

Exhibit No.:
Issues: SERP
Witness: Philip M. Beyer
Sponsoring Party: Aquila Networks-L&P
Case No.: HR-2005-0450

Before the Public Service Commission
of the State of Missouri

Rebuttal Testimony

of

Philip M. Beyer

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI
REBUTTAL TESTIMONY OF PHILIP M. BEYER
ON BEHALF OF AQUILA, INC.
D/B/A AQUILA NETWORKS-L&P
CASE NO. HR-2005-0450**

1 Q. Please state your name and business address.

2 A. My name is Philip M. Beyer and my business address is 20 W. 9th Street, Kansas City,
3 Missouri, 64105.

4 Q. By whom are you employed and in what capacity?

5 A. I am employed by Aquila Inc. (Aquila) as Director of Benefits and HRIS. In that
6 capacity, I am responsible for al employee benefit programs and human resources
7 information systems.

8 Q. Please state your educational background and business experience.

9 A. I have an MBA Degree from the University of Missouri, Kansas City and an MA Degree
10 from the University of Northern Colorado. I have been employed by Aquila for 9 years
11 and was previously employed as the Employee Benefits Manager at Yellow Corporation
12 and Black and Veatch.

13 Q. What is the purpose of this rebuttal testimony?

14 A. The purpose of my testimony is to respond to the Missouri Public Service Commission
15 Staff's (Staff) recommendation that expenses related to Aquila's Supplementary
16 Executive Retirement Plan (SERP) should be excluded from the cost of service.

17 Q. What retirement benefits does Aquila offer employees and executives?

1 A. Aquila's retirement program includes a pension plan, 401(k) plan, profit sharing plan and
2 Social Security. All eligible employees have access to post retirement medical beginning at
3 age 55.

4 Q. Are these benefits different for employees and executives?

5 A. No. Although the benefit formulas for employees and executives are the same, Internal
6 Revenue Service rules [Code Sec. 415(b) (1) (a) and 401(a) (17)] limit the amount of
7 annual salary that can be used in the benefit formulas of Aquila's qualified retirement
8 programs. For example, in 2005 the IRS maximum salary limit is \$210,000. If an
9 executive earns \$250,000 in 2005, only \$210,000 may be included in Aquila's qualified
10 retirement plan formulas.

11 Q. What is the effect of the IRS limits on executive retirement benefits?

12 A. The limits reduce the amount contributed to the 401(k) and profit sharing plan on behalf
13 of executives and the amount of income applied to the pension plan formula in any one
14 year. Over time, the percentage of an executive's income replaced at retirement by
15 Aquila's retirement plans and Social Security is reduced to approximately 55-60% while
16 most Aquila employees' replacement percentage is about 70%.

17 Q. Are executives at other companies affected by the IRS limits?

18 A. Yes. The limits apply to all qualified retirement programs.

19 Q. What do other companies do to restore the benefits lost due to the IRS limits?

20 A. Because of the maximum salary limits, most large companies have implemented
21 supplemental retirement programs. Per a 2003 Hewitt survey, 80% of Standard and
22 Poor's 500 companies have implemented supplemental retirement programs. Missouri

1 based companies that have supplemental executive retirement plans include Great Plains
2 Energy, Ameren and Empire District Electric.

3 Q. Does Aquila have a SERP?

4 A. Yes. The Aquila Supplemental Executive Retirement Plan (SERP) was implemented in
5 1986, amended in 1996 and restated in 2001. The purpose of the SERP is to restore
6 benefits to higher compensated employees whose benefits are reduced due to IRS
7 maximum salary limits.

8 Q. On January 1, 2005, Aquila amended its pension plan to provide enhanced benefits for
9 employees. How did the amendment affect executive benefits?

10 A. There was not a major effect on pension benefits for executives earning over the IRS
11 salary limit. The increase in pension benefits either reduced or eliminated SERP benefits
12 for executives earning under the IRS salary limit since pension plan benefits directly
13 offset SERP benefits.

14 Q. What are change in control (CIC) provisions?

15 A. CIC provisions define the circumstances by which control of a company may occur. For
16 example, a common definition of change in control is when 20% of the outstanding
17 shares of common stock of a company become owned by a person or entity.

18 Q. Does Aquila's SERP have Change in Control provisions?

19 A. Yes. SERP CIC provisions were present in Plan document during the last test year. The
20 SERP plan document was amended and restated on January 1, 1998 to include CIC
21 provisions (Section 1.2 of the Plan document). The Plan was again amended in

1 November 2000 to add language about the funding of the Plan's trust in event of a change
2 of control.

3 Q. Do CIC provisions create current expense?

4 A. CIC provisions do not create an expense unless a company's control changes. For
5 example, when the CIC provision was added in 1998 and amended in 2000, there were no
6 increased expenses. An expense is triggered for the purchasing company upon a change
7 in control. A change in control provision as stated by Staff "...acts as deterrence for
8 another company to acquire Aquila and thus acts as employment security protection for
9 Aquila's top executives and highly compensated employees." If the Plan's CIC
10 provisions act as deterrence to a change in ownership, it follows that CIC provisions
11 decrease the likelihood of an expense (funding the SERP) occurring in the future.

12 Q. In the event of a change in control, are executives provided greater benefits?

13 A. No, in event of a CIC, the only change is that plan participants become 100% vested.

14 Q. Are there any plan participants who are currently not vested?

15 A. Yes, there are two participants not fully vested. Since the two participants have been with
16 the company for a short period of time, their SERP benefits are minimal because of the
17 offset by their pension plan benefit.

18 Q. Why was the SERP modified on January 1, 2001?

19 A. Aquila's Pension and Benefits Committee of the Board increased SERP benefits as a
20 result of third party studies conducted by Hewitt Associates and Mercer that revealed that
21 Aquila's executive retirement program provided 17% less retirement benefits than peer
22 utility companies. Aquila's 1998 plan design objective was to restore lost benefits due

1 the IRS maximum salary limits described above. Per the Mercer study, most peer
2 companies included bonus income in the calculation of supplemental benefits while
3 Aquila only included base pay. Consequently, in 2001 Mercer recommended that
4 Aquila's plan be amended to include certain bonus pay in order to make up the
5 deficiencies in executive retirement benefits. The plan also restricts the 7.5%
6 supplemental SERP benefit to executives who have completed at least 10 years of
7 service. If an executive leaves Aquila prior to attaining 10 years of service, they are not
8 entitled to the supplemental benefit.

9 Q. Are SERP benefits guaranteed to executives?

10 A. No. Aquila's obligation under the plan is an unfunded and unsecured promise to pay
11 benefits in the future.

12 Q. Have Aquila's senior executives received SERP eligible bonus income in the last 4 years?

13 A. No, senior executives have not received base pay increases or bonus income that would
14 apply to the SERP.

15 Q. Do you agree that there is a total of \$717,953 in direct charges and corporate allocated
16 cost to MPS and L&P related to the SERP for the test year ending December 31, 2004?

17 A. Yes.

18 Q. Are any of those costs funded in a trust?

19 A. Yes. At the time that Aquila merged with L&P in 2000, Aquila transferred assets from
20 the L&P SERP that are used to fund the liability for the former L&P executives. There is
21 currently \$3.8 million in the trust to pay the benefits when the former executives attain
22 retirement age.

1 Q. Why should SERP benefits be recovered in rates?

2 A. Benefits under Aquila's standard retirement program provide a reduced percentage of
3 replacement income for executives due to the IRS salary limits. Approximately \$11.7
4 million of SERP expense is attributable to the basic benefit that is used to restore the
5 benefits lost due to the IRS salary limits. Of the \$11.7 million in expense, \$7.8 million is
6 attributable to executives who retired prior to the 2001 amendments, \$3.4 million is
7 attributable to basic SERP benefits for active executives and \$489,000 for executives that
8 terminated or retired between 2001 and 2006. The Missouri portion of SERP expense for
9 basic benefits is \$791,256. Aquila believes that since this expense is directly attributable
10 to basic benefits that restore benefits lost due to IRS salary limits, the full \$791,256
11 should be included in the cost of service.

12 Q. Does this conclude your rebuttal testimony?

13 A. Yes.

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

County of Jackson)
)
State of Missouri) ss

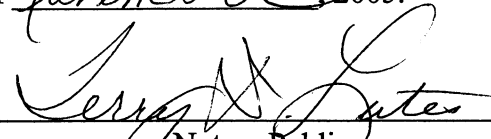
AFFIDAVIT OF PHILIP M. BEYER

Philip M. Beyer, being first duly sworn, deposes and says that he is the witness who sponsors the accompanying testimony entitled "Rebuttal Testimony of Philip M. Beyer;" that said testimony was prepared by him and under his direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his knowledge, information, and belief.



Philip M. Beyer

Subscribed and sworn to before me this 18th day of November, 2005.



Notary Public
Terry D. Lutes

My Commission expires:
8-20-2008



TERRY D. LUTES
Jackson County
My Commission Expires
August 20, 2008