

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

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

**NON-UNANIMOUS STIPULATION AND AGREEMENT  
PERTAINING TO RATE DESIGN AND CLASS COST OF SERVICE**

COMES NOW Aquila, Inc. d/b/a Aquila Networks - MPS and Aquila Networks - L&P ("Aquila" or the "Company"), the Staff of the Missouri Public Service Commission ("Staff"), Sedalia Industrial Energy Users' Association ("SIEUA"), the Office of the Public Counsel ("OPC"), Ag Processing Inc a cooperative ("AGP"), the United States Department of Defense and other Federal Executive Agencies ("USDoD") and the Missouri Department of Natural Resources ("MoDNR") by and through their respective counsel, and respectfully state as follows:

1. On July 3, 2003, Aquila filed with the Commission revised tariff sheets designed to implement a general rate increase for electric service provided to customers in its Missouri service areas. These sheets were assigned Case No. ER-2004-0034. Aquila also filed with the Commission at the same time its minimum filing requirements and direct testimony in support of the requested rate increase. The proposed tariff sheets were suspended; several applications to intervene were duly filed and granted. The Commission consolidated this case, Case No. ER-2004-0034, with a proposed steam rate increase case, Case No. HR-2004-0024, and established a procedural schedule. Additionally, a prehearing conference took place and several informal discussions were also held among the parties.

2. The context of these discussions was the recognition among the parties that Case No. EO-2002-384 ("Rate Design Case") is also currently pending before the Commission. The

Rate Design Case is to investigate class cost of service and rate design for Aquila's Missouri electric utility operations on the basis of up-to-date load research data and has been in process for numerous months. The undersigned parties believe that it makes little sense and would be both a waste of their efforts and of the Commission's valuable time to try the issues involved in class cost of service and rate design in the rate case, Case No. ER-2004-0034, when shortly after the conclusion of the rate case they will be involved in addressing and possibly litigating the same issues in the Rate Design Case, Case No. EO-2002-384. Moreover, the structure of the Rate Design Case involves the collection of detailed load research data that would be useful in the analysis of the class cost of service and rate design issues, but which was not available to the parties in the rate case, Case No. ER-2004-0034, until late in the discovery phase of the case.

3. In recognition and as a result of these discussions, the parties have reached a Non-Uniform Stipulation and Agreement Pertaining to Rate Design and Class Cost of Service for Aquila's Missouri electric utility operations, but not Aquila's Missouri steam utility operations, (the "Rate Design Stipulation") so as to resolve those issues for the purposes of this rate case and avoid duplicative and wasteful litigation. The parties believe that this resolution is reasonable and is in the public interest and respectfully recommend approval by the Commission. This agreement is as follows:

- a. The following rate components should not be changed from current levels:
  - i) The \$5.00 discount for various area lights when they are installed on existing distribution poles should be approved as proposed on Tariff Sheets 88, 89, and 91;
  - ii) The Cogeneration Purchase Schedule should be approved as proposed on Tariff Sheet 102;
  - iii) The Curtailable Demand Rider should be approved as proposed on Tariff Sheet 99. This will keep the rate unchanged for Aquila Networks - L&P, which does have customers served on this rider. The rate will change for Aquila Networks – MPS, but there are

no customers on this rider.

b. The appropriate level of charges contained in the proposed Rules And Regulations Tariff Sheets are not addressed by this agreement and will be determined by the Commission in the Rate Case.

c. For other tariff charges the following agreement applies:

- i) 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.
- ii) In the event a decrease in revenues from current levels is ordered by the Commission, the parties agree that they will promptly meet, discuss and negotiate in good faith toward a proposal regarding the distribution of any such decrease among the Company's rate and customer classes and the rate design.

4. None of the signatories to this Non-Unanimous Stipulation and Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, ratemaking or procedural principle, valuation method, cost of service method or determination, depreciation principle or method, rate design method, jurisdictional allocation method, cost allocation, cost recovery, or question of prudence, that may underlie this Rate Design Stipulation, or for which provision is made in this Rate Design Stipulation. Further, no signatory to this Non-Unanimous Stipulation and Agreement, by entering into same, shall be deemed to have approved or

acquiesced to any issue of Commission jurisdiction that may be raised in any case, including these cases that are the subject of this Rate Design Stipulation—Cases No. ER-2004-0034 and EO-2002-384.

5. None of the signatories to this Non-Unanimous Stipulation and Agreement believes that the consideration and approval of this Rate Design Stipulation requires a hearing before the Commission; however, the parties stand ready to provide additional information, if requested.

6. This Rate Design Stipulation represents a negotiated settlement. Except as specified herein, the signatories to this Non-Unanimous Stipulation and Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Non-Unanimous Stipulation and Agreement: (a) in any future proceeding other than one brought to enforce the terms of this Rate Design Stipulation; (b) in any proceeding currently pending under a separate docket; (c) in this proceeding should the Commission decide not to approve this Rate Design Stipulation, or in any way condition its approval of same; and/or (d) in this proceeding on any other issue save those identified in this Non-Unanimous Stipulation and Agreement.

7. The provisions of this Non-Unanimous Stipulation and Agreement have resulted from extensive negotiations among the signatories and are interdependent. In the event that the Commission does not approve and adopt the terms of this Non-Unanimous Stipulation and Agreement in total, or approves this Rate Design Stipulation with modifications or conditions to which a signatory objects, it shall be void and no party hereto shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof except as provided in Paragraph 9.

8. When approved and adopted by the Commission, this Non-Unanimous Stipulation and Agreement shall constitute a binding agreement between the signatories hereto. The signatories shall cooperate in defending the validity and enforceability of this Rate Design

Stipulation and the operation of this Rate Design Stipulation according to its terms.

9. If the Commission does not unconditionally approve this Non-Unanimous Stipulation and Agreement without modification, and notwithstanding its provision that it shall become void thereon, neither this Rate Design Stipulation, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any party has to a hearing on the issues presented by the Rate Design Stipulation, for cross-examination, or for a decision in accordance with Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the parties shall retain all procedural and due process rights as fully as though this Non-Unanimous Stipulation and Agreement had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Rate Design Stipulation shall thereupon become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

10. In the event the Commission accepts the specific terms of this Non-Unanimous Stipulation and Agreement, the signatories waive their respective rights with regard to the settled issues to call, examine and cross-examine witnesses, pursuant to Section 536.070(2) RSMo 2000; their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 2000; their respective rights to seek rehearing, pursuant to Section 386.500 RSMo 2000; and their respective rights to judicial review pursuant to Section 386.510 RSMo 2000. This waiver applies only to a Commission Report And Order or Commission Order respecting this Rate Design Stipulation issued in this proceeding, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Non-Unanimous Stipulation and Agreement.

11. The Staff also shall have the right to provide, at any agenda meeting at which this Rate Design Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

12. Because this pleading lays out the signatories' rationale for entering into this Non-Unanimous Stipulation and Agreement, including that of the Staff, the Staff will not submit to the Commission any additional memorandum explaining its rationale for entering into this Non-Unanimous Stipulation and Agreement unless requested to do so by the Commission.

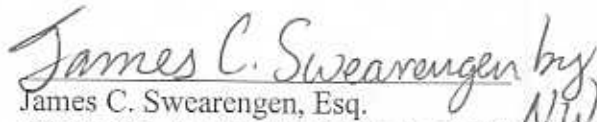
13. The parties agree and represent that the attorneys listed below are duly authorized to execute this Rate Design Stipulation on their respective behalf, and that this document represents a complete description of all of the considerations for this settlement.

14. Counsel for the City of Kansas City, has represented to the undersigned parties that the City neither supports nor objects to this stipulation. The City intends to file a notice of its position to that effect and will not seek a hearing on any issue addressed in the stipulation.

WHEREFORE, the undersigned parties respectfully request that the Commission issue its Order Approving their Rate Design Stipulation in its entirety as set forth herein.

Respectfully submitted,

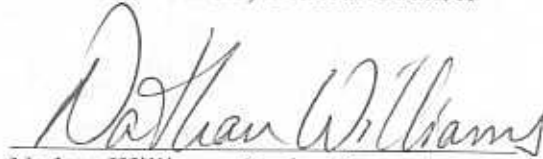
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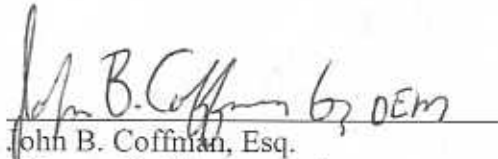
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Attorney for the Missouri Department of Natural Resources

#### Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 16<sup>th</sup> day of December 2003.

/s/ Nathan Williams  
Nathan Williams