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April 30, 2003

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

FILED³

APR 30 2003

Re: Aquila, Inc.

**Missouri Public
Service Commission**

Dear Mr. Roberts:

On behalf of Aquila, Inc., I deliver herewith for filing with the Missouri Public Service Commission an original and eight (8) copies of the following:

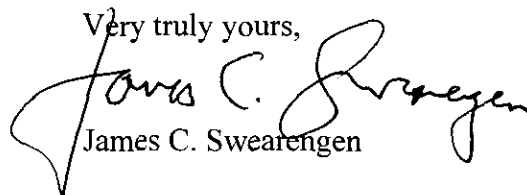
- An Application of Aquila, Inc. for Authority to Assign, Transfer, Mortgage or Encumber its Franchise, Works or System;
- Direct Testimony of Jon R. Empson;
- Direct Testimony and NP Schedules of Rick Dobson; and,
- A Motion for Protective Order.

When the Commission issues the requested Protective Order, the Highly Confidential Schedules of Rick Dobson will be filed.

A copy of the application, testimonies and motion will be served on the Commission's General Counsel and the Office of the Public Counsel.

Would you please bring this filing to the immediate attention of the appropriate Commission personnel. Thank you very much for your assistance and cooperation.

Very truly yours,


James C. Swearngen

Enclosures

cc: Dan Joyce
John Coffman

FILED³

APR 30 2003

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of the Application of Aquila,)
Inc. for Authority to Assign, Transfer,) Case No. _____
Mortgage or Encumber its Franchise, Works)
or System)

APPLICATION

Comes now Aquila, Inc. ("Aquila" or "Company"), by and through counsel, pursuant to Sections 393.180 and 393.190.1 RSMo 2000 and 4 CSR 240-2.060(1) and (7), and respectfully states as follows to the Missouri Public Service Commission ("Commission"):

Introduction

1. As part of its Financial Plan ("the Plan") to restore its financial health, while at the same time avoiding any adverse impact on its customers, Aquila in Phase I of the Plan, has sold over \$1.3 billion of non-core assets using the net proceeds to pay down associated debt; closed its merchant trading operations and is in the process of unwinding the remaining contracts in its trading book; reduced its workforce by more than 1500 employees; issued additional common equity; and suspended payment of its common stock dividend. In addition, Aquila has restructured its United States utility operations into a state-based organization; stopped funding the expansion of its Everest Connections communications business; and has sold its equity investment in Quanta Services, Inc.

2. Phase II of the Plan is to further reduce Aquila's debt obligations through the continued sale of the Company's international and non-core domestic assets and the restructuring or termination of certain tolling contracts. To ensure that Aquila has sufficient liquidity in the near-term, the Company has entered into new debt instruments on April 9,

2003 which will allow it to implement the final steps of Phase II of the Plan. Proceeds from newly arranged debt facilities have allowed the repayment of Aquila's obligations previously due on April 12, 2003.

3. The ultimate goal of the Plan is to return Aquila to a capital structure reflective of a "traditional" utility and to restore its debt rating to investment grade. This will require the restructuring, retirement or replacement of existing debt with new debt that, subject to regulatory approval, will be secured by a collateral pool that will include Aquila's United States utility assets, including its utility assets located in Missouri.

4. Consequently, this Application requests a Commission order authorizing the assignment, transfer, mortgage or encumbrance of Aquila's utility franchise, works or system necessary or useful in the provision of regulated electrical, natural gas and heating company utility services to the public in Missouri in order to secure Aquila's financing arrangements which are used to support the Company's utility operations.

The Applicant

5. Aquila is a Delaware corporation with its principal office and place of business at 20 West 9th Street, Kansas City, MO 64138. Aquila is authorized to conduct business in Missouri through its Aquila Networks-MPS and Aquila Networks-L&P operating divisions and, as such, is engaged in providing electrical, natural gas and heating company utility service in its Missouri service areas subject to the jurisdiction of the Commission. A certified copy of Aquila's Amended Certificate of Authority to do business in this state as a foreign corporation was filed with the Commission in Case No. EU-2002-1053 and said document is incorporated herein by reference as **Appendix 1** and made a part hereof for

all purposes in accordance with 4 CSR 240-2.060(1)(G). Likewise, copies of the registrations of fictitious name of Aquila Networks-MPS and Aquila Networks-L&P were filed in Case No. EU-2002-1053 and said documents are incorporated herein by reference as **Appendix 2** and made a part hereof for all purposes in accordance with 4 CSR 240-2.060(1)(G).

6. Aquila is an "electrical corporation," a "gas corporation," a "heating company" and a "public utility" as those terms are defined in Section 386.020 RSMo 2000. Consequently, it is subject to the jurisdiction and supervision of the Commission as provided by law.

7. Aquila has pending or final judgments or decisions against it from state or federal regulatory agencies or courts which involve customer service occurring within the three (3) years immediately proceeding the filing of this Application.

8. Aquila has no overdue Commission annual reports or assessment fees.

9. Pleadings, notices, orders and other correspondence and communications concerning this Application should be addressed to:

Jon R. Empson, Senior Vice President -
Governmental Relations and Regulatory Services
Aquila, Inc.
1815 Capitol Avenue
Omaha, NE 68102
Telephone: (402) 221-2375
Facsimile: (402) 221-2501
E-mail: jon.empson@aquila.com

James C. Swearengen MO #21510
Paul A. Boudreau MO #33155
Brydon, Swearengen & England, P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, Missouri 65102

Telephone: (573) 635-7166
Facsimile: (573) 636-6450
E-mail: paulb@brydonlaw.com

Three Year Term Loan and 364 day Term Loan

10. As indicated, a first step in Phase II of the Plan involved the retirement of approximately \$600 million of obligations that became due on April 12, 2003. In this regard, Aquila has arranged for two new debt instruments: a new \$430 million three year Term Loan Facility and Letter of Credit Facility (sometimes hereinafter "the Term Loan") entered into by Aquila on April 9, 2003, a copy of which is attached hereto, marked **Appendix 3** and made a part hereof for all purposes, and a new \$100 million, 364 day term loan. (The Company has an option to borrow an additional \$100 million on the 364 day term loan during the first 90 days of the loan's duration. The outstanding balance of the 364 day term loan could be \$200 million in this circumstance.) In connection with the Term Loan, Aquila has issued First Mortgage Bonds Under its Indenture of Mortgage and Deed of Trust dated as of April 1, 2003, to Bank One Trust Company, N.A., Trustee ("the Indenture") and its First Supplemental Indenture thereto dated as of April 9, 2003, to Bank One Trust Company, N.A., Trustee ("the First Supplemental Indenture"). The Indenture, as amended and supplemented by the First Supplemental Indenture, constitutes a first mortgage lien on the property of Aquila described therein and contains provisions for subjecting after acquired property to the lien thereto. Copies of the Indenture and First Supplemental Indenture are attached hereto, marked **Appendices 4 and 5** respectively, and made a part hereof for all purposes.

11. The initial interest rate on the Term Loan is 8.75 percent. Upon receipt of regulatory approval to use utility assets as collateral to secure the Term Loan, the interest rate will be reduced to 8 percent assuming the utility assets exceed the amount of the Term Loan by at least 167%. Aquila has committed to price the Term Loan at a BBB investment grade rating for ratemaking purposes.

12. The proceeds from the Term Loan and the \$100 million 364 day term loan were used to terminate Aquila's revolving credit facilities, repay synthetic leases associated with two power plants in Illinois, and cash collateralized outstanding letters of credit.

13. Approximately \$250 million of the \$430 million Term Loan will be used to meet the cash working capital requirements of Aquila's United States utility businesses with the remaining \$180 million used to meet the working capital needs of Aquila's other activities. While financial institutions have only required Aquila to pledge sufficient assets in total to secure the \$430 million loan Term Loan, Aquila is separating the Term Loan and collateral into United States utility and other categories to ensure that the utility customers and utility assets are not supporting the nonutility debt requirements. It is Aquila's intent to maintain a proper alignment of United States utility collateral with United States utility loan needs and nondomestic utility and nonregulated business collateral with the loan needs of those activities. In this regard, the Plan demonstrates that the amount of domestic utility debt remains relatively static under the Plan compared to total Aquila debt.

14. At the present time, the entire amount of the \$430 million Term Loan and related First Mortgage Bonds are secured with collateral on Aquila's United States utility assets in Michigan and Nebraska; a pledge of the equity interests in Aquila's Canadian

utilities; and a silent second lien on the equity interest of Aquila's independent power plant ("IPP") investments. The collateral for the 364 day term loan is Aquila's equity interest in its Australian assets ("WAPL"); a first priority lien on two peaking facilities; Aquila's equity interest in the IPP investments; and a junior lien on the Canadian collateral.

15. As indicated, Aquila has determined that about \$250 million of the \$430 million Term Loan is needed to support the ongoing working capital requirements for its United States utility businesses. However, based upon the collateral principles used by the lending institutions, the utility assets in Michigan and Nebraska are not sufficient in value to support a \$250 million loan. Therefore, Aquila used its Canadian investment both to support the remaining \$180 million portion of the Term Loan and to fill the gap on the required collateral for the \$250 million utility working capital portion. Aquila, however, intends to sell its Canadian properties. If the Canadian properties are sold, 100% of the net proceeds must be used to repay the Term Loan until the remaining utility collateral value equals or exceeds 1.67 times the then outstanding loan balance. Accordingly, Aquila must replace the Canadian security with its other United States utility properties in order to have the full use of the \$430 million Term Loan. Once the assets of the Company's additional United States utility businesses become available to use as collateral, the pledge of the capital stock of Aquila's Canadian holding company may be released.

Encumbrance of Missouri Utility Assets

16. As indicated, at the present time, utility assets in Michigan and Nebraska and the Canadian Investment primarily secure the Term Loan and related First Mortgage Bonds. Also as indicated, if the Canadian assets are sold, 100% of the proceeds must be

used to repay the Term Loan until the value of the utility assets held as collateral equals 167% of the outstanding loan. Therefore, Aquila must, at this time, seek the approval of the state regulatory commissions in Missouri, Kansas, Colorado, Iowa and Minnesota to allow it to encumber its utility assets in those states as collateral for the Term Loan and related First Mortgage Bonds. Consequently, by this Application Aquila seeks approval of this Commission for the Company to proceed with an encumbrance of its utility assets located in Missouri ("Missouri Assets") and/or to create liens on its property situated in Missouri in order to secure the Term Loan and related First Mortgage Bonds by subjecting said property to the lien of the Indenture as supplemented and amended by the First Supplemental Indenture and to secure the future replacement debt offerings for working capital requirements not to exceed \$430 million.

17. In summary, Aquila is seeking Commission approval to encumber its Missouri Assets for essentially four reasons. First, to have full use of the Term Loan, upon the sale of the Canadian assets those assets will need to be replaced as security by additional utility assets. Second, as a matter of equity, utility assets should support the working capital requirements for the utility operations. Third, it is only fair that since the working capital is needed to support the day-to-day operations of all Aquila's utility operations, then all of Aquila's utility assets should be part of the pool. Fourth, the borrowing rate under the Term Loan drops 75 basis points, to 8.00 percent, if Aquila adds additional utility assets from other states as collateral so that the ratio of utility assets in the collateral pool to the total amount of debt in the Term Loan is 1.67 or higher.

18. The Commission routinely has authorized public utilities to undertake secured indebtedness as a means of financing their operations. Those companies include Missouri-American Water Company [Case Nos. WF-2002-1096, WF-2002-359 and WF-2000-383], Laclede Gas Company [Case No. GF-2000-843], AmerenUE/Union Electric [Case Nos. EF-2000-385 and EF-94-25 and 17,960], Citizens Electric [Case No. EF-99-192], St. Louis County Water Company [Case No. WF-98-310], The Empire District Electric Company [Case No. EF-98-120], United Cities Gas Company, [Case No. GF-95-230], Missouri Power & Light Company [Case No. 18,175] and Kansas City Power & Light Company [Case No. 18,199]. Likewise, Aquila, under its former corporate names UtiliCorp United Inc. ("UtiliCorp") and Missouri Public Service Company ("MPS"), has obtained the authority of the Commission to mortgage or encumber its utility system to finance its operations on numerous occasions. Attached hereto, marked **Appendix 6**, and made a part hereof for all purposes is a tabulation of Commission cases involving UtiliCorp and MPS.

19. The ability of Aquila to encumber its Missouri Assets as security to ensure continued liquidity as proposed is not detrimental to the public interest, and in fact is beneficial to the public interest, because the public health, safety and welfare will be served by the ability of Aquila to obtain financing on the most favorable terms available. Recent turbulence in the energy markets is making it difficult for many electric power providers to find access to affordable capital. The public interest is not benefited by financially weakened electric utilities. During these difficult times, it will be increasingly

important for the regulated industry and regulators to find ways to address the need for reliable and affordable electric service.

20. To assure that Aquila's Missouri customers are not harmed as a result of Aquila's current financial conditions, the Plan contains provisions to:

- Protect utility customers from potential adverse financial impacts.
 - ...maintain the Aquila capital allocation process that utilizes "hypothetical" capital structures and long term debt assignment.
 - ...price new/replacement debt to utility divisions at comparable BBB credit rating.
- Maintain quality customer service.
 - ...continue appropriate funding of capital expenditures.
 - ...ensure adequate staffing.
 - ...set and monitor customer service performance metrics.
- Enhance regulatory transparency
 - ...transition to a state-based organization
 - ...create open communications with regulatory commissions
 - ...maintain a Corporate Cost Allocation Manual
 - ...maintain Affiliate Transactions Policy and Procedures Manual
 - ...continue Code of Business Conduct education/training

21. Keeping Aquila's Missouri Assets unencumbered under the circumstances would not be in the public interest because doing so will not further the public interest in continued reliable utility service to the Company's customers. Furthermore, the

encumbrance of those Missouri Assets will not materially increase the risk of Aquila's customers; rather, it will simply affect the comparative rights of the lenders under the Term Loan compared to Aquila's general creditors in the event of bankruptcy. The lenders under the Term Loan would not have access to the Aquila's Missouri Assets unless the Company defaults. If Aquila were to default on the Term Loan, it would necessarily be in bankruptcy, in which case, all of its assets, including its Missouri Assets, would be available to all of its creditors. Consequently, it is the existence of debt, not security that involves risk, and Aquila cannot operate without the Term Loan.

Miscellaneous Filing Requirements

22. The encumbrance of those of Aquila's assets necessary or useful in the performance of its duties to its customers in Missouri will have no impact on the tax revenues of the political subdivisions in which any of the structures, facilities or equipment of Aquila are located. The involved financing arrangements will not result in a change of ownership of the Missouri Assets nor will they result in the change in the present location of any of the affected utility assets.

23. In accordance with 4 CSR 240-2.060(7)(C), attached hereto, marked **Appendix 7**, and made a part hereof for all purposes, is a certified copy of the Resolutions of the Board of Directors of Aquila authorizing the filing of this Application.

WHEREFORE, Aquila respectfully requests that the Commission issue its order:

A. finding that the proposed assignment, transfer, pledge, mortgage or encumbrance of the franchise, works or system of Aquila necessary or useful in the performance of its duties to the public in the State of Missouri in order to secure its

obligations under the \$430 million Term Loan and related First Mortgage Bonds, as described herein, and to secure the future replacement debt offerings for working capital requirements not to exceed \$430 million is not detrimental to the public interest and should be authorized;

B. authorizing Aquila to create and make effective the lien of the Indenture, **Appendix 4** hereto, as amended and supplemented by the First Supplemental Indenture, **Appendix 5** hereto, on Aquila's Missouri Assets to secure the Term Loan and related First Mortgage Bonds.

C. authorizing Aquila to enter into, execute and/or perform in accordance with the terms of the Term Loan, **Appendix 3** hereto, the Indenture, **Appendix 4** hereto, the First Supplemental Indenture **Appendix 5** hereto, and any and all other related agreements or documents and to take any and all other actions which may be reasonably necessary and incidental to the assignment, transfer, mortgage or encumbrance of its franchise, works or system to secure its obligations under the \$430 million Term Loan and related transactions, all as described herein.

D. granting such other relief as may be necessary and appropriate to accomplish the purposes this application.

Respectfully submitted,

A handwritten signature in cursive script, reading "James C. Swearengen". The signature is written in dark ink and is positioned above a horizontal line.

James C. Swearengen MO #21510

Paul A. Boudreau MO #33155

BRYDON, SWEARENGEN & ENGLAND, P.C.

312 East Capitol Avenue

P.O. Box 456

Jefferson City, MO 65102

(573) 635-7166

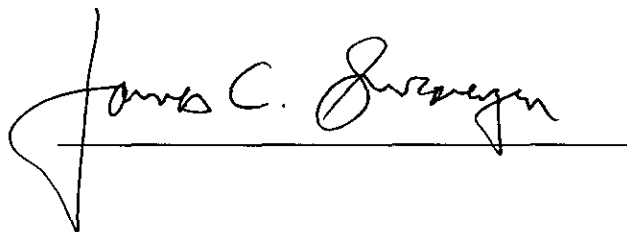
Attorneys for Aquila, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 30TH day of April 2003 to the following:

Mr. Dana K. Joyce, General Counsel
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102-0360

John B. Coffman
Acting Public Counsel
Office of the Public Counsel
200 Madison Street, Suite 650
P.O. Box 7800
Jefferson City, MO 65102

A handwritten signature in cursive script, reading "James C. Swearingen", is written over a horizontal line. The signature is written in dark ink and is positioned to the right of the line, with the first part of the signature extending to the left of the line.

VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF Jackson)

I, Jon R. Empson, having been duly sworn upon my oath, state that I am the Senior Vice President, Regulatory, Legislative and Gas Supply Services, of Aquila, Inc.; that I am authorized to make this affidavit on behalf of Aquila, Inc., and that the matters and things stated in the foregoing Application and Appendices thereto are true and correct to the best of my information, knowledge and belief.

Jon Empson

Signed and sworn to before me, the undersigned notary public, on this 29 day of April, 2003.

Teresa A. Keefe
Notary Public

My Commission Expires:

October 31, 2005



Appendix 1 - incorporated by reference	Amended Certificate of Authority
Appendix 2 - incorporated by reference	Registrations of Fictitious Names of Aquila Networks-MPS and Aquila Networks-L&P
Appendix 3 - Attached	Term Loan
Appendix 4 - Attached	Indenture of Mortgage and Deed of Trust
Appendix 5 - Attached	First Supplemental Indenture
Appendix 6 – Attached	Tabulation of Commission cases involving UtiliCorp and MPS
Appendix 7 – Attached	Resolutions of the Board of Directors of Aquila