

**JOHN H. EDMISTON**  
**ATTORNEY AT LAW**  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

---

660-747-9141  
FAX: 660-747-7177

July 1, 2004

**VIA FEDERAL EXPRESS #839341456563**

Secretary of PSC  
Attn: Data Center  
200 Madison Street  
Jefferson City, MO 65101

**FILED**

JUL 02 2004

Missouri Public  
Service Commission

Re: Cochran Development Inc. vs Aquila Inc.

Good Morning:

Enclosed please find for filing an original and eight copies of Cochran Development Inc.'s complaint against Aquila Inc. If you would please cause this to be filed I would appreciate it. If there is anything else you may need to effectuate this filing, let me know.

Thanks!

Very Truly Yours,



John H. Edmiston

JHE:jmi  
Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE  
STATE OF MISSOURI

**FILED**

JUL 08 2004

COCHRAN DEVELOPMENT INC. )  
d/b/a EXPRESSWAYS FOOD SHOPS )

Complainant, )

vs. )

AQUILA, INC. )

Respondent. )

Missouri Public  
Service Commission

Case No.: \_\_\_\_\_

**COMPLAINT**

1. Complainant is Cochran Development Inc., a Missouri Corporation, with offices at 407A East Russell Avenue, #2, Warrensburg, Missouri, 64093.

2. Respondent, Aquila, Inc., is believed to be a Delaware Corporation and is a public utility under the jurisdiction of the Public Service Commission for the State of Missouri.

3. As the basis of this complaint, complainant states as follows:

On or about January 21, 2004, the Respondent caused to be sent to Complainant the Respondent's bill for electrical services at the Expressways Food Shop located at 221 E. Young Avenue, Warrensburg, Missouri. Such bill had an adjustment charge in the amount of \$7,748.16. Of this adjustment, \$7,016.78 appears to represent charges for a period of time when Aquila's meter was allegedly incorrectly registering the actual electrical usage. Aquila alleges there to be approximately fifteen (15) months of incorrect meter readings beginning sometime in March or April of 2002 and continuing until

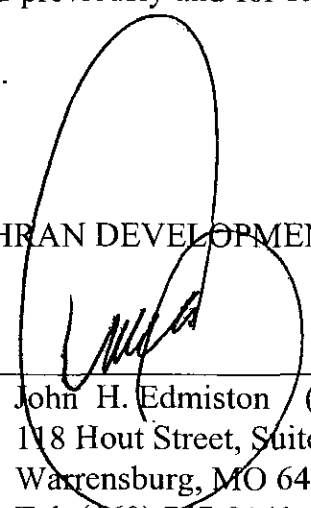
June or July 2003. Complainant disputes these charges. Respondent has, on numerous occasions, threatened the disruption of Complainant's business for non-payment of those sum demanded by Respondent.

4. The Complainant has taken the following steps to present this complaint to Respondent:

Complainant's counsel has attempted to work out a resolution with Phyllis Loudermilk, an operations supervisor for Aquila, as well as Mr. Doulgas D. Law, of the firm of Blackwell Sanders Peper Martin, counsel for Aquila. Complainant has offered the sum of \$3,645.32 to resolve this dispute. All efforts to settle have met with failure.

WHEREFORE the Complainant requests that the Public Service Commission, after hearing, determine the Respondent's demanded charges to be unfair and unreasonable; that the commission accept that amount which the Complainant feels is a fair and reasonable sum for any electrical usage which may have been unbilled previously and for such other and further relief as the commission may deem appropriate.

COCHRAN DEVELOPMENT INC.



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BY: John H. Edmiston (31205)  
118 Hout Street, Suite A  
Warrensburg, MO 64093  
Tel: (660) 747-9141  
Fax: (660) 747-7177  
ATTORNEY FOR COCHRAN  
DEVELOPMENT INC.

**BLACKWELL SANDERS PEPER MARTIN**  
LLP

1620 DODGE STREET, SUITE 2100  
OMAHA, NE 68102-1504  
TEL: (402) 964-5000 FAX: (402) 964-5050  
WEBSITE: [www.blackwellsanders.com](http://www.blackwellsanders.com)

DOUGLAS J. LAW  
DIRECT: (402) 964-5014

DIRECT FAX: (402) 964-5050  
E-MAIL: [dlaw@blackwellsanders.com](mailto:dlaw@blackwellsanders.com)

June 7, 2004

John H. Edmiston, Esq.  
118 Hout Street, Suite A  
Warrensburg, MO 64093

**Re:** Expressways Food Shop (Bob Cochran)  
Aquila, Inc.

Dear Mr. Edmiston:

This letter responds to your June 1, 2004 letter in response to my letter regarding the billing dispute between Aquila, Inc. and Expressways Food Shop. Your letter asks whether any authority exists regarding the determination of the amount charged as an undercharge by Aquila to the Expressways Food Shop. The authority is a "fair and equitable" standard established by the Commission in its rules. To my knowledge, there is no specific formula, other than the use of billing history as a determination. Aquila calculated the billing history for Expressways Food Shop and then discounted that level by 15% in order in to remove any doubt as to the proper level to be charged for services rendered.

Aquila has been contacted by the Missouri Public Service Commission and is currently responding to their investigation. I am informed that the Missouri Commission will require your client to file a formal complaint if it desires to pursue this dispute. My understanding is that any collection of the disputed charges will be suspended pending the duration of that investigation. I also understand that Aquila is only seeking to recover the amount that it should have properly billed in the first instance, minus 15% of the total. Reducing the bill by 50% would not be consistent with Aquila's prior treatment of other similarly situated customers.

If you would like to discuss this matter in more detail, please contact me at your convenience and when your schedule permits.

Sincerely,



Douglas J. Law  
Attorney for Aquila, Inc.

DJL/lw

OM-175609-1 8000/70063

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS • OMAHA, NEBRASKA  
SPRINGFIELD, MISSOURI • EDWARDSVILLE, ILLINOIS • WASHINGTON, D.C. • LONDON, UNITED KINGDOM  
AFFILIATES: LEEDS • MANCHESTER • MEXICO CITY • MONTREAL • TORONTO • VANCOUVER

JOHN H. EDMISTON  
ATTORNEY AT LAW  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

---

660-747-9141  
FAX: 660-747-7177

June 1, 2004

**VIA FAX TRANSMISSION ONLY (402) 964-5050**

Mr. Douglas J. Law  
BLACKWELL SANDERS PEPER MARTIN, L.L.P.

Re: Expressways Food Shop  
(Bob Cochran)  
Aquila Inc.

Dear Mr. Law:

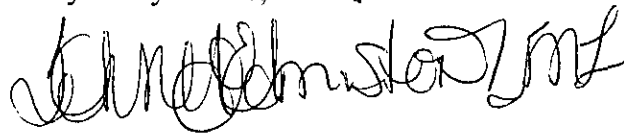
Thank you for your letter of May 18, 2004. I must admit I have been rather tardy in responding to it. In reviewing it, it doesn't really answer my previous question, that being how and why would my client be forced to accept Aquila's determination as to what is owed? Your letter simply reiterates the guidelines which are in place to determine an undercharge. I still have yet to be provided with any authority indicating that my client **must accept** Aquila's determination. Does any exist?

In any event please note that my client received just today a notice from Aquilla indicating that his service will be disconnected on June 3<sup>rd</sup>. I really don't have time to deal with this between now and then. As such, we have filed a complaint with the Missouri Public Service Commission relating to Aquila's bullying tactics here. They indicate they are putting an investigator on this immediately. Hopefully the P.S.C. can put a stop to all of this as, quite frankly, I don't have the time between now and Thursday to file a petition for injunctive relief.

Mr. Law  
June 1, 2004  
Page Two

Considering all of this, Mr. Cochran's prior offer to settle in the amount of \$3,645.32 appears more and more reasonable. Surely there is some compromise here.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "John H. Edmiston". The signature is fluid and cursive, with a large initial "J" and "E".

John H. Edmiston

JHE:jmi

## \*\* Transmit Conf. Report \*\*

P.1

Jun 1 2004 16:08

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JOHN H. EDMISTON  
ATTORNEY AT LAW  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

660-747-9141  
FAX: 660-747-7177

FACSIMILE TRANSMISSION COVER SHEETDATE: 6-1-04 FACSIMILE NO. 402-964-5050TELE FAX TO: Douglas LawRE: Expressways/AguaTHE FOLLOWING FAX COMMUNICATION WILL BE 2 PAGES (NOT INCLUDING COVER SHEET).PLEASE CONTACT Enma AT (660) 747-9141 IF MESSAGE IS NOT COMPLETE.

ADDITIONAL COMMENTS.

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**BLACKWELL SANDERS PEPPER MARTIN**  
LLP

1620 DODGE STREET, SUITE 2100  
OMAHA, NE 68102-1504  
TEL: (402) 964-5000 FAX: (402) 964-5050  
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DOUGLAS J. LAW  
DIRECT: (402) 964-5014

DIRECT FAX: (402) 964-5050  
E-MAIL: dlaw@blackwellsanders.com

May 18, 2004

1-800-392-4211

John H. Edminston, Esq.  
118 Hout Street, Suite A  
Warrensburg, MO 64093

**Re:** Expressways Food Shop (Bob Cochran)  
Aquila, Inc.

Dear Mr. Edminston:

This letter is in response to general correspondence between you and representatives of Aquila, Inc. regarding an undercharge assessed to your client, Expressways Food Shop. The issue presented by your clients is a billing dispute. As part of the communications, you had asked for the name and number of a legal counsel for Aquila.

The law firm of Blackwell Sanders Peper Martin has represented Aquila for a number of years.

You had also asked Aquila for some validation of its authority to collect the undercharge from your client, Expressways Food Shop. My understanding is that Aquila has provided you with a copy of its tariff, which has been approved by the Missouri Public Service Commission. Sheet No. R-25 (Rule 5.042) provides that Aquila is authorized to recover and to make adjustments to any customer's account where an undercharge is present.

In addition to the filed tariff, the rules of the Public Service Commission for the state of Missouri states as follows:

"... Each utility shall adjust customer's bills for incorrect meter readings or improper meter registration in a reasonable and equitable manner consistent with the rules which it has on file with the commission. Any specific rule adopted by a utility covering these adjustments shall be filed with the commission in conformance with the commission's rules covering the filing and publication of rate schedules." (*Emphasis added*) 4CSR 240-10.040(5)

OM-174463-4

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS • OMAHA, NEBRASKA  
SPRINGFIELD, MISSOURI • EDWARDSVILLE, ILLINOIS • WASHINGTON, D.C. • LONDON, UNITED KINGDOM  
AFFILIATES: LEEDS • MANCHESTER • MEXICO CITY • MONTREAL • TORONTO • VANCOUVER



**BLACKWELL SANDERS PEPER MARTIN**  
LLP

John H. Edminston, Esq.

May 18, 2004

Page 2

As you can see, Aquila is acting in accordance with the rules and regulations adopted by the Missouri Public Service Commission and in accordance with its tariff. The undercharged assessed to your client was calculated in a reasonable and equitable manner and shall be charged accordingly. To split the customer's bill as you have proposed, would be inconsistent with the rule and with Aquila's tariff. We do not believe that it would be acceptable to your client to accept half payment for an overcharge. Accordingly, it is not acceptable to Aquila to discount the undercharge for Expressways Food Shop.

You should be advised that the amount assessed to your customer is not the full amount that could have been requested given the customer's billing history. Instead, as I understand the calculation, the amount requested is approximately 15% less than historical usage and prior billing. Aquila believes the amount requested for the undercharge is fair and equitable in this situation.

Aquila apologizes for this undercharge, which is unfortunate, but respectfully requests that your client make the requested payment for the undercharge of \$7,016.78. My understanding is that Aquila has agreed to work with your client to spread the undercharge payments (i.e., \$501.20/month in addition to regular service charges) out over a 14-month period so as not to cause an undue burden by requiring full payment in one month.

Please let me know which option your client elects to pursue. Failure to pay Aquila's undercharge amount due will result in termination of service for Expressways Foods, and pursuit by Aquila of legal remedies available to it under Missouri law and regulation.

If you have any questions or concerns, please contact me at your convenience.

Sincerely,



Douglas J. Law

DJL/lw



Aquila

720 East Young  
Warrensburg, MO 64093  
Tel 1-800-303-0752  
Fax 660-747-3699

April 20, 2004

John H. Edmiston  
118 Hout St, Suite A  
Warrensburg, MO 64093

Dear Mr. Edmiston:

Aquila is in receipt of your most recent letter dated April 19, 2004. As stated previously, we want to work with you on resolving this issue. We will delay the approaching April 23 shut off of Expressways. We believe that Aquila's billing department was fair in the calculations of the re-billed amount. After further investigation of the adjusted billing, the re-billed amount is 85% of actual dollars for the preceding twelve-month period. So, the disputed bill is actually lower than it could have been.

You have requested the statute, code or PSC guideline we used to charge a specific amount for underpayment. I originally provided you with a copy of rules and regulations, R-25, which is filed with the Public Service Commission. It states: "In the event of an undercharge, an adjustment shall be made for the entire period that the undercharge can be shown to have existed not to exceed sixty (60) consecutive billing periods, calculated from the date of discovery, inquiry, or actual notification of Missouri Public Service (Aquila), whichever was first." Mr. Edmiston, we have provided you with the appropriate statute that justifies our action in this instance. In cases similar to this one, Aquila has used historical data to make the appropriate re-bill for customers so as not to discriminate against any of our ratepayers. Our computer system and billing departments use trend tables when making such adjustments that take into account how the weather for the time period has affected this particular service area.

We have referred this issue to our attorneys for further research although our tariff is Missouri state law and they were certain that we were upholding our obligation to other ratepayers by making this adjustment. Our attorney

further stated that this practice is accepted in the industry and has been upheld by state law.

In order to resolve this issue I would again like to extend the offer for myself and/or Ronda Watts to meet with Mr. Cochran and/or yourself to explain the billing, including the kilowatt hours and demand. I believe it is obvious if you review the spreadsheet when the undercharge started occurring. Again, we want to offer a fourteen- month payment arrangement of \$476.79 per month to soften the impact of this adjustment.

Please do not hesitate to call myself, or Ronda Watts if you have further questions or if you would like our attorney to give you a call.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis Loudermilk".

Phyllis Loudermilk

Field Operations Supervisor

Cc: R. Watts

B. Cochran

**JOHN H. EDMISTON**  
*ATTORNEY AT LAW*  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

---

660-747-9141  
FAX: 660-747-7177

April 19, 2004

**VIA FAX TRANSMISSION ONLY (660) 747-3699**

Ms. Ronda Watts  
AQUILA

Re: Expressways Food Shop  
(Bob Cochran)

Dear Ronda:

Thank you for your input the other day. However I am afraid things have not changed. My client still feels that Aquila is being unreasonable in its demand for payment of that sum which it perceives to be an undercharge. My client is not, at this time, inclined to pay this sum. We would, however, be more than happy to again extend the offer to settle in the amount of \$3,645.32. Please let me know if this is acceptable.

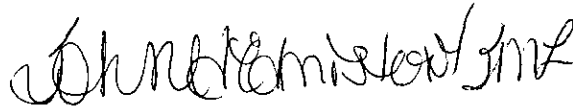
Ms. Loudermilk, in correspondence dated April 9, 2004, indicates that Aquila will shut off my client's electricity on April 23, 2004. That is this Friday. We therefore have four (4) days to see if this matter can be resolved. Please be aware that my client is prepared to exercise his rights in court to prevent Aquila from shutting off the electricity to his business. A petition for injunctive relief, as well as damages, will be filed this Wednesday, April 21, 2004, if a resolution cannot be reached by then.

Ms. Watts  
April 15, 2004  
Page Two

Ronda, in our conversation the other day I asked you by what statute, code, or P.S.C. guideline or ruling were you allowed to charge a specific amount for an underpayment, and that the customer was bound to pay such amount set by your company. You could not provide me any such authority. Perhaps it is now to turn this matter over to legal counsel to see if they can provide me with such authority. Without some rule of law indicating that my client is absolutely bound to accept that figure which you determine to be the undercharged amount, we will not be in a position to voluntarily pay that which you are seeking.

Please pass this letter on to counsel for Aquila.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "John H. Edmiston".

John H. Edmiston

JHE:jmi  
PC: Bob Cochran

## \*\* Transmit Conf. Report \*\*

P.1

Apr 19 2004 8:37

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JOHN H. EDMISTON  
ATTORNEY AT LAW  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

660-747-9141  
FAX: 660-747-7177

FACSIMILE TRANSMISSION COVER SHEETDATE: 4-19-04 FACSIMILE NO. 747-3699TELE FAX TO: RondaRE: ExpresswaysTHE FOLLOWING FAX COMMUNICATION WILL BE 2 PAGES (NOT INCLUDING COVER SHEET).PLEASE CONTACT John AT (660) 747-9141 IF MESSAGE IS NOT COMPLETE.

ADDITIONAL COMMENTS.

## \*\* Transmit Conf. Report \*\*

P.1

Apr 19 2004 8:38

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
7471600	NORMAL	19, 8:38	0'47"	3	* O K	

JOHN H. EDMISTON  
ATTORNEY AT LAW  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

660-747-9141  
FAX: 660-747-7177

FACSIMILE TRANSMISSION COVER SHEETDATE: 4-19-04 FACSIMILE NO. 747-1600TELE FAX TO: Bob CochranRE: AgendaTHE FOLLOWING FAX COMMUNICATION WILL BE 2 PAGES (NOT INCLUDING COVER SHEET).PLEASE CONTACT John AT (660) 747-9141 IF MESSAGE IS NOT COMPLETE.

ADDITIONAL COMMENTS.



Aquila

720 East Young  
Warrensburg, MO 64093  
Tel 1-800-303-0752  
Fax 660-747-3699

April 9, 2004

John H. Edmiston  
118 Hout Street, Suite A  
Warrensburg, MO 64093

Dear Mr. Edmiston:

I am in receipt of your fax letter dated April 9, 2004. Per our phone conversation today Aquila is unable to accept your offer of \$3,645.32 to settle the account at Expressways Food Shop. The amount owed from the months where the meter was registering incorrectly is \$7,016.78. I believe Aquila has made that amount clear from the spreadsheet I faxed to you. As I have made you aware, Aquila has the right through our rules and regulations filed with the Missouri Public Service Commission to recover any undercharge shown to have existed not to exceed sixty billing periods. I also want to extend to you the courtesy of making payment arrangements on the past due amount. We will give Bob fourteen (14) months to pay the \$7,016.78 in full. This comes to \$476.79 and he would need to add that amount to his regular bill monthly.

John, I regret resorting to shutting the account off for non-payment but must inform you that if payment in full or the above arrangements are not made by April 23, 2004 we must turn the service off at Expressways Food Shop, 221 E. Young, Warrensburg, MO.

If I may be of further assistance to you or Bob in explaining the charges please do not hesitate to call me at 1-877-729-8696 x 4152.

Sincerely,

Phyllis Loudermilk  
Operations Supervisor

Cc: Bob Cochran



JOHN H. EDMISTON  
ATTORNEY AT LAW  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093

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660-747-9141  
FAX: 660-747-7177

April 9, 2004

VIA FAX TRANSMISSION ONLY (660) 747-3699

Ms. Phyllis Loudermilk  
AQUILA

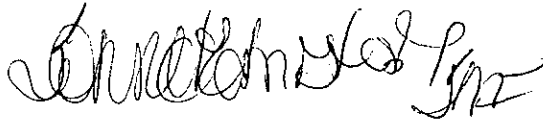
Re: Expressways Food Shop  
(Bob Cochran)

Dear Phyllis:

I spoke with Bob today regarding the outstanding bill to Aquila. Neither he nor I agree to the adjustments you have made. However he is willing to pay to Aquila the sum of \$3,645.32 (which we feel is a more appropriate estimate of the undercharge) immediately.

If you would please let me know whether or not this is acceptable.

Very Truly Yours,



John H. Edmiston

JHE:jmi  
PC: Bob Cochran

Expressways Food Shop  
7426905487  
Billing History

Date	Original Bill Amounts				Corrected Bill Amounts		
	Dollars	Kwh	Kw		Dollars	Kwh	Kw
03/15/2004	\$776.28	14,320	45.60				
02/13/2004	\$747.79	13,680	45.60				
01/15/2004	\$970.93	17,920	34.80				
12/12/2003	\$560.71	16,600	34.40				
11/12/2003	\$549.92	16,320	39.20				
10/14/2003	\$562.09	16,720	39.20				
09/15/2003	\$1,416.32	21,280	43.20				
08/14/2003	\$1,334.82	19,600	42.40				
07/15/2003	\$1,365.55	20,520	41.60				
06/13/2003	\$2,396.17	22,820	390.00		\$1,458.00	16,860	40.00
05/14/2003	\$70.68	560	390.00		\$640.75	14,600	30.00
04/14/2003	\$65.87	680	300.00		\$632.74	13,000	41.20
03/13/2003	\$549.96	2,400	386.00		\$696.78	16,560	35.50
02/13/2003	\$54.95	240	390.00		\$728.55	17,440	35.20
11/05/2002	\$57.37	320	390.00		\$767.66	18,720	37.50
12/12/2002	\$36.72	300	382.80		\$667.69	16,320	43.60
11/12/2002	\$40.95	360	80.00		\$597.74	13,400	30.00
10/15/2002	\$26.36	340	390.00		\$626.62	14,640	37.20
09/18/2002	\$1,637.96	2,880	390.00		\$1,530.99	24,040	42.80
08/14/2002	\$1,661.68	3,900	390.00		\$1,649.41	23,640	54.60
07/15/2002	\$348.87	3,560	30.00		\$1,566.03	23,920	46.40
06/13/2002	\$224.18	2,240	30.00		\$1,613.75	18,800	43.60
05/14/2002	\$200.31	2,640	30.00		\$901.33	16,480	37.20
04/12/2002	\$332.18	4,440	30.80		\$3246.35	15,280	21,40.00
03/14/2002	\$791.19	14,720	56.40				
02/13/2002	\$838.77	15,720	55.20				
01/15/2002	\$977.27	18,760	54.00				
12/12/2001	\$961.74	16,800	37.20				
11/12/2001	\$867.76	14,840	40.40				
10/16/2001	\$1,007.37	18,520	42.80				
09/17/2001	\$1,511.62	21,960	46.40				
08/16/2001	\$1,422.90	21,400	40.80				
07/17/2001	\$1,590.62	23,960	45.60				
06/13/2001	\$1,382.23	19,440	44.80				
05/15/2001	\$986.40	17,920	42.00				
04/17/2001	\$885.65	15,280	40.40				
03/16/2001	\$1,050.49	19,280	40.00				
02/14/2001	\$1,126.57	21,960	46.00				

6516.27  
2870.95

3645 32

01/14/2001	\$1,081.76	20,400	42.00				
12/15/2000	\$987.13	17,920	40.80				
11/16/2000	\$1,041.56	19,440	42.40				
10/18/2000	\$983.95	18,160	44.00				
09/20/2000	\$1,537.32	23,320	44.00				
08/18/2000	\$1,396.12	19,480	46.40				
07/20/2000	\$1,417.56	20,760	42.80				
06/20/2000	\$1,373.14	19,960	42.00				
05/18/2000	\$875.02	16,880	41.60				
04/19/2000	\$780.69	14,040	36.40				
03/21/2000	\$939.03	17,720	34.00				