

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

The Office of the Public Counsel,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. EC-2006-0171</u></b>
	)	
Aquila, Inc., d/b/a Aquila Networks – MPS	)	
and Aquila Networks – L&P	)	
	)	
Respondent.	)	

**PUBLIC COUNSEL’S NOTICE OF DISMISSAL  
AND RESPONSE TO COMMISSION ORDER DIRECTING FILING**

Comes Now the Office of the Public Counsel and for its Notice of Dismissal states as follows:

1. On October 14, 2005, Public Counsel filed its complaint in which it alleged that Aquila, Inc. was deficient in funding its Other Post-Employment Benefits (OPEBs) obligations by \$8,465,161.
2. On December 2, 2005, Aquila filed a pleading in which it stated that it had made a contribution of \$7,017,530 towards its OPEB obligations.
3. In Case No ER-2005-0436, some of the parties, including Aquila but not including Public Counsel, file a nonunanimous stipulation and agreement. That agreement provided in part that:

the Public Counsel, although not a signatory to this Nonunanimous Stipulation and Agreement, has represented to the Signatory Parties that it will dismiss, with prejudice, the complaint which is the subject of Case Number EC-2006-0171 related to the funding of Aquila’s VEBA [Voluntary Employees' Benefit Association] trust, **subject to Aquila funding said trust as described herein.** [emphasis added]

4. On February 24, 2006, Public Counsel received an email from Gary Clemens, an Aquila employee familiar with the OPEB funding issues which are the subject of this complaint. That email represented that Aquila had funded its OPEB obligations by the amount stated in the ER-2005-0436 agreement. One week later, on March 3, 2006, Public Counsel requested documentation that verifies the transfer and deposit with Northern Trust along with copies of the documentation verifying the receipt of the funds by Northern Trust. Public Counsel received some documentation<sup>1</sup> on about March 15, 2006.

5. The information received to date appears to confirm that Aquila did in fact deposit additional funds in its VEBA trust for OPEBs as it agreed to do in the agreement in Case No. ER-2005-0436. Accordingly, Public Counsel hereby dismisses its complaint pursuant to 4 CSR 240-2.116(1), and requests that the Commission close this case.

WHEREFORE, Public Counsel respectfully responds to the Commission's March 10, 2006 Order Directing Filing and requests that the Commission close this case.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: \_\_\_\_\_  
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<sup>1</sup> The documents received refer to attachments, but Public Counsel did not receive the attachments. Public Counsel has requested those attachments, but has not yet received them.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 24<sup>th</sup> day of March 2006:

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**/s/ Lewis R. Mills, Jr.**

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