

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

In the Matter of a Management Audit of	)	
Aquila, Inc. d/b/a Aquila Networks-MPS	)	
and Aquila Networks-L&P	)	Case No. EO-2006-0356

**STAFF'S INITIAL RESPONSE TO PUBLIC COUNSEL'S MOTION TO OPEN A  
NEW CASE TO CONDUCT A MANAGEMENT AUDIT OF AQUILA, INC.**

Comes now the Staff of the Missouri Public Service Commission (Staff) in response to the Public Counsel's Motion To Open A New Case To Conduct A Management Audit Of Aquila, Inc filed on Thursday, March 16, 2005. The Staff was preparing a response to be filed within the ten (10) days permitted by 4 CSR 240-2.080(15),<sup>1</sup> but files this limited response in advance of the Order shown on the Commission's Agenda for March 21, 2006 and likely in lieu of a later filing. The Staff recommends that the Commission issue an Order indicating the areas and matters it wants investigated and/or audited, and schedule a technical conference for the purpose of the appropriate parties, including the Staff and the Office of the Public Counsel (Public Counsel), addressing the scope specified by the Commission, timeframe, staffing, cost and cost recovery relating to the investigation and/or audit desired by the Commission. The Commission should direct that if the parties can reach agreement on these items, an agreement should be presented to the Commission for Commission review and approval. The Commission should also direct that if the parties cannot reach agreement on the above items, then these matters of disagreement should be presented to the Commission for Commission determination, in addition to any areas of agreement being presented to

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<sup>1</sup> 4 CSR 240-2.080(15) provides: Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

the Commission for Commission review and approval. The Commission may also want to schedule an on the record conference. In support thereof, the Staff states as follows:

1. By Public Counsel's reference, for example, to the management audit, which was an issue in Union Electric Company (UE) Case No. ER-83-163, and certain Aquila events, the Staff does not believe that what Public Counsel refers to in its March 16, 2006 pleading as a management audit is necessarily what the Staff would call a management audit. From Public Counsel's Motion, the Staff surmises that Public Counsel may want to address management issues relating to the performance of upper management at Aquila concerning certain events rather than relating to the operation of systemic, management processes at Aquila. The Staff is concerned that if the Commissioners do not provide any more guidance than directing the Staff to perform a management audit based on Public Counsel's March 16, 2006 motion, the project will be destined to not meet the undefined expectations that may be harbored for it, whatever those expectations might be.

2. Public Counsel has reached back 23 years and asked the Commission to follow the procedure it adopted in 1983 in a Union Electric Company (UE) general rate increase case, when the Staff requested that the Commission order a comprehensive management audit and the Commission, in its Report And Order, directed the Staff to file a recommendation regarding the general parameters of a management audit, when the audit should take place, a reasonable estimate of the cost, who should pay for the cost, what role the Staff would take and what role, if any, the audit information should play in UE's next general rate case. Typically, when in past decades the Commission directed that a comprehensive management audit be performed, an outside consultant was selected

by both the Staff and the utility through a request for proposal process. Even in those instances when an outside consultant performed the management audit, a major commitment of time and resources was required by the Staff, as the Staff attempted to monitor the management audit and assume a quality control function. Even then, on occasion, despite close monitoring the Staff thought it necessary to distanced itself from the particular consultant's report.

3. Public Counsel does not mention that in Case No. ER-83-163 (a) UE estimated that the cost of a comprehensive management audit would be approximately \$1 million, (b) the Staff estimated that such an audit would take 18 to 24 months and (c) the Staff proposed that UE recover in rates in that case \$360,000 for the first phase of the audit.

4. In addition to the various cases filed by Aquila in the last several years, the Staff notes that it submitted to the Commission in December 2002, a Staff Report on the financial situation at Aquila and the implications for Aquila's regulated operations in Missouri. The Staff in October 2005 completed an audit project that resulted in a report entitled Review Of Aquila, Inc. Customer Service Processes And Operations. The Staff also looked at quality of service in the UtiliCorp merger cases with St. Joseph Light & Power Company and The Empire District Electric Company.

5. Finally, even though Public Counsel is not presently advocating a monetized approach to the concerns that it raised in its March 16, 2006 filing, the Staff would note the following quote from the Report And Order in *Staff v. Southwestern Bell Telephone Co.*, 29 Mo.P.S.C.(N.S.) 607, 654 (1989), which appears in the Commission's Report And Order in *Re Missouri Gas Energy*, 12 Mo.P.S.C.3d 581, 597 (2004)

respecting the rate of return adder issue. In rejecting Missouri Gas Energy's request for a 25 basis point upward adjustment to the MGE authorized rate of return for purported high management efficiency, the Commission cited the following language in apparent harmony with the indicated approach, which does not include any mention of ordering a management audit:

. . . The Commission has determined that it is not appropriate to adjust the rate of return SWB will be authorized to earn for management decisions. Now the Commission has determined that where it has made adjustments to ROE in other cases, these types of adjustments can rarely be supported by sufficient evidence to warrant such a decision. The difficulty of deciding how much value a certain management decision has in terms of ROE makes the determination almost impossible. The evidence in this case provides no real guide to the Commission on how to value the various allegations of inefficient management. The more appropriate method for making adjustments to a public utility's revenue requirement is where specific dollar adjustments can be addressed, not by adjusting the ROE.

Wherefore the Staff requests that the Commission indicate, in an Order, the areas and matters that it wants investigated and/or audited respecting Aquila, Inc, and schedule a technical conference for the purpose of the appropriate parties, including the Staff and Public Counsel, addressing the scope specified by the Commission, timeframe, staffing, cost and cost recovery regarding the investigation and/or audit desired by the Commission. The Commission should direct that if the parties can reach agreement on these items, an agreement should be presented to the Commission for Commission review and approval. The Commission should also direct that if the parties cannot reach agreement on the above items, then these matters of disagreement should be presented to the Commission for Commission determination, in addition to any areas of agreement being presented to the Commission for Commission review and approval. The Commission may also want to schedule an on the record conference.

Respectfully submitted,

**/s/ Steven Dottheim**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 20th day of March 2006.

**/s/ Steven Dottheim**