

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

In the Matter of Aquila, Inc., d/b/a Aquila Networks - L&P and Aquila Networks - MPS to Implement a General Rate Increase in Electricity))))	Case No. ER-2004-0034
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In the Matter of the Request of Aquila, Inc. d/b/a Aquila Networks - L&P, to Implement a General Rate Increase in Steam Rates)))	Case No. HR-2004-0024
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RESPONSE OF AQUILA, INC. TO COMMISSION QUESTIONS

Comes now Aquila, Inc. ("Aquila"), by counsel, and for its responses to the Questions asked by the Missouri Public Service Commission ("Commission") in the captioned matter respectfully states as follows:

1. **"Can" and "Should" the Commission consider the MPS portion of this case in light of the tariffs being filed together with the L&P portion?**

Company Response: The Preliminary Order in Prohibition does not prohibit the processing of the MPS portion of this case. Separate and distinct tariff sheets consisting of revised rate schedules for the MPS electric operating division were filed on July 3, 2003. Separate and distinct tariff sheets consisting of revised rate schedules for the L&P electric operations and separate and distinct tariff sheets consisting of revised rate schedules for the L&P steam operations were filed this same date. In addition, separate revenue requirement calculations were filed for each. While the tariffs were all filed at the same time, they were not "filed together." The Commission can and should proceed with the MPS portion of this case.

2. What issues do not involve the former St. Joseph Light & Power Company properties?

Company Response: The reconciliation in this case for the MPS Electric Division is attached as Appendix 1. All of the issues listed on the reconciliation involve the operations of the MPS electric operations and would be litigated absent the L&P filings, with the exception of item 24 involving merger savings which Aquila has agreed to eliminate as an issue in any event. There are separate reconciliations with separate issues for the L&P electric and L&P steam filings. The reconciliation for the L&P electric operations is attached as Appendix 2 and the reconciliation for the L&P steam operations is attached as Appendix 3.

3. What will happen on the operation of law date in this case if the Commission does nothing else?

Company Response: On the operation of law date, all of the tariff sheets which were filed on July 3, 2003, will become effective as a matter of law. Thereafter, should the Commission issue its decision in connection with this case, presumably new revised tariffs would be filed in accordance with that decision, which tariffs would take effect on a prospective basis.

4. There is a preliminary writ in effect, with a 3/17 due date for responses. With regard to the operation of law date - what impact does this have? What procedures should take place in this case in light of the hearings on the Preliminary Writ of Prohibition?

Company Response: The Preliminary Order of Prohibition has no impact on the operation of law date in the captioned cases. The Preliminary Order of Prohibition does not prevent the Commission from processing the MPS filing. The issues set out in the MPS electric reconciliation, attached as Appendix 1, with the exception of item 24, can be

processed by the Commission and the Commission should proceed with the MPS portion of the case.

5. What happens when the Commission issues an order in the acquisition case - (Case No. EM-2000-292) addressing the issues remanded to it by the Missouri Supreme Court?

Company Response: The order will become operative on its effective date. The order would be subject to applications for rehearing and subsequent appeals by proper parties. The order would have no impact on the captioned cases.

6. Can the parties try the issues now presented in the context of the MPS filing alone, and does that bar or bind the parties in a subsequent L&P case?

Company Response: The parties are not prohibited by the Circuit Court's Preliminary Order in Prohibition from trying the issues now presented as a result of the MPS electric filing. A ruling by the Commission on the MPS electric issues would not bar or bind any non-party in a later proceeding involving those same issues in connection with the L&P electric or L&P steam filing.

7. Has the Circuit Court told the Commission what to do with the tariffs?

Company Response: No. The tariff sheets involving the MPS and L&P operating divisions were properly filed with the Commission. The Commission may suspend those tariff sheets for a period of time not to exceed ten months beyond the requested effective date, which the Commission has done. (See §393.140 and 393.150, RSMo) The Circuit Court's preliminary order does not speak to tariffs. It simply orders the Commission to refrain from processing or hearing the evidence in the L&P electric and L&P steam cases.

8. **The Company cannot change tariffs in mid-course. How does this factor into a joint tariff filing for MPS and SJLP? The Commission's concern is that the PSC's policy, as a matter of law is that it cannot 'split a tariff' and that it is 'all or nothing.'**

Company Response: The Company does not propose to change tariffs in mid-course. There has been no joint tariff filing for MPS and L&P. Separate electric tariff sheets were filed for the MPS division's electric operations and separate electric tariff sheets and separate industrial steam tariff sheets were filed for the L&P division's electric and industrial steam operations.


9. **Can the Commission reject the L&P tariffs and leave the MPS tariffs alone?**

Company Response: The Commission cannot at this time lawfully "reject" the L&P tariff sheets without violating Aquila's due process rights. The Commission has accepted the tariff sheets for filing, suspended them to the extent allowed by law and established a hearing which has commenced. After full hearing, the Commission may issue its order regarding the tariff sheets. (§393.150, RSMo).

10. **Practical Implications:** The questions concerning these rate proceedings do not address the more significant and overriding public policy issues which are present: that is, if Aquila is not to be considered the owner of the L&P properties for purposes of filing and processing rate matters, does this mean that Aquila has no rights, duties or obligations with respect to these properties? Should its employees continue to work? Should its call center remain open? Should it continue to collect revenue and pay bills? Should contracts be executed with respect to L&P that bind Aquila? Aquila is currently in the process of making consequential decisions respecting matters vital to the continued provision of safe and reliable electric utility service in the L&P service territory. Should Aquila proceed under the

assumption it owns the properties? If Aquila is not entitled to seek and obtain adequate rate relief in connection with its L&P service territory, should it be expected to continue to provide safe, reliable electric and industrial steam utility service in that service territory? These public policy issues of the utmost importance to the general health, safety and well-being to the citizens of this state and must be addressed immediately.

Respectfully submitted,


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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered, on this 26TH day of February, 2004, to all parties of record.

