

AQUILA, INC.
AQUILA NETWORKS-MPS-INVESTOR (ELECTRIC)
CASE NO. EO-2005-0156
OFFICE OF PUBLIC COUNSEL
DATA REQUEST NO. OPC-2

DATE OF REQUEST: January 3, 2005

DATE RECEIVED: January 4, 2005

DATE DUE: January 24, 2005

REQUESTOR: Ted Robertson

QUESTION:

Please provide a complete copy of any agreements between the City of Peculiar and Aquila (or one of its affiliates) within the past 12 months.

RESPONSE: See DR 4,5 and 6 for lease , bond and trustee documents. Attached PDF files are the Economic Development agreement, Deed of Trust, Bill of Sale and Special Warranty Deed.

ATTACHMENT:



Economic
Development Agreement...



Deed of Trust and
Security Agr...



Bill of Sale -- execution
copy...



Special Warranty Deed
-- execu...

ANSWERED BY: Gary Clemens

SIGNATURE OF RESPONDENT

DATE: _____

AQUILA, INC.
AQUILA NETWORKS-MPS-INVESTOR (ELECTRIC)
CASE NO. EO-2005-0156
OFFICE OF PUBLIC COUNSEL
DATA REQUEST NO. OPC-3

DATE OF REQUEST: January 3, 2005

DATE RECEIVED: January 4, 2005

DATE DUE: January 24, 2005

REQUESTOR: Ted Robertson

QUESTION:

Please provide a complete copy of the proposed and final (when available if not currently available) lease agreement.

RESPONSE: See attached PDF file

ATTACHMENT:



Lease -- execution
copy.pdf

ANSWERED BY: Gary Clemens

SIGNATURE OF RESPONDENT

DATE: _____

AQUILA, INC.
AQUILA NETWORKS-MPS-INVESTOR (ELECTRIC)
CASE NO. EO-2005-0156
OFFICE OF PUBLIC COUNSEL
DATA REQUEST NO. OPC-4

DATE OF REQUEST: January 3, 2005

DATE RECEIVED: January 4, 2005

DATE DUE: January 24, 2005

REQUESTOR: Ted Robertson

QUESTION:

Please provide a complete copy of the proposed and final (when available if not currently available) bond indenture.

RESPONSE: See attached 2 PDF files

ATTACHMENT:



Bond Purchase
Agreement -- exe...



Bond -- execution
copy.pdf

ANSWERED BY: Gary Clemens

SIGNATURE OF RESPONDENT

DATE: _____

AQUILA, INC.
AQUILA NETWORKS-MPS-INVESTOR (ELECTRIC)
CASE NO. EO-2005-0156
MISSOURI PUBLIC SERVICE COMMISSION
DATA REQUEST NO. MPSC-33

DATE OF REQUEST: March 2, 2005

DATE RECEIVED: March 2, 2005

DATE DUE: March 22, 2005

REQUESTOR: Phil Williams

BRIEF DESCRIPTION: Identify entity that has legal ownership of the combustion turbines and equipment.

QUESTION:

Identify the Aquila entity that has the legal ownership of the combustion turbines and related equipment and when the units were assigned to this entity. Identify the actual cost for each of the combustion turbines, generators and equipment assigned to this entity at the time of purchase and provide any additions to these costs from the inception to the present.

RESPONSE:

Current legal title to this equipment is held by the City of Peculiar in accordance with the Chapter 100 arrangement. Title was transferred December 30, 2004.

Prior to that title was assigned to Aquila, Inc (of which Aquila Networks-MPS is a division) with a value transferred from AEQ of \$70,796,850 in accordance with the FMV appraisal performed by RW Beck.

No changes in the appraised value of the equipment transferred have been made. While costs will be incurred to place these turbines into service at South Harper, in this application Aquila would like for the Commission to approve the value to be booked for the equipment that was transferred from AEQ to Aquila.

As additional costs are incurred to construct the plant these costs are transferred to the City of Peculiar in accordance with the Chapter 100 arrangement.

ATTACHMENT: None

ANSWERED BY:

Davis Rooney
SIGNATURE OF RESPONDENT

DATE: ____03/18/2005____

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 23rd
day of January, 1981.

CASE NO. EO-81-216

In the matter of the application of
Arkansas Power & Light Company regarding
the selling of certain pollution control
facilities and other facilities and the
repurchasing of these facilities.

O R D E R

On January 16, 1981, Arkansas Power & Light Company (hereinafter Applicant or Company) filed with this Commission an application regarding the sale and repurchase of certain pollution control facilities and other facilities in Independence County, Arkansas. An application was also filed with the Arkansas Public Service Commission, which has declined jurisdiction over the matter by its order on the 19th day of January, 1981. Applicant is a corporation organized and existing under and by virtue of the laws of the State of Arkansas, and is a public utility subject to the regulation of the Arkansas Public Service Commission.

Applicant filed here because of a consolidation that would and subsequently has taken place with a utility supplying power to points within the State of Missouri. The consolidation of Arkansas Power & Light Company with the Arkansas-Missouri Power Company has resulted in one company, Arkansas Power & Light Company, which will be supplying power to Missouri residents. Consequently, Arkansas Power & Light Company comes under the jurisdiction of this Commission by Section 386.250, R.S.Mo. 1978.

Applicant is currently engaged in construction of certain pollution control facilities and certain industrial facilities at Independence Steam Electric Station located in Independence County, Arkansas. Applicant seeks authority to sell the facilities as they stand, uncompleted, to Independence County, Arkansas, and subsequently repurchase the facilities by an installment sales contract. The county will agree to issue pollution control bonds and industrial revenue bonds and use the proceeds of such to purchase from Applicant the property described above, and complete construction thereof.

The purpose of the above transaction is to finance the construction of the pollution control facilities through tax-exempt bonds.

Utilities incorporated under or by virtue of the laws of Missouri are required to secure the approval of this Commission before they can finance the acquisition of property, the construction, extension or improvement of their plants or systems, by Section 393.200, R.S.Mo. 1978. Since Arkansas Power & Light Company is an Arkansas corporation, this Commission is not required by the above statute to approve or disapprove the above-described financing method.

Section 393.190, R.S.Mo. 1978, asserts that no electric corporation under the jurisdiction of this Commission shall sell or otherwise dispose of or encumber any part of its system that is necessary or useful in the performance of its duties to the public, without first having secured from this Commission an order authorizing it to do so. This Commission does not believe that the transaction in question is of the nature contemplated by this statute, and therefore this Commission does not have jurisdiction to approve this transaction.

The transaction is set up to finance construction of pollution control facilities, not to dispose of operating parts of the utility's franchise, works or system. The practical effect is not a sale, since the facilities are repurchased as part of the sale transaction.

The facilities are encumbered by a lien, but the facilities to be encumbered do not yet exist as necessary and useful parts of the utility system, since the facilities are still to be constructed. Furthermore, there is no evidence that the facilities are necessary and useful parts of the generating system supplying electricity to Missouri residents. 43.5 percent of the Independence Steam Electric Station, of which the facilities are to be a part, is not owned by Arkansas Power & Light Company, and the station is not thereby completely available to Arkansas Power & Light Company for use to Missouri residents, if to be used for Missouri residents at all. Consequently, these facilities are not considered necessary and useful in the performance of the utility's duties to Missouri customers, even if the transaction were technically construed to be a sale.

The purpose of the statute is to protect Missouri consumers from the disposition of useful and necessary parts of a utility's system by which Missouri residents receive their electricity. Thus, a financing transaction does not logically come under the purview of this section. This is more clear in light of the fact that there is a statute specifically covering financing transactions. When considering the statute regulating and requiring Commission approval of financing transactions is restricted to Missouri corporations, it is the opinion of

this Commission that the legislature did not intend for this Commission to take extraterritorial jurisdiction of foreign utilities' financing transactions.

For the above-said reason, this Commission cannot assert jurisdiction and thereby approve or disapprove the sale and repurchase of the facilities listed in Arkansas Power & Light Company's application.

It is, therefore,

ORDERED: 1. That Arkansas Power & Light Company's application, Case No. EO-81-216, be dismissed for lack of jurisdiction.

ORDERED: 2. That this order shall become effective on the date hereof.

BY THE COMMISSION

D. Michael Hearst
ut

D. Michael Hearst
Secretary

(S E A L)

Fraas, Chm., McCartney, Slavin,
Dority and Bryant, CC., Concur.