

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

In the Matter of the Tariff Filing of Aquila, Inc., to )  
Implement a General Rate Increase for Retail )  
Electric Service Provided to Customers in its )  
Aquila Networks—MPS and Aquila Networks— )  
L&P Missouri Service Areas. )

**Case No. ER-2007-0004**  
Tariff No. YE-2007-0001

**RESPONSE TO STAFF'S RECOMMENDATION TO APPROVE  
CERTAIN TARIFF SHEETS**

COMES NOW the Office of the Public Counsel and for its Response to Staff's Recommendation to Approve Certain Tariff Sheets<sup>1</sup> states as follows:

1. On May 17, 2007<sup>2</sup> the Commission issued its Report and Order, in which it, *inter alia*, rejected the tariff sheets requesting a general rate increase filed by Aquila, Inc. to initiate this case. The Commission also ordered Aquila to file – before midnight on May 20 – new tariff sheets that would produce a very substantial increase, albeit somewhat less than Aquila originally requested.

2. On May 18, Aquila filed new tariff sheets that bear an effective date of May 31. On May 21, Aquila filed new tariff sheets that bear an effective date of June 20. The May 21 tariff sheets necessarily supersede and replace the May 18 tariffs. On May 23 at 4:31 P.M., Aquila filed a third set of tariffs intended to comply with the

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<sup>1</sup> The full caption of Staff's pleading is "STAFF'S RECOMMENDATION TO APPROVE CERTAIN TARIFF SHEETS FILED BY AQUILA TO COMPLY WITH THE COMMISSION'S APRIL 12, 2007 ORDER APPROVING STIPULATION AND AGREEMENT AS TO CERTAIN ISSUES AND THE COMMISSION'S MAY 17, 2007 REPORT AND ORDER"

<sup>2</sup> Unless otherwise noted, all dates refer to calendar year 2007.

Commission's Report and Order. Neither the second nor the third tariff filings comply with the Commission's order which required filing by midnight on May 20.

3. On May 23 at 5:41 P.M. the Staff filed a recommendation to approve a portion of the third set of tariffs. Staff's recommendation was filed barely an hour after the tariffs were filed.

4. Staff's recommendation states that, with respect to only a portion of the tariff filing, "Aquila is **substantially** in compliance with the Commission's Report and Order." [Emphasis added.] Because of the headlong pace at which the Commission is intent on approving some tariffs – any tariffs – the parties apparently will not have an opportunity to inquire as to what that qualifier means. However, it certainly seems to imply that the tariffs do not completely and totally comply with the Report and Order.

5. Staff's recommendation finds that only a portion of the tariff filing complies with the Report and Order, and Staff recommends that the Commission pick and choose which pages out of the filing to approve and reject. The Commission has always taken the position that it cannot, or at least should not, approve part and reject part of a tariff. The Commission has always treated a tariff filing as an indivisible whole, and it has always approved, suspended or rejected the entire filing. If a tariff filing includes increases in certain charges on one page and decreases in other charges on another, can the Commission decide to approve only one or the other? If the Commission can approve only certain pages, can it approve only certain lines or certain paragraphs? In its rush to approve Aquila's tariff sheets in this case, it seems unlikely the Commission has considered the ramifications of this significant change in policy and procedure.

WHEREFORE, Public Counsel respectfully requests that the Commission reject

Staff's recommendation to approve a portion of Aquila's May 23 tariff filing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all parties this 24<sup>th</sup> day of May 2007.

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By:\_\_\_\_\_