

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Aquila, Inc. d/b/a)
Aquila Networks L&P and Aquila)
Networks MPS to implement a general) ER-2004-0034
rate increase in electricity)

**REQUEST FOR SUSPENSION AND
APPLICATION TO INTERVENE OF
SEDALIA INDUSTRIAL ENERGY USERS' ASSOCIATION**

COMES NOW SEDALIA INDUSTRIAL ENERGY USERS' ASSOCIATION (hereinafter SIEUA) and pursuant to 4 C.S.R. 240-2.075 and applies to intervene herein and become a party hereto for all purposes in respect to the filing by Aquila, Inc. d/b/a Aquila Networks L&P ("L&P") and Aquila Networks MPS ("MPS") July 3, 2003. In support of this motion, SIEUA respectfully shows the following:

1. SIEUA is an unincorporated voluntary association consisting of large commercial and industrial users of natural gas and electricity in the Sedalia, Missouri and in the surrounding area. SIEUA was formed for the purpose of economical representation of its members' interests through intervention and other activities in regulatory and other appropriate proceedings.

2. Current members of SIEUA are as follows: **Pittsburgh Corning Corporation**, a manufacturer of cellular glass insulation at its manufacturing facility in Sedalia, Missouri where roughly 160 workers are employed; **Waterloo Industries**, a manufacturer of tool storage equipment and employer of approximately 650 workers at its manufacturing facility in Sedalia,

Missouri; **Hayes Lemmerz International** employs roughly 800 workers at its Sedalia, Missouri facility where it manufactures automobile wheels; **EnerSys Inc.** employs approximately 500 persons in its industrial battery manufacturing facility in nearby Warrensburg, Missouri; **Alcan Cable Co.** manufactures aluminum electrical conductors and employs 250 persons in its Sedalia, Missouri operation; **Gardner Denver Corporation** employs 320 workers at its Sedalia works where it makes industrial compressors and blowers; **American Compressed Steel Corporation** employs 35 workers in scrap metal recycling at its facility near Sedalia, Missouri; and **ThyssenKrupp Stahl Company**, a major United States manufacturer of specialty and precision aluminum castings at facilities located in Warrensburg and Kingsville, Missouri, where approximately 1,100 workers are employed. Collectively, these SIEUA members provide gainful employment for approximately 3,815 workers in central Missouri.

3. SIEUA's interests in proceedings affecting the rates, terms and conditions of electric service from MPS have been previously recognized by the Missouri Public Service Commission in permitting SIEUA's intervention in numerous rate design and electric rate proceedings concerning Aquila and its predecessor UtiliCorp, including without limitation the last series of Missouri Public Service rate increase cases and its ongoing load research and class cost of service case, No. EO-2002-384.

4. Correspondence or communications regarding this application, including service of all notices and orders of this Commission, should be addressed to:

Stuart W. Conrad, Esq.
FINNEGAN, CONRAD & PETERSON, L.C.
1209 Penntower Office Center
3100 Broadway
Kansas City, Missouri 64111
Voice: (816) 753-1122
Fax: (816) 756-0373
E-mail: stucon@fcplaw.com

5. On July 3, 2003 Aquila filed proposed tariffs with the Commission intending to increase its rates for electric service in its Missouri service area by roughly \$65 million in its MPS service area and \$14.6 million in its L&P area, or roughly \$80 million in the aggregate. The reasons alleged for the filing include increased costs of operations and a claimed insufficient return on investment as well as claimed increased natural gas costs affecting the cost of generation. Although the tariffs affect different service areas, the filing has been combined by Aquila.

6. SIEUA members are vitally interested in this proposed tariff, in its terms and conditions, and its impact on ratepayers generally and upon their operations specifically. As major electric customers of MPS, SIEUA members are in a position to be directly affected by the proposed increases and may be bound or adversely affected by any Commission order issued in this proceeding. Because MPS provides electricity to SIEUA

members on under separate contracts or rate schedules and because of SIEUA members' size and load factor, these companies are in the special and unique position of representing an interest which will not and cannot be represented adequately by any other party and which interest is direct and immediate and differs from that of the general public. Therefore, it will aid the Commission and protect and advance the public interest that SIEUA be permitted to intervene in this proceeding so as to protect its members' interest which no other party is in a position properly to protect and adequately represent.

7. Absent Commission action to suspend them, the proposed tariffs will take effect on August 4, 2003. The increase proposed is certainly significant; the reasonableness of this proposed increase has not been shown nor have Aquila's testimony and filings been verified or reviewed. There is insufficient time between this date and August 4, 2003 to permit any meaningful investigation or review of the basis of this filing.

8. News regarding Aquila's current financial condition appears almost daily in the newspapers. Yet, in Aquila's last MPS rate case, the utility settled at a **revenue reduction** of \$4.3 million. That settlement was only approved by the Commission in late February of this year, scarcely 4 1/2 months prior to this filing. It thus appears that Aquila's financial condition has not resulted from utility operations, rather from

singularly unprofitable unregulated activities. While SIEUA members' interest is not well served by a utility that is unable to meet its public utility obligation, the utility as a public trustee should not look to its ratepayers as ultimate guarantors against the utility's improvidence. Given these circumstances, a full statutory suspension by the Commission that will permit a thorough investigation of this filing and the claimed need for rate relief is essential and is in the public interest.

9. For purposes of 4 C.S.R. 240-2.075(2), SIEUA states that it is opposed to discriminatory pricing of electricity and related utility services, is opposed to increases that are not reasonable and are not related to prudent costs that are incurred by the utility in providing utility service, and is opposed to a utility being permitted to earn what may be an unreasonably high rate of return in order to extricate itself from a financial situation of its own making. Moreover, utility ratepayers are not understood by SIEUA to be the ultimate guarantors of a utility's financial health. Rather utility management should be accountable to its shareholders for the proper and prudent management of the assets that they have provided for public service. A more detailed statement of position and identification of issues with respect to the July 3, 2003 filing may be submitted following a more extensive review of the tariff filing and the materials claimed to support such filing.

WHEREFORE, SIEUA prays (without prejudice to later requests for relief): (a) that SIEUA be permitted to intervene herein and be made a party hereto with all rights to have notice of and participate in hearings to present evidence, cross-examine witnesses, file briefs and participate in argument, should any be had; (b) that the proposed tariff filing of July 3, 2003 be **suspended** for the full statutory period allowed and thereupon subjected to a full and thorough investigation and analysis; (c) that a procedural schedule be adopted providing for a hearing and the filing of exhibits and testimony; (d) that following such investigation the matter be set for hearing before the Commission in which the applicant utility shall be put to its proof regarding the need for the proposed tariff and all aspects of its proposed methodology of recovery; and (e) for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



Stuart W. Conrad MBE #23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR SEDALIA INDUSTRIAL
ENERGY USERS' ASSOCIATION

July 14, 2003

CERTIFICATE OF SERVICE

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



Stuart W. Conrad

Dated: July 14, 2003