BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Tariff Revisions filed by	)	
Aquila, Inc., d/b/a Aquila Networks-MPS and	)	**Case No. EO-2007-0395**
Aquila Networks-L&P Designed to Continue	)	Tariff No. JE-2007-0739
And Expand its Fixed Bill Pilot Program.	)	

REPORT AND ORDER

Issue Date: December 20, 2007

Effective Date: December 30, 2007

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Appearances

Paul A. Boudreau, Brydon, Swearengen & England, P.C., 312 East Capitol Avenue, P.O. Box 456, Jefferson City, Missouri 65102-0456, and

Renee Parsons, Senior Attorney, Aquila, Inc., 20 West 9th Street, Kansas City, Missouri 64105

For Aquila, Inc.

<u>Nathan Williams</u>, Deputy General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102

For the Staff of the Missouri Public Service Commission.

<u>Lewis R. Mills, Jr.,</u> Public Counsel, P. O. Box 2230, Jefferson City, Missouri 65102

For the Office of the Public Counsel and the Public.

<u>REGULATORY LAW JUDGE</u>: Morris L. Woodruff, Deputy Chief Regulatory Law Judge

REPORT AND ORDER

Syllabus: The Commission finds Aquila's proposed expansion and extension of its fixed bill pilot program would not give proper pricing signals to customers and would therefore encourage the wasteful use of electricity. This will result in unnecessary increases in Aquila's residential load, causing harm to Aquila's customers as well as to the public. As a result, the proposed program is not just and reasonable and on that basis, the Commission rejects Aquila's tariff that would implement the expansion and extension of its fixed bill pilot program.

FINDINGS OF FACT

The Missouri Public Service Commission, having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position, or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

Procedural History

On April 19, 2007, Aquila, Inc., d/b/a Aquila Networks-MPS and Aquila Networks-L&P filed a tariff that would modify and extend its existing fixed bill pilot program. Aquila's tariff was assigned tariff number JE-2007-0739. Along with its tariff, and motion asking the Commission to approve the tariff, Aquila filed the direct testimony of its employee, Dennis Odell. Aquila's tariff originally carried a July 1 effective date, but Aquila subsequently extended the effective date until September 1. On August 28, acting on motions filed by its Staff and the Office of the Public Counsel, the Commission suspended Aquila's tariffs until December 30, 2007.

The Commission established a procedural schedule that required the parties to prefile direct, rebuttal, and surrebuttal testimony. An evidentiary hearing was held on November 16. The parties filed post-hearing briefs on December 11.

Aquila's Fixed Bill Pilot Program

Aquila's proposed fixed bill pilot program would be a voluntary billing option to allow customers to receive a predetermined fixed monthly bill for electric service over the course of a one-year period. The fixed bill would not change during the year regardless of weather variations, usage by the customer, or changes in utility rates. Unlike other level payment plans, there would be no true-up adjustment at the end of the year.[1]

The amount of each customer's fixed bill would be based on that customer's historical, weather-normalized electric usage priced at current tariffed rates. Aquila would then add a program fee, not to exceed twelve percent, to the monthly rate. The program

[1] Odell Direct, Ex. 1, Page 2, Lines 5-10.

fee would compensate Aquila for shouldering the operational and financial risks of the program.[2]

Aquila acknowledges that the fixed bill program is not intended to save money for participating customers, and would not be marketed in that way. Rather the program would allow customers to knowingly choose to pay a little extra, on average, for the certainty of knowing they will pay the same electric bill each month for a year, without a true-up payment at the end of the year.[3]

The program fee Aquila would add to participating customer's bills would include two components. The first component would be a risk premium to cover the risk of departure from expected values such as weather and pricing changes. The risk premium would also cover Aquila's administrative costs to operate the program.[4] The second component is a quantity factor, also described as a kilowatt hour growth factor, that would account for any difference in actual electric consumption from predicted consumption. Aquila would include this component in recognition that a customer might consume more power while under the fixed billing alternative because they know their bill will not increase with increased usage.[5]

Aquila represents that the risk premium and the quantity factor would be set at an amount not to exceed six percent each, resulting in a total program fee not to exceed twelve percent.[6] However, Aquila acknowledges that the actual submitted tariff language would simply cap the total program fee at twelve percent without limiting either component

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[2] Odell Direct, Ex. 1, Page 5, Lines 11-16.

[3] Odell Direct, Ex. 1, Page 4, Lines 6-15.

[4] Odell Direct, Ex. 1, Page 5, Lines 19-22.

[5] Odell Direct, Ex. 1, Page 6, Lines 1-3.

[6] Transcript, Page 31, Lines 14-19.

to six percent.[7] Aquila represents that it is willing to modify the submitted tariff language to cap the separate components at six percent each if the Commission directs it to do so.[8]

Aquila's proposal extends and expands an existing pilot program, which the Commission approved for a two-year period in 2005.[9] Subsequently, the Commission extended that pilot program for a third year, expiring on May 31, 2008.[10] Participation in the existing pilot program is limited to residential customers in the City of St. Joseph, Missouri.[11]

The expanded pilot program that Aquila has proposed would extend eligibility to participate in the pilot program to all Missouri residential customers who are otherwise eligible to participate in the program.[12] The expanded pilot program would continue for an additional five years, during which the program would be evaluated annually.[13] The expanded pilot program would also increase the program fee from eight percent to twelve percent. Additionally, Aquila would add an early termination fee if a customer wanted to withdraw from the program during the year,[14] and would add a clause to remove participants from the program if they abuse the system by increasing their weather-adjusted usage by more than thirty percent.[15]

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[7] Transcript, Page 32, Lines 6-16.

[8] Transcript, Page 87, Lines 8-12.

[9] Busch Rebuttal, Ex. 3, Page 2, Lines 17-18.

[10] Busch Rebuttal, Ex. 3, Page 3, Lines 2-4.

[11] Busch Rebuttal, Ex. 3, Page 3, Lines 13-14.

[12] Odell Direct, Ex. 1, Page 3, Line 21.

[13] Odell Direct, Ex. 1, Page 5, Lines 3-7.

[14] Odell Direct, Ex. 1, Page 7, Lines 6-16.

[15] Odell Direct, Ex. 1, Page 7, Lines 18-22.

Aquila also proposes the expanded pilot program be accounted for "below-the-line". That would mean the financial risks associated with the expanded pilot program would be borne by Aquila's shareholders, not its ratepayers. If Aquila were to lose money on the pilot program it could not recover those loses from its ratepayers in a future rate case. However, if the expanded pilot program were accounted for "below-the-line", Aquila's shareholders would also be able to keep any profits resulting from the program.

The existing pilot program is accounted for "above-the-line" and has experienced costs that exceed revenues for the first two years of its existence.[16] However, Aquila anticipates the expanded pilot program will be profitable in future years.[17]

The existing pilot program has been moderately popular with customers in St. Joseph. Aquila offered the program to 16,000 customers the first year and 541, or 3.38 percent accepted. Aquila offered to renew 507 customers for a second year in the program and 475 customers accepted.[18] In the second year of the pilot program, Aquila sent out new offers to 15,500 customers. Of those customers, 652 chose to participate, for an acceptance rate of 4.2 percent.[19]

Objections by Staff and Public Counsel

Staff and Public Counsel oppose Aquila's proposed extension and expansion of its fixed bill pilot program. Both object to various aspects of Aquila's expanded program, including the increased program fees and Aquila's proposal that the expanded program be accounted for "below-the-line". However, Public Counsel particularly objects to the

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[16] Transcript, Page 24, Lines 1-5.

[17] Transcript, Page 30, Lines 1-6. *See also*, Ex. 5 and Ex. 6.

[18] Busch Rebuttal, Ex. 3, Page 4, Lines 5-14.

[19] Busch Rebuttal, Ex. 3, Page 4, Lines 20-21.

load-building effects that will result from the program. The Commission shares Public Counsel's concern, and on that basis will reject Aquila's proposal. Since the Commission is rejecting the tariff, it does not need to address the other arguments offered by Staff and Public Counsel.

Load-Building Effects of Aquila's Fixed Bill Pilot Program

Aquila concedes that its expanded fixed bill pilot program will result in increased electric usage by participating customers. That potential for increased customer usage is the reason Aquila included a six percent kilowatt hour growth factor in its proposal.[20] Aquila acknowledges the load for participating customer's could increase by six percent each year,[21] but attempts to minimize the impact of that increase by pointing out that such an increase of usage would result in only a .18 percent increase in its overall system usage.[22]

However, if the increased usage resulting from participation in the pilot program were measured against just overall residential usage, it would result in an increase of .386 percent for residential usage in the first year.[23] This is still not a large amount, but that increase would offset over 70 percent of the load decrease Aquila expects to obtain from the Residential Lighting Program the Commission approved in September 2007.[24] The load increases for the residential class that would result from the expanded pilot program

[20] Transcript, Pages 32-33, Lines 17-25, 1-2.

[21] Transcript, Page 34, Lines 8-10. *See also,* Kind Direct, Ex. 4, Attachment 3.

[22] Transcript, Page 61, Lines 9-19.

[23] Kind Rebuttal, Ex. 4, Page 8, Lines 16-20.

[24] Kind Rebuttal, Ex. 4, Pages 6-7, Lines 17-25, 1-13.

are particularly a problem for Aquila because its residential load is increasing rapidly and it is already short of the capacity needed to meet that increasing load.

According to the load growth projections in Aquila's most recent Integrated Resource Plan, Aquila's load is expected to grow at an average rate of 2.5 percent over the next 20 years.[25] The increased load resulting from the expanded pilot program would increase the load growth rate for the residential class to 2.86 percent.[26] Aquila is already short of the capacity needed to meet that growing demand for power.[27] For that reason, every increment of additional load growth requires Aquila to obtain additional capacity at additional cost.

The amount of increase in Aquila's load that would result from implementation of the proposed pilot program is not insignificant, but it is not large when compared to the company's overall load. The existing pilot program has shown that some customers are interested enough in the certainty of cost they can obtain by locking in a fixed bill to be willing to pay a premium to receive that service. Based solely on those considerations, the Commission might approve some sort of fixed bill program, although not necessarily Aquila's specific proposal, simply to satisfy the desires of those customers. However, the Commission must also consider the broader public policy implications of Aquila's fixed bill pilot program.

National public policy regarding energy efficiency requires Aquila and its customers to at least attempt to reduce the growth in use of electric power. Aquila's proposed fixed bill

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[25] Kind Rebuttal, Ex. 4, Page 8, Lines 22-24.

[26] Kind Rebuttal, Ex. 4, Page 8, Lines 24-26.

[27] Kind Rebuttal, Ex. 4, Page 8, Lines 3-9. *See also* Kind Rebuttal, Attachment 4.

pilot program would instead have the perverse effect of encouraging residential customers to use electricity without regard to the price signal otherwise associated with increased usage. Aquila argues that the price signal to encourage conservation is still present in subsequent years when the price offer made to the customer will increase or decrease depending upon the amount of electricity used. However, Aquila, itself, must believe that such a price signal will not be fully effective since it has designed its program on the assumption that usage of electricity will increase by up to six percent each year under the program.

In its brief, Public Counsel aptly describes Aquila's proposed fixed bill pilot program as an "all you can eat" rate design. Just as a person looking to lose weight is well advised to avoid an "all you can eat" buffet, the public interest in reducing the growth in usage of electricity is best served by avoiding Aquila's "all you can eat" fixed bill pilot program.

CONCLUSIONS OF LAW

The Missouri Public Service Commission has reached the following conclusions of law:

1. Aquila, Inc., is an "Electrical Corporation" and "Public Utility", as those terms are defined at Subsections 386.020 (15) and (42), RSMo Supp. 2006. As such, it is subject to regulation by this Commission.

2. Section 393.130.1, RSMo Supp. 2006, requires that all charges made or demanded by an electrical corporation be just and reasonable.

DECISION

Based on the facts as it has found them, and its conclusions of law, the Commission finds that Aquila's proposed expansion and extension of its fixed bill pilot program would not give proper pricing signals to customers and would therefore encourage the wasteful use of electricity. This may result in unnecessary increases in Aquila's residential load, causing harm to Aquila's customers as well as to the public. As a result, the proposed program is not just and reasonable and on that basis, the Commission will reject Aquila's tariff that would implement the expansion and extension of its fixed bill pilot program.

IT IS ORDERED THAT:

1. The proposed tariff sheets (JE-2007-0739) submitted on April 19, 2007, by Aquila, Inc., are rejected.

2. This Report and Order shall become effective on December 30, 2007.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Murray, Clayton, Appling, and
Jarrett, CC., concur;
Davis, Chm., dissents, with
separate dissenting opinion to follow;
and certify compliance with the provisions
of Section 536.080, RSMo.

Dated at Jefferson City, Missouri,
on this 20th day of December, 2007.