Exhibit No.:	
Issue(s):	Fuel Adjustment Clause
Witness:	Trippensee/Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	ER-2007-0004

REBUTTAL TESTIMONY

OF

RUSSELL W. TRIPPENSEE

Submitted on Behalf of
The Office of the Public Counsel

AQUILA, INC.

Case No. ER-2007-0004

February 20, 2007

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Aquila, Inc. d/b/a Aquila Networks-MPS and Aquila Networks-L&P, for authority to file tariffs increasing electric rates for the service provided to customers in the Aquila Networks-MPS and Aquila Networks-L&P service area.	)))))))	**Case No. ER-2007-0004**

AFFIDAVIT OF RUSSELL W. TRIPPENSEE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Russell W. Trippensee, of lawful age and being first duly sworn, deposes and states:

1. My name is Russell W. Trippensee. I am the Chief Public Utility Accountant for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Russell W. Trippensee

Subscribed and sworn to me this 20th day of February, 2007.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036

Jerene Buckman
Notary Public

My commission expires August 10, 2009.

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REBUTTAL TESTIMONY

OF

RUSSELL W. TRIPPENSEE

Aquila, Inc.

CASE NO. ER-2007-0004

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. Russell W. Trippensee. I reside at 1020 Satinwood Court, Jefferson City, Missouri 65109, and my business address is P.O. Box 2230, Jefferson City, Missouri 65102.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am the Chief Utility Accountant for the Missouri Office of the Public Counsel (OPC or Public Counsel).

Q. ARE YOU THE SAME RUSSELL W. TRIPPENSEE WHO HAS FILED DIRECT TESTIMONY IN THIS CASE?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. I will address the implementation procedures contained in Aquila's proposal for a Fuel Adjustment Clause (FAC) as found in the direct testimony of witness Dennis R. Williams. My testimony will address why Aquila's proposed FAC is not consistent with Commission rules, will not result in just and reasonable rates, and will cause administrative burden on the Commission, its Staff, Public Counsel, and various intervenors that will effectively negate the consumer protection provisions of Senate Bill 179 (SB179) that gave the Commission authority to implement a FAC if the Commission so chose. The second section of my rebuttal testimony will address the FAC formula and how the formula does not properly match fuel related revenues and actual fuel costs. The final section of my testimony will set out Public Counsel's position on the proper treatment of off-system sales and costs in a FAC under the assumption the Commission authorizes a FAC despite Public Counsel's recommendation to the contrary.

Q. DOES PUBLIC COUNSEL RECOMMEND THAT THE COMMISSION AUTHORIZE A FUEL ADJUSTMENT CLAUSE FOR AQUILA IN THIS CASE?

A. No. Public Counsel witness Ryan Kind addressed the basis for that opposition in his direct testimony filed in this case.

FUEL ADJUSTMENT CLAUSE MECHANISM

Q. IF THE COMMISSION AUTHORIZES A FUEL ADJUSTMENT CLAUSE FOR AQUILA, SHOULD THE COMMISSION AUTHORIZE THE FUEL ADJUSTMENT CLAUSE PROPOSED BY AQUILA?

A. No. Public Counsel believes that the FAC proposed by Aquila would not be in the public interest as it is structured in Mr. Williams' testimony. Schedule DRW-1, attached to Mr. Williams' testimony, provides sample tariff sheets 124, 125, and 126 which would implement the FAC.

Q. WHAT SPECIFIC AREAS OF CONCERN DOES PUBLIC COUNSEL HAVE WITH AQUILA'S FUEL ADJUSTMENT CLAUSE PROPOSAL?

A. I will address the following areas of concerns:

1. The proposed FAC implementation procedures are not consistent with 4 CSR 240-20.090.
2. The short length of the recovery period increases volatility in customer rates.

3. The timing of the recovery period increases volatility for customers during periods of high use.
4. The timing of the recovery period creates a mismatch between cost causer and cost payer.
5. Potential inclusion of costs that are not fuel or purchased power costs.
6. Creates four mandatory FAC filings per year and decreases regulatory oversight resources.
7. The FAC will not result in revenues related to fuel equaling fuel costs eligible for recovery.

Q. A FUEL ADJUSTMENT CLAUSE PROVIDES FOR SINGLE ISSUE RATEMAKING, THUS CREATING VOLATILITY IN RATES FOR CONSUMERS. PLEASE EXPLAIN WHY AQUILA'S PROPOSED IMPLEMENTATION PROCEDURES EXAGGERATE THIS VOLATILITY.

A. Schedule DRW-1, page 1, attached to Mr. Williams' testimony, includes a table which addresses the period in which costs eligible for recovery are accumulated (Accumulation Period), the Filing Date, and the subsequent period (Recovery Period) during which a change in eligible costs would be recovered from ratepayers. Aquila further proposes to collect all cost differentials over a three-month period that begins three months after the Accumulation Period. Aquila's proposal is for quarterly periods of cost accumulation and quarterly periodic rate adjustments. The result virtually assures that changes will occur each and every quarter.

Q. WHY DO YOU ASSERT THAT CHANGES WILL OCCUR EACH QUARTER?

A. Assume that there is a one-time quarterly change in fuel costs. Further assume that costs return to the base level in the subsequent quarter. The result would be that a FAC would be implemented in the Recovery Period to collect the change in costs. That FAC would then have to be reset to zero in the next quarter to reflect that the fuel cost change had been collected via the FAC in the Recovery Period (assuming expected sales equaled actual sales and no under/over-recovery occurred). Aquila's proposed FAC clearly would require two filings or rate changes for each change in fuel costs.

Q. IS IT PROBABLE THAT FUEL COSTS WILL CONTINUE TO CHANGE AS COMPARED INITIALLY TO BASE COSTS OR SUBSEQUENTLY TO THE LEVEL OF FUEL IN THE PRIOR ACCUMULATION PERIOD?

A. Yes. In addition, factors such as changes in sales levels, generation and purchase power mix, loss factors, and unit availability will all affect actual fuel costs to be recovered through the FAC. The combination of these factors will almost assuredly create the need for FAC filings in each and every quarter.

Q. ARE THERE SEVERAL REASONS WHY FUEL COST DIFFERENTIALS SHOULD BE COLLECTED OR RETURNED TO RATEPAYERS OVER A TWELVE MONTH PERIOD VERSUS A THREE-MONTH PERIOD?

A. Yes

Q. PLEASE EXPLAIN.

A. The base rate of fuel costs from which any actual cost differential would be determined is based on annual levels of fuel and purchased power costs, i.e. twelve months, just like all other expenses and revenues in a base rate case. As the Commission is well aware, its own rule as well as state statutes requires a rate case in order to implement a FAC. A rate case does not develop cost structures on a quarterly basis as would be required under Aquila's proposal nor is there a logical reason to develop quarterly data. Neither does a rate case anticipate revenue recovery on a quarterly basis. The base rate for eligible costs would be determined by dividing the annual level of costs by the annual level of sales that caused those costs. Likewise the FAC should be based on an average rate that recognizes the eligible costs over an annual period divided by the annual level of sales for which the eligible costs would be incurred.

An electric utility is a dynamic operation and fluctuations naturally occur. The passage of time tends to smooth out fluctuations in both expense and revenue. A FAC that compares actual quarterly costs to a base rate that is based on annual data is completely inappropriate.

Q. CAN YOU PROVIDE AN EXAMPLE OF A CHANGE IN OPERATION THAT COULD CAUSE A CHANGE IN THE FAC SIMPLY BECAUSE OF A CHANGE IN OPERATIONS AND NOT A CHANGE IN ANNUAL COST?

A. Yes. A scheduled maintenance outage at a low cost electric generation facility could be extended due to unplanned problems or opportunities to enhance a generation facility's performance or life. Therefore the utility would incur higher cost replacement power during that quarter. Subsequently during the twelve month period, other plant operations and purchased power acquisitions would be modified to recognize the change in the plant performance or availability and used to replace higher cost power in a subsequent quarter. As a result, the total of eligible costs for the twelve month period could be equal to the cost level anticipated in the rate case. Aquila's proposal would create changes in the FAC when in fact none would have been warranted on an annual basis.

Q. DID SB179 OR THE COMMISSION'S RULES IMPLEMENTING SB179 REQUIRE OR EVEN ANTICIPATE MANDATORY QUARTERLY FILINGS?

A. No. The commission rules provides for one mandatory adjustment per year that is to coincide with the end of the true-up period for the FAC.

Q. IF CHANGES IN ACTUAL ELIGIBLE COSTS OCCURRED DURING THE FIRST QUARTER AS COMPARED TO THE RATE CASE ANNUALIZED BASE LEVEL, BUT ACTUAL COSTS WERE EQUAL TO BASE COSTS DURING THE SECOND QUARTER, WOULD AQUILA'S PROPOSAL EFFECTIVELY MANDATE TWO FUEL ADJUSTMENT CLAUSE PERIODIC ADJUSTMENT FILINGS?

A. Yes. The second periodic adjustment filing would be required to reduce the FAC back to the original level; otherwise the customers would be paying for costs that the Company did not incur. I know this possibility was not anticipated by the non-utility parties who commented during the Commission proceeding that resulted in the promulgation of 4 CSR 240-20.090. Further, those very rules anticipate only one mandatory filing that is to coincide with the true-up period. The true-up period was to end twelve months after the first calendar month following the effective date of the Commission order approving a Rate Adjustment Mechanism. Clearly, Aquila's proposal fails to meet this basic test of reasonableness.

Q. IN FACT, IF AQUILA'S ACTUAL COST IN THE SECOND QUARTER CHANGED COMPARED TO THE ACTUAL COST IN THE FIRST QUARTER, WOULD THE FAC HAVE TO BE CHANGED?

A. Since low usage quarters always follow high usage quarters under Aquila's proposal, not only would the FAC have to be changed in the circumstances defined in the question, the FAC would also have to be changed simply because the anticipated sales in the subsequent recovery quarter would be different than those in the prior recovery quarter.

Q. ARE THE QUARTERLY PERIODS SET OUT ON TARIFF SHEET 124 (SCHEDULE DRW-1, PAGE 1 OF 3) ATTACHED TO MR. WILLIAMS' TESTIMONY CONSISTENT WITH 4 CSR 240-20.090?

A. No. 4 CSR 240-20.090(1)(I) provides that:

> True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving a RAM unless the effective date is on the first day of the calendar month.

Aquila filed this rate case on July 3, 2006 and therefore based on the eleven month period the effective date of the order in this case will be after June 1, 2007. Therefore if a FAC is authorized, the true-up period will not begin until July 1, 2007 which will not be consistent with the quarterly periods set out on the proposed tariff sheet. The FAC proposed by Aquila would start the Accumulation Period on June 1 not July 1 as required under the Commission rules.

Q. HOW DOES THE PROPOSAL CONTAINED IN MR. WILLIAMS' TESTIMONY INCREASE THE VOLATILITY OF CUSTOMER RATES?

A. Aquila's FAC proposal creates volatility in two ways. As previously discussed, the proposed FAC would mandate a minimum of two filings versus one if a change in cost occurred. The resulting movement of rates up and down is unnecessary. If the one-time cost change occurs and the FAC periodic adjustment filing is made to coincide with the true-up period (i.e. an annual FAC filing), Aquila would be compensated for the time value of money via the interest rate accumulation provided for in the rules. Thus, there is no reason for the effective mandating of a quarterly procedure as would be required under Aquila FAC proposal.

The second issue with volatility is that a quarterly procedure will collect a change from the annual level of costs over a three month period. In contrast, the Purchased Gas Adjustment clause as applied in Missouri collects cost differentials over a twelve month period. It is intuitively obvious that reflecting cost changes over a twelve month period instead of a three month period will smooth out rates to customers. It must be remembered that interest is calculated and thus both the utility and the customer are protected with respect to the time value of money. Further, customers have more time to adjust their budgets to reflect changes.

Q. DOES PUBLIC COUNSEL HAVE AN ADDITIONAL CONCERN REGARDING THE QUARTERLY RECOVERY PERIOD AS PROPOSED?

A. Yes. As the Commission is aware, electric utilities have two three month periods of higher sales and two three month periods of relatively lower sales. The summer months and winter months are higher in revenue while the fall and spring are often referred to as shoulder months as they have generally lower sales. Obviously, customer bills follow the same pattern. The Recovery Periods proposed by Aquila would result in cost differentials being assigned from one high cost quarter to the other high cost quarter while the low cost quarter cost differential would be recovered in the other low cost quarter. Therefore, customers would not only be facing increased bills due to normal increased usage, they could also be paying the entire cost differential that occurred during the previous high cost quarter.

Use of an annual recovery period would mitigate the impact of cost differential recoveries, especially when customers are faced with an increased bill simply because of their normal usage increases due to the time of year. Unanticipated natural gas spikes have normally occurred during winter months. An unanticipated higher price of fuel in conjunction with larger fuel requirements due to the increased customer demand in high usage period would create a large cost differential. The result would be that the periodic rate adjustment for quarterly recovery period in summer months could easily rise to such a level that a customer's ability to pay for usage related to air conditioning would be compromised, thus becoming a health and safety issue. Higher than anticipated customer bills during a summer heat wave would not only increase the problem in the summer, but the higher actual cost that would be incurred by the utility to provide service during the summer would result in higher costs to the customer in the subsequent winter quarter.

Q. DOES A QUARTERLY RECOVERY PERIOD CREATE A POTENTIAL MISMATCH BETWEEN COST CAUSER AND COST PAYER?

A. Yes. A customer with a heat pump has higher usage in the winter as compared to a customer with air conditioning and a non-electric heat source for winter. Likewise a high winter use customer who does not have air conditioning does not have the same quarterly usage patterns as a customer with both electric heat and air conditioning. There are numerous combinations and customer comparisons that could occur. Setting rates on an annual basis provides a better recognition of these differences and a better matching of cost causer to cost payer. Trying to force collection over a quarter as proposed by Aquila is not consistent with the ratemaking practices used in rate cases nor with actual usage patterns of real customers. The same considerations are also relevant between customer classes.

Q. SHOULD A FUEL ADJUSMTMENT CLAUSE TAKE INTO CONSIDERATION CUSTOMER IMPACTS OR FOCUS SIMPLY ON UTILITY COST RECOVERY?

A. FAC should definitely consider customer impacts. The central purpose of regulation is to protect customers. SB179 did not change this focus. SB179 only provided the Commission with optional tools to change the focus of setting rates from rate of return regulation to a cost recovery method of regulation for certain cost items.

Q. DOES THE FUEL ADJUSTMENT CLAUSE PROPOSAL BY AQUILA INCLUDE COST COMPONENTS THAT PUBLIC COUNSEL DOES NOT BELIEVE ARE APPROPRIATE FOR INCLUSION?

A. It cannot be determined what fuel costs Aquila intends to include in the FAC. The proposed Original Sheet No. 124 and 125, attached to Mr. Williams' testimony, includes a listing of accounts from the Uniform System of Accounts and also uses the terms such as "fuel consumed" and "purchased power". USOA account 501 is entitled "Fuel. The USOA instructions for this account sets out the cost components for this account. These components include not only direct cost paid to providers of coal and transportation services but also cost components such as in-house payroll costs for fuel purchasing and handling, fuel analysis, and operation, maintenance, and depreciation expense on company owned equipment. These costs are not volatile in nature and are appropriately addressed in the rate case and base rates.

Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL OPPOSES INCLUSION OF COSTS ASSOCIATED WITH COMPANY OWNED FACILITIES.

A. The asserted underlying purpose of a FAC is to collect costs that are volatile in nature, could have a material impact on a utility's financial health, and are beyond the control of a utility's management. As example, a diesel fuel adder to transportation costs for operating a unit train could be asserted to be beyond management control and subject to potentially volatile changes. In contrast, depreciation expense is a known expense that is fixed in nature over a long period of time. Repair costs related to railcars or other company owned facilities may vary from year to year, but like maintenance on the power plants they serve, are easily addressed in the normal rate case processes including normalization and annualizations. The timing of and the method of addressing these costs are well within the control of management.

Q. AQUILA PROPOSES TO INCLUDE USOA ACCOUNT 501 COSTS WOULD INCLUDE COSTS ASSOCIATED WITH THE DISPOSAL OF ASH, NET OF ASH REVENUES IN THE FUEL ADJUSTMENT CLAUSE. DOES PUBLIC COUNSEL BELIEVE INCLUSION OF THIS COST IS CONSISTENT WITH COMMISSION RULES AND SB179?

A. No. Public Counsel opposes the inclusion in a FAC of costs resulting from post-electric production activities. Ash disposal and subsequent sales of the ash to third parties is not a direct fuel cost, is under the direct control of company management, and has not been shown to be volatile in nature. Aquila has not provided any explanation why the handling costs, pre and post electric production should be included in the FAC. Regardless, either pre or post handling costs are within management control, involve fixed costs associated with utility owned assets, and are appropriately addressed in the normalization processes used to develop base rates in a rate case.

Q. DOES ACCOUNT 501 OF THE USOA PROVIDE FOR RECORDING FUEL HANDLING COSTS (PRE-PRODUCTION ACTIVITIES) AND DISPOSAL COSTS (POST-PRODUCTION) ACTIVITIES WITHIN ACCOUNT 501?

A. Yes.

Q. DOES ACCOUNT 501 INCLUDE OTHER COSTS THAT ARE NOT IN THE PROPOSED FUEL ADJUSTMENT CLAUSE?

A. Yes. Account 501 also includes labor costs incurred by Aquila along with maintenance costs including insurance costs. Aquila has not proposed to include these costs in the FAC to Public Counsel's knowledge.

Q. DOES PUBLIC COUNSEL OPPOSE THE INCLUSION OF BROKER COSTS AND COMMISSIONS ASSOCIATED WITH HEDGING ACTIVITIES OF COAL COMMODITY AND TRANSPORTATION COSTS AS FOUND ON SCHDULE DRW-1?

A. Yes. Public Counsel believes that a FAC, if implemented, should address cost concerns related to volatility which are beyond the effective control of utility management. While the cost of a hedge may be volatile as it directly relates to the volatility of the commodity being hedged, the cost associated with placing that hedge should not be volatile.

Q. BY IDENTIFYING A USOA ACCOUNT AS HAVING COSTS THAT SHOULD BE CONSIDERED FOR INCLUSION IN A FUEL ADJUSTMENT CLAUSE, IS IT FAIR TO SAY THAT NOT ALL COSTS IN THE IDENTIFIED ACCOUNT SHOULD BE INCLUDED IN THE FAC?

A. Yes. Public Counsel strongly recommends that if the Commission approves a FAC for Aquila, or any utility, the only costs that should be included are those costs that: 1) are volatile in nature; 2) the volatility of which will have a material impact on the utility's financial health; 3) are beyond the effective control of a utility's management; and 4) are related directly to the provision of service to its jurisdictional customer and off-system sales (if both revenues and expenses are included).

Q. YOU PREVIOUSLY DISCUSSED THE ADDITIONAL MANDATORY FILINGS THAT AQUILA'S PROPOSAL EFFECTIVELY REQUIRES. DO YOU HAVE ADDITIONAL COMMENTS ON THE PRACTICAL EFFECT OF THESE ADDITIONAL FILINGS?

A. Yes. The Commission rules implementing SB179 provided for a single mandatory filing that was anticipated to coincide with the end of the true-up period. The true-up period would end at least twelve full months after the effective date of the tariffs that included implementation of a FAC. Requiring additional mandatory filings places significant burdens on the resources of the Commission, and absent additional resources, would place the Commission in the precarious position of choosing between processing FAC periodic rate adjustments or performing prudence reviews. The utility industry representatives touted SB179 as containing consumer protections which included the requirement for prudence reviews and the true-up of cost recovery and actual costs. Implementing a FAC as proposed by Aquila would very likely overwhelm the regulatory resources of the Commission and definitely effectively exclude all intervenors from the prudence review process. Public Counsel would point out that AmerenUE has filed a similar quarterly proposal in ER-2007-0002. Thus the potential impact on the Commission's ability to fulfill its obligation to protect consumers would be magnified if the quarterly proposals were adopted.

FUEL ADJUSTMENT CLAUSE FORMULA ERROR

Q. DOES THE FUEL ADJUSTMENT CLAUSE REQUESTED BY AQUILA RESULT IN REVENUES RECEIVED FROM CUSTOMERS BEING EQUAL TO THE FUEL COSTS INCURRED?

A. No.

Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL MAKES THIS ASSERTION.

A. The FAC proposed by Aquila would collect fuel related costs in both base tariffs and through the FAC's Cost Adjustment Factor (CAF). Aquila's proposed FAC formula would not recognize the actual kWh revenues billed during the accumulation period but would use actual fuel costs incurred to produce those kWhs during the accumulation period.

Q. CAN YOU EXPLAIN WHY ACTUAL REVENUES BILLED VIA BASE RATES WOULD NOT BE RECOGNIZED IN CALCULATING THE FAC'S COST ADJUSTMENT FACTOR?

A. Yes. The proposed cost of fuel included in base rates is $.0215 for Aquila Networks-L&P and $.0287 for Aquila Networks-MPS. The CAF would calculate the additional revenues necessary to recover fuel costs in excess of the base rates. Original Sheet No. 125 contains both the CAF formula and the base rate amounts and is attached to Mr. William's testimony as Schedule DRW-1.

The CAF formula is defined as:

$$FAC = F + P + E + X - B + C + I$$

Where:
F = Actual cost of fuel --- FERC Accounts 501 & 547
P = Actual cost of purchased energy --- FERC Account 555
E = Actual emission allowance cost --- FERC Account 509
X = .50 x (Base off system sales margins – accumulation period off system sales margins)
B = Base cost of fuel and purchased power energy = S x $0.0215 for Aquila Networks—L&P, or S x $0.0287 for Aquila Networks—MPS
C = Under/Over recovery from prior recovery period, and modifications due to annual prudence reviews
S = Estimated sales (kWh) for the recovery period
I = Interest

The CAF would compare the actual cost of fuel and purchase power, (the F & P), for the accumulation period and compare that amount to B, (the Base cost of fuel and purchased power). The F & P will produce a level of kWh that generates revenue during the accumulation period. However, the FAC formula will use an estimated level of sales for the recovery period in calculating the B component of the formula. This creates a mismatch with respect to the costs incurred during the accumulation period and the revenues related to fuel costs during the accumulation period.

Q. CAN THIS PROBLEM BE CORRECTED?

A. Yes. The S in the FAC would have to be revised to reflect actual sales in the accumulation period. I would recommend that the S be relabeled to S_A and that an additional line of description be added to read; S_A = Actual sales (kWh) for the accumulation period. The S_A is used in the calculation of B.

In order to maintain consistency in the equation, the S used in the CAF formula should reflect the estimated sales for the recovery period and should be changed to S_R.

OFF-SYSTEM SALES MARGIN SHARING

Q. THE FUEL ADJUSTMENT CLAUSE FORMULA REFERRED TO IN THE PREVIOUS SECTION CONTAINS A "X" COMPONENT. PLEASE EXPLAIN PUBLIC COUNSEL'S UNDERSTANDING OF THE PURPOSE OF THAT COMPONENT.

A. The "X" component provides a mechanism within the FAC to address changes in off-system sale margins as compared to the level of margin included in the revenue requirement (i.e. overall cost of service) from which the base tariffs are developed. Aquila is proposing that any change in off-system sales margins be shared equally between ratepayers and stockholders through the FAC mechanism.

Q. DOES PUBLIC COUNSEL OPPOSE THIS TREATMENT OF OFF-SYSTEM SALES?

A. Yes. Public Counsel's primary position is that Aquila should not have a FAC and therefore the question of whether and if so how to include off-system sales in a FAC was not addressed in Ryan Kind's direct testimony in this proceeding. However, if the Commission authorizes a FAC for Aquila, it would be Public Counsel's recommendation that all changes in off-system sales and fuel/purchased power related costs be included in the FAC.

Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL ADVOCATES THAT ALL OFF-SYSTEM SALES MARGIN CHANGES BE INCLUDED IN THE FUEL ADJUSTMENT CLAUSE.

A. First let me state that Public Counsel believes that the Commission should review each utility's situation separately. The question of whether a FAC is appropriate for a utility should be answered on a utility specific basis. Likewise, the Commission should also realize that one FAC approach may not be appropriate for every utility. There are several factors that can impact these decisions such as:

* Generation mix of the respective utilities
* Load requirements differences
* Independent System Operator affiliation or none
* Transmission system capacity and interconnections
* Earnings impact of off-system sales margins

The purpose of regulation is to set just and reasonable rates. A major component in this determination is the level of earnings of a utility. While off-system sales margin (off-system sales revenue minus off-system sales expense) has been increasing over the last five years (Staff witness Harris direct testimony, page 12), the resulting margin does not constitute a major driver of earnings for Aquila. Therefore, Public Counsel believes that any incentive derived from a sharing of off-system sales margins would be minimal and thus would recommend that all changes in off-system sales margins be included in a FAC if the Commission authorizes a FAC despite Public Counsel's recommendation to the contrary.

Q. HOW DO THE OTHER FACTORS YOU LISTED ABOVE IMPACT PUBLIC COUNSEL'S RECOMMENDATION?

A. Aquila has a significantly higher level of generation from gas fired facilities than the two largest electric utilities providing service to Missouri customers. The market clearing price for off-system sales is normally based on gas generation costs which as a general rule are higher than coal or nuclear generation costs. Therefore Aquila does not have as great an opportunity to participate in the off-system sales market as some other utilities in operating in our state. While one could argue they have similar incentives to maximize off-system sales, as a practical matter they do not have the operational ability to respond to any alleged incentive. A review of the margins achieved by Aquila over the last five years as previously mentioned reveals that the levels achieved do not have the impact on earnings as compared to other utilities with significantly greater coal and nuclear generating capacity.

Q. WHO MADE THE DECISIONS LEADING TO SUCH A SIGNIFICANT PORTION OF AQUILA'S GENERATION CAPACITY BEING GAS-FIRED?

A. The management of Aquila.

Q. WHY DOES PUBLIC COUNSEL NOT SIMPLY RECOMMEND EXCLUSION OF ANY CHANGE IN OFF-SYSTEM SALES MARGINS FROM THE FUEL ADJUSTMENT CLAUSE?

A. There are two primary reasons. Customer rates are providing a return on (i.e. earnings) the generating assets that are providing off-system sales along with providing a return of (i.e. depreciation) those same assets. While those assets remain in rate base and used and useful to the ratepayers, the benefits derived from those assets should flow through to the ratepayers. The second reason is more practical in nature. Inclusion of all fuel, emission allowance cost, and purchased power costs associated with providing off-system sales is co-mingled in the financial records of the utility. It is not possible to accurately identify these costs. An allocation process is used to determine the "costs" as it is rare that a generating unit is operated solely for the purpose of providing off-system sales. Inclusion of all generating costs avoids this allocation issue and ensures that one party or the other cannot game the system to its own advantage.

Q. IF, DESPITE OPC'S RECOMMENDATION TO THE CONTRARY, THE COMMISSION DECIDES TO PERMIT AQUILA TO HAVE A FUEL ADJUSTMENT CLAUSE AND TO PASS LESS THAN 100% OF THE VARIATION IN OFF-SYSTEM SALES MARGINS THROUGH THE FUEL CLAUSE, HOW DOES OPC BELIEVE THIS SHOULD BE DONE?

A. If the Commission decides to permit Aquila to have an FAC with an incentive component for off-system sales, the Commission must make a determination of the proper amount of sharing between ratepayers and shareholders that should be included in the incentive mechanism. OPC opposes Aquila's 50:50 sharing mechanism proposal. Aquila has not provided any analysis to demonstrate that its efforts to make off-system sales would be any greater if it retains 50% of the baseline variations in off-system sales margins than if it retains a lesser amount such as only 10% of the baseline variations in margins.

Q. DOES THE FAC RULE PROVIDE SOME GUIDANCE TO THE COMMISSION AS IT EVALUATES THE REASONABLENESS OF OFF-SYSTEM SALES INCENTIVE PROPOSALS?

A. Yes. Subsection (11)(B) of 4 CSR 240-20.090 states:

> (B) Any incentive mechanism or performance-based program shall be structured to align the interests of the electric utility's customers and shareholders. The anticipated benefits to the electric utility's customers from the incentive or

> performance-based program shall equal or exceed the anticipated costs of the mechanism or program to the electric utility's customers. For this purpose, the cost of an incentive mechanism or performance-based program shall include any increase in expense or reduction in revenue credit that increases rates to customers in any time period above what they would be without the incentive mechanism or performance-based program.

Q. HAS AQUILA PROVIDED ANALYSIS OR ANY OTHER EVIDENCE IN THIS CASE TO DEMONSTRATE THAT "THE ANTICIPATED BENEFITS TO THE ELECTRIC UTILITY'S CUSTOMERS FROM" ITS OFF-SYSTEM SALES SHARING INCENTIVE PROPOSAL WOULD "EQUAL OR EXCEED THE ANTICIPATED COSTS OF THE MECHANISM OR PROGRAM TO THE ELECTRIC UTILITY'S CUSTOMERS?"

A. No.

SUMMARY

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. Public Counsel opposes a FAC for Aquila as testified to by Public Counsel witness Ryan Kind. Public Counsel opposes the implementation procedures and cost inclusions in the FAC proposed by Aquila for multiple reasons. The implementation procedures are not consistent with Commission rules, include costs that are not appropriate for inclusion in a FAC, and are designed to effectively eliminate or at a minimum significantly impact the Commission's ability to perform prudence reviews which are the ratepayers' only remaining consumer protection if a FAC is in fact implemented. Public Counsel further recommends that if a FAC is adopted, that actual revenues be matched with actual costs and that an estimated level of sales not be used to determine revenues. Finally, Public Counsel recommends that if the Commission approves a FAC, that all changes in off-system sales margins be included.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.