

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

In the Matter of an Examination of)	
the Class Cost of Service and Rate)	
Design in the Missouri Jurisdic-)	EO-2002-384
tional Electric Service Operations)	[EO2002384xxx]
of Aquila, Inc. (f/k/a UtiliCorp)	
United Inc.))	

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)	ER-2005-0436
for the service provided to custom-)	
ers in the Aquila Networks-MPS and)	
Aquila Networks-L&P area)	

**RESPONSE IN OPPOSITION
TO STAFF MOTION FOR PROCEDURAL SCHEDULE,
AND MOTION TO CONSOLIDATE
CASE NOS EO-2002-384 AND ER-2005-0436**

COME NOW Sedalia Industrial Energy Users' Association (SIEUA) and the Federal Executive Agencies (FEA), and respond in opposition to Staff's Motion to Consolidate (Staff's Motion) as follows:

1. As an alternative to consolidation, Staff's Motion sought 30 days between its access to certain data from Aquila and its (and others') initial testimony filing. That objective has been achieved by Aquila's July 26, 2005 commitment to accelerate provision of this data to August 19, 2005 and its suggestion to move the initial testimony from September 16 (as originally

proposed by SIEUA/FEA) to September 19,^{1/} which modification SIEUA/FEA endorse. That provides Staff with the 30-day interval it states it requires and should make its alternative request to consolidate moot. The proposed schedule for EO-2002-384, with Aquila's modification, would be as follows:

8/19/05	Aquila provides proposed rate structure changes, billing units and related proof of revenue to all parties [originally proposed as 8/29/05]
9/19/05	Direct Testimony, all parties [originally proposed as 9/16/05]
9/26-28/05	Settlement Conference
9/30/05	Preliminary List of Issues
10/14/05	Rebuttal Testimony, all parties
10/28/05	Surrebuttal and Cross-Surrebuttal all parties
11/4/05	Statements of Position, witness order and cross-examination order
11/4/05	Prehearing Briefs (intended to identify issues and basic legal arguments expected; not intended to substitute for post-hearing argumentative briefs should hearing be required)
11/7-11/05	Evidentiary Hearing
t/b/d	Briefing schedule as ordered and dependent on transcript

2. Out of an abundance of caution, SIEUA/FEA will state why consolidation is inappropriate. Although we anticipat-

^{1/} See, *Reply of Aquila to the Staff's Motion for Procedural Schedule and Motion to Consolidate*, EO-2002-384, p. 1, 7/26/05.

ed, it bears repeating that the claimed justifications for consolidation lack merit for the following reasons:

a. Though agreeing with the components of the procedural schedule SIEUA/FEA proposed, Staff asserts that we do not mention "rate design" in our Motion for Procedural Schedule, then discusses the issues of rate design. This is like faulting a clerk for not asking the customer who enters a shoe store if they are considering purchasing a pair of shoes. Not surprisingly, the entire "384" case concerns "rate design," class cost of service, and (despite Staff's failure to mention it) an extensive and detailed load research study, focused on examining the "fit" between existing tariff structures for MoPub, and later St. Joseph Light & Power (after Aquila acquired it) and the actual consumption patterns of actual customers. Having performed a load research study, it is mildly misleading to suggest that rate design issues have not been considered.

b. Staff then discusses complexities it perceives in rate design questions as though these had just surfaced. The parties have been dealing with these "complexities" for the many months this case has been progressing. Complexities are not solved by submerging them in reams of data, but rather by seeking to simplify them through analytical tools.

c. Consolidation would frustrate the overall purpose of EO-2002-384 (which was, by the way, initiated at the request of SIEUA/FEA as a "spin-off" case through the Settlement of the 2002 rate case). The case was initiated to study Aquila's

class cost of service on a revenue-neutral basis and not intended to be "consolidated" with **any** particular rate case, pending or not. This view is confirmed by examination of the numerous pleadings filed in this case, most initially authored by Staff, including:

- Case No. EO-2002-384, *Response to Order Directing Filing*, p. 2, 10/17/03:

"3. The parties in this class cost-of-service and rate design case for Aquila, Inc.'s electric rates in Missouri are sensitive to Aquila, Inc.'s pending general electric rate case before this Commission, Case No. ER-2004-0034. In developing the schedule that is attached hereto as Appendix B, the parties keyed off of the date of a decision in Case No. ER-2004-0034. **This is because use of the revenue requirement ordered in Case No. ER-2004-0034 in the class cost-of-service studies performed in this case will provide more meaningful results.**" (Emphasis added)

- Case No. EO-2002-384, *Joint Motion for Revised Procedural Schedule*, p. 2, 3/9/05:

"In addition, Aquila has indicated that it expects to file a new electric rate case sometime in May, 2005 and there is the need to attempt to coordinate the remaining activities in this case with the anticipated activities in that rate case so that the **result of this case could potentially be incorporated in the outcome of that rate proceeding.** Further, there is a need to coordinate the activities in the two cases due to resource constraints." (Emphasis added)

- Case No. EO-2002-384, *Joint Response to Order Directing Filing*, 4/18/05, at pp. 1-2:

"3. The parties agree that it is not in the public interest to change rates to electric customers to implement a new rate design based on class cost-of-service studies followed, at most a few months thereafter, by a change in rates to implement a general rate increase, or decrease, and potential rate design changes.

"4. Due to Aquila's impending general electric rate increase case, the parties believe it is in the interest of the Commission, the parties, Aquila's Missouri electric customers and the public to delay setting a procedural schedule in this case with fixed dates for filing prepared testimony and for an evidentiary hearing until after Aquila files its general electric rate increase case in May of 2005. **At that time, the parties will be able to propose dates for filing prepared testimony and hearings related to class cost-of-service and rate design issues that coordinate with the dates for filing prepared testimony and hearings in the rate case.**" (Emphasis added)

3. SIEUA/FEA note that it would be difficult to "incorporate the result of this case" into the expected rate proceeding unless those results existed. Despite the clear anticipation of the ER-2005-0436 filing, the parties (including Staff and Public Counsel) did not even hint at "consolidation." In the context, coordination -- unlike consolidation -- suggests sequential timing and even more so that results could be "incorporated" in later proceedings.

4. Moreover, it was never contemplated that the proceedings would be directly overlaid on top of an existing rate case schedule with concurrent hearings and the resulting complications. Indeed, the schedule was contemplated to be independent of a particular rate case.

However, the parties assure the Commission that "this case will be ready for hearing roughly nine months after the Commission's order in Case No. ER-2004-0034 becomes final." The operation of law date in that case is June 2, 2004.^{2/}

^{2/} Case No. EO-2002-384, *Order Setting Hearing and Directing Filing*, 10/29/03, pp. 2-3. This Order set a hearing for the class cost of service/rate design case in April, 2005.

5. Consolidation of the CCOSS case with the pending rate case will draw into the 2002 CCOSS case several new parties that had no interest whatever in the ongoing class cost of service and load research study. The procedures established in the CCOSS proceeding were intended to cause the parties interested in that proceeding to work together to first fashion criteria for data collection through the load research study so as to create a neutral and common data set on which all would work, then followed by analysis of those data by the parties and collaborative resolution of data difficulties. This would leave only the philosophical differences in approaches which would either encourage compromise or facilitate Commission resolution of any remaining issues. Injecting new parties at this point into a process that began in 2002 will invite them to challenge these efforts arguing that something was done incorrectly in the data collection phase when they had no interest in the case at all. Disruptive, certainly, but also discouraging to those who have worked since 2002 to accommodate all interests and data needs.

6. The Commission has already recognized, with some frustration, the extended nature of this case and its study. Of course, owners changed and costs changed. Hence, it was the sense of the parties reflected in the foregoing pleadings, that the class revenues in ER-2005-0034 -- which were **settled** -- would be used since they related not only to the period of the data collection but also to the new ownership of the St. Joseph

division of this utility. The load research data was collected on the rate structures that predated ER-2004-0034 and which were deliberately not disturbed in that case through a Non-Unanimous Class Cost of Service and Rate Design Stipulation, filed on December 16, 2003, which specified that there would be an equal percentage increase to those classes and rates.^{3/}

7. SIEUA's and FEA's difficulty is that it seems never to be the right time to try to identify needed revenue shifts. It seems impossible to do in a rate case because needed data, such as a load research study to support rate structure changes is not available. Then, not surprisingly, when such a study is made, selected parties are not satisfied with the results because they are concerned with "impacts" and are unwilling to "incorporate" results in actual rates. And, since a rate case is needed to actually change the rates, by the time that rate case is available, those disagreeing with the class cost of service study results assert that they are "stale" and should not be used. As the Commission has recognized, noting the numerous

^{3/} Any increase in allowed revenue level not associated with the items described in subparagraphs a or b, above, that is determined by the Commission in the rate case, Case No. ER-2004-0034, shall be calculated as a percentage change from existing revenues, and spread to all existing rate schedules as to which a rate proposal has been properly initiated by Aquila by adjusting upward each affected rate component by the same percentage, then rounding to the same precision as in the proposed tariff sheets.

Case No. ER-2004-0034, *Non-Unanimous Stipulation and Agreement Pertaining to Rate Design and Class Cost of Service*, p. 3, 12/16/03.

changes that had occurred to Aquila since the study was initiated (for the MoPub division), it is time to move this forward:

It cannot be assumed that the costs of serving the various **classes** of customers have remained static since the last such study was performed. The longer this study is delayed, the more likely it is that some customers are paying more than their fair share for service and others are paying less.

For this reason, the Commission will require that the parties file a proposed procedural schedule within 30 days so that this important study will not be further delayed.^{4/}

As parties that sense that they are paying "more than their fair share," SIEUA/FEA do not want the results of this long-awaited study to be confused with other issues that may arise in a rate case. We also sense that others may have concern regarding changes that they would like to recommend in the internal structure of rates pertinent to a particular class, *i.e.*, **intra**class rates and may be concerned with resulting impacts. However that should not be the reason to frustrate needed adjustments in **inter**class rates. Once class rates are established, other rate changes can be deferred if they result in unacceptable impacts.

8. Moreover, it was neither the intention of the parties nor, it seems, the Commission, that the parties would conclude class cost shifts on a revenue neutral basis either by settlement or hearing, then immediately relitigate class cost of service issues in a rate case. Just as the parties settled the allocation of rate changes in the ER-2004-0034 case by an equal

^{4/} Case No. EO-2002-384, *Order Directing Filing*, 3/18/05 (emphasis added).

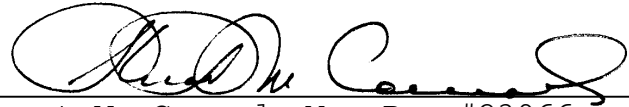
percentage increase to preserve class rate relationships,^{5/} the same process can be employed in the ER-2005-0436 rate case once class cost of service levels are determined in the CCOSS docket.

9. In other respects, we agree with the statement in paragraph 3 of Aquila's July 26, 2005 Reply.

WHEREFORE Staff's Motion for Consolidation should be denied and SIEUA/FEA's July 8, 2005 Motion for Procedural Schedule, as modified above per the suggestions of Aquila, should be approved.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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

ATTORNEY FOR SEDALIA INDUSTRIAL
ENERGY USERS' ASSOCIATION

Craig Paulson

Maj. Craig Paulson, Attorney
AFLSA/ULT
139 Barnes Drive
Suite 1
Tyndall AFB, FL 32403-5319

ATTORNEY FOR FEDERAL EXECUTIVE
AGENCIES

^{5/} Case No. ER-2004-0034, *Non-Unanimous Stipulation and Agreement Pertaining to Rate Design and Class Cost of Service*, 12/16/03.

CERTIFICATE OF SERVICE

I hereby certify that I have sent true copies of the foregoing pleading either by United States Mail, facsimile or other electronic means, to the following on this 2nd day of October, 2002.

Mr. Lewis R. Mills, Jr.
Missouri Public Counsel
Office of the Public Counsel
200 Madison Street
Suite 650
P. O. Box 2230
Jefferson City, MO 65101

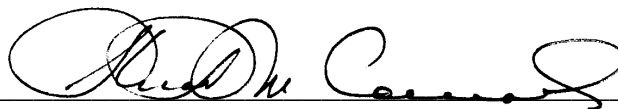
Mr. Mark W. Comley
Attorney
Newman, Comley & Ruth
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65101

Maj. Craig Paulson
Attorney
AFLSA/ULT
139 Barnes Drive
Suite 1
Tyndall AFB, FL 32403-5319

Mr. Jeremiah D. Finnegan
Partner
Finnegan, Conrad & Peterson,
L.C.
1209 Penntower Office Center
3100 Broadway
Kansas City, MO 64111

Mr. James C. Swearngen
Brydon, Swearngen & England,
P.C.
312 East Capitol Avenue
Jefferson City, MO 65101

Mr. Nathan Williams
Attorney
Missouri Public Service Com-
mission
200 Madison Street
Suite 100
Jefferson City, MO 65101



Stuart W. Conrad
An Attorney for SIEUA

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