on selected issues. We will follow the issue statement that was used in our December 23, 2005 Position Statement but will only list those issues on which we have submitted testimony.

1. Return on Common Equity: What return on common equity should be used for determining Aquila's rate of return?

In general, determining a fair cost of common equity for a regulated utility is framed by two decisions of the U.S. Supreme Court, in *Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n of West Virginia*, 26 U.S. 679 (1923) and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

These decisions identify the general standards to be considered in establishing the cost of common equity for a public

utility. Those general standards are that the authorized return should: (1) be sufficient to maintain financial integrity; (2) attract capital under reasonable terms; and (3) be commensurate with returns investors could earn by investing in other enterprises of comparable risk at the same time and in the same part of the country.[1/]

The utility's cost of common equity is the return investors expect or require in order to make an investment. Investors expect to achieve their return requirement from receiving dividends and stock price appreciation.[2/]

Mr. Gorman used several recognized financial models to estimate Aquila's cost of common equity. He used: 1) the constant growth discounted cash flow DCF model, 2) the bond yield plus equity risk premium model, and 3) a capital asset pricing model ("CAPM"). He applied these models to a group of publicly traded utilities that he determined were representative of the investment risk of an electric utility similar to Aquila.[3/] The group of companies that Mr. Gorman used was the same as that used by Aquila's witness Hadaway.[4/] Mr. Gorman also used the same group to develop a targeted capital structure for Aquila. Hence, this proxy group's capital structure is consistent with the

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[1/] Gorman, Direct Testimony, Ex. 92, p. 14.

[2/] Gorman, Direct Testimony, Ex. 92, p. 15.

[3/] Gorman, Direct Testimony, Ex. 92, p. 15.

[4/] Gorman, Direct Testimony, Ex. 92, p. 15.

financial and operating risk reflected in my return on equity for Aquila and applied to that same capital structure.[5/]

Mr. Gorman relied on the average of the weekly high and low stock prices over a 13-week period ending September 26, 2005. He used the average stock price because it is less susceptible to market price variations than a spot price. A 13-week average stock price is short enough to contain data that reasonably reflects current market expectations, but not too short a period to be susceptible to market price variations that may not be reflective of the security's long-term value. A 13-week average stock price thus is a reasonable balance between the need to reflect current market expectations and to capture sufficient data to smooth out aberrant market movements.[6/]

The results of Mr. Gorman's constant growth DCF analysis reflects rational investment financial metrics as well as today's very low cost capital market. Therefore, his DCF results are reasonable.[7/] He also stated that his growth rates were conservative for today's market situation:

> The consensus analysts' growth rate for my comparable groups is 4.33%, which is reasonable for several factors. First, these growth rates are reasonably consistent with five-year projected GDP growth of 5.3%, and considerably higher than the five-year projected GDP inflation growth of 2.2%.
>
> Utilities' dividend growth cannot sustain a growth rate that exceeds the growth rate of the overall econo-

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[5/] Gorman, Direct Testimony, Ex. 92, p. 15.

[6/] Gorman, Direct Testimony, Ex. 92, p. 17.

[7/] Gorman, Direct Testimony, Ex. 92, p. 18.

my. The growth rate of the utility's service territory is the proxy for the sustainable long-term growth rate of earnings. Utilities invest in plant to meet sales growth, and sales growth in turn is tied to economic activity. Hence, nominal GDP growth is a proxy for the highest sustainable long-term growth rate of the utility.

However, growth of utility companies has historically been tied to the growth rate of inflation. This is caused because utilities typically pay out a very high percentage of earnings as dividends, thus limiting the reinvestment of earnings and the growth to their company business platforms. The growth rate used in my DCF analysis is much higher than expected inflation rates, and nears the maximum sustainable growth estimate as proxied by the GDP growth factor. This clearly indicates a very strong and relatively high growth rate used in my DCF estimate.

Moreover, my projected growth rate of 4.33% is considerably higher than the historical growth rate the proxy group has achieved over the last five to ten years, and that projected over the next three to five years. As shown on Schedule MPG-6, the historical growth of my proxy group's dividend is substantially lower than the nominal GDP growth, and actually less than the projected inflation growth. Importantly, my use of a growth rate that exceeds the projected growth of inflation and is approaching the projected growth of nominal GDP growth and illustrates the conservative nature of this growth projection and the robust nature of the DCF results.[8/]

Mr. Gorman's analysis indicated a yield for his DCF group of 4.31% which is higher than current five-year Treasury bonds of 3.9%, and lower than the projected five-year Treasury note yield of 4.8%. This DCF yield reasonably reflects both current and projected interest rates.[9/]

Not stopping there, Mr. Gorman also performed a risk premium related analysis. This method is described in detail at

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[8/] Gorman, Direct Testimony, Ex. 92, pp. 19-20.

[9/] Gorman, Direct Testimony, Ex. 92, p. 20.

pages 21-23 of his Direct Testimony, Exhibit 92. His risk premium analyses produce a return estimate in the range of 9.3% to 10.3%, with a mid-point estimate of 9.8%.[10/]

To further validate his analysis, Mr. Gorman also performed a capital asset pricing model (CAPM). The CAPM method of analysis is based upon the theory that the market required rate of return for a security is equal to the risk-free rate of return, plus a risk premium associated with the specific security.[11/] His CAPM analysis, based on the prospective and historical market risk premium estimate of 6.6%, resulted in an estimated return on equity of 10.3%.[12/]

Summarizing his results, Mr. Gorman testified:

> My recommended return on equity of 9.8% is at the mid-point of my estimated return on equity range for Aquila of 10.3% to 9.3%. The high end of my estimated range is based on my CAPM analysis, and the low end of my estimated range is based on the average of my DCF analyses and risk premium analyses.[13/]

It is important that the return on equity be fair to the utility and to its ratepayers. Currently the costs of capital are low and Mr. Gorman's results capture that level of cost. Neither the *Hope* nor *Bluefield* cases require or even suggest that the regulator should make an unreliable projection but, rather, should base their decision upon current evidence and

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[10/] Gorman, Direct Testimony, Ex. 92, p. 21.

[11/] Gorman, Direct Testimony, Ex. 92, p. 23.

[12/] Gorman, Direct Testimony, Ex. 92, p. 27.

[13/] Gorman, Direct Testimony, Ex. 92, p. 27-28.

solid estimates of the capital markets in which the utility must seek to obtain capital. Mr. Gorman has made a conservative estimate of the cost of equity capital for Aquila and his recommendations should be accepted.[14/]

Aquila witness Hadaway recommended an 11.5% return on equity, but Mr. Gorman stated that this "significantly overstated the current market required return on equity."[15/] The major flaw in Witness Hadaway's models is his exclusive use of his own projected yields on A-rated utility bonds -- a projection 120 basis points higher than current observable yields -- while ignoring current observable yields on these utility debt securities.[16/] Moreover, Witness Hadaway's DCF estimates were inflated because of his reliance on 20-year historical GDP growth rate, rather than the current assessment of what GDP growth will be going forward.[17/] The primary difference between historical growth and projected growth is the expected inflation rate.

Mr. Gorman's recommendations were predicated upon Aquila completing the sales transactions that are presently announced and his capital structure took those transactions into account.[18/] If those transactions do not occur as proposed, he

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[14/] Mr. Gorman's specific recommendations for the two divisions were an overall rate of return for MPS of 8.09%, and L&P of 8.79%. Gorman, Direct Testimony, Ex. 92, p. 2.

[15/] Gorman, Direct Testimony, Ex. 92, p. 3.

[16/] Gorman, Direct Testimony, Ex. 92, p. 3.

[17/] Gorman, Direct Testimony, Ex. 92, p. 3.

[18/] Gorman, Direct Testimony, Ex. 92, p. 2.

recommended that the Commission revisit Aquila's capital structure to determine the actual level of the components.[19/] He recommended that the Commission direct Aquila to provide a time line for completing the asset sales and debt reduction, and to demonstrate that its improvement to its actual capital structure is reasonably consistent with the capital structure used to set rates in this proceeding.[20/]

Responding to Witness Hadaway's criticism that his DCF methodology used too low a growth rate, Mr. Gorman responded that the DCF growth rate calculation was intended to reflect investors' expectations and not inflationary expectations of the analyst.[21/]Moreover, the data he used was conservatively high given that this group of utilities rate of dividend growth has not exceeded the rate of inflation.[22/] Correspondingly, the test is actual and verifiable bond returns when referenced for the risk premium analysis.[23/]

2. Capital Structure: What capital structure should be used for determining Aquila's rate of return?

Identification of an appropriate capital structure for Aquila is critical. A large portion of Aquila's revenue require-

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[19/] Gorman, Direct Testimony, Ex. 92, p. 3.

[20/] Gorman, Direct Testimony, Ex. 92, p. 3.

[21/] Gorman, Surrebuttal Testimony, Ex. 93, p. 5.

[22/] Gorman, Surrebuttal Testimony, Ex. 93, p. 7.

[23/] Gorman, Surrebuttal Testimony, Ex. 93, p. 8.

ment is based on an operating income and income tax expense that is derived from an appropriate capital structure, embedded security cost and a fair return on equity. A capital structure that is too heavily weighted with common equity will increase Aquila's revenue requirement and claimed revenue deficiency, and inappropriately increase rates to retail customers. This occurs because common equity is the most expensive form of capital and is subject to income taxes. Also, an unreasonably high authorized return on equity would inflate Aquila's revenue requirement and retail rates. The authorized return on equity should be no higher than necessary to fairly compensate investors, while minimizing the rate increase required to provide fair compensation.[24/]

Mr. Gorman proposed a capital structure for Aquila of 45% common equity and 55% debt.

Mr. Gorman based his analysis on a projected capital structure that took into account the effect of Aquila's proposed sale transactions.[25/] However, he cautioned that if Aquila did not complete the proposed transactions, the question should be revisited.[26/]

In contrast, Witness Hadaway's proposed capital structure of 48.2% equity and 51.8% debt contains an unreasonably high common equity ratio, and is not tied to reasonably projected

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[24/] Gorman, Surrebuttal Testimony, Ex. 93, p. 2.

[25/] Gorman, Direct Testimony, Ex. 92, p. 2, 9.

[26/] Gorman, Direct Testimony, Ex. 92, p. 2.

improvements to Aquila's actual capital structure during the period rates determined in this proceeding will be in effect.[27] His proposed structure is also inconsistent with his proxy group of electric companies and therefore is excessive.[28]

While similar to the capital structure recommended by Dr. Hadaway, Mr. Gorman's proposal used C.A. Turner's lower common equity ratio and not Value Line's.[29] Mr. Gorman noted that his proposal supported minimum investment grade criteria and further justified his proposal:

> My proposed capital structure is more reasonable because it more properly reflects the leverage risk reflective of a BBB bond rating, and is more compatible with the leverage risk of the proxy group relied on by Dr. Hadaway and by me to estimate Aquila's fair return on common equity. Most importantly, however, my proposed capital structure reasonably reflects Value Line's projected capital structure for Aquila after it executes its plan to sell its gas utility assets and use the proceeds to retire debt. Hence, my proposed capital structure is a better projection of Aquila's actual capital structure during the period rates determined in this proceeding will be in effect. Hence, it properly balances the interests of Aquila's investors and its Missouri ratepayers.[30]

Responding to Witness Hadaway's criticism, Mr. Gorman noted that Hadaway's capital structure was not Aquila's, but rather was that of Hadaway's proxy group of companies.[31] In comparison, Mr. Gorman's proposed capital structure is based on Value Line's

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[27] Gorman, Direct Testimony, Ex. 92, p. 3.

[28] Gorman, Direct Testimony, Ex. 92, p. 11.

[29] Gorman, Direct Testimony, Ex. 92, p. 12.

[30] Gorman, Direct Testimony, Ex. 92, p. 12.

[31] Gorman, Surrebuttal Testimony, Ex. 93, p. 3.

projections of Aquila's capital structure during the year that rates determined in this proceeding will take effect.[32/]

3. Cost of Debt: What cost of debt should be used for determining Aquila's rate of return?

Mr. Gorman recommended the cost of debt for St. Joseph Power and Light Division be set at 7.96% and the cost of debt for Missouri Public Service Division is 6.70%. His analysis simply used Aquila's projected embedded cost of debt for the respective divisions. We do not understand that there is significant dispute regarding this calculation.[33/]

15. Purchased Power: How should prices for power based on purchased power contracts be determined?

Based on responses to several data requests, Aquila appears to be engaged in a hedging program regarding its fuel and purchase power operations. The purpose of a hedging program is to moderate the effects of rising and falling prices of the commodity being acquired. A hedging program may contain strategies such as purchasing quantities and locking in fixed prices over a period of time, purchasing call option contracts that cap the exposure to rising prices while permitting the buyer to participate in price declines, and other strategies.[34/] Despite

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[32/] Gorman, Surrebuttal Testimony, Ex. 93, p. 3.

[33/] Gorman, Direct Testimony, Ex. 92, p. 2.

[34/] Brubaker, Direct Testimony, Ex. 89, p. 5.

it being appropriate to reflect the results of this program in its calculations, Aquila does not appear to have chosen to do so.[35/] It is appropriate to reflect the benefit of the hedging program to ratepayers to dampen price swings and otherwise protect consumers from increases in prices.[36/]

16. Coal Prices: On what prices should Aquila's coal fuel expense be based in setting rates?

Aquila entered into a contract with C. W. Mining to secure a supply of high Btu coal for its Sibley and Lake Road generating facilities. Unfortunately, it has not received the contracted deliveries from C. W. Mining. As a result, it has replaced those supplies with higher cost supplies acquired in the market. Subsequently, Aquila has replaced this contract with higher cost coal supplies. However, we believe that the lower cost of the C. W. Mining supplies should be reflected in fuel calculations and ratepayers should only be required to pay the contracted for price with C. W. Mining plus rail delivery charges.[37/]

There are several reasons for this recommendation, but chief among them is Aquila entered into the contract with C. W. Mining based on its own evaluations and analyses. Aquila is the one that was responsible for contracting for the coal, including

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[35/] Brubaker, Direct Testimony, Ex. 89, p. 5.

[36/] Brubaker, Direct Testimony, Ex. 89, p. 5-6.

[37/] Brubaker, Direct Testimony, Ex. 89, p. 10.

the selection of the specific suppliers to perform this role. In addition, Aquila has taken legal action to assert its rights under the contract. Until the litigation process is complete, and until there is a full airing of Aquila's actions surrounding the execution of the contract, its management of the contract, and the legal proceedings, customers should not be required to pay anything more than the initial contracted price.[38/]

In addition, allowing direct passthrough of the costs of the replacement contract may well impair Aquila's ability to obtain relief in damages against C. W. Mining. At a minimum, it will certainly diminish any incentive that Aquila has to aggressively pursue the litigation.

17. Natural Gas Prices: On what prices should Aquila's natural gas expense be based in setting rates?

Natural gas prices are a contentious issue in this case, both because they are exceptionally difficult to predict and because of Aquila's high level of dependence on natural gas. Accordingly, using appropriate pricing for this critical component of fuel supply is very important.

These parties believe that the natural gas price that should be used in calculations in this case is the price of Aquila's gas hedged at NYMEX, adjusted for the basis differential to the market area where Aquila buys gas.

[38/] Brubaker, Direct Testimony, Ex. 89, p. 10-11.

As expressed in the testimony of Aquila witness Boehm, and shown on Schedule JGB-2, Aquila used the average of 2006 NYMEX futures prices, measured over the period October through December 2004. On an annual basis, the price proposed is $6.57 per MMBtu.

Mr. Brubaker reviewed these prices. In the short term they have been driven dramatically higher by the effects of hurricanes Katrina and Rita.[39/] But these high prices are a short-term phenomenon. As he stated:

> I believe they are, in large part, a reaction to the uncertainty surrounding the condition of, and time to restore to normal, the offshore production platforms and the associated delivery systems and processing facilities that have been damaged by Hurricanes Katrina and Rita. However, I believe gas prices will stay high until there is better visibility with respect to the restoration of these volumes to the market.[40/]

Subsequently, Mr. Brubaker updated his gas price estimates with more current information through November 30, 2005. He observed

> While [Schedule 4SR] continues to show high price levels throughout the period reported, note that the trend is for declining prices, indicating that the market participants view current prices to be abnormally high.[41/]

But there is another factor to be considered, because the NYMEX price must be adjusted for the significantly lower cost that Aquila pays at its pipeline connections with Southern Star interstate pipeline. Mr. Brubaker explained:

[39/] Brubaker, Direct Testimony, Ex. 89, p. 3.

[40/] Brubaker, Direct Testimony, Ex. 89, p. 3-4.

[41/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 12.

> Aquila typically would be able to purchase natural gas at a price less than the NYMEX price. Aquila transports its gas on Southern Star Central Gas Pipeline (Southern Star) and on Panhandle Eastern Pipeline Company (Panhandle). The typical pricing point for gas that Aquila purchases for transport on these pipelines runs at a discount to the Henry Hub/NYMEX prices. The magnitude of the negative basis depends upon the overall level of gas prices and conditions in the market. Schedule 5SR is a graphical presentation of this basis differential over the period January 2004 through November 2005. Page 1 shows the gas price data, by month, at each of the three pricing points. Page 2 of this Schedule shows the differential over the same period of time. Note that during the early portion of this time period, the basis was in the range of -$0.50 per MMBtu to Henry Hub. More recently, with the substantially elevated market gas prices, the basis has been significantly more negative, ranging to over $4.00 per MMBtu, below the Henry Hub price.[42/]

Furthermore, to make an accurate estimate for ratemaking purposes, the analyst must also take into account the extent to which Aquila has hedged its natural gas purchases. In sealed testimony, Mr. Brubaker discussed the specifics of this concern at pages 13 through 15 of his Surrebuttal Testimony, Exhibit 91. It would not be reasonable to assume that Aquila's entire gas purchasing portfolio was not hedged and failing to take this into account would be highly detrimental to the ratepayers because it would deny them the benefit of the very hedging programs that are supposedly implemented for their benefit.

Mr. Brubaker noted that Aquila's proposed gas pricing was unsupported and proposed that a better index was the swap prices under Aquila's hedges for April 2006 through March 2008 but reduced to recognize the basis differential to the market

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[42/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 13.

area where the gas is actually purchased by Aquila.[43/] He also recommended using Staff's projection of purchased power prices.[44/]

Finally, as noted in Ms. Hennings' testimony, there is a considerable question concerning the adequacy of Aquila's analysis and planning with respect to the use of solid fuels, as well as consideration of the most appropriate method to deal with regulated emissions. Particular issues include the specific emissions to be controlled, the choices among fuel sources, technology to reduce emissions, the cost of acquiring emission allowances, reliability of fuel suppliers, and the impact of different strategies on generating unit operations and maintenance requirements. The issues in this case concerning coal for Sibley and Lake Road bring all of these issues to the forefront. It is important that the Commission put Aquila on notice that an effective planning process not only is expected, but required. While always important, it must be in place before any fuel adjustment rate form that would comprehend periodic rate adjustments to pass through prudently incurred fuel and purchased power cost is considered.[45/]

[43/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 16-17.

[44/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 17.

[45/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 19.

28. Rate Design/Cost of Service: What is the appropriate way to adjust class revenues for any revenue increase that results from this case?

This case bears an important relationship to Case No. EO-2002-384. In that case a detailed class cost of service study supported by a load research study was performed and now has been fully litigated to the Commission. While we trust that the outcome of that case will develop appropriate revenue shifts between classes based on the evidence in that case, it would thus be important not to regress on that progress, nor should additional shifts that are not justified by the evidence be permitted.

After adjusting for any change in interclass revenues from the rate design case, Case No. EO-2002-384, any increase awarded in this case should be allocated as an equal percentage across-the-board increase. Alternatively, if changes in variable fuel and purchased power costs are separately treated, then any remaining change in revenue levels should be allocated as an equal percentage applied to the current revenues (after adjustment from the cost of service case) that recover costs other than the cost of fuel.

An across-the-board or equal percent increase preserves the rate relationships that exist after implementing the interclass revenue shifts that are derived from consideration of class cost of service studies in Case No. EO-2002-384. In the absence of new class cost of service studies, it is appropriate to

preserve these relationships as there is no evidence that any other relationship would be more appropriate. Accordingly, allocation on an equal percentage basis of any increase that may be awarded in this case will preserve the results of the inter-class revenue adjustments that are found appropriate in the cost of service case.[46/]

The alternative means of applying the increase is to recognize that the increase that is proposed in this case is made up of fuel and non-fuel components. After adjusting the class revenue base as the Commission directs in EO-2002-384, the non-fuel components of those revenues should be identified and used to drive the proportionate increase from this case for the non-fuel components that are allowed here. Correspondingly, the fuel costs that are authorized in this case should be spread on an energy basis. Mr. Brubaker developed several examples of this approach and discussed it at pages 5-8 of his Surrebuttal testimony, Exhibit 91.

31. IEC: If the Commission adopts an interim energy charge, how should it be structured?

While not championing the adoption of an Interim Energy Charge or "IEC," these parties recognize the challenge that is placed before the Commission if it is required to determine the amount of fuel cost that is otherwise included in rates. If the number is set too high, or even set at a level that is not

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[46/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 3.

thought to be too high, and prices continue to decline through the next few years, the utility will simply reap a windfall profit. Alternatively, fixing a price may simply permit the utility to hedge at that level thereby eliminating its risk but denying the ratepayers of the benefit of any aggressive cost control activity that might otherwise have occurred.

On the other side, selecting and fixing a price that is (or proves to be) too low, may cause severe stress to the utility. Although it has the ability to file for relief (there is no corresponding right given the ratepayers), that relief may be delayed or not shown justified. There is risk aplenty on both sides of the issue.

The IEC structure that has been employed establishes a "cap" amount which is then reflected in a refundable surcharge and a "threshold" or "base" amount below which no refund is due. Revenues that exceeded actual costs and are below the cap but above the threshold would be fully refunded to the ratepayers. Should actual costs drop below the threshold amount, refunds would be provided down to that level but no lower, thus giving the utility an incentive to aggressively pursue cost reduction strategies.

Aquila currently has an IEC in place. In the past, Empire District has employed a similar mechanism. Legal questions remain pending implementation and eligibility for treatment under new legislation, and, indeed, the "true-up" calculations have never actually been performed and the efficacy of them

remains to be seen. But given that, the IEC may provide the Commission with a means of addressing the problem provided the parties can come to an agreement on an implementation.

32. IEC Rate Design: If the Commission adopts an interim energy charge, how should the cost of the charge be allocated to customer classes in setting rates?

The amount of refundable variable fuel and purchased power amounts attributed to each rate schedule should be converted to a per kWh charge within each rate schedule.[47/]

33. Should Aquila have considered alternatives to high Btu Western Coal for burning at Sibley and Lake Road, including petroleum coke and various emission control options?

[47/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 4.

Witness Hennings found that Aquila paid almost $5 million more than necessary for the 2004 combined costs of delivered fuel and sulfur dioxide allowances by signing a contract for C. W. Mining Company blend coal and ignoring the least-cost option of using a blend using petroleum coke. These additional 2004 combined costs include not only the cost for C. W. Mining Company coal, but also the cost of coal purchases that were necessary to replace C. W. Mining Company contract shortages. Even if the C. W. Mining Company coal had been delivered as contracted, the combined costs of a petroleum coke blend would have been the least-cost option, $1.7 million less expensive than the planned 2004 C. W. Mining Company blend. Her surrebuttal testimony compares four alternatives that Aquila could have studied when it chose to buy coal for 2004 from C. W. Mining Company.

As a public trustee, Aquila is responsible to do the best job that it reasonably can to control its costs. Ratepayers must depend on Aquila to perform this function rather than simply approach fuel and fuel-related expenditures on a basis of entitlement to dollar-for-dollar reimbursement. There is, indeed, no entitlement to recovery of even prudent costs if those costs have not been incurred for the benefit of the ratepaying public.

The responsibility that is addressed by Ms. Hennings goes deeper. Aquila, and any public utility, also has the obligation to so operate its business to minimize avoidable expenditures and thereby save costs from being incurred if they

are not necessary or if there are other less expensive alternatives available. This responsibility certainly involves no less than continual review of alternatives and aggressive exploration of all that appear colorably promising. Aquila has undisputedly failed to do this as Ms. Hennings demonstrates. She pointed out these failures in at least four areas:

First, she identified the difficulties caused to ratepayers by Aquila's failure to investigate the C. W. Mining contract.[48/]

Second, the use of petroleum coke was overlooked by Aquila despite its growing popularity as a Btu-enhancer. Ms. Hennings found that pet coke could have helped with the problems that arose when the C. W. Mining contract fell apart.[49/]

Third, Ms. Hennings noted that tire derived fuel (TDF) should have been considered in the generation planning and calculations. Yet it was not and perhaps other activities could have been identified that would have saved additional funds.[50/]

Fourth, Ms. Hennings identified that Aquila's generation runs had failed to take into account the implications of MISO Day 2 dispatch.[51/]

Particular disallowances have not been proposed. We have, however, suggested that the C. W. Mining contract be

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[48/] Hennings, Direct Testimony, Ex. 94, pp. 2-3.

[49/] Hennings, Direct Testimony, Ex. 94, pp. 3-7.

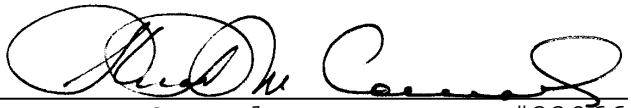
[50/] Hennings, Direct Testimony, Ex. 94, p. 8.

[51/] Hennings, Direct Testimony, Ex. 94, p. 9.

considered to still be in place for cost calculations. In addition, Mr. Brubaker addressed Ms. Hennings' recommendations in his testimony that we have previously discussed. He observed that Aquila should be put on notice that an effective planning process not only is expected, but required. While always important, it must be in place before any fuel adjustment rate form that would comprehend periodic rate adjustments to pass through prudently incurred fuel and purchased power cost is considered.[52/]

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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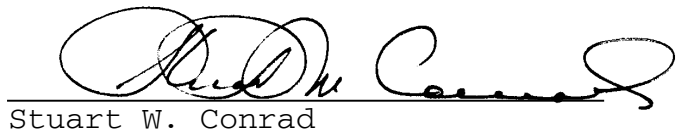
ATTORNEY FOR SEDALIA INDUSTRIAL ENERGY USERS' ASSOCIATION and AGP

January 10, 2006

[52/] Brubaker, Surrebuttal Testimony, Ex. 91, p. 19.

CERTIFICATE OF SERVICE

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



Stuart W. Conrad

Dated: January 10, 2006