

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Aquila, Inc., d/b/a Aquila)	
Networks – MPS and Aquila Networks – L&P for)	
Authority to Implement Rate Adjustments Required)	<u>Case No. EO-2008-0216</u>
By 4 CSR 240-20.090(4) and the Company’s)	<u>Tariff No. YE-2008-0402</u>
Approved Fuel and Purchased Power Cost)	
Recovery Mechanism)	

ORDER WAIVING APPLICATION OF COMMISSION RULE 4 CSR 240-2.085 AND DENYING MOTION FOR PROTECTIVE ORDER

Issue Date: January 3, 2008

Effective Date: January 3, 2008

On December 28, 2007, Aquila, Inc., d/b/a Aquila Networks – MPS and Aquila Network – L&P, filed a motion asking the Commission to issue a protective order to establish the means by which confidential information regarding the company’s Fuel Adjustment Clause tariff filing can be protected from inappropriate disclosure.

On January 30, 2007, Commission Rule 4 CSR 240-2.135, concerning the handling of confidential information, went into effect, eliminating the need for the standard protective order the Commission had previously routinely issued. Specifically, 4 CSR 240-2.135(2)(A) provides “no order from the commission is necessary before a party in any case pending before the commission may designate material as proprietary or highly confidential and such information shall be protected as provided in this rule.” Aquila is no doubt aware of this new rule, but is concerned about an older rule, 4 CSR 240-2.085(2), that states, “pleadings, testimony, or briefs shall not contain highly confidential or proprietary information unless a protective order has been issued by the commission.”

The requirements of Commission Rule 4 CSR 240-2.085 are inconsistent with the requirements of Commission Rule 4 CSR 240-2.135, in that the older rule purports to require a party to file a pleading that is rendered unnecessary by the explicit language of the newer rule. Ultimately, the Commission will resolve this conflict by revising Commission Rule 4 CSR 240-2.085; but until that is accomplished, the Commission will waive application of that rule for this case. With that rule having been waived, Aquila's motion for protective order is unnecessary and will be denied.

IT IS ORDERED THAT:

1. No party to this case shall be required to comply with the provisions of Commission Rule 4 CSR 240-2.085.
2. Aquila, Inc. d/b/a Aquila Networks – MPS and Aquila Networks – L&P's Motion for Protective Order is denied.
3. This order shall become effective on January 3, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Morris L. Woodruff, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 3rd day of January, 2008.