

Exhibit No.:
Issues: *Asset Impairment, Write-down
of the three Natural Gas
Combustion Turbines, Regulatory
Accounting*
Witness: *Phillip K. Williams, CPA, CIA*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *EO-2005-0156*
Date Testimony Prepared: *June 13, 2005*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY

OF

PHILLIP K. WILLIAMS, CPA, CIA

**AQUILA, INC.
CASE NO. EO-2005-0156**

*Jefferson City, Missouri
June 2005*

Suzanne Lankin
Notary

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TABLE OF CONTENTS
REBUTTAL TESTIMONY OF
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BACKGROUND OF WITNESS..... 1

PURPOSE OF TESTIMONY 3

ASSET IMPAIRMENT/WRITE-DOWN OF THE THREE (3) NATURAL GAS
COMBUSTION TURBINES..... 4

REGULATORY ACCOUNTING 7

1

2

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4

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1 A. Yes. Please refer to Schedule 1 and Schedule 2, attached to this rebuttal
2 testimony, for a list of cases and related issues in which I have filed testimony before this
3 Commission.

4 Q. What knowledge, skill, experience, training or education do you have in
5 regulatory matters?

6 A. I have acquired general knowledge of utility regulation through my
7 participation, review and analyses in prior rate and merger cases before this Commission. I
8 have reviewed Staff testimony and workpapers for cases that were brought before this
9 Commission. I have reviewed Commission decisions with regard to these areas, including
10 orders and pleadings. I have reviewed companies' testimony, workpapers and responses to
11 Staff data requests addressing various topics that I have been assigned through-out my career
12 at the Commission. The Certified Public Accountants' Exam included sections on
13 accounting practice and theory, as well as, auditing. Additionally, the Certified Internal
14 Auditors' Exam included sections on auditing. Both of these examinations have added to my
15 development and training as a Regulatory Auditor. Since commencing employment with the
16 Commission in September 1980, I have attended various in-house training seminars and
17 NARUC conferences. I have participated in approximately 40 formal rate case proceedings.
18 I have also participated in, and supervised work on a number of informal rate proceedings.
19 As a senior auditor and the lead auditor on a number of cases, I have participated in the
20 supervision and instruction of new accountants and auditors within the Utility Services
21 Division.

PURPOSE OF TESTIMONY

Q. With reference to Case No. EO-2005-0156, have you examined the books and records of Aquila, Inc. regarding the electric operations of its Aquila Networks - MPS division and the Application and direct testimony of Dennis R. Williams in this case?

A. Yes, I have, with the assistance of other members of the Commission Staff (Staff).

Q. What relief is Aquila requesting in this case to which you are responding in this rebuttal testimony?

A. Aquila is seeking Commission approval of its acquisition, in the name of its operating division Aquila Networks-MPS, of three natural gas fired electric generating combustion turbines it acquired from its affiliate Aquila Equipment, LLC. The three combustion turbines are currently being installed at Aquila's South Harper Generating Facility near Peculiar, Missouri. Aquila anticipates that the generating facility will begin operation around mid-June for testing purposes and that the first combustion turbine will go online around mid-July, 2005. In this rebuttal testimony I am responding to Aquila's request that the Commission value these combustion turbines in this case.

Q. Can you provide an overview of what you cover in your response?

A. Yes. I briefly address the ownership history of the combustion turbines, provide an explanation of asset impairment under generally accepted accounting principles and Commission's affiliate transaction rules for electric corporations. Staff witness Cary G. Featherstone presents in his rebuttal testimony the Staff's view that the Commission should not value the combustion turbines in this case and, if the combustion turbines are valued in this case, what value the Staff believes should be given them.

**ASSET IMPAIRMENT/WRITE-DOWN OF THE THREE (3) NATURAL GAS
COMBUSTION TURBINES**

Q. Has Aquila valued the three combustion turbines on its books at the same value at which its affiliate Aquila Equipment, LLC had recorded them on its books?

A. No. Aquila Equipment, LLC valued the three turbines on its books at their original cost, that is, what they cost when they were first purchased from the manufacturer. Because of the passage of time from when they were originally purchased from the manufacturer to when Aquila acquired them, Aquila retained an engineering firm, R. W. Beck, to provide a present value for the combustion turbines and Aquila recorded that value on its books.

Q. Why did Aquila use R. W. Beck's value?

A. Aquila recognized the value of the combustion turbines had changed over time while they were stored. Aquila also believes that assets transferred from an affiliated company to their regulated division would fall under the Commission's Affiliate Transaction Rule. Therefore Aquila believed it was necessary to obtain an independent valuation of the combustion turbines to determine the appropriate value of the assets at the date of the transfer. Once the value of the assets was determined by R.W. Beck to be less than the book value (original cost), since the units had been in storage (inventory), Aquila Equipment, LLC was required by financial accounting standards to write-down the value of the assets being transferred from the book value to the fair value. Financial Accounting Standards 144 (SFAS 144) addresses the financial requirements associated with impaired assets. I will address the requirements of an asset impairment and the effects that this had on the valuation of the assets at the time the combustion turbines were transferred to the regulated entity and any other subsequent write-down that may be required in the future.

1 Q. Have the combustion turbines previously been write-down?

2 A. Yes. Due to several factors explained by Staff witness Cary G. Featherstone
3 in his rebuttal testimony, the three combustion turbines were “impaired” within the meaning
4 of that term in SFAS 144 and Aquila wrote-down in its books the values of the three
5 combustion turbines during the Fourth Quarter of 2004. As reported in Aquila, Inc.’s
6 Form 8-k dated March 7, 2005, at page 3 of 10, “the 2004 fourth quarter results included . . .
7 impairments of \$10.6 million on gas turbines . . .”

8 Q. Will Commission valuation of the three combustion turbines result in a further
9 asset impairment write-down?

10 A. That will depend upon the value the Commission assigns them. If this
11 Commission decides that the lesser of the fair market price or fully distributed cost of the
12 three combustion turbines at the time Aquila acquired them from its affiliate was less than
13 that which Aquila has recorded on its books, then under the Commission’s affiliate
14 transaction rule for electric corporations, then yes, the asset would be impaired under the
15 Statements of Financial Accounting Standards (SFAS) 144. Conversely, if the value shown
16 on Aquila’s books is less than the both the fair market price and fully distributed cost, then
17 no additional impairment would be required.

18 Q. Has Staff addressed the issue of asset impairment before?

19 A. Yes. Staff and Aquila have both previously addressed the issue of asset
20 impairment under SFAS 144. Aquila, Inc. d/b/a Aquila Networks–MPS, a gas case—Case
21 No. GR-2004-0072, had assets that were impaired and which were written down. Those
22 assets were Aquila’s eastern gas system which included assets in and about the towns of
23 Rolla, Salem and Owensville, Missouri and the surrounding communities. Aquila further

wrote-down the value of the eastern system assets when it sold them, because they were sold for less than book value. Impairment of an asset is not a new financial accounting concept, rather, it is a long established practice that is required when the value of assets meet certain criteria as set out in SFAS 144:

1) Long-Lived Assets to be Held and Used Recognition and Measurement of an Impairment Loss, paragraph 7:

For purposes of this Statement, impairment is the condition that exists when the carrying amount of a long-lived asset (asset group) exceed its fair value. An Impairment loss shall be recognized only if the carrying amount of a long-lived asset (asset group) is not recoverable and exceeds fair value. The Carrying amount of a long-lived asset (asset group) is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset (asset group). That assessment shall be based on the carrying amount of the asset (asset group) at the date it is tested for recoverability, whether in use (paragraph 19) or under development (paragraph 20. An impairment loss shall be measured as the amount by which the carrying amount of a long lived asset (asset group) exceeds its fair value.

2) Estimates of Future Cash Flows Used to Test a Long-Lived Asset for Recoverability, paragraph 16:

Estimates of future cash flows used to test the recoverability of a long-lived asset (asset group) shall include only the future cash flows (cash inflows less associated cash outflows) that are directly associated with and that are expected to arise as a direct result of the use and eventual disposition of the asset (asset group). Those estimates shall exclude interest charges that will be recognized as an expense when incurred.

3) Paragraph 17:

Estimates of future cash flows used to test the recoverability of a long-lived asset (asset group) shall incorporate the entity's own assumptions about it use of the asset (asset group) and shall consider all available evidence. The assumptions used in developing those estimates shall be reasonable in relation to the assumptions used in developing other information used by the entity for comparable periods, such as internal budgets and projections, accruals related to incentive compensation plans,

1 or information communicated to others. However, if
2 alternative courses of action to recover the carrying amount of
3 a long-lived asset (asset group) are under consideration or if a
4 range is estimated for the amount of possible outcomes shall be
5 considered. A probability-weighted approach may be useful in
6 considering the likelihood of those possible outcomes.

7 4) Fair Value, paragraph 22:

8 The fair value of an asset (liability) is the amount at which that
9 asset (liability) could be bought (incurred) or sold (settled) in a
10 current transaction between willing parties, that is, other than
11 in a forced or liquidation sale. Quoted market prices in active
12 markets are the best evidence of fair value and shall be used as
13 the basis for the measurement, if available. However, in many
14 instances, quoted market prices in active markets will not be
15 available for the long-lived assets (asset groups) covered by
16 this Statement. In those instances, the estimate of fair value
17 shall be based on the best information available, including
18 prices for similar assets (groups) and the results of using other
19 valuation techniques.

20 5) New Cost Basis, paragraph 15:

21 If an impairment loss is recognized, the adjusted carrying
22 amount of a long-lived asset shall be its new cost basis. For a
23 depreciable long-lived asset, the new cost basis shall be
24 depreciated (amortized) over the remaining useful life of the
25 asset. Restoration of a previously recognized impairment loss
26 is prohibited.

27 **REGULATORY ACCOUNTING**

28 Q. Is there any authority that governs the price that Aquila can pay an affiliate for
29 assets such as the three combustion turbines Aquila acquired here?

30 A. Yes. The Staff agrees with Aquila that Commission Rule 4 CSR 240-20.015
31 governs. In pertinent part, that rule provides:

32 (1) Definitions:

33 (A) Affiliated entity means any person, including an individual,
34 corporation, service, company, corporate subsidiary, firm, partnership,
35 incorporated or unincorporated association, political subdivision
36 including a public utility district, city, town, county, or a combination

1 of political subdivisions, which directly or indirectly, through one
2 (1) or more intermediaries, controls, is controlled by, or is under
3 common control with the regulated electrical corporation.
4 (B) Affiliate transaction means any transaction for the provision,
5 purchase or sale of any information, asset, product or service, or
6 portion of any product or service, between a regulated electrical
7 corporation and an affiliated entity, and shall include all transactions
8 carried out between any unregulated business operation of a regulated
9 electrical corporation and the regulated business operations an a
10 electric corporation.

11 and

12 (2) Standards:

13 (A) A regulated electrical corporation shall not provide a financial
14 advantage to an affiliated entity. For the purposes of this rule, a
15 regulated electrical corporation shall be deemed to provide a financial
16 advantage to an affiliated entity if – 1. It compensates an affiliated
17 entity for goods or services above the lesser of – A. The fair market
18 price; or B. the fully distributed cost to the regulated electric
19 corporation to provide the goods or services for itself.

20 I have included as Schedule 3 a copy of Commission Rule 4 CSR 240-20.015 for
21 your convenience.

22 Company witness Dennis R. Williams states in his direct testimony prefiled in this
23 case that “the Company, through its Aquila Networks - MPS operating division in Missouri,
24 will acquire from an affiliated entity three (3) 105 megawatt (“MW”) natural gas fired
25 combustion turbines to provide electric power for its customers.” Since that testimony was
26 filed Aquila has acquired the combustion turbines and begun installing them at its
27 South Harper Generating Facility near Peculiar, Missouri.

28 Q. Would you please elaborate on the meanings of fair market value and cost as
29 used in financial accounting and how they relate to the Commission rule?

30 A. Yes. “Fair market value” and cost are basically the same as “Fair market
31 price” and “Fully distributed cost” as described in the Commission rule with the difference

1 being that fully distributed cost would include all costs incurred either directly or indirectly
2 associated with the product. Fair market value and cost as defined in financial accounting
3 terms are illustrated in the following example using inventories taken from the
4 11th edition of an Intermediate Accounting Book by Donald E. Kieso Ph.D., C.P.A.,
5 Jerry J. Wegandy Ph.D., C.P.A. and Terry D. Warfield Ph.D. In the example “fair market
6 price” generally means the cost to replace the item by purchase or reproduction and “fully
7 distributed cost” generally means historical costs. The example appears on page 422 of that
8 authoritative text as follows:

9 . . . inventories are recorded at their original cost. However, a major
10 departure from the historical cost principle is made in the area of
11 inventory valuation if inventory declines in value below its original
12 cost. Whatever the reason for a decline – obsolescence, price-level
13 changes, or damaged goods – the inventory should be written down to
14 reflect this loss. The general rule is that the historical cost principle is
15 abandoned when the future utility (revenue-producing ability) of the
16 asset is no longer as great as its original cost. Inventories that
17 experience a decline in utility therefore are valued on the basis of the
18 lower of cost or market (LCM), instead of on original cost.

19 Defining cost or market:

20 The term market, in the phrase “the lower of cost or market” generally
21 means the cost to replace the item by purchase or reproduction.” “In
22 manufacturing, the term “market” refers to the cost to reproduce the
23 goods. Thus the rule means that **goods are to be valued at cost or at**
24 **cost to replace, whichever is lower.**” “For example, a Casio
25 calculator wristwatch that costs a retailer \$30, when purchased, that
26 can be sold for \$48.95, and that can be replaced for \$25 should be
27 valued at \$25 for inventory purposes under the lower of cost or market
28 rule.”

29 . . . In addition, the lower of cost or market method is a conservative
30 approach to inventory valuation. That is, when doubt exists about the
31 value of an asset, it is preferable to undervalue rather than to overvalue
32 it. Why use replacement cost to represent market value? The reason is
33 that a decline in the replacement cost of an item usually reflects or
34 predicts a decline in selling price.

1 Q. Had any of the three gas combustion turbines ever been used before they were
2 transferred to Aquila?

3 A. No. After delivery from the manufacturers, all three (3) natural gas
4 combustion turbines and related equipment were being stored at two locations, the
5 Ralph Green plant site in Pleasant Hill, Missouri and at the old Richards Gebaur Air Force
6 Base in Grandview, Missouri. Aquila stated that the affiliate from which it acquired the
7 combustion turbines, Aquila Equipment, LLC, was not engaged in any ongoing line of
8 business when Aquila acquired the combustion turbines.

9 Q. Does the Staff believe that Aquila has valued the three (3) natural gas
10 combustion turbines correctly under the Commission's affiliate transaction rule?

11 A. No. Staff Witness Cary G. Featherstone presents Staff's position on how the
12 three combustion turbines would correctly be valued under the Commission's affiliate
13 transaction rule.

14 Q. Mr. Williams, does this conclude your rebuttal testimony?

15 A. Yes, it does.

RATE CASE PROCEEDINGS PARTICIPATION

PHILLIP K. WILLIAMS

Kansas City Power & Light Company	ER-81-42
The Gas Service Company	GR-81-155
United Telephone Company	TR-81-302
Rich Hill-Hume Gas Company	GR-81-332
Missouri Public Service Company	ER-82-39
Missouri Public Service Company	WR-82-50
The Gas Service Company	GR-82-151
Missouri Public Service Company	GR-82-194
Missouri Water Company – Lexington Division	WR-82-279
Missouri Public Service Company	ER-83-40
The Gas Service Company	GR-83-225
Missouri Water Company – Independence Division	WR-83-352
Rich Hill-Hume Gas Company	GR-84-24
Kansas City Power & Light Company	ER-85-128
Kansas City Power & Light Company	EO-85-185
KPL Gas Service Company	GR-86-76
General Telephone Company of the Midwest	TC-87-57
Missouri Public Service Company	GR-88-194
U.S. Water/Lexington, Mo., Inc.	WR-88-255
KPL Gas Service	GR-90-50
UtiliCorp United Inc., Missouri Public Service	ER-90-101
KPL Gas Service	GR-91-291

Raytown Water Company	WR-92-85
UtiliCorp United Inc., Missouri Public Service	ER-93-37
UtiliCorp United Inc., Missouri Public Service	GR-93-172
Western Resources, Inc.	GR-93-240
Raytown Water Company	WR-94-211
Missouri Gas Energy	GR-96-285
UtiliCorp United Inc., Missouri Public Service	GM-97-435
UtiliCorp United Inc., Missouri Public Service	ER-97-394 EC-98-126
Missouri Gas Energy	GR-98-140
Western Resources, Inc. and Kansas City Power & Light Company	EM-97-515
UtiliCorp United Inc. and St. Joseph Light & Power Company	EM-2000-292
UtiliCorp United Inc. and Empire District Electric Company	EM-2000-369
IAMO Telephone Company	TT-2001-116
Empire District Electric Company	ER-2001-299
UtiliCorp United Inc., Missouri Public Service	ER-2001-672
Empire District Electric Company	ER-2002-424
Aquila, Inc. d/b/a Aquila Networks-MPS Electric Aquila, Inc. d/b/a Aquila Networks-L&P Electric	ER-2004-0034
Aquila, Inc. d/b/a Aquila Networks-L&P Steam Aquila, Inc. d/b/a Aquila Networks MPS Gas and Aquila Networks-L&P Gas	HR-2004-0024 (Consolidated to:) GR-2004-0072
Trigen-Kansas City Energy Corp. and Thermal North American, Inc.	HM-2004-0618

CASE PROCEEDING PARTICIPATION

PHILLIP K. WILLIAMS, CPA, CIA

Date Filed	Issue	Case Number	Exhibit	Company Name
	Advertising, Dues & Donations, Plant, Depreciation Reserve, Property Taxes	ER-81-42		Kansas City Power & Light Company
	Material and Supplies, Cash Working Capital	GR-81-155		The Gas Service Company
	Cash Working Capital	TR-81-302		United Telephone Company
	Payroll, O&M Expenses	GR-81-332		Rich Hill-Hume Gas Company
	Cash Working Capital	ER-82-39		Missouri Public Service Company
	Cash Working Capital	WR-82-50		Missouri Public Service Company
	Cash Working Capital	GR-82-151		The Gas Service Company
		GR-82-194		Missouri Public Service Company
	Revenues	WR-82-279		Missouri Water Company-Lexington Division
	Fuel Expense	ER-83-40		Missouri Public Service Company
	Cash Working Capital	GR-83-225		The Gas Service Company
	Revenues	GR-14-24		Rich Hill-Hume Gas Company
	Unit 3/Extra Work, Unit 3/Back charges; Phase IV	ER-85-128		Kansas City Power & Light Company
	Unit 3/Extra Work, Unit 3/Back charges; Phase IV	ER-85-185		Kansas City Power & Light Company
	Payroll, Payroll Taxes, Pensions	GR-86-76		KPL Gas Service Company
	Payroll, Payroll Taxes	TC-87-57		General Telephone Company of the Midwest

Date Filed	Issue	Case Number	Exhibit	Company Name
	Pensions	GR-88-194		Missouri Public Service Company
	Revenues, Pumping Power Expense, Chemical Expense, Vehicle Lease Expense, Interest Expense on Customer Deposits, Bad Debt Expense, Materials & Supplies, Prepayments, Customer Advances, Contributions in Aid of Construction	WR-88-255	Direct	U.S. Water/Lexington, Mo., Inc.
	Cash Working Capital	GR-90-50		KPL Gas Service
		ER-90-101		UtiliCorp United, Inc., Missouri Public Service
9/6/1991	Deferred Income Taxes; Liability Insurance Expense; Commission Assessment Expense; Income Taxes; Injuries & Damages Accrual; WOMAC Employee Expense; Exempt Employee Compensation Study Expense; Rate Case Expense; Employee Relocation Expense	GR-91-291	Direct	Kansas Power and Light Company Gas Service Division
	Revenue Requirement, Project Feasibility	GA-92-269	Direct	Missouri Public Service Company
	Payroll, Employee Benefits, Payroll Taxes, Administrative & General Expense, Donations, Board Fees, Outside Services, Rate Case Expense Payroll, Salary Increases	WR-92- 85	Direct Surrebuttal	Raytown Water Company
		GR-93-240		Western Resources, Inc.

Date Filed	Issue	Case Number	Exhibit	Company Name
1/22/1993	Ralph Green No. 3 Lease Expense; Injuries & Damages Expense; Property Tax Expense ; Interest Expense on Customer Deposits; Customer Deposits; Customer Advances; Prepayments; Materials & Supplies; Depreciation Expense; Plant in Service; Amortization Expense; Rate Base; Depreciation Reserve	ER-93-37	Direct	UtiliCorp United Inc. d/b/a MO Public Service
5/28/1993	Plant in Service; Accounting Authority Order; Corporate Overheads; Injuries & Damages Expense; Property Tax Expense; Interest Expense on Customer Deposits; Customer Deposits; Customer Advances; Prepayments; Materials & Supplies; Amortization Expense; Depreciation Reserve; Rate Base; Depreciation Expense	GR-93-172	Direct	Missouri Public Service a Division of UtiliCorp United, Inc.
	Payroll, Payroll Taxes, Insurance, Employee Benefits, Materials and Supplies, Prepayments, Customer Deposits, PSC Assessment, Maintenance Expense, Admin and General Expenses, Donations, Board Fees	WR-94-211	Direct	Raytown Water Company
		GR-96-285		Missouri Gas Energy

Date Filed	Issue	Case Number	Exhibit	Company Name
3/28/1997	Plant; Amortization of Authority Orders; Sale of Accounts Receivable; Property Taxes; Customer Advances; Customer Deposits; Prepayments; Materials and Supplies; Depreciation Reserve; Depreciation Expense	EO-97-144	Direct	UtiliCorp United Inc. d/b/a MO Public Service
3/28/1997	Prepayments; Amortization of Authority Orders; Sale of Accounts Receivable; Plant; Property Taxes; Customer Advances; Customer Deposits; Materials and Supplies; Depreciation Reserve; Depreciation Expense	EC-97-362	Direct	UtiliCorp United Inc. d/b/a MO Public Service
9/16/1997	Plant; Property Taxes; Depreciation Reserve; Depreciation Expense; Accounting Authority Order Amortization; Accounts Receivable Sales; Property Taxes	ER-97-394	Direct	MO Public Service, A Division of UtiliCorp United Inc.
9/30/1997	Gain on Sale of Assets	GM-97-435	Rebuttal	Missouri Public Service, A Division of UtiliCorp United Inc.
		EC-98-126		UtiliCorp United, Inc., Missouri Public Service
5/15/1998	Public Affairs and Community Relations	GR-98-140	Surrebuttal	Missouri Gas Energy, A Division of Southern Union Company
7/10/1998	Staffs' Accounting Schedules; True-Up Methodology; Payroll; Payroll Taxes; Payroll Expense Ratio; AMR Employee Savings	GR-98-140	True-Up	Missouri Gas Energy, A Division of Southern Union Company

Date Filed	Issue	Case Number	Exhibit	Company Name
1/4/1999	Gross Down Factor; Gross Up	GR-98-140	Rehearing Rebuttal	Missouri Gas Energy, A Division of Southern Union Company
4/26/1999	Rate Disparity; Advertising Savings; Insurance Savings; Vehicle Savings; Facility Savings; Administrative and General Savings	EM-97-515	Rebuttal	Western Resources Inc. and Kansas City Power and Light Company
5/2/2000	Historical Rate Increases/ Reductions; Cost per kWh Comparison	EM-2000-292	Rebuttal	UtiliCorp United Inc. / St. Joseph Light and Power
6/21/2000	Historical Rate Increases/ Reductions; Cost Per kWh Comparisons	EM-2000-369	Rebuttal	UtiliCorp United Inc. / Empire District Electric Company
11/30/2000	Revenue Requirements	TT-2001-116	Rebuttal	Iamo Telephone Company
4/3/2001	Postage Expense; Test Year/True Up; Iatan Maintenance Expense; Bad Debt; Banking Fees; State Line Plant Maintenance Expense; Interest on Customer Deposits; Injuries and Damages;	ER-2001-299	Direct	The Empire District Electric Company
8/7/2001	Maintenance Expense	ER-2001-299	True-up Direct	The Empire District Electric Company

Date Filed	Issue	Case Number	Exhibit	Company Name
12/6/2001	AFUDC; Test Year; Sale of Accounting Receivable; Plant; True-Up; Jurisdictional Allocations; Cost per Kwh Comparison; Historical Rate Increases/Decreases; Cash Working Capital; Depreciation Expense/Depreciation Reserve; Accounting Authority Order; Pensions and OPEBS	ER-2001-672	Direct	UtiliCorp United Inc. d/b/a Missouri Public Service
1/22/2002	Cost Per kWh Comparison	ER-2001-672	Surrebuttal	UtiliCorp United Inc. d/b/a Missouri Public Service
12/6/2001	Accounting Authority Order; Test Year; True-Up Jurisdictional Allocations; Historical Rate Increases/Decreases; Depreciation Expense/Depreciation Reserve; Cost per Kwh Comparison; Revenues; Uncollectible Expense; AFUDC and Sale of Accounts Receivable; Cash Working Capital Plant	EC-2002-265	Direct	UtiliCorp United Inc. d/b/a Missouri Public Service
1/22/2002	Cost Per kWh Comparison	EC-2002-265	Surrebuttal	UtiliCorp United Inc. d/b/a Missouri Public

Date Filed	Issue	Case Number	Exhibit	Company Name
8/16/2002	Test Year; Jurisdictional Allocators; State Line Maintenance Contract; State Line 1 and Energy Center 1 & 2 Maintenance Contract; Iatan Maintenance Expense; Asbury Maintenance Expense; Miscellaneous Expenses & Banking Fees;	ER-2002-424	Direct	The Empire District Electric Company
9/24/2002	Security Rider	ER-2002-424	Rebuttal	The Empire District Electric Company
12/09/2003	Test Year; Jurisdictional Allocations; Revenue Requirement; Rate History	ER-2004-0034 and HR-2004-0024	Direct	Aquila, Inc. d/b/a Aquila Networks-MPS and Aquila Networks-L&P
01/06/2004	Test Year, Jurisdictional Allocation Factors, Asset Impairment Write-Down of Eastern System	GR-2004-0072	Direct	Aquila, Inc. d/b/a Aquila Networks MPS Gas and Aquila Networks-L&P Gas
10/14/2004	Merger Recommendations, Asset Impairment Write-down, Original Cost of Rate Base, Description of Chilled Water System, Acquisition Premium, Affiliated Transactions	HM-2004-0618	Rebuttal	Trigen-Kansas City Energy Corp. and Thermal North American, Inc.

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service
Commission
Chapter 20—Electric Utilities**

4 CSR 240-20.010 Rate Schedules
(Rescinded April 30, 2003)

AUTHORITY: section 393.140, RSMo 1986. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 16, 1977, effective Dec. 11, 1977. Rescinded: Filed Aug. 16, 2002, effective April 30, 2003.

4 CSR 240-20.015 Affiliate Transactions

PURPOSE: This rule is intended to prevent regulated utilities from subsidizing their non-regulated operations. In order to accomplish this objective, the rule sets forth financial standards, evidentiary standards and record-keeping requirements applicable to any Missouri Public Service Commission (commission) regulated electrical corporation whenever such corporation participates in transactions with any affiliated entity (except with regard to HVAC services as defined in section 386.754, RSMo Supp. 1998, by the General Assembly of Missouri). The rule and its effective enforcement will provide the public the assurance that their rates are not adversely impacted by the utilities' nonregulated activities.

(1) Definitions.

(A) Affiliated entity means any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated electrical corporation.

(B) Affiliate transaction means any transaction for the provision, purchase or sale of any information, asset, product or service, or portion of any product or service, between a regulated electrical corporation and an affiliated entity, and shall include all transactions carried out between any unregulated business operation of a regulated electrical corporation and the regulated business operations of a electrical corporation. An affiliate transaction for the purposes of this rule excludes heating, ventilating and air conditioning (HVAC) services as defined in section 386.754 by the General Assembly of Missouri.

(C) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated electrical corporation from rebutting the presumption that its ownership interest in an entity confers control.

(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

(E) Derivatives means a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed-upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for a fixed rate of return.

(F) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

(G) Information means any data obtained by a regulated electrical corporation that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(H) Preferential service means information or treatment or actions by the regulated electrical corporation which places the affiliated entity at an unfair advantage over its competitors.

(I) Regulated electrical corporation means every electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(J) Unfair advantage means an advantage that cannot be obtained by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(K) Variance means an exemption granted by the commission from any applicable standard required pursuant to this rule.

(2) Standards.

(A) A regulated electrical corporation shall not provide a financial advantage to an affiliated entity. For the purposes of this rule, a regulated electrical corporation shall be deemed to provide a financial advantage to an affiliated entity if—

1. It compensates an affiliated entity for goods or services above the lesser of—

A. The fair market price; or

B. The fully distributed cost to the regulated electrical corporation to provide the goods or services for itself; or

2. It transfers information, assets, goods or services of any kind to an affiliated entity below the greater of—

A. The fair market price; or

B. The fully distributed cost to the regulated electrical corporation.

(B) Except as necessary to provide corporate support functions, the regulated electrical corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.

(C) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders. General or aggregated customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions. The regulated electrical corporation may set reasonable charges for costs incurred in producing customer information. Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.

(D) The regulated electrical corporation shall not participate in any affiliated transactions which are not in compliance with this rule, except as otherwise provided in section (10) of this rule.

(E) If a customer requests information from the regulated electrical corporation about goods or services provided by an affiliated entity, the regulated electrical corporation may provide information about its affiliate but must inform the customer that regulated services are not tied to the use of an affiliate provider and that other service providers may be available. The regulated electrical corporation may provide reference to other service providers or to commercial listings, but is not required to do so. The regulated electrical corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with this rule.

(F) Marketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.

(3) Evidentiary Standards for Affiliate Transactions.

(A) When a regulated electrical corporation purchases information, assets, goods or services from an affiliated entity, the regulated electrical corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

(B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated electrical corporation from an affiliated entity, the regulated electrical corporation shall document both the fair market price of such information, assets, goods and services and the FDC to the regulated electrical corporation to produce the information, assets, goods or services for itself.

(C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated electrical corporation must demonstrate that it—

1. Considered all costs incurred to complete the transaction;
2. Calculated the costs at times relevant to the transaction;
3. Allocated all joint and common costs appropriately; and
4. Adequately determined the fair market price of the information, assets, goods or services.

(D) In transactions involving the purchase of goods or services by the regulated electrical corporation from an affiliated entity, the regulated electrical corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

(4) Record Keeping Requirements.

(A) A regulated electrical corporation shall maintain books, accounts and records separate from those of its affiliates.

(B) Each regulated electrical corporation shall maintain the following information in a mutually agreed-to electronic format (i.e., agreement between the staff, Office of the Public Counsel and the regulated electrical corporation) regarding affiliate transactions on a calendar year basis and shall provide such information to the commission staff and the Office of the Public Counsel on, or before, March 15 of the succeeding year:

1. A full and complete list of all affiliated entities as defined by this rule;
2. A full and complete list of all goods and services provided to or received from affiliated entities;
3. A full and complete list of all contracts entered with affiliated entities;
4. A full and complete list of all affiliate transactions undertaken with affiliated entities without a written contract together with a brief explanation of why there was no contract;
5. The amount of all affiliate transactions by affiliated entity and account charged; and
6. The basis used (e.g., fair market price, FDC, etc.) to record each type of affiliate transaction.

(C) In addition, each regulated electrical corporation shall maintain the following information regarding affiliate transactions on a calendar year basis:

1. Records identifying the basis used (e.g., fair market price, FDC, etc.) to record all affiliate transactions; and
2. Books of accounts and supporting records in sufficient detail to permit verification of compliance with this rule.

(5) Records of Affiliated Entities.

(A) Each regulated electrical corporation shall ensure that its parent and any other affiliated entities maintain books and records that include, at a minimum, the following information regarding affiliate transactions:

1. Documentation of the costs associated with affiliate transactions that are incurred

by the parent or affiliated entity and charged to the regulated electrical corporation;

2. Documentation of the methods used to allocate and/or share costs between affiliated entities including other jurisdictions and/or corporate divisions;

3. Description of costs that are not subject to allocation to affiliate transactions and documentation supporting the nonassignment of these costs to affiliate transactions;

4. Descriptions of the types of services that corporate divisions and/or other centralized functions provided to any affiliated entity or division accessing the regulated electrical corporation's contracted services or facilities;

5. Names and job descriptions of the employees from the regulated electrical corporation that transferred to a nonregulated affiliated entity;

6. Evaluations of the effect on the reliability of services provided by the regulated electrical corporation resulting from the access to regulated contracts and/or facilities by affiliated entities;

7. Policies regarding the availability of customer information and the access to services available to nonregulated affiliated entities desiring use of the regulated electrical corporation's contracts and facilities; and

8. Descriptions of and supporting documentation related to any use of derivatives that may be related to the regulated electrical corporation's operation even though obtained by the parent or affiliated entity.

(6) Access to Records of Affiliated Entities.

(A) To the extent permitted by applicable law and pursuant to established commission discovery procedures, a regulated electrical corporation shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule.

(B) The commission shall have the authority to—

1. Review, inspect and audit books, accounts and other records kept by a regulated electrical corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and making findings available to the commission; and

2. Investigate the operations of a regulated electrical corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

(C) This rule does not modify existing legal standards regarding which party has the burden of proof in commission proceedings.

(7) Record Retention.

(A) Records required under this rule shall be maintained by each regulated electrical corporation for a period of not less than six (6) years.

(8) Enforcement.

(A) When enforcing these standards, or any order of the commission regarding these standards, the commission may apply any remedy available to the commission.

(9) The regulated electrical corporation shall train and advise its personnel as to the requirements and provisions of this rule as appropriate to ensure compliance.

(10) Variances.

(A) A variance from the standards in this rule may be obtained by compliance with paragraphs (10)(A)1. or (10)(A)2. The granting of a variance to one regulated electrical corporation does not constitute a waiver respecting or otherwise affect the required compliance of any other regulated electrical corporation to comply with the standards. The scope of a variance will be determined based on the facts and circumstances found in support of the application.

1. The regulated electrical corporation shall request a variance upon written application in accordance with commission procedures set out in 4 CSR 240-2.060(11); or

2. A regulated electrical corporation may engage in an affiliate transaction not in compliance with the standards set out in subsection (2)(A) of this rule, when to its best knowledge and belief, compliance with the standards would not be in the best interests of its regulated customers and it complies with the procedures required by subparagraphs (10)(A)2.A. and (10)(A)2.B. of this rule—

A. All reports and record retention requirements for each affiliate transaction must be complied with; and

B. Notice of the noncomplying affiliate transaction shall be filed with the secretary of the commission and the Office of the Public Counsel within ten (10) days of the occurrence of the non-complying affiliate transaction. The notice shall provide a detailed explanation of why the affiliate transaction should be exempted from the requirements of subsection (2)(A), and shall provide a detailed explanation of how the affiliate transaction was in the best interests of the regulated customers. Within thirty (30) days of the notice of the noncomplying affiliate transaction, any party shall have the right to request a hearing regarding the noncomplying affiliate transaction. The commission may grant or deny the request for hearing at that

time. If the commission denies a request for hearing, the denial shall not in any way prejudice a party's ability to challenge the affiliate transaction at the time of the annual CAM filing. At the time of the filing of the regulated electrical corporation's annual CAM filing the regulated electrical corporation shall provide to the secretary of the commission a listing of all non-complying affiliate transactions which occurred between the period of the last filing and the current filing. Any affiliate transaction submitted pursuant to this section shall remain interim, subject to disallowance, pending final commission determination on whether the noncomplying affiliate transaction resulted in the best interests of the regulated customers.

(11) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws.

AUTHORITY: sections 386.250, RSMo Supp. 1998, and 393.140, RSMo 1994. Original rule filed April 26, 1999, effective Feb. 29, 2000.*

**Original authority: 386.250, RSMo 1963, amended 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-20.017 HVAC Services Affiliate Transactions

PURPOSE: This rule prescribes the requirements for HVAC services affiliated entities and regulated electric corporations when such electric corporations participate in affiliated transactions with an HVAC affiliated entity as set forth in sections 386.754, 386.756, 386.760, 386.762 and 386.764, RSMo by the General Assembly of the State of Missouri.

(1) Definitions.

(A) Affiliated entity means any entity not regulated by the Public Service Commission which is owned, controlled by or under common control with a utility and is engaged in HVAC services.

(B) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through (1) one or more intermediary entities, or alone, or in conjunction with, or pur-

suant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of more than ten percent (10%) of voting securities or partnership interest of an entity confers control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated electric corporation from rebutting the presumption that its ownership interest in an entity confers control.

(C) Fully distributed cost means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. Fully distributed cost requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g. general and administrative) must also be included in the fully distributed cost calculation through a general allocation.

(D) HVAC services means the warranty, sale, lease, rental, installation, construction, modernization, retrofit, maintenance or repair of heating, ventilating and air conditioning (HVAC) equipment.

(E) Regulated electric corporation means an electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(F) Utility contractor means a person, including an individual, corporation, firm, incorporated or unincorporated association or other business or legal entity, that contracts, whether in writing or not in writing, with a regulated electric corporation to engage in or assist any entity in engaging in HVAC services, but does not include employees of a regulated electric corporation.

(2) A regulated electric corporation may not engage in HVAC services, except by an affiliated entity, or as provided in section (8) or (9) of this rule.

(3) No affiliated entity or utility contractor may use any vehicles, service tools, instruments, employees, or any other regulated electric corporation assets, the cost of which are recoverable in the regulated rates for regulated electric corporation service, to engage in HVAC services unless the regulated electric corporation is compensated for the use of such assets at the fully distributed cost to the regulated electric corporation.