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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
  
Agenda Discussion  
  
April 21, 2004  
Jefferson City, Missouri  
Volume 22

In the Matter of Aquila, Inc., )  
d/b/a Aquila Networks - L&P ) Case No. ER-2004-0034  
and Aquila Networks - MPS, to )  
Implement a General Rate )  
Increase in Electricity. )

In the Matter of the Request )  
of Aquila, Inc., d/b/a Aquila )  
Networks - L&P, to Implement ) Case No. HR-2004-0024  
a General Rate Increase in )  
Steam Rates. )

STEVE GAW, Chairman,  
CONNIE MURRAY,  
ROBERT CLAYTON  
COMMISSIONERS.

REPORTED BY:  
  
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P R O C E E D I N G S

CHAIRMAN GAW: I'd like you to go around and everybody that's in the room representing a party, please state your name and who you represent.

MS. WOODS: Shelley Woods, Assistant Attorney General, representing the Missouri Department of Natural Resources.

MR. WILLIAMS: Nathan William, Senior Counsel, Staff of the Missouri Public Service Commission.

MR. COOPER: Dean Cooper, law firm of Brydon, Swearingen & England, P.C., appearing on behalf of Aquila, Inc.

MS. O'NEILL: Ruth O'Neill appearing on behalf of the Office of the Public Counsel.

CHAIRMAN GAW: Let me ask what parties that were parties to this case are not present. Oh, Stu?

MR. CONRAD: Yes, sir.

CHAIRMAN GAW: Can you --

MR. CONRAD: I didn't know if I was next. Stu Conrad for Sedalia Industrial Group and AG Processing.

CHAIRMAN GAW: Thank you, Stu.

MR. CONRAD: Yes, sir.

CHAIRMAN GAW: And what parties are not represented here?

MR. COOPER: Commissioner, the City of

1 Kansas City, who's been represented by Mr. Mark Comley,  
2 Mr. Williams, Ms. O'Neill and I spoke to Mr. Comley, who  
3 recognizes that this proceeding is taking place and does  
4 not object.

5 We have also attempted to contact Major  
6 Craig Paulson, who represents the Federal Executive  
7 Agencies. We have been unable to contact him.

8 CHAIRMAN GAW: All right. Is that the only  
9 party that you have been unable to contact?

10 MR. WILLIAMS: Yes.

11 MR. COOPER: Yes.

12 CHAIRMAN GAW: All right. Well, he would  
13 have the ability to file -- to raise an objection after  
14 the fact, and I just want everybody to be aware of that.  
15 The next thing is I want to make it clear --

16 MR. WILLIAMS: Major Paulson represents the  
17 Federal Executive Agencies.

18 CHAIRMAN GAW: Yes. Thank you.

19 I would like for each of you to make it  
20 clear whether you have an objection to us proceeding,  
21 those of you who have not already done so.

22 MR. COOPER: On behalf of Aquila, we have  
23 no objection to the Commission proceeding.

24 MS. WOODS: On behalf of the Missouri  
25 Department of Natural Resources, we have no objection to

1 this proceeding.

2 MR. WILLIAMS: Staff has no objection.

3 MS. O'NEILL: Public Counsel has no  
4 objection.

5 CHAIRMAN GAW: Mr. Conrad?

6 MR. CONRAD: Yes. SIUA and AG Processing  
7 have no objection, sir.

8 CHAIRMAN GAW: All right. Thank you. I  
9 think what we really want to do here is just to try to  
10 have the ability to have some communication about what the  
11 problem is that we're dealing with so the Commission can  
12 get more information, and that's the purpose for this. It  
13 is my understanding that the -- that the tariff filing in  
14 this case has been rejected at this point; is that  
15 correct?

16 JUDGE ROBERTS: Yes, sir.

17 CHAIRMAN GAW: And I'm going to -- because  
18 we're on limited time here, I'm not going to go through  
19 all of the detail about why that is as some sort of an  
20 opening here. What I'd like to do is go right to  
21 Commissioner questions and see whether or not there -- we  
22 can get some of these issues resolved. So I'll ask if  
23 either one of you want to go first or if you want me to  
24 ask the parties to respond to anything.

25 COMMISSIONER MURRAY: You can ask -- maybe

1 it would be more efficient if we go straight to the party  
2 responses.

3 CHAIRMAN GAW: That will be fine. Let me  
4 ask Aquila to go first, then, and we've gotten written  
5 responses from Aquila in regard to this issue, but if you  
6 have anything to add.

7 MR. COOPER: I think primarily just to  
8 highlight some of that response, which is, from Aquila's  
9 perspective, the tariff sheets that were filed on  
10 April 14th follow the same format as the sheets that were  
11 filed to start this case way back months ago. They also,  
12 and maybe more importantly, follow the format of the  
13 tariff sheets that were attached to the Stipulation &  
14 Agreement to which the parties agreed and to which in the  
15 Commission's Order it ordered Aquila to file through its  
16 order of April 13th. So I guess that's really the  
17 highlight of Aquila's position in this, is that those  
18 sheets have been consistent and Aquila believes comply  
19 with the Commission's Order.

20 As to specifically that issue about the use  
21 of Aquila Networks, you may have seen from the pleadings  
22 that that did come up earlier in this case. At that time  
23 Aquila filed its fictitious name registration for that  
24 name, I think requested that the Commission recognize that  
25 as a name that it could utilize.

1                   I think that complies with the substance of  
2 the Commission's rule on name changes, and I think at that  
3 time it was -- Aquila took the position that if ultimately  
4 the Commission approved a set of tariff sheets utilizing  
5 the name Aquila Networks, then from that point on that  
6 would be a sufficient and an appropriate name for the  
7 company to use. So I guess the company believes that  
8 that's what's happened in this case.

9                   CHAIRMAN GAW: Okay. Does Staff wish to go  
10 next?

11                   MR. WILLIAMS: Well, Staff concurs with  
12 what Aquila said, and from Staff's perspective, the use of  
13 the name's not been an issue in the case, at least not in  
14 the latter part of it. It wasn't on the issues list  
15 because it wasn't an issue amongst the parties. As to the  
16 form of the numbering, Mr. Watkins probably could provide  
17 some input on that from Staff's perspective.

18                   CHAIRMAN GAW: We'll get to him in just a  
19 moment. Since he's not an attorney, we'll work off that  
20 in a minute. Ms. O'Neill?

21                   MS. O'NEILL: I don't have anything else to  
22 add, Commissioner.

23                   CHAIRMAN GAW: The only thing I guess I'd  
24 like to get to in regard to this issue about the name  
25 change, first of all, is has this -- is this a new

1 precedent? Are we plowing new ground here? Is this  
2 something that we've done before?

3 I'm trying to understand whether or not  
4 this is a new issue that's raised in this case for the  
5 first time process-wise? Are we setting some precedent  
6 with this that we're going to be looking back at sometime  
7 in the future and saying, okay, we've lowered the bar for  
8 some reason here in this case?

9 MR. WILLIAMS: If you look at Staff's last  
10 filing, the issue of multiple names for operating under  
11 has been before the Commission in the past with telephone  
12 companies. The first one I'm aware of was, I believe,  
13 1993 where the Commission indicated that allowing multiple  
14 business names would create customer confusion, so they  
15 were just not going to be permitted.

16 And then roughly concomitant with the  
17 passage of the 1996 Telephone Act, the Commission  
18 permitted the use of different d/b/a's by different  
19 telephone companies as long as they obtained separate  
20 certificates for each name. And that was, as far as I can  
21 tell from the way the orders were written, was done for  
22 the purpose of administrative efficiency.

23 CHAIRMAN GAW: I guess my question is, from  
24 the standpoint of the name issue itself, the normal  
25 process would be for an application to come here to change



1 the name, correct?

2 MR. WILLIAMS: Yes.

3 CHAIRMAN GAW: And that wasn't done in this  
4 case, right, or am I -- is that correct?

5 MR. WILLIAMS: There were two done. There  
6 were two specific applications filed, one to use the name  
7 Aquila Networks - MPS and another to use the name Aquila  
8 Networks - L&P.

9 CHAIRMAN GAW: L&P, okay.

10 MR. WILLIAMS: There was not one for Aquila  
11 Networks.

12 CHAIRMAN GAW: And why did Aquila -- what's  
13 the deal here? Why are we talking about this?

14 MR. COOPER: Let me address the other  
15 question first if I could.

16 CHAIRMAN GAW: Sure.

17 MR. COOPER: The one thing we need to  
18 remember about name changes is that's -- when you say a  
19 name change application, my memory of the rule is that  
20 that's something less than the type of application that  
21 you're talking about for a certificated area or something  
22 else. I believe the rule provides --

23 CHAIRMAN GAW: I think so, too.

24 MR. COOPER: -- you can just do it by a  
25 letter by a non-attorney. It's a different process.

1                   CHAIRMAN GAW: That's what I want to get  
2 to, is to understand whether this -- is what the process  
3 is, because I can't answer that question off the top of my  
4 head. Go ahead.

5                   MR. COOPER: That being the case, I think  
6 what you have going on with this tariff filing is Aquila  
7 has always been, even when named UtiliCorp, is one  
8 corporation. The two service areas are divisions.  
9 They're not separate corporations. They are treated --  
10 addressed by these fictitious names, at this point, Aquila  
11 Networks - MPS and Aquila Networks - L&P.

12                   In this rate case, the company hoped to  
13 pull the rules and regulations that govern those two areas  
14 into really a single set of rules and regulations that  
15 would differ only in what the rates were for the L&P  
16 service territory and what the rates were for the MPS  
17 service territory.

18                   So I think that's where the Aquila Networks  
19 came in, was a way to distinguish kind of this common --  
20 this common set of rules and regulations that were just  
21 going to be applicable to the whole of the Missouri  
22 service areas, not distinctly MPS, not distinctly to L&P,  
23 and in that way provide some consistency for the company's  
24 operations.

25                   CHAIRMAN GAW: Why didn't you just file

1 with both names that you had in the one tariff filing?

2 MR. COOPER: Well, I think to truly file  
3 with the two -- with the two names, Mr. Williams may be  
4 able to better address that, but I think it was a matter  
5 of convenience, that it seemed to make more sense to have  
6 this -- this central set of consistent rules and  
7 regulations just be Aquila.

8 CHAIRMAN GAW: All I'm asking is, instead  
9 of using the Networks name, why didn't you just say --  
10 just like you did in the pleadings, why didn't you file  
11 your tariff just like the pleadings, which was -- which  
12 had Aquila Networks - L&P and Aquila Networks - MPS?

13 MR. COOPER: Well --

14 CHAIRMAN GAW: I mean, is that intentional?  
15 Did you do it on purpose? Is there a reason for doing it  
16 that way? Is it because you're trying to join this  
17 together? You could have accomplished the same thing by  
18 putting the thing in the same way as your pleadings, and  
19 I'm trying to understand why that makes any difference,  
20 because I don't want to dwell on this if it doesn't  
21 matter.

22 MR. COOPER: It was a way to go, it was a  
23 proposed set of tariffs. I think you have to remember  
24 that when a company files a rate case, it files a proposed  
25 set of tariffs. And so it seems to make sense to the

1 company that when it files that proposed set of tariffs,  
2 if it wants to change it in some way --

3 CHAIRMAN GAW: I understand.

4 MR. COOPER: -- that it make that proposal  
5 in that set of tariffs.

6 CHAIRMAN GAW: I understand. I'm reading  
7 your tariffs here. I'm looking at these pages and they  
8 have Aquila, Inc., d/b/a Aquila Networks, Aquila Networks  
9 - L&P and Aquila Networks - MPS. That's what you've been  
10 putting in your pleadings, the same thing, right? I don't  
11 see any distinction there. No?

12 JUDGE ROBERTS: That's not what they've  
13 been putting in their pleadings, no, sir. Their pleadings  
14 have always been Aquila --

15 MR. COOPER: If I may, may I take a look at  
16 what you're --

17 CHAIRMAN GAW: Yeah. Go ahead. Maybe I'm  
18 reading something that's not even relevant. I'm looking  
19 at these pages that are within the --

20 MR. COOPER: The difference -- because the  
21 company has historically been recognized as Aquila Inc.,  
22 d/b/a Aquila Networks - L&P and Aquila Networks - MPS,  
23 that indeed is how it has filed pleadings throughout the  
24 case and that's what you're remembering. The difference  
25 is the company in its new set of tariffs that will

1 hopefully result in its --

2 CHAIRMAN GAW: These are the old ones, is  
3 that what I'm looking at?

4 MR. COOPER: These are the new ones.

5 CHAIRMAN GAW: It seems to say -- what am I  
6 missing here? Am I looking at something different?

7 MR. COOPER: Well, I think -- it's my  
8 belief that these two words are the only thing that the  
9 Commission has found offensive, and from the company's  
10 perspective, it believes that it proposed the use of those  
11 two words, and if the Commission, as a result of this  
12 case, approves tariffs that include those two words, that  
13 from now on we would file pleadings saying Aquila Networks  
14 d/b/a bam-bam.

15 CHAIRMAN GAW: What I'm getting to is  
16 whether or not you're leaving this part off, the last  
17 part, Aquila Networks - L&P and Aquila Networks - MPS.

18 MR. COOPER: No.

19 CHAIRMAN GAW: That was my question. So  
20 that's why I was asking.

21 MR. COOPER: Those will still have  
22 significance.

23 CHAIRMAN GAW: Okay. Now let me ask you --  
24 let me ask you this. Judge, Mr. Secretary, I don't know  
25 what to call you right now. Okay. So what -- when this

1 tariff was filed, if it had said Aquila Networks -- if it  
2 had said Aquila, Inc. at the beginning d/b/a Aquila  
3 Networks - MPS and Aquila Networks - L&P, do you still  
4 have a problem with that?

5 JUDGE ROBERTS: No. I think that solves  
6 the name issue.

7 CHAIRMAN GAW: That's what I'm trying to  
8 get to the bottom of. Where is it that it doesn't say  
9 that on your filing that you're objecting to? I'm just  
10 trying to track this to a tee.

11 JUDGE ROBERTS: Okay. Now, did you say if  
12 they filed under that name --

13 CHAIRMAN GAW: Well, they left MPS off of  
14 that one, so ignore that, but L&P's there is a typo.

15 COMMISSIONER CLAYTON: You're looking at  
16 the steam. That is different than the electric. The  
17 steam has extra language in it as well, the steam tariff.  
18 It has "Aquila Networks and." There are three extra words  
19 in the steam one; and then there are just two extra words  
20 in the electric.

21 JUDGE ROBERTS: Okay. Had it been filed --  
22 if you delete those, had it been filed like that, there  
23 would have been no problem, to my knowledge, with the  
24 name.

25 CHAIRMAN GAW: Is there any other place

1 where the name is a problem?

2 COMMISSIONER CLAYTON: In the electric.

3 CHAIRMAN GAW: There's the electric. It's  
4 okay. What's wrong with that?

5 JUDGE ROBERTS: Well, no. That's the same  
6 thing. Those -- these words right here, same thing.  
7 Strike those words out. It's Aquila, Inc., d/b/a Aquila  
8 Networks - L&P and Aquila Networks - MPS.

9 MR. WILLIAMS: Commissioner, it might help  
10 with what I think the company was trying to accomplish --

11 CHAIRMAN GAW: Yes, please.

12 MR. WILLIAMS: -- it started out as being  
13 Aquila doing business in a particular service territory.  
14 It acquired St. Joseph Light & Power's territory.  
15 Ultimately I think the company's wanting to go to having  
16 uniform rates and tariffs throughout their service  
17 territory.

18 CHAIRMAN GAW: I understand. I know, and I  
19 think that's the reason this is an issue to begin with.

20 MR. WILLIAMS: This is, I believe, probably  
21 one step in the company's goal towards reaching that end  
22 result.

23 CHAIRMAN GAW: The Commission hasn't  
24 approved that yet, that step.

25 MR. COOPER: No, and we don't go there in

1 that -- in this filing.

2 CHAIRMAN GAW: Well, I know, but you're  
3 venturing in that direction. So the question is whether  
4 this is an inch that really makes any difference. From  
5 the standpoint of this tariff filing, if that's your only  
6 issue that Aquila Networks is in there once too many  
7 times --

8 JUDGE ROBERTS: The issue on the name is  
9 that, that the name there doesn't match the certificated  
10 name, and in all things, the tariffs -- for all our  
11 companies, the tariffs are supposed to -- the name under  
12 which they're certificated and the name under which  
13 they're tariffed --

14 CHAIRMAN GAW: Are you going to be filing  
15 something that changes that? Would you file something  
16 that changes that?

17 MR. COOPER: That changes which?

18 CHAIRMAN GAW: That does your d/b/a name  
19 under what you're doing business as to what the heck  
20 you've got in your tariff?

21 MR. COOPER: We certainly can, yes. We  
22 believe that we did within the --

23 CHAIRMAN GAW: I'm asking would you do  
24 it -- would you do it if you had to?

25 MR. COOPER: Absolutely.



1                   CHAIRMAN GAW: Okay. What do you have to  
2 do to do that? Staff, what do they have to do normally to  
3 do that?

4                   MR. WILLIAMS: They would resubmit tariff  
5 sheets.

6                   CHAIRMAN GAW: No, no. Not resubmit tariff  
7 sheets. That's not what I'm asking. To change the name.

8                   MR. COOPER: Are you interested in seeing  
9 it?

10                  CHAIRMAN GAW: I just thought somebody  
11 might know. If you don't know, don't worry about it.

12                  MR. COOPER: Commissioner, to do a name  
13 change, the rule requires that you file certain items with  
14 a cover letter that may be filed by a non-attorney, and  
15 the items you're supposed to file are a statement setting  
16 out the old name, the new name, evidence of registration  
17 of the name change with the Missouri Secretary of State,  
18 which is what the company had filed within this case  
19 earlier, and then either an adoption notice or revised  
20 tariff title sheet which reflects the new name.

21                  COMMISSIONER CLAYTON: Which you've done  
22 all that?

23                  MR. COOPER: That's certainly our position.

24                  COMMISSIONER CLAYTON: They've done all of  
25 that, right?

1                   JUDGE ROBERTS: I would raise a question  
2 there. That rule says you file a thing saying this was my  
3 old name and now this is going to be my new name, delete  
4 one, replace it with another one. What they're asking to  
5 do, which is the issue that we come back to occasionally,  
6 is they're asking to keep the old name and also have  
7 another one to use interchangeably.

8                   CHAIRMAN GAW: Is that true?

9                   MR. COOPER: I think that is true,  
10 Commissioner, and I don't know that that causes any  
11 confusion. In fact, I would take the position that  
12 perhaps it, certainly not today, but in the future  
13 eliminates confusion because it would clearly identify in  
14 the tariff sheets that whether you think you're dealing  
15 with Aquila Networks, Aquila Networks - MPS or Aquila  
16 Networks - L&P, these are the rules that apply and these  
17 are the rates that apply and they're all contained in this  
18 set of tariff sheets.

19                   CHAIRMAN GAW: Okay. You're wanting to do  
20 business as Aquila Networks, Aquila Networks - L&P and  
21 Aquila Networks, Aquila Networks - MPS both? Does Aquila  
22 Networks have to be in there twice? Is that how they're  
23 going to do business?

24                   MR. COOPER: Well, the filing that's been  
25 made at the Secretary of State, actually there's three

1 filings, and indeed that's how they read. Aquila Networks  
2 is one filing, Aquila Networks - L&P is the second filing,  
3 Aquila Networks - MPS -- I think that's the one I  
4 missed -- is the third filing. That is the complete  
5 fictitious name of that Aquila Networks - MPS or Aquila  
6 Networks - L&P.

7 CHAIRMAN GAW: Does Aquila Networks do  
8 anything besides L&P and MPS?

9 MR. COOPER: Well, it believes it does,  
10 because it does some things that are just the utility as a  
11 whole, and that's what the Aquila Networks is meant to  
12 refer to.

13 COMMISSIONER CLAYTON: The combined entity,  
14 that's what it would be doing business as?

15 MR. COOPER: Correct.

16 JUDGE ROBERTS: May I ask, any unregulated  
17 under that name?

18 COMMISSIONER MURRAY: Does it matter? It's  
19 a d/b/a for the -- for Aquila, Inc. Right? Why does it  
20 matter? I mean, if Aquila, Inc. does whatever they're  
21 doing business as. I mean, maybe I'm missing something.

22 CHAIRMAN GAW: Have you got -- how long  
23 does it take to approve one of those name change things?  
24 Are they contested cases?

25 JUDGE ROBERTS: Oh, no, sir.

1                   CHAIRMAN GAW:  They require a letter?

2                   JUDGE ROBERTS:  I'm sorry?

3                   CHAIRMAN GAW:  What do they require?

4                   JUDGE ROBERTS:  They basically submit a

5 letter and those couple of documents and we do a --

6                   CHAIRMAN GAW:  Do we have those documents

7 on file already?

8                   JUDGE ROBERTS:  We have the Secretary of

9 State document.

10                  CHAIRMAN GAW:  What are we missing?

11                  JUDGE ROBERTS:  We don't -- the question

12 remained which names -- are you deleting a name and

13 replacing it or are you adding a name?  And if you're

14 adding a name, if somebody filed to add a name then that

15 wouldn't be done --

16                  CHAIRMAN GAW:  What are you doing?  For the

17 court reporter, tell me what you're doing.

18                  MR. COOPER:  We're adding a name.

19                  CHAIRMAN GAW:  And it would be what?

20                  MR. COOPER:  Aquila Networks.

21                  CHAIRMAN GAW:  All right.  And Aquila

22 Networks will be -- if I were looking at the St. Joe area,

23 under the regulated side, what would the name be?

24                  MR. COOPER:  I don't know that I can answer

25 the question the way it was pitched.

1 CHAIRMAN GAW: Give me an answer that --

2 MR. COOPER: Certainly, the Aquila -- the  
3 rates that would apply to the St. Joseph area would  
4 continue to be described as the Aquila Networks - L&P  
5 rates and would -- and are clearly, I believe, identified  
6 in that fashion in the tariff sheet.

7 CHAIRMAN GAW: Okay.

8 MR. COOPER: Okay. It is possible that  
9 just the name Aquila Networks would be used for activities  
10 or something that were not specific.

11 COMMISSIONER CLAYTON: Public relations?

12 MR. COOPER: Yes, public relations, or not  
13 specific just to the St. Joseph area.

14 CHAIRMAN GAW: So I've got three names.  
15 Give me the three names that Aquila's going to be doing  
16 business under, please.

17 MR. COOPER: Aquila Networks is name No. 1.  
18 Aquila Networks - MPS is name No. 2. Aquila Networks -  
19 L&P is name No. 3.

20 CHAIRMAN GAW: Okay. Those are the names  
21 that you would be doing business as in the future from  
22 this point forward; is that correct?

23 MR. COOPER: Yes.

24 CHAIRMAN GAW: So -- and that's the only  
25 names that you're going to be doing business in front of

1 the Commission?

2 MR. COOPER: The only fictitious names,  
3 yes.

4 CHAIRMAN GAW: And those are the names  
5 you're asking the Commission to approve?

6 MR. COOPER: Yes, Commissioner.

7 CHAIRMAN GAW: Does anybody have an  
8 objection to that?

9 MR. WILLIAMS: Certainly not.

10 MS. O'NEILL: No.

11 CHAIRMAN GAW: Anybody have an objection?

12 MR. CONRAD: No.

13 MS. WOODS: No.

14 CHAIRMAN GAW: Thank you, Mr. Conrad.  
15 Then I don't see any reason why we can't  
16 approve that, do you, Judge?

17 JUDGE ROBERTS: It's -- I'm --

18 CHAIRMAN GAW: Is there a reason we can't  
19 approve it?

20 JUDGE ROBERTS: Well, someone could argue  
21 it's sort of suggesting the Commission will now allow  
22 companies to use multiple names, and they can argue that  
23 all they want. I mean, that's -- that's -- if somebody  
24 had come to us, asked for a change of name and said we're  
25 not changing a name, we were adding one, we would have

1 brought it to agenda and said, this isn't routine, this is  
2 new, but other than that, that's --

3 CHAIRMAN GAW: If somebody has an  
4 objection, I think if we enter that as some sort of an  
5 Order, I assume that there's a time frame they can object  
6 to this going forward.

7 JUDGE ROBERTS: I honestly can't imagine.

8 CHAIRMAN GAW: Now, is there any other  
9 problem with this? Commissioner Clayton?

10 COMMISSIONER CLAYTON: There's a second  
11 issue relating to the numbering. There's the name, then  
12 there's the numbering, right?

13 JUDGE ROBERTS: PSC Mo No. 1, and maybe  
14 James Watkins can explain how we get there. That's a  
15 technical issue that I don't understand.

16 COMMISSIONER CLAYTON: Mr. Chairman, if I  
17 may, according to the secretary, because they have not  
18 made reference to the tariff numbers, which was No. 7 for  
19 Aquila Networks - L&P and No. 3 for Aquila Networks - MPS  
20 in the electricity, and then No. 7 for Aquila Networks -  
21 L&P, instead they filed them each as No. 1.

22 CHAIRMAN GAW: Okay.

23 COMMISSIONER CLAYTON: So the question is,  
24 is that a big deal or problem?

25 CHAIRMAN GAW: Do you want Mr. Watkins to

1 respond to that?

2 COMMISSIONER CLAYTON: I want anybody to  
3 respond to it.

4 CHAIRMAN GAW: Who is the right person?

5 MR. WILLIAMS: I believe Mr. Watkins.

6 (Witness sworn.)

7 CHAIRMAN GAW: Go ahead, Mr. Watkins, what  
8 can you tell us?

9 First of all, tell us who you are.

10 MR. WATKINS: I'm James Watkins. I'm a  
11 regulatory economist in the energy department and have  
12 responsibility for the electric tariffs.

13 CHAIRMAN GAW: All right. Go ahead. Tell  
14 us what -- could you respond to the question?

15 MR. WATKINS: Mr. Clayton earlier  
16 identified the exact problem in his discussions with  
17 Mr. Roberts as to how those tariffs would be combined, if  
18 one is a 2 and one is a 6, and what would the appropriate  
19 number be. The company discussed this with me and some  
20 other folks in the tariff section independent of filing  
21 this rate case and prior to that filing about a desire to  
22 improve the efficiency of their tariff by combining it  
23 into a single tariff and wondering how we would accomplish  
24 that.

25 We went through all the possible scenarios



1 about how you would do it and running up against this  
2 problem, what if one is a 2 and the next in the sequence  
3 is a 3 and one is a 6 and the next one in the sequence is  
4 a 7. So what do you do if you combine them?

5                   And the solution I gave them was you have  
6 another name, like Aquila Networks, and you file a Mo PSC  
7 No. 1, where the MoPub rates are in one section -- I'm  
8 sorry -- the Aquila Networks - MPS rates are in one  
9 section, the Aquila Networks - L&P rates are in a separate  
10 section, and the rules and regulations are in a third  
11 section. So now they're all in Mo PSC No. 1. And I think  
12 for consistency, they also filed those for the steam rates  
13 for Light & Power, so they would be Aquila Networks rate  
14 schedules as well.

15                   Let me back up and say that the -- remember  
16 the way they got here was through the merger. So the  
17 first thing they did after the merger was to adopt the  
18 existing tariffs of MPS and the existing tariffs of  
19 St. Joe Light & Power Company. And so they ended up with  
20 two separate tariffs they had adopted using the two  
21 fictitious names with the dashes. Their desire was to  
22 combine them. The only way to combine them and get a  
23 number that made any sense was to have the Aquila Networks  
24 name as the filing with Mo PSC 1 to start them back all  
25 over in one book, going forward.

1                   And I think -- I think recognizing that  
2 name and approving the tariffs is going to solve the  
3 problem at only two after four.

4                   CHAIRMAN GAW: Where's my sledgehammer?  
5 Okay.

6                   JUDGE ROBERTS: I don't know that we have a  
7 four o'clock problem, although I'd love to go home, but in  
8 terms of the filing deadline --

9                   CHAIRMAN GAW: I was about to say that  
10 anyway, but go ahead.

11                  JUDGE ROBERTS: If I may ask, part of the  
12 concern was that if we have an Aquila PSC Mo No. 1 that's  
13 steam or heat and we also have an Aquila PSC Mo No. 1  
14 which is electric, isn't that a conflict? I mean, can we  
15 have two tariffs the same number, same company, different  
16 services?

17                  MR. WATKINS: Presumably every -- every  
18 utility we regulate at some point had a Mo PSC No. 1. We  
19 had lots of 1s. For all practical purposes, we treat the  
20 steam as a totally separate company from the electric.  
21 It's a separate industry from the electric. So it's  
22 appropriate that they're both 1. There's electric 1 and  
23 steam 1.

24                  JUDGE ROBERTS: But won't we have -- and  
25 I'm struggling with that. Won't we end up having the same

1 company has two tariffs numbered the same, but for  
2 different industries? We're going to have  
3 Missouri-American No. 1 and Missouri-American No. 1, but  
4 Missouri-American No. 1 is sewer and Missouri-American  
5 No. 1 is water. I mean --

6 MR. WATKINS: Except it's more like -- it's  
7 the schedule of electric rates No. 1 and schedule of steam  
8 rates No. 1. But --

9 JUDGE ROBERTS: But the problem is the  
10 steam rates are under MPS, so we're going to have -- we're  
11 going to have a tariff that says Aquila - something - L&P,  
12 and it will contain steam rates, and we will also have an  
13 Aquila tariff - L&P that contains electric rates, and  
14 they're both going to be Mo No. 1. And how can we have  
15 Aquila PSC Mo No. 1, two different tariffs have the same  
16 number? Because then if I say I need to see PSC -- I need  
17 to see Aquila's PSC Mo No. 1, the answer is which No. 1 do  
18 you want to see?

19 MR. WATKINS: Right, do you want electric  
20 or steam?

21 JUDGE ROBERTS: But they're the -- under  
22 the same company, we can file that and it won't be any  
23 problem?

24 MR. WATKINS: Sure. Well, they've got gas,  
25 and I don't know anything about those tariffs, but they

1 could be a PSC Mo No. 1.

2 MR. COOPER: They were filed as No. 1 as  
3 well.

4 MR. WATKINS: So each separate industry  
5 starts out with 1; 1 with the new name.

6 CHAIRMAN GAW: Are we okay?

7 JUDGE ROBERTS: I think -- is this more an  
8 EFIS problem than anything else?

9 UNKNOWN SPEAKER: As long as the --

10 CHAIRMAN GAW: She's not sworn in, so if  
11 you want to ask her, that's okay, but we have to swear her  
12 in or go talk to her and then come back to us, but we've  
13 got to move on one way or the other.

14 MR. CONRAD: Mr. Chairman?

15 CHAIRMAN GAW: Yes, Mr. Conrad.

16 MR. CONRAD: I don't want to trespass on  
17 your agenda session, but I might offer a suggestion here,  
18 hopefully.

19 CHAIRMAN GAW: We'd love to have one. I  
20 think we're about ready to wind up, but go ahead.

21 MR. CONRAD: Well, okay. It strikes me  
22 that the name issue is almost separate from the numbering  
23 problem.

24 CHAIRMAN GAW: It is.

25 MR. CONRAD: And that that probably can be

1 fixed fairly quickly. Insofar as the numbering problem  
2 goes, one thing that we have done in some other  
3 jurisdictions is, perhaps in the context here, approve  
4 these conditionally today and give the utility an  
5 opportunity to within 10 or 15 days file a restated tariff  
6 that would comply with whatever numbering scheme Brother  
7 Watkins and your secretary and whomever runs the EFIS  
8 world can concur upon.

9 CHAIRMAN GAW: Okay.

10 MR. CONRAD: That gets you over the hurdle  
11 today and fixes the problem in the future.

12 CHAIRMAN GAW: Okay. Thank you,  
13 Mr. Conrad. I think Mr. Watkins is saying it's not a  
14 problem.

15 MR. CONRAD: Oh, great.

16 CHAIRMAN GAW: But I don't know about the  
17 EFIS situation.

18 JUDGE ROBERTS: And if I may, if we run  
19 into an EFIS problem, I'm sure -- if this gets to be some  
20 tracking problem, surely we can get with the company and  
21 say, would you do us a favor and file PSC Mo No. 2, and  
22 we'll -- the Commission will --

23 CHAIRMAN GAW: I have a feeling they'd be  
24 more than glad to do that, and I see them nodding, saying  
25 yes. So can we move on now?

1 JUDGE ROBERTS: Yes.

2 CHAIRMAN GAW: Can we accept these filings?

3 I want a motion to approve this name change, because I  
4 know what you-all are telling me was in that case, but I  
5 don't -- I really am bothered by this concept that these  
6 things can just be slipped in these things and we're  
7 supposedly approving something. I don't like that as an  
8 argument. I will tell you up front. I want to fix the  
9 problem here.

10 And I'm not so concerned about that part of  
11 the issue, but I'm just telling you that argument, I would  
12 make it if I were in your shoes, too, but I don't like  
13 doing business that way here. If there's a name change  
14 that somebody wants to just put the thing in front of us  
15 so we can analyze it, either in the case or separate as a  
16 stated issue.

17 MR. COOPER: And that's understood,  
18 Commissioner. I don't know that I'd agree with you that  
19 it slipped in, because I think it has --

20 CHAIRMAN GAW: Well, that may be the wrong  
21 word.

22 MR. COOPER: -- been in pleadings that have  
23 been filed in the case along the way, but that being said,  
24 I understand.

25 CHAIRMAN GAW: Okay. And if -- unless

1 somebody else -- do you-all want to have any discussion,  
2 or are you ready for a motion?

3 COMMISSIONER MURRAY: I'd like to make a  
4 motion. Did you have wording?

5 COMMISSIONER CLAYTON: Well, no. I was  
6 going to -- I had a specific motion if you wanted --  
7 unless you wanted to make it.

8 COMMISSIONER MURRAY: I just wanted to get  
9 the name. Go ahead.

10 COMMISSIONER CLAYTON: Well, Mr. Chairman,  
11 what I was going to do is I was going to move -- even  
12 though I don't think it's necessary, I would move that we  
13 approve the name change of Aquila, Inc., d/b/a Aquila  
14 Networks, and Aquila Networks - L&P for the steam tariff  
15 and approve the name change to Aquila, Inc., d/b/a Aquila  
16 Networks, Aquila Networks - L&P and Aquila Networks - MPS  
17 on the electric tariffs, and that we approve them as  
18 filed.

19 CHAIRMAN GAW: Wait a minute. I'm not sure  
20 if that -- does anybody see anything different that should  
21 be stated with that? We don't need to approve the  
22 tariffs, I don't think.

23 COMMISSIONER CLAYTON: They're rejected.

24 COMMISSIONER MURRAY: We have to --

25 CHAIRMAN GAW: I want to know whether or

1 not they're going to be -- where are these things  
2 physically?

3 JUDGE ROBERTS: They are not in the  
4 building. If they bring them back in the building, we  
5 can -- if we do it by midnight tonight, we can approve  
6 them by delegation. I mean --

7 MR. COOPER: They do remain in the EFIS  
8 system, though, I think.

9 JUDGE ROBERTS: Well, I know, but I mean,  
10 as a matter of law, they've been rejected.

11 COMMISSIONER CLAYTON: We can vacate his  
12 order.

13 JUDGE ROBERTS: There's another problem  
14 with that that would come up.

15 COMMISSIONER CLAYTON: Lot of problems.

16 CHAIRMAN GAW: Just tell me how to get it  
17 done. That's all I want to know.

18 JUDGE ROBERTS: First thing, if you-all  
19 vote and approve the name change, that takes care of that.  
20 Then if you --

21 CHAIRMAN GAW: Would you modify your motion  
22 just for the purpose of making the name change, so we can  
23 move that issue off the table?

24 COMMISSIONER CLAYTON: That's fine. So  
25 moved.



1 CHAIRMAN GAW: Second?

2 COMMISSIONER MURRAY: Second. I think you  
3 got it right. I was just going to say to include the name  
4 Aquila Networks in doing business as Aquila Networks in  
5 the --

6 COMMISSIONER CLAYTON: I read it right off  
7 the tariff, just the way it is.

8 CHAIRMAN GAW: Is there any problem with  
9 this?

10 MR. COOPER: I thought Commissioner  
11 Clayton's recitation was appropriate.

12 CHAIRMAN GAW: Everybody okay with it? No  
13 objections?

14 MS. WOODS: No objection.

15 CHAIRMAN GAW: All right. All those in  
16 favor say aye.

17 (All Commissioners responded "aye".)

18 CHAIRMAN GAW: Opposed say no.  
19 (No response.)

20 CHAIRMAN GAW: Three to zero for approval  
21 of the name change. Now, the issue of how to get this  
22 done. Commissioner Clayton, I'll give you back the floor,  
23 if you want it.

24 COMMISSIONER CLAYTON: Either we can move  
25 to -- I don't know where it is in the process. We could

1 either vacate the other order and then, in turn, approve  
2 the tariffs, but he says that there's a problem with that.  
3 I don't -- I don't know what -- what we can do. They are  
4 either in the system or they're not in the system.

5 JUDGE ROBERTS: As a matter of law, the  
6 tariffs are not at the Commission. Physically we have a  
7 copy of them, they're here, they're in EFIS, but as a  
8 matter of law they were rejected and they're out of --

9 COMMISSIONER CLAYTON: I don't see how that  
10 can happen. We've got an Order approving them, and then  
11 there's an Order of vacating that Order. How can they not  
12 be in the building?

13 JUDGE ROBERTS: They are physically in the  
14 building. I'm holding them right here. But they were  
15 rejected days before the Order approving them, and that  
16 happened because EFIS -- there was no EFIS notification to  
17 the Judge to let him know that they'd been rejected. And  
18 the Order -- the Order vacating the approval was issued  
19 before the Order approving became effective.

20 CHAIRMAN GAW: I'm going to take care of  
21 all this logistical problem later. I want to know how to  
22 get these tariffs taken care of right now. We'll deal  
23 with this on a general basis afterwards.

24 JUDGE ROBERTS: If they -- I would ask if  
25 they would refile them, Staff and a judge can get them

1 approved today.

2 MR. COOPER: As in refiled with an issue  
3 date of today, as opposed to April 14th when --

4 JUDGE ROBERTS: Yes, because, I mean, by  
5 statute we can -- it has to have an issue date and  
6 effective date 30 days later by state law. By that same  
7 state law, we can make them effective when we want, when  
8 the Commissioners want, which is what we do routinely. We  
9 expedite the approval; you file them, we approve them and  
10 that's done. And that's -- that's the other problem that  
11 I didn't want to get into, is the way they were filed,  
12 they don't comply with 339.140(11). They didn't have 30  
13 days on them. They're required to.

14 MR. COOPER: I think the company believed  
15 that the Commission's Order under the Stipulation &  
16 Agreement directed it to file with an effective date of  
17 April 22nd.

18 JUDGE ROBERTS: Well --

19 MR. COOPER: That's why it carries the  
20 April 22nd date.

21 JUDGE ROBERTS: I'm just saying, if you  
22 would file them with a 30-day effective date and the Staff  
23 recommends them, we can do them by delegation today, and  
24 they would be effective today.

25 COMMISSIONER CLAYTON: So we need three

1 more filings? We need a tariff filing and then Staff's  
2 got to file something, and everybody else has got to file  
3 something again?

4 JUDGE ROBERTS: I don't think anybody else  
5 has to file anything.

6 COMMISSIONER CLAYTON: You just said Staff  
7 has to file another recommendation.

8 JUDGE ROBERTS: Actually --

9 COMMISSIONER CLAYTON: Can we set aside the  
10 rejection, the original rejection?

11 JUDGE ROBERTS: If you do that, you're back  
12 with tariffs that were not lawfully filed because they  
13 don't comply with the statute because they don't have a  
14 30-day effective date on them.

15 COMMISSIONER MURRAY: If we ordered them to  
16 do that, how could they not comply with the statute?

17 JUDGE ROBERTS: Well, I'm not sure that's  
18 exactly what it read, but even if it did, you ordered  
19 them -- you would have ordered them to not comply with the  
20 statute, and I'm not sure you can do that. The statute  
21 specifically says they have to be -- it's two steps:  
22 Tariffs must be filed on 30 days notice, and then in the  
23 next sentence it says and/or but the Commission can  
24 approve them on less than that, which is what we call  
25 expedited approval, which we do all the time.

1                   COMMISSIONER MURRAY:  When you filed the  
2  tariffs, did you file them with a motion for expedited  
3  approval?

4                   MR. COOPER:  Not in this case,  
5  Commissioner, because I believe that company took the  
6  position that the Commission's Order had already  
7  established the good cause for less than 30 days and had  
8  directed that April 22nd be the effective date.

9                   COMMISSIONER CLAYTON:  The subsequent  
10 motion is for expedited treatment, the -- after the  
11 rejection, the motion to approve the tariffs.  It's got  
12 a -- language in there for expedited treatment, correct?

13                   JUDGE ROBERTS:  That they filed today.

14                   MR. WILLIAMS:  If you have it in front of  
15 you, Staff's recommendation to approve the tariffs  
16 included addressing the good cause issue for less than  
17 30 days notice.  And our position was that by approving  
18 the Stipulation & Agreement, which included that the  
19 Commission order the tariffs be effective on the effective  
20 date of the Order approving the Stipulation & Agreement,  
21 constituted good cause for purposes of the statutory  
22 requirement.

23                   CHAIRMAN GAW:  On the original filing or on  
24 this filing?  If there --

25                   MR. WILLIAMS:  On the April 14th filing.

1                   CHAIRMAN GAW: On the April 14th filing.

2                   JUDGE ROBERTS: I don't see any problem

3 with doing as -- if that's what you want, doing as

4 Commissioner Clayton said.

5                   CHAIRMAN GAW: Which is?

6                   JUDGE ROBERTS: Which is vacate the

7 rejection. That mean the tariffs are here, back in the

8 system, and then approve them. And there's no law that

9 says this has to be in writing. We're on the record, and

10 as a matter of record I, the secretary, can say I

11 hereby --

12                   CHAIRMAN GAW: Anybody have a problem that?

13                   MS. WOODS: No objection.

14                   MR. WILLIAMS: No problem.

15                   CHAIRMAN GAW: No objection by any of the

16 parties if we do that.

17                   COMMISSIONER CLAYTON: You've got a move to

18 vacate the Order -- or the rejection letter dated

19 April 16th of the secretary of the Commission rejecting

20 the tariffs so referenced.

21                   COMMISSIONER MURRAY: Second.

22                   CHAIRMAN GAW: Second.

23                   All those -- any discussion?

24                   (No response.)

25                   CHAIRMAN GAW: All those in favor say aye.

1 (All Commissioners responded "aye".)

2 CHAIRMAN GAW: That's three zero. That  
3 will be approved.

4 Is there any further business on this  
5 issue?

6 JUDGE ROBERTS: That vacates the rejection.  
7 Would you like to go ahead and order that the tariffs  
8 be -- because at the moment --

9 CHAIRMAN GAW: I thought that's what he  
10 said, but he didn't say that in his motion?

11 COMMISSIONER CLAYTON: Well, you wouldn't  
12 let me do complex motions. You wanted me to do one at a  
13 time. If you want me to draw a picture, I can do that  
14 too.

15 COMMISSIONER MURRAY: Move to approve the  
16 tariffs as filed.

17 CHAIRMAN GAW: Second?

18 COMMISSIONER CLAYTON: Second.

19 CHAIRMAN GAW: All those in favor say aye.

20 (All Commissioners responded "aye".)

21 CHAIRMAN GAW: Now is there any further?  
22 Anything further?

23 (No response.)

24 CHAIRMAN GAW: No. No. No. We're off the  
25 record, and we're adjourned.