

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

In the Matter of the Tariff Filing of Aquila, Inc.)	
To Implement a General Rate Increase for)	Case No. ER-2005-0436
Retail Electric Service Provided to Customers)	
In its MPS and L&P Missouri Service Areas)	

**SUGGESTIONS OF AQUILA IN SUPPORT OF SIEUA, AGP AND FEDERAL
EXECUTIVE AGENCIES MOTION TO STRIKE STAFF AND OPC CLASS COST OF
SERVICE STUDIES IN ER-2005-0436
AND DIRECT TESTIMONY INCLUDING THE TESTIMONY OF JAMES WATKINS,
JAMES BUSCH and BARB MEISENHEIMER**

COMES NOW, Aquila, Inc. by and through counsel, and for its Suggestions in Support of SIEUA, AGP and Federal Executive Agencies Motion to Strike Staff and OPC Class Cost of Service Studies in Case No. ER-2005-0436 and Direct Testimony of James Watkins, James Busch and Barb Meisenheimer, states as follows;

1. The Missouri Public Service Commission (hereafter "Commission") in its July 21, 2005 order established a procedural schedule for Case No. ER-2005-0436, and in its August 23, 2005, order established a revised procedural schedule in Case No. EO-2002-384, which was also notably ordered in Case No. ER-2005-0436. The Staff and OPC, by filing testimony regarding class-cost-of-service in Case No. ER-2005-0436, are apparently disregarding the import and effect of the Commission's August 23, 2005, order. There should be no mistake about that order which clearly states when and where the class-cost-of-service issue is to be litigated. The Staff and OPC have ignored the Commission's clear mandate that "this class-cost-of-service case [be resolved] separately from the rate case now pending" by proceeding to file testimony in the rate case, Case No. ER-2005-0436, regarding rate design and cost of service.

2. It should be noted that neither the Staff or OPC has sought a stay from the Commission's August 23, 2005, order. Rather, the Staff's only step has been to file a Motion for Reconsideration of said order. The mere filing of Staff's Motion for Reconsideration does not change the substance of the Commission's August 23, 2005 order, nor does it abrogate the plain meaning of that order, which is that class-cost-of-service will be determined separately from the rate case.

3. It is clear that the Staff and OPC intend to relitigate the class-cost-of-service and rate design issues in the rate case despite the Commission's charge that this not occur. Aquila is concerned that the filing of testimony by Staff and OPC on the class-cost-of-service and rate design issue in the now pending rate case not only ignores the Commission order but also places Aquila in the position that it must balance filing rebuttal testimony in Case No. ER-2005-0436, to preserve its rights with regard to this issue, with placing itself in the precarious position of having to act in contravention to the August 23, 2005, order of the Commission.

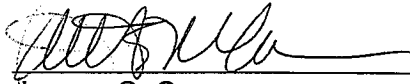
4. Aquila suggested in its prehearing brief filed with the Commission on November 4, 2005, in Case No. EO-2002-384 that by following the terms of its August 23, 2005, order that the Commission could reinforce any adverse inference that Case No. EO-2002-384 would be decided upon facts and evidence which were not before the Commission. It is clear now that the Staff and OPC want to be sure that facts and evidence on class-cost-of-service and rate design remain before the Commission at every opportunity, including in Case No. ER-2005-0436.

5. It is notable that the class-cost-of-service and rate design matter before the Commission in case No. EO-2002-384 is now near conclusion after almost four

years of diligent work by the parties. It now seems likely that Case No. 2002 – 0384 will finally reach a conclusion. There comes a time when a deadline must be made and kept. The Staff and the OPC by attempting to pull into the rate case the class-cost-of-service and rate design issues are essentially trying to extend the conclusion and completion of issues which have at this point already been litigated.

6. In summary, it is clear that the Commission did not intend that the issues which are covered in Case No. EO-2002-384 were to be relitigated in Case No. ER-2005-0436. In fact, the Commission stated that it agreed with SIEUA, FEA and Aquila that the “best course would be to resolve this class-cost-of-service case separately from the rate case now pending.” (emphasis added). This same order was entered in Case No. ER-2005-0436, further underscoring the point that class-cost-of-service is not an issue which is to be retried in Case No. ER-2005-0436. Therefore, the class cost of service studies and testimony which have been filed by the Staff and OPC with regard to these issues should be stricken.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, hand delivery, or electronic transmission, on this 15 day of November, 2005, to all counsel of record.

