

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

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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	)	<b><u>Case No. ER-2005-0436</u></b>
The Service Provided To Customers In The	)	
Aquila Networks-MPS	)	
And Aquila Networks-L&P Area.	)	

**SIEUA, AGP AND FEDERAL EXECUTIVE AGENCIES MOTION TO STRIKE  
STAFF AND OPC CLASS COST OF SERVICE STUDIES IN ER-2005-0436 AND  
DIRECT TESTIMONY INCLUDING THE TESTIMONY OF JAMES WATKINS,  
JAMES BUSCH AND BARB MEISENHEIMER**

On October 28, 2002 Staff filed testimony on two different class cost of service studies one is Case No. EO-2002-384, the other in Case No. ER-2005-0436. The class cost of service testimony of James Watkins, and James Busch and the new study filed by Staff in ER 2005-0436 should be struck. OPC witness Barb Meisenheimer also filed testimony on class cost of service in both dockets by re-filing her EO-2002-384 study in ER-2005-0436. Specifically the following should be struck: direct testimony of James Watkins pg 1 ll. 9 - pg 5 ll. 16, direct testimony of James Busch page 2 ll. 4 - pg 17 l. 16 and direct testimony of Barb Meisenheimer pg 2 l. 13 – pg 15 l. 14. The heart of the matter was succinctly covered by the Commission's August 23, 2005 Order Regarding Consolidation and Procedural Schedule issued in EO-2002-384 and ER-2005-0436. Page 7 of the order is quoted below:

[T]estimony has been pending for a long time, since February 21, 2002. Efforts to push it to an earlier resolution were fruitless. Its [EO-2002-384's] purpose is a comprehensive examination of the costs involved in serving Aquila's various electric service customer classes and identifying any adjustments necessary to match costs with revenues and eliminate any

subsidies. The centerpiece of this effort is the class-cost-of-service study, in which the Company's historical billing data and operating costs are mathematically analyzed. A class-cost-of-service study is an equitable, mathematically-based method of determining the percentage of operating costs which each utility customer must pay through rates on the principle of matching costs to the customers who cause those costs. Utility customers are generally grouped into classes based on shared characteristics and the utility's operating costs are then either directly assigned to a class, where possible, or allocated using reasonable methods to reflect class responsibility. The process is complex and can be contentious. Having considered the points raised by the parties, the Commission agrees with SIEUA, FEA and Aquila that the best course would be to ***resolve this class-cost-of-service case separately from the rate case now pending. That will permit the class-cost-of-service issues and rate design issues to be resolved separately from the revenue requirement issues that generally receive most of the attention in a rate case. It will also reduce the number of issues to be presented and determined in the rate case.*** (Emphasis added).

Both Staff and OPC had opposed this relief. Now it occurs to us that what neither could accomplish directly each is now pursuing indirectly. The above order is very specific -- class cost of service issues will be litigated in EO-2002-384, not ER-2005-0436. As stated in the order the process is contentious and complex. But closure is necessary. And that closure will occur in the final order of the EO-2002-384 case. In contravention to the order Staff filed a new study in ER 2005-0436 and OPC re-filed its EO-2002-384 study ER-2005-0436.

In his ER-2005-0436 testimony Mr. Busch states that Staff has filed a new Class Cost of Service study for both Aquila – MPS and Aquila – L&P, James Busch Direct Testimony Class Cost of Service and Rate Design Case No. ER-2005-0436, pg 2 ll. 15 – 17. Thus it cannot be contested that Staff has in fact filed a new Class Cost of Service (CCOS) Study in ER-2005-0436 in direct disregard of the order in EO-2002-384. Staff states that it has filed these new studies due to changes in the proportion of costs in the functional categories of both MPS and L&P.

The CCOS studies for MPS and L&P that Staff performed for ER-2005-0436 and EO-2002-384 case are different because the proportion of costs in each functional category has changed since they were determined in Case No. ER-2004-0034, Busch Direct ER-2005-0436, pg 3 ll. 8 – 10. There are striking differences between Staff's two cost of service testimonies. Further the results of the CCOS study the Staff filed in ER-2005-0436 are quite different from the results of the CCOS study the Staff filed in EO-2002-384. The result for MPS LPS is a 15.28% revenue deficiency under the ER 2005-0436 cost of service study (Busch Direct Case No. ER-2005-0436, pg 17, Table 3 l. 12) versus a 1.28% revenue deficiency for MPS LPS class in EO-2002-384 (Busch Surrebuttal Testimony Case No. EO-2002-384, pg 2, Table 1, l. 12).

Of greater concern is Mr Watkins direct testimony on class cost of service in ER-2005-0436 on pg 3 ll. 8 – 17 in which he states that Staff can not explain the differences between its two studies:

The Staff has not yet been able to determine the cause of these differences. If they are primarily due to fluctuations in the prices of fuel and purchased power, the Staff recommends that no shifts in class revenues be made at this time. If they are due to some permanent change in Aquila's cost structure, then the Commission should: (1) determine the appropriate allocation factors to be used in a class cost-of-service study in Aquila's rate design case; (2) determine the appropriate cost structure and level of costs in this case; then (3) require the Staff to file, for the Commission's consideration, a class cost-of-service scenario based on those determinations.

Mr Watkins' testimony shows that the ER-2005-0436 study is not even final yet and contemplates further guidance from the Commission to reach a final form once the Staff figures out why its study shows inexplicable results. Staff may argue that only costs and revenues have been updated. But by necessity allocation of production costs and other costs was necessary. See Busch Direct ER-2005-0436, pg 11 ln 5 – 7. And as

shown by the testimony of Mr. Busch at the bottom of page 11 and top of page 12 of his direct in ER-2005-0436, allocation of production costs to customer classes was done by Staff.

Understanding Staff's new study would require extensive discovery and effort. The time for filing surrebuttal testimony in ER 2005-0436 is November 18, 2005. If this motion is not sustained, SIEUA, AGP and FEA will be forced to address yet another set of CCOS methods and approaches which will likely require an extension in the existing procedural schedule because neither Staff nor OPC complied with the Commission's August 23 ruling. SIEUA, AGP and FEA will not be able file the necessary testimony by November 18. Moreover, SIEUA, AGP and FEA had not planned for this activity in full reliance on the Commission's Order.

The Commission anticipated this very potential in its August 23 Order:

The parties have raised the possibility of the re-litigation in the rate case of issues determined in Case EO-2002-384. To address that possibility, and as a matter of simple fairness, the Commission will simply add all of the parties to Case No. ER-2005-0436 – the rate case – to Case EO-2002-384. They will thus have an opportunity to litigate any class cost-of-service and rate design issues that they care to and they will be bound by the result.

Order, p. 8.

It is simply unreasonable – and violative of “simple fairness” for Staff and OPC to be permitted to ignore the Commission's Order. In order to address the new Staff study and respond to OPC's testimony SIEUA and FEA will have to invest substantial time and effort in analysis. Moreover, a delay may be required to avoid prejudice to other parties and to permit other parties to file their own studies in ER 2005-0436, if we are to be expected to repetitively litigate the same issues that were supposed to be presented and

resolved in EO-2002-384. The very dangers that the August 23, 2005 order sought to avoid will be realized unless the study and testimony of Mr. Watkins, Mr. Busch, and Ms. Meisenheimer as well as their studies are struck.

Wherefore we request that the Commission grant this motion to strike the Staff cost of service study and testimony of James Watkins and James Busch and the corresponding refilled study from Ms. Meisenheimer, all in ER 2005-0436.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

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SERVICE CERTIFICATE

I certify that I have caused true copies of this Motion to be served upon the parties to this cause by either email, facsimile or First Class United States Mail pursuant to Commission rules on the following date:

November 8, 2005

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