

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. EO-2008-0216, File No. YE-2008-0402  
Aquila, Inc, d/b/a Aquila Networks – MPS and Aquila Networks – L&P

FROM: James Busch, Regulatory Economist III, Project Coordinator

/s/ Lena M. Mantle 1-29-08  
Energy Department / Date

/s/ Dennis L. Frey 1-29-08  
General Counsel's Office / Date

SUBJECT: Staff Recommendation for **Approval** of Tariff Sheet Filed to Increase Revenues Related to the Fuel Adjustment Clause (FAC) Pursuant to the Commission's Report and Order from Case No. ER-2007-0004

DATE: January 29, 2008

On December 28, 2007, Aquila, Inc. d/b/a Aquila Networks – MPS and Aquila Networks – L&P (Aquila or Company) of Kansas City, Missouri, filed with the Commission one (1) tariff sheet bearing a proposed effective date of March 1, 2008 to revise the Current Period Cost Adjustment Factors for MPS and L&P, each of which have an initial value of \$0.000. By means of the proposed tariff sheet Aquila requests (on an annual basis) an increase in the revenues it bills through its fuel adjustment clause of \$12,274,073 for the Aquila Networks – MPS service territory by increasing the Current Period Cost Adjustment Factor (CAF) from \$0.000 to \$0.0020 and \$3,241,153 for the Aquila Networks – L & P service territory by increasing the Current Period CAF from \$0.000 to \$0.0015.

Commission Rules 4 CSR 240-3.161(1)(E) and 4 CSR 240-20.090(1)(G) define a Rate Adjustment Mechanism (RAM) as either a Fuel Adjustment Clause (FAC) or an Interim Energy Charge (IEC). In Case No. ER-2007-0004, the Commission approved a FAC for Aquila and established base fuel and purchased power costs. Thus the currently approved FAC is a RAM approved by the Commission. On tariff sheet P.S.C. MO No. 1 Original Sheet Nos. 124 and 125, the CAF is the amount that Aquila can charge its customers to collect revenues associated with actual fuel and purchased power. If actual costs are greater than base fuel and purchased power costs set in the rate case, additional revenues will be billed through a positive CAF. Revenues billed would be lowered through a negative adjustment to the CAF if actual fuel and purchased power costs are lower than the base costs.

As to the frequency of when fuel clause based adjustments to rates should be made, in its May 17, 2007 *Report and Order* in Case No. ER-2007-0004, for Aquila, the Commission found:

The Commission finds Mr. Williams' testimony on the issue more persuasive, and further finds two adjustments per year will adequately decrease the impact of seasonal variations in both customer usage patterns and fuel and purchased power costs. Accordingly, the Commission finds Aquila's fuel adjustment clause should provide for two adjustments per year.

And the Commission concluded:

An electric utility with a fuel adjustment clause must file at least one adjustment

to its fuel adjustment clause in each true-up year coinciding with the true-up of its fuel adjustment clause. The Commission has the discretion to authorize any utility with a fuel adjustment clause to file up to three additional adjustments to its fuel adjustment clause within a true-up year. The Commission concludes it may lawfully limit the adjustments to twice a year.

This *Report and Order* had an effective date of May 27, 2007. On May 25, the Commission issued its *Order Granting Expedited Treatment, Approving Certain Tariff Sheets and Rejecting Certain Tariff Sheets*, with an effective date of May 31, 2007. This order established Aquila's base rates currently in effect. It is these two May 2007 orders, effective in May 2007, where the Commission established and approved Aquila's current FAC and the base rates for the recovery of fuel and purchased power costs.

The accumulation periods, recovery periods, and other specifications of Aquila's existing FAC are set out in its tariff sheets designated Original Sheet Nos. 124 through 127, approved on June 29, 2007, via the Commission's *Order Granting Expedited Treatment and Approving Tariff Sheets* with an effective date of July 5, 2007. Specifically, Original Sheet No. 124 sets out Aquila's accumulation periods as June through November and December through May, while the recovery periods are set out as March through February and September through August.

Consistent with Aquila's accumulation period of June through November set out in Original Sheet No. 124, the information and workpapers filed in this case with Aquila's proposed tariff sheet 1<sup>st</sup> Revised Tariff Sheet No. 127 include all data needed to establish adjustments to the CAF based on fuel and purchased power costs incurred during the timeframe of June 1, 2007 through November 30, 2007.

According to 4 CSR 240-3.161(5), any electric utility with a Commission-approved fuel adjustment clause is to make monthly submissions to the Commission Staff, Office of the Public Counsel, and others, as provided in sections (9) through (11) in 4 CSR 240-3.161. In its motion requesting an exception for what it now believes is its past non-compliance with timely filing reports under this rule, Aquila states it believed it was not required to make any of those monthly submissions before December 2007. Upon reconsideration, Aquila now believes the reports are due within 60 days after the end of each month commencing with the month in which the Commission approves the rate adjustment mechanism. While late, Aquila has submitted all the monthly reports due under the rule. Staff recommends that the Commission grant Aquila's motion for a variance from certain requirements of 4 CSR 240-3.161(5); however, the Commission should clarify that these reports are to be submitted, pursuant to rule 4 CSR 240-3.161(5), on an ongoing basis starting 60 days after the end of the first month of the Commission approves a rate adjustment mechanism.

Also, according to 4 CSR 240-3.161(6), each electric utility with a fuel adjustment clause is required to submit Surveillance Monitoring Reports to the Staff. Commission rule 4 CSR 240-20.090(10) states that a utility shall submit the Surveillance Monitoring Reports within 15 days of the utility's submission of its 10-Q and 10-K reports to the U.S. Securities and Exchange Commission. Aquila did not submit this report until its December 28, 2007 filing. Staff expects Aquila to make these filings in accordance with the rules from this date forward.

Aquila's filing that initiated this case included a proposed tariff sheet 1<sup>st</sup> Revised Sheet No. 127, workpapers and other filing requirements required when an electric utility files to adjust FAC as

in accordance with rule 4 CSR 240-3.161(7).

Commission Rule 4 CSR 240-20.090(4) provides in part as follows:

. . . The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its FAC rates. If the FAC rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the FAC rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. .

The Commission's Energy Department Staff has reviewed the proposed tariff Sheet No. 127 using the information and workpapers attached to the filing in conjunction with the calculations and details found on proposed tariff Sheet No. 127 as well as the monthly submission and surveillance monitoring report Aquila provided to Staff. Staff notes that proposed tariff Sheet No. 127 does not specifically state the start date for the accumulation period, but identifies the "Accumulation Period Ending" as "11/30/07." However, the direct testimony of Dennis R. Williams filed on December 28, 2007 states that Aquila proposes to recover 95% of the fuel and purchased power cost increases actually incurred during the June-November 2007 Accumulation Period. All information included in Aquila's filing, and read in conjunction with Original Sheet No. 124, clearly shows the starting date is June 1, 2007 and the ending date is November 30, 2007.

Staff is of the opinion that Aquila timely filed proposed tariff sheet 1<sup>st</sup> Revised Sheet No. 127 and that the proposed tariff sheet complies with the Commission's Order in Case No. ER-2007-004 and Commission rules 4 CSR 240-20.090 and 4 CSR 240-3.161, subject to the Commission granting Aquila's request to be excused from its past non-compliance with Commission Rule 4 CSR 240-3.161(5). Staff, therefore, recommends to the Commission that it issue an order approving the following proposed tariff sheet, as filed on December 28, 2007, to become effective on March 1, 2008, as requested by Aquila, subject to both true-up and prudence reviews:

P.S.C. MO. No. 1

1<sup>st</sup> Revised Sheet No. 127 Canceling Original Sheet No. 127

Pursuant to Commission Rules 4 CSR 240-3.161(1)(G) and 4 CSR 240-20.090(1)(I), the true-up year shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the RAM (Aquila's FAC). Thus, the end of the first true-up year will be May 31, 2008.

Aquila's FAC has accumulation periods and recovery periods. The accumulation periods are defined as six month periods, June – November and December – May. Each accumulation period has its own recovery period, March – February for the June – November accumulation period and September – August for the December – May accumulation period. The CAF charged during each recovery period is the difference between actual fuel and purchased power

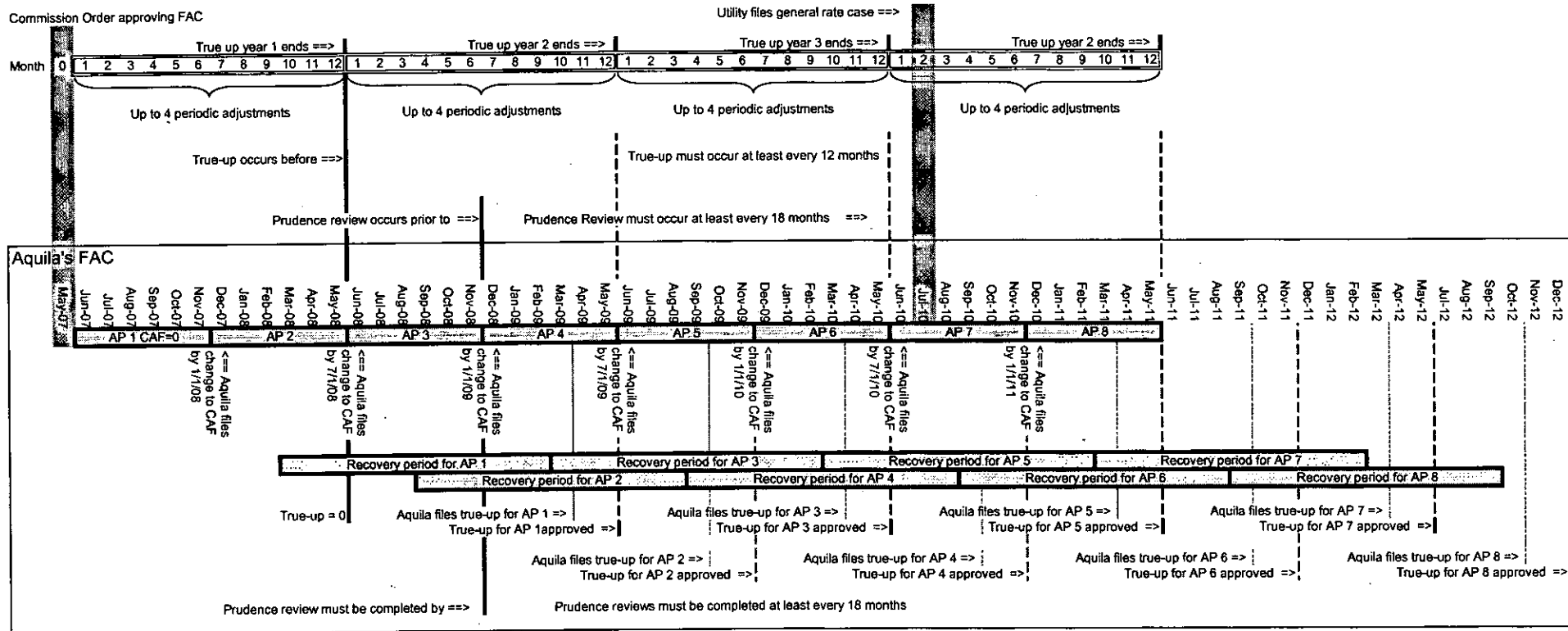
costs and base fuel and purchased power costs during the accumulation period. A true-up will be conducted at the end of each recovery period to verify that the revenues collected during the recovery period match the actual prudently incurred fuel and purchased power costs. Thus, on May 31, 2008 (the end of the first true-up year as defined in 4 CSR 240-20.090(1)(I), Aquila's CAF, assuming Commission approval, will have only been in effect for three months (March 1, 2008 – May 31, 2008). Since there will be insufficient data relating to the collection of revenues associated with the CAF to true-up at that time, this initial true-up will be cursory. The true-up of this first CAF will commence at the end of the 12-month recovery period-- February 28, 2009. Thus, when the end of the second true-up year occurs, May 31, 2009, a true-up will have been conducted regarding the full 12-months of Aquila's initial recovery period.

As required by 4 CSR 240-20.090(7) prudence reviews shall occur no less frequently than at 18-month intervals. Staff intends to initiate a prudence review prior to December 31, 2008, the end of the first 18-months of Aquila's FAC.

Please see the attached timeline that shows how Aquila's FAC's accumulation periods, recovery periods, true-ups, and prudence reviews correspond to the timeline associated with 4 CSR 240-20.090.

Staff has verified that Aquila is not delinquent on any assessment or the filing of its annual report. Staff is not aware of any other matter pending before the Commission that affects or is affected by this tariff filing.

# Rule Timeline (4 CSR 240-20.090)



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

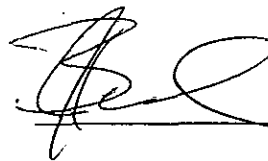
In the Matter of Aquila, Inc., d/b/a Aquila Networks - )  
MPS and Aquila Networks - L&P for Authority to )  
Implement Rate Adjustments Required by 4 CSR 240- )  
20.090(4) and the Company's Approved Fuel and )  
Purchased Power Cost Recovery Mechanism )

**Case No. EO-2008-0216**  
**Tariff No. YE-2008-0402**

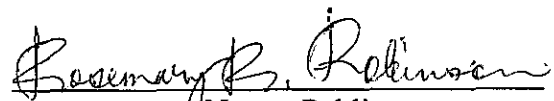
**AFFIDAVIT OF JAMES A. BUSCH**

**STATE OF MISSOURI** )  
 ) ss  
**COUNTY OF COLE** )

James A. Busch, of lawful age, on oath states: that he has participated in the preparation of the foregoing Staff Recommendation; that he has knowledge of the matters set forth in such recommendation; and that such matters are true to the best of his knowledge and belief.

  
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Subscribed and sworn to before me this 29th day of January, 2008.

  
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Notary Public

