

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 18th day  
of September, 2008.

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	)	<b><u>Case No. EO-2008-0415</u></b>
the Company's Approved Fuel and Purchased Power	)	Tariff No. YE-2008-0789
Cost Recovery Mechanism.	)	

**ORDER DENYING APPLICATION FOR REHEARING**

Issue Date: September 18, 2008

Effective Date: September 18, 2008

On August 18, 2008, the Commission issued an order approving the tariff of Aquila, Inc., d/b/a Aquila Networks–MPS and Aquila Networks–L&P (Aquila),<sup>1</sup> to establish rate schedules for its Fuel Adjustment Clause and denying the Motion to Reject Tariff filed by Ag Processing, Inc., and Sedalia Industrial Energy Users' Association (SIEUA). That order became effective on August 29, 2008, and Aquila's tariff (Tariff File No. YE-2008-0789) became effective on September 1, 2008, as an interim rate adjustment, subject to true-up and prudence reviews.

On August 28, 2008, Ag Processing and SIEUA filed an Application for Rehearing. Therein, Ag Processing and SIEUA argued that the Commission's August 18 Order is unlawful because "it perpetuates the premature nature of Aquila's first semiannual

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<sup>1</sup> Aquila recently merged with a subsidiary of Great Plains Energy Incorporated in Case No. EM-2007-0374. Following that merger, Aquila changed its fictitious name in Case No. EN-2009-0015, and is now doing business as KCP&L Greater Missouri Operations Company.

adjustment.”<sup>2</sup> Ag Processing and SIEUA continue to argue, as they did in their Motion to Reject Tariffs, that the first semiannual adjustment of the fuel adjustment clause was effective two months premature under the requirements of Section 386.266.1, RSMo, and therefore, the current rate schedules are also premature. These arguments were fully discussed and rejected in the Commission’s August 18, 2008 order, and were also the subject of the previous fuel adjustment clause case, EO-2008-0216. The Commission will not readdress those arguments here.

In addition, Ag Processing and SIEUA argue that the August 18 order “is unlawful, unjust, and is not supported by competent and substantial evidence in that the Commission finds, without any supporting evidence on the whole of the record, that the proposed tariff sheets comply with the Commission’s orders in Case No. ER-2007-0004 and with the requirements of Section 386.266, RSMo, 4 CSR 240-20.090, and 4 CSR 240-3.161.”<sup>3</sup> Ag Processing and SIEUA admit that their Motion to Reject Tariffs is a procedural maneuver to preserve their rights in the event they prevail in their appeal of the Commission’s first fuel adjustment clause case.<sup>4</sup> Furthermore, Ag Processing and SIEUA did not contest the validity of the substance of the tariff sheets, but only requested rejection of the tariffs on the basis that they were premature. Therefore, the Commission finds no reason to rehear its decision on this uncontested matter.

Section 386.500.1, RSMo 2000, provides that the Commission shall grant an application for rehearing if “in its judgment sufficient reason therefor be made to appear.”

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<sup>2</sup> *Application for Rehearing*, (filed August 28, 2008) paragraph 3.

<sup>3</sup> *Id.*, paragraph 4.

<sup>4</sup> *Motion to Reject Tariffs*, (filed August 8, 2008) paragraph 8.

In the judgment of the Commission, Ag Processing and SIEUA have failed to establish sufficient reason to grant their application for rehearing. The Application for Rehearing shall be denied.

**IT IS ORDERED THAT:**

1. The Application for Rehearing filed by Ag Processing, Inc., and Sedalia Industrial Energy Users' Association is denied.
2. This order shall become effective upon issuance.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Jarrett,  
and Gunn, CC., concur.  
Clayton, C., dissents.

Dippell, Deputy Chief Regulatory Law Judge