

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

In the Matter of the Application of)
Kansas City Power & Light Company)
for Authority to sell to Aquila, Inc.,)
Certain Transmission Facilities Subject)
to the Jurisdiction of the Commission)
and Located in Buchanan County,)
Missouri.)

Case No. EO-2005-0270

STAFF'S REPLY TO AQUILA'S MAY 20, 2005 RESPONSE

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission") and respectfully states as follows:

1. On February 9, 2005, Kansas City Power & Light Company ("KCPL") filed with the Commission an Application for authority to sell to Aquila, Inc. ("Aquila") approximately one mile of 161 kV transmission facilities, commonly known as the Lake Road-Nashua Line. This section of the transmission line is located in Aquila's service territory in Buchanan County, Missouri.

2. On March 28, 2005, the Commission issued an Order granting Aquila's February 25, 2005 Application To Intervene.

3. On May 10, 2005, the Staff filed its Recommendation. The Staff recommended that KCPL's Application be approved as not detrimental to the public interest, subject to the condition that Aquila be prohibited from recovering in rates any acquisition premium¹ incurred as a result of the transaction. The Staff noted that, in Case No. EM-2000-292, the Commission ultimately denied Aquila (formerly UtiliCorp United Inc.) the right to recover the acquisition premium associated with its merger with St. Joseph Light & Power Company. This occurred one

¹ The amount by which the cost to acquire the asset exceeds its original cost less depreciation

day after Aquila filed a pleading stating that it would not seek such authority. The Staff went on to state in paragraph 4 of its May 10, 2005 Recommendation: “At a minimum, the Commission should reserve its right to decide the issue at some future time.”

4. On May 20, 2005, Aquila filed its Response To Staff Recommendation. Aquila objects to the Staff’s recommendation that, as a condition of the Commission’s approval of the proposed transaction, Aquila be prohibited from seeking recovery of any associated acquisition premium. Citing the Staff’s language quoted at the end of the preceding paragraph herein, Aquila argues that it is appropriate to decide the issue at some future time because the circumstances associated with the transaction are “unique.” According to Aquila, the primary available alternative to the proposed transaction would involve the construction of its own 161 kV line along with a line terminal at its Lake Road substation, at a total cost of at least \$2,850,000. Another option might be for Aquila to purchase the transmission from KCPL at an estimated cost of \$158,400 per year. In light of the costs associated with these alternatives, Aquila believes that the proposed transaction would be in the best interest of its customers *regardless* of whether Aquila is ultimately granted rate recovery of the \$200,000 acquisition cost.

5. Irrespective of whether Aquila is permitted to recover any acquisition premium, Aquila is benefiting from not having to build the needed transmission line. By entering into the proposed transaction, the Company would avoid all of the potential problems associated with construction, not the least of which are the inevitable concerns associated with acquiring the necessary rights-of-way. Perhaps an even greater benefit for Aquila is the fact that it would not be required to raise or otherwise divert the needed capital in order to fund a construction project with an estimated cost of almost \$3 million. With respect to the other mentioned alternative of

purchasing the transmission service from KCPL, it is difficult to imagine that Aquila would want to saddle itself or its customers with annual payments amounting to more than 75% of the one-time purchase cost of the existing transmission line. At this point, it seems quite likely that the Staff would recommend disallowance of any cost, other than purchase of the one-mile section from KCPL on the basis that any other course of action would result from an imprudent business decision.

6. As indicated in its Recommendation, the Staff sees no reason why the Commission should deviate in this instance from the Commission's long-standing policy of not permitting recovery of any premium associated with the acquisition of utility property. Nonetheless, as suggested in its Recommendation, the Staff has no objection to the Company's request that, in the course of approving the transaction proposed in this proceeding, the Commission defer for a future rate case the issue of Aquila's recovery of the associated acquisition premium. Should the Commission decide to grant Aquila's request, the Commission should make clear that it makes no finding concerning the eventual ratemaking treatment of the proposed transaction. Furthermore, in such event, the Staff sees no reason for a prehearing conference, as Aquila requests.

7. In paragraph 9 of Aquila's May 20, 2005 Response, Aquila states that it "asks only that it be permitted to have the opportunity to present this issue for Commission consideration in a future rate case." However, Aquila then states: "Aquila asks that the Commission find that even if the Commission ultimately determines that rate base should be set at the purchase price, the probable increase in rates would not be detrimental to the ratepayers under the described circumstances as the solution proposed by Aquila is the most reasonable."

The Staff considers such a finding to be both controversial and unnecessary in this case, and therefore opposes its inclusion in a Commission Order of approval.

WHEREFORE, the Staff respectfully submits its Reply To Aquila's May 20, 2005 Response.

Respectfully submitted,

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/s/ Dennis L. Frey

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 31st day of May 2005.

/s/ Dennis L. Frey