SCHEDULE WEB-3

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners:	Brian J. Moline, Chair Robert E. Krehbiel Michael C. Moffet

In the Matter of the Application of Aquila, Inc., d/b/a Aquila Networks-WPK, for Approval of an Accounting Order to Permit Aquila, Inc., d/b/a Aquila Networks-WPK, to Recover Amounts Necessary to Expend in Order to Establish and Maintain a Natural Gas Hedge Program for Electric Generation for the 2006 Summer Season; and for Approval of its "Gas Hedge Program for Electric Generation".	)	Docket No. 06-AQLE-494-HED

ORDER GRANTING JOINT MOTION AND APPROVING STIPULATION AND AGREEMENT

NOW, the above-captioned matter comes before The State Corporation Commission of the State of Kansas (Commission) on the Joint Motion for an Order Approving Stipulation and Agreement filed by Aquila, Inc., d/b/a Aquila Networks-WPK ("Aquila" or "Company"), the Commission Staff (Staff) and Citizens' Utility Ratepayer Board (CURB). Having examined its files and records and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On November 3, 2005, Aquila filed its Application seeking an Order from the Commission approving its request for an accounting order to permit Aquila to recover such amounts of its funds as may be necessary to expend in order to establish and maintain a gas ceiling price for fuel for its electric generation for the 2006 summer season, defined as June 1 through September 30, under the Gas Hedge Program for Electric Generation and for approval of its "Gas Hedge Program for Electric

Generation" tariff. In support of its Application, Aquila filed its proposed tariff and the direct testimony of Mr. Gary L. Gottsch, its Gas Supply Representative in Aquila's Energy Resources division.

2. On November 8, 2005, Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene seeking a Commission order granting CURB leave to intervene as a party in this matter. On November 14, 2005, the Commission issued its Order granting CURB's intervention.

3. On November 14, 2005, the Commission entered an Order suspending operation of the changes proposed in Aquila's Application for a period of two hundred forty (240) days from the date of filing the Application, November 3, 2005, until July 1, 2006.

4. On December 22, 2005, Aquila, Staff and CURB (collectively, "Joint Movants") filed their Joint Motion for an Order Approving Stipulation and Agreement (Joint Motion), including as Attachment A thereto the Stipulation and Agreement entered into by Joint Movants on December 22, 2005 (Stipulation and Agreement).

5. On December 22, 2005, Staff filed its Memorandum dated December 22, 2005 prepared by Dr. John Cita, Chief of Economic Policy and Planning, supporting approval of the Stipulation and Agreement.

II. DISCUSSION

6. Aquila believes it important that some type of price protection be afforded its residential and commercial customers by establishing a ceiling price to be paid on a percentage of its projected summer natural gas for generation volumes as well as fixing another percentage for the 2006 summer season. In order to establish a ceiling

price on a percentage of the projected summer natural gas for generation volumes to be purchased for the 2006 summer season, Aquila estimates that it will need to spend approximately $600,000. Aquila is willing to invest such funds, as needed, to establish a ceiling price on the percentage of gas purchases for which the ceiling price is being established so long as the Commission authorizes recovery of the funds expended. Aquila seeks authorization to recover the funds expended through a separate average charge per customer, expressed as a per kilowatt-hour charge, and stated separately on customer bills. Application at p. 2. Aquila's Application requests the Commission issue an accounting order authorizing the Company to: 1) record those monies expended by Aquila in establishing a gas ceiling price for one-third of the 2006 budgeted summer season natural gas generation budget in an account to accrue interest at the Commission approved interest rate for customer deposits; 2) recover the program costs from all of its residential and commercial customers on a per customer basis, expressed as a separate per kilowatt-hour charge, from the date the program is approved through May 31, 2006; 3) reconcile the expenditures to the recoveries reflecting any over or under recovery through the ECA process; and 4) make such report or reports deemed necessary by the Commission regarding such account. Any resulting cost or benefit resulting from the settlement of the call options or futures swaps shall be credited or recovered, respectively, through Aquila's monthly ECA filings during the months of July 1, 2006 through October 31, 2006. Application at pp. 2 and 3. Aquila states that its proposed risk management strategy for the 2006 summer program is the purchase of straight call options for one-third of the budgeted volumes of gas requirements for generation, fixing the price on another one-third of the position with NYMEX futures which will be converted to swaps, leaving one-third of budgeted volumes to float in the market. Purchases will occur between December 2005 and May 2006, with the exception of the purchases for the June budgeted usage which will be condensed into December 2005 through April 2006 due to financial expiration of June positions in May. For the 2006 summer program, Aquila plans to concentrate on managing the price risk for the period between June and September. Aquila will attempt placement of positions on the 15^{th} of each month, December 2005 through May 2006. Gottsch Pre-filed Direct at pp. 2 and 3.

7. According to Staff, Aquila's Application is important because it is the first of what could be many applications by jurisdictional electrical utilities seeking to implement a gas hedge program. Staff Memorandum at p. 1. Staff concludes that although hedging does not provide ratepayers with a lower price on average, it does serve to protect ratepayers from price volatility. Evidence gathered from focus groups in the past suggests that residential customers of jurisdictional gas utilities are willing to pay extra in order to face less risk. Staff suggests that the retail electric customers of Aquila would not be significantly different in their views on seeking protection from price volatility. Staff Memorandum at pp. 1 and 2. Therefore, Staff concludes that Aquila's electric customers would be willing and able to pay extra in order to achieve lower price volatility. Achieving more stable monthly ECA prices, at a small additional cost, is the motivation for Aquila's Gas Hedge Program Application. Staff Memorandum at p. 2.

8. The Stipulation and Agreement presented by Joint Movants for the Commission's consideration and approval, together with Staff's verified Memorandum, reflects Staff's investigation of the Company's Application, as well as extensive negotiations between the parties in this matter. Joint Movants constitute all of the parties

in this docket and all are signatories to the Stipulation and Agreement. Staff's Memorandum prepared by Dr. Cita supports approval of the Stipulation and Agreement. Joint Movants stipulate and agree that the Gas Hedge Program for Electric Generation as requested and filed by Aquila in its Application should be modified and conditioned as follows:

A. The budget for Aquila's Gas Hedge Program for Electric Generation shall not exceed $600,000 for the 2006 summer season defined as June 1, 2006, through September 30, 2006. All Hedge Program costs incurred by Aquila, such as transaction costs, interest on margin accounts and the direct costs of financial derivatives are to be covered by the approved budget. The rate of interest on margin accounts will be the prime rate as published in the *Wall Street Journal*. An interest charge will be assessed on the initial margin amount, starting from when the account is first established through the expiration of the swap or futures contract, as the case may be. Aquila may file a Motion to adjust the approved budget depending on market conditions.

B. All payoffs, positive or negative, associated with the settlement of financial derivatives shall be passed through to Aquila's ECA clause and applied only to its residential and commercial customers in accordance with the clause's provisions.

C. Consistent with the basic design of Hedge Programs implemented by the Commission's jurisdictional natural gas LDCs, Aquila's preferred hedge strategy is the placement of a price cap. Aquila has met with and consulted Staff and CURB regarding details and implementation of its preferred, or planned, Hedge Program design. The program design details or parameters that have been presented and resolved include the following:

1. quantity or volume of gas to hedge;
2. summer months to be hedged;
3. price cap (and possibly floor) level;
4. hedge instruments to be used to set the cap;
5. timing of hedge placement.

For its selection of the actual, planned parametric values, Aquila has provided reasonable discussion and analysis and, thus, adequate support.

D. As the Hedge Program is actually implemented, Aquila shall have full discretion over selection of the final Gas Hedge Program for Electric Generation parameters. Aquila shall also meet with Staff and CURB throughout the implementation period, as needed, for the purpose of discussing significant changes from the planned hedge program.

E. Aquila shall recover the program costs for the Gas Hedge Program for Electric Generation from its ECA residential and commercial customers during the months of January 2006 through May 2006 on a volumetric basis. The charge for residential customers will be $0.00178/kwh and for commercial customers $0.00140/kwh. Aquila shall maintain a monthly balance for amounts spent on hedge costs compared to amounts recovered from customers through the hedge charge. To the extent the net monthly balance shows that Aquila's expenditures on hedges exceed the amounts recovered from customers, Aquila shall accrue interest on the excess amount during the following month at the prime rate as published in the *Wall Street Journal*. To the extent the monthly balance shows that Aquila's expenditures on hedges are less than the amounts recovered from customers through the hedge charge, Aquila shall accrue interest on the shortfall during the following month at the Commission's approved rate for customer deposits. Aquila shall recover or pay interest pursuant to the methodology above through a charge to or credit to the approved budget. The interest charges set forth in this paragraph E are separate from the interest on margin accounts described in paragraph A, which are treated separately. Aquila shall show the amounts collected from customers through the hedge charge as a separate line item on the customer's bill during the months of January 2006 through May 2006.

F. Aquila shall submit monthly hedge reports to Staff and CURB throughout the program year. Reports during the implementation months (January through May) shall detail actual implementation of the program while reports during the summer months (June through September) will detail actual program performance. Monthly reports will be submitted electronically and during the first week of each month. The implementation reports will describe all activity during the prior calendar month while the performance reports will summarize performance for the instant calendar month. At the end of the 2006 program year, Aquila shall also submit a report on the cumulative, historical performance of its hedge program efforts.

G. Aquila shall retain all information and records necessary to verify derivative transactions performed either by Aquila or on its behalf so that Staff or CURB may perform an audit of those transactions.

H. The parties agree that the Gas Hedge Program for Electric Generation shall be for the summer of 2006. To the extent that the Company, Staff or CURB believe that modifications to the approved program are necessary, such as a change in the budget, it shall file a Motion in this Docket requesting such changes as it deems necessary. In the event the Company desires to continue the Hedge Program for the summer of 2007, it shall file an appropriate application making the request no later than July 15, 2006.

9. Aquila must file its Gas Hedge Program for Electric Generation tariff with the Commission for approval within thirty (30) days of the date of the Order approving the Stipulation and Agreement. Stipulation and Agreement at paragraph 6.

10. The Stipulation and Agreement expresses the parties' agreement with regard to certain modifications and conditions applied to the Gas Hedge Program for Electric Generation as requested in Aquila's Application. According to Staff, the Hedge Program described through the proposed Stipulation and Agreement is nearly identical to any of the hedge programs approved by the Commission in the past achieving reduced volatility of monthly gas bills at a very low cost. All parties support the Company's implementation of a Gas Hedge Program for Electric Generation, as modified and conditioned by the Stipulation and Agreement, and take the position that the Stipulation and Agreement is reasonable and could be found by the Commission to be in the public interest.

III. FINDINGS AND CONCLUSIONS

11. Aquila provides retail electric service to nearly 70,000 customers in the State of Kansas. Aquila is a certificated electric public utility subject to regulatory jurisdiction of the Commission. The Application, as modified and conditioned by the Stipulation and Agreement, affects the cost of electricity as allowed under the monthly ECA; therefore, the Commission, pursuant to K.S.A. 66-101, *et seq.*, K.S.A. 66-104, K.S.A. 66-117, and K.S.A. 66-131 has jurisdiction over Aquila and the subject matter herein.

12. Settlements are favored in the law, *Bright v. LSI Corporation*, 254 Kan. 853, 86 P.2d 686 (1994). However, the Commission must make an independent judgment concerning whether the settlement is in the public interest and should be approved. In making this assessment, the Commission takes into consideration the immediate and future effects on consumers.

13. The Gas Hedge Program for Electric Generation proposed in the Application, as modified and conditioned by the Stipulation and Agreement, is likely to reduce the risk of price volatility for Aquila's residential and commercial electric customers. Implementing Aquila's Gas Hedge Program for Electric Generation will afford the Company's customers a measure of protection against such price volatility during the forthcoming summer season. The Commission concludes that the Gas Hedge Program for Electric Generation is a reasonable means of providing each customer an absolute increase in the level of price protection.

14. The Stipulation and Agreement provides that Aquila's activities will be effectively monitored by Staff through monthly reporting and consultation. The reporting

requirements of the Stipulation and Agreement will facilitate Staff keeping the Commission apprised of all program developments, particularly in the event that immediate corrective action is needed.

15. For the foregoing reasons, the Commission finds that the Stipulation and Agreement is reasonable, in the public interest, and should be approved.

IT IS THEREFORE, BY THE COMMISSION ORDERED:

(A) The parties' Joint Motion is hereby granted and the Stipulation and Agreement is hereby approved and incorporated in this Order by reference.

(B) Aquila's Application, as modified and conditioned by the Stipulation and Agreement, is hereby approved.

(C) Aquila shall file its Gas Hedge Program for Electric Generation tariff referenced in paragraph 9 above with the Commission for approval within thirty (30) days from the date of this Order.

(D) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary and proper.

(E) A party may file a petition for reconsideration of this Order within fifteen (15) days from the date of service of this Order. If service is by mail, service is complete upon mailing, and three (3) days shall be added to the above time frame.

BY THE COMMISSION IT IS SO ORDERED.

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: DEC 2 7 2005

ORDER MAILED

DEC 2 7 2005

Susan K. Duffy Executive Director

Susan K. Duffy
Executive Director

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