

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

In the Matter of the Application of Aquila, Inc., for	)	
Authority to Sell, Assign and Transfer to KAMO	)	
Electric Cooperative, Inc., Approximately Six (6)	)	Case No. EO-2006-0036
Miles of Electric Transmission Line Located in	)	
Barton County, Missouri	)	

**STAFF RESPONSE TO COMMISSION ORDER DIRECTING FILING**

Comes now the Staff of the Missouri Public Service Commission (Staff) and submits its Staff Response To Commission Order Directing Filing (Appendix A). On December 14, 2005, the Missouri Public Service Commission (PSC) issued an Order Directing Filing in which the Commission ordered that the Staff should file by no later than 3:00 p.m. December 15, 2005 a pleading answering to the best of its ability the following three questions: (1) What is the fair market value of the property being transferred?; (2) What is the effect, if any, of the transfer on the Southwest Power Pool?; and (3) Has the transaction for which approval is sought already taken place? The Staff response to the Commission's questions is attached hereto as Appendix A. In this cover pleading, the Staff will provide background information. The Staff continues to recommend that the Commission authorize, subject to the conditions set out in the Staff's Recommendation filed on October 11, 2005, the sale of approximately six (6) miles of 69kV electric transmission line at an agreed to price of \$275,000 by Aquila, Inc. (Aquila) to KAMO Electric Cooperative, Inc. (KAMO), pursuant to the terms of the Asset Purchase Agreement attached to Aquila's July 26, 2005 Application.

Aquila stated in its Application that the sale of the facilities will not be detrimental to the public interest because the facilities involved are not normally servicing any customer of Aquila and their use for emergency backup will be preserved because KAMO has agreed to allow

Aquila access to emergency backup service for Aquila's loads at Lamar, Iantha, Liberal, and Sheldon over the facilities, at no cost to Aquila. The facilities are in Barton County, located between and connecting Aquila's Lamar 69 kV electrical substation to a point north of the Boston Corners 69 kV electrical substation, where it ties into the facilities of the Empire District Electric Company. Aquila explained that KAMO is purchasing the facilities to provide voltage support to KAMO customers in the Lamar area and City of Lamar customers served from the Jackson Street substation. Aquila has asserted that the sale will not impair electric service provided by Aquila to its customers.

Aquila asked in the alternative in its Application, pursuant to Section 393.190.1 RSMo 2000, for the Commission to dismiss the Application as unnecessary, asserting that the facilities in question are no longer "necessary or useful" to Aquila in the performance of its duties to the public, and as a consequence Commission authorization is not necessary for Aquila to sell, assign or transfer these facilities.

The Staff previously completed its review and analysis of Aquila's Application and recommended in a filing with the Commission on October 11, 2005 that the Commission should find, subject to the provision and the suggestions in the Staff Recommendation, that pursuant to Section 393.190.1 RSMo 2000 and 4 CSR 240-3.110, the transaction in question is not detrimental to the public interest. The Staff recommended that the Commission should state in its Order authorizing the requested transaction that the Commission makes no finding that would bind the Commission or any party to this proceeding to any ratemaking treatment in any future proceeding respecting the actions relating to the approval of the pending Application.

The Staff notes that in the Asset Purchase Agreement, attached to Aquila's Application filed on July 26, 2005, Section 3.1 states respecting the "Closing Date:"

The closing of this transaction (the “Closing”) shall be 10 business days after the date (a) the Federal Energy Regulatory Commission (“FERC”) approves the transactions contemplated hereby and such approval has become final or (b) the Missouri Public Service Commission (“MPSC”) approves the transactions contemplated hereby and such approval has become final (the “Closing Date”). . . . The transaction contemplated by this Agreement shall be considered to take place simultaneously as of the Closing, and no delivery or payment shall be considered to have been made until all steps required hereunder are completed. However, if either FERC or MPSC has not approved the transactions contemplated hereby by December 31, 2005, either party may terminate this Agreement.

On October 14, 2005, Aquila filed an application with the FERC, establishing FERC Docket No. EC06-7000, requesting FERC authorization for the disposition of six (6) miles of electric transmission line and associated poles, appurtenances, contracts, permits and easements in Barton County, Missouri.<sup>1</sup> The application noted that the approval of this Commission, i.e., the Missouri Commission, is required and has been requested. Aquila stated that the proposed transaction is consistent with the public interest and will have no adverse effect on competition, rates or regulation. On December 7, 2005, the FERC issued an Order Authorizing Disposition Of Jurisdictional Facilities in which it stated that the proposed transaction is consistent with the public interest and is authorized subject to certain conditions including the following:

- (1) The authorization is without prejudice to the authority of the FERC or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of costs, or any other matter whatsoever then pending or which may come before the FERC;
- (2) Nothing in the FERC’s Order should be construed to imply acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted; and
- (3) Aquila should notify the FERC within ten (10) days of the date that the disposition of the jurisdictional facilities has been consummated.

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<sup>1</sup> Contemporaneously with this filing, Aquila filed with the FERC an application for approval of changes to the Agreement For Interchange Power & Interconnected Operations between Aquila and Associated Electric Cooperative, Inc. (AECI), FERC Docket No. ER06-35-000.

Wherefore the Staff submits its Staff Response To Commission Order Directing Filing, answering the Commission's questions to the best of the Staff's ability given the time provided in the Commission's December 14, 2005 Order Directing Filing.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/Steven Dottheim**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 15th day of December 2005.

**/s/ Steven Dottheim**

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. EO-2006-0036, Aquila, Inc.

FROM: Dan Beck, Energy Department – Engineering Analysis  
William Harris, Auditing Department

/s/Lena Mantle 12/15/05  
Energy Department/Date

/s/ Steven Dottheim 12/15/05  
General Counsel's Office/Date

SUBJECT: Staff Recommendation

DATE: December 15, 2005

On July 26, 2005, Aquila, Inc. (Aquila) filed an Application requesting authorization for the sale of approximately 6 miles of 69kV electric transmission line at an agreed to price of \$275,000 to KAMO Electric Cooperative, Inc (KAMO) pursuant to the terms of the Asset Purchase Agreement (Agreement) attached to the Application. This line connects Aquila's Lamar 69kV electric substation to The Empire District Electric Company's Boston Corner 69kV Substation and is located in Barton County, Missouri.

The Staff filed its Recommendation on October 11, 2005. The Staff recommends conditional approval of the proposed sale as not detrimental to the public interest. Specifically, the Staff recommends that the Commission issue an Order that:

- a. Authorizes Aquila to sell to KAMO certain electric transmission facilities as described in the Sale Agreement dated June 14, 2005 and included in the Aquila Application; and
- b. Makes no finding that would bind the Commission or any other party to any ratemaking treatment of the actions related to approval of the Application in any future proceeding.

On December 14, 2005, the Commission issued its Order Directing Filing which included three questions. The questions and Staff's response to those questions are as follows:

(1) *What is the fair market value of the property being sold?* Although the definition of fair market value is one that can be debated, the Staff maintains that the agreed to price of \$275,000 represents a fair market value price. In contrast to the agreed to price, several other costs are also associated with the transmission line. First, there is the net book value which is currently \$3,683.43. Second, is the original plant cost which is \$63,373.88. While both of these

values are based on standard accounting principals, neither really reflects a fair market value today.

Another value, the replacement cost, is commonly used in rate design calculations. One method of determining replacement costs is to adjust the original plant cost adjusted for inflation. In this case, the original plant costs were actually incurred over several years but the majority of the costs were incurred in 1955. If one assumes that the costs were incurred in 1955 and that the rate of inflation was 3%, the current replacement cost would be \$277,825. The Staff maintains that this replacement cost calculation indicates that the agreed to price of \$275,000 is a reasonable fair market price value.

Aquila personnel have advised the Staff that it views the sale price as being the fair market value.

Although the Staff has requested that the Commission Order state that it "makes no finding that would bind the Commission or any other party to any ratemaking treatment of the actions related to approval of the Application in any future proceeding", the Staff would also point out that the Commission has traditionally treated a gain on a transfer such as this one as going to the utility's shareholders and not the utility ratepayers.

(2) *What is the effect, if any, of the transfer on the Southwest Power Pool?* The Staff discussed this transfer with Southwest Power Pool (SPP) personnel. SPP personnel stated that the transfer will have a "very, very minimal effect" on SPP. As an RTO, SPP is expected to participate in FERC proceedings. This transaction was part of FERC Docket Nos. EC06-7-000 and ER06-35-000. The first docket deals with the transfer and the FERC issued its Order Authorizing Disposition of Jurisdictional Facilities on December 7, 2005. The second docket deals with the related interconnection agreements. Although FERC treats these interconnection agreements as separate issues, this is the related topic where SPP personnel indicated the "very, very minimal effect" lies. FERC notified Aquila, Inc. on December 8, 2005 that FERC needs additional information regarding these interconnection agreements.

(3) *Has the transaction for which approval is sought already taken place?* No. In addition to confirming with Aquila, KAMO and SPP that the transaction has not taken place, the Staff would point out that the Agreement's paragraph 3.1 states that the closing date will be 10 business days after the latter of FERC or MoPSC approval of this transaction.

Although the Staff hopes that it has addressed the Commission's questions fully, the Staff will be available to answer questions at the Agenda.