

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 20th day  
of March, 2008.

In the Matter of the Application of Aquila, Inc., for the	)	
Issuance of an Accounting Authority Order Relating to	)	<b><u>Case No. EU-2008-0233</u></b>
its Electrical Operations	)	

**ORDER GRANTING ACCOUNTING AUTHORITY ORDER**

Issue Date March 20, 2008

Effective Date: March 20, 2008

**The Application**

Aquila, Inc. filed an application for an Accounting Authority Order to defer certain expenses associated with the winter storms of December 2007, and to amortize those costs for five years beginning in January 2008. In its application, Aquila states that severe storms in December of 2007 caused significant damage to the company's transmission and distribution facilities in both the MPS and L&P operating divisions. The company adds that power was lost to 10% of the customers in the MPS division and to more than 90% in the L&P division. The cost incurred included a supplemental work force of 950 full-time employees, overtime payment to the company's own workforce and replacement of outside plant. Aquila states that the cost of the storm is not yet available but estimates that it will exceed \$13.5 million.

Aquila states that although the company may request authority to recover all or part of the storm-related regulatory assets through its next general rate case, it will not ask for rate-base treatment of the unamortized balance. Further, the company assures the

Commission that even if the company does not get relief during its next rate case, the requested AAO treatment will have no impact on customer rates.

### **Staff Recommendation**

The Staff of the Commission filed its memorandum recommending that the Commission grant the requested relief with regard to Aquila – L&P but not MPS. Staff explains that the impact on MPS was immaterial; less than \$250,000 after-tax impact on the MPS division's net income. In its discussion of L&P, however, Staff states that the impact was material; at least \$4.2 million after-tax impact on the L&P division's net income. Additionally, Staff states that the event causing the loss is extraordinary. Staff does reason that with the number of recent ice storms and resultant AAOs, the event may not be considered extraordinary. Staff, however, concludes that the type of ice storm that hit Aquila's L&P service area was an extraordinary event due to the resulting impact on net income.

With its recommendation to approve AAO treatment of the cost caused by the December 2007 storms associated with Aquila's L&P service area, Staff suggests that the Commission impose the following conditions:

1. Aquila should be authorized to defer actual incremental operation and maintenance expenses incurred for its L&P division as a direct result of the December 2007 ice storm to Account 182.3. Such expense shall be in accordance with USOA definitions of operation and maintenance expense and shall exclude any expenditures relating to plant-in-service (i.e. capital costs). The capital costs, and any resultant retirements, would be treated like other plant investment and booked to plant-in-service and accumulated depreciation accounts.
2. Any insurance claim proceeds or subrogation proceeds applicable to incremental storm-related operation and maintenance expenses must first be used to offset the total amount of expenses deferred under this AAO, thus reducing amounts deferred.

3. Any gain experienced by Aquila for its L&P division that can be considered extraordinary as defined by the USOA should first be used to reduce the amount of this ice storm regulatory asset as long as the asset is recorded on Aquila's book and records.
4. Aquila must begin ratably amortizing the ice storm regulatory assets over a five-year (60 month) period beginning in January 2008, as Aquila's application has requested.
5. Aquila shall maintain adequate records supporting the incremental expenses deferred. Such records shall include, but not be limited to, listing of outside contractors, agreements with third parties for goods and services, controls in place to ensure all expenditures were reasonable, invoices detailing food, lodging, and labor costs, labor and material costs, procedures and verification for expenses versus capitalization determination, and determination of incremental levels of such costs versus normal ongoing levels of costs.
6. The Commission does not make any findings or inferences as to whether the deferred expenses are prudent and reasonable, whether other factors contributed to the damage to the system and the resulting repair/replacement costs incurred, or whether Aquila would have suffered financial harm (i.e., earnings during the period were inadequate to compensate Aquila for the costs incurred) absent deferral.
7. The Commission reserves the right to determine the appropriate ratemaking treatment of the deferred costs in a future rate proceeding, including whether or not the deferral should be offset by any gains recognized by Aquila since the beginning of the deferral period.

### **Aquila's Response**

Although Aquila initially requested AAO relief with regard to damage in its MPS service territory, the company agrees with Staff's conclusions and with Staff recommended conditions.

### **Conclusion**

The Commission notes that the Office of the Public Counsel has not filed an objection to Aquila's requests or a response to Staff's recommendation and suggested conditions. Aquila and Staff both agree on the accounting treatment of the cost related to the December 2007 storms and the conditions suggested by Staff.

Upon review of Aquila's application and Staff's memorandum, the Commission ~~finds~~ **concludes** that the December 2007 storms and the resulting costs to Aquila's L&P service area were unusual in nature and an infrequent occurrence as required by the Uniform System of Accounts.

The Commission has also established a test to determine when an AAO should be granted. In a 1991 decision, referred to as the Sibley case,<sup>1</sup> the Commission stated that it would consider the appropriateness of granting an AAO on a case by case basis. In doing so, it would approve an AAO for events that it found to be "extraordinary, unusual and unique, and not recurring."<sup>2</sup> The Commission's decision in the Sibley case was subsequently affirmed by the Missouri Court of Appeals.<sup>3</sup>

The classic example of an event that would be extraordinary, unusual and unique, and not recurring would be a fire, or flood, or ice storm that causes a large amount of damage to the utility's property. In those circumstances, it is generally agreed that the company should be permitted to defer the costs related to that extraordinary event through an AAO.<sup>4</sup>

The Commission concludes that the damage to Aquila's property in the L&P service area as a result of the December 2007 storms squarely fits the "Sibley" standard. An ice storm is unusual, unique and not recurring. In the L&P service area, it was also extraordinary due to the cost of \$4.5 million that Aquila must bear in light of the storm

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<sup>1</sup> *In the Matter of the Application of Missouri Public Service for the Issuance of an Accounting Order Relating to its Electrical Operations. In the Matter of the Application of Missouri Public Service for the Issuance of an Accounting Order Relating to its Purchase Power Commitments.* 1 MPSC 3d 200 (1991).

<sup>2</sup> *Id.* at 205.

<sup>3</sup> *State ex rel. Public Counsel v. Public Service Commission*, 858 S.W.2d 806 (Mo. App. W.D. 1993).

<sup>4</sup> For example see: *In the Matter of Aquila Inc.'s Application for the Issuance of an Accounting Authority Order Relating to its Electrical Operations in the Aquila Networks – MPS Division as a Result of a Severe Ice Storm. Order Granting Accounting Authority Order*, Case No. EU-2002-1053 (June 27, 2002).

damage. However, the cost of \$250,000 associated with the damage in Aquila's MPS service area is not extraordinary. The Commission will therefore grant Aquila's request with regard to its L&P service area but will not grant Aquila's request with regard to the MPS service area.

**IT IS ORDERED THAT:**

1. The application for an accounting authority order, with regard to Aquila, Inc.'s L&P service territory, is granted and Aquila is authorized to defer and record in the Uniform System of Accounts, account 182.3, the cost of the December 2007 storms subject to the condition suggested by Staff and set out in this order.
2. The application for accounting authority order, with regard to Aquila, Inc.'s MPS service territory, is denied.
3. This order shall become effective on March 20, 2008.
4. This case may be closed on March 21, 2008.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Clayton,  
Appling, and Jarrett, CC., concur.

Jones, Senior Regulatory Law Judge