

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

The Office of the Public Counsel	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. EC-2006-0171
	)	
Aquila, Inc., d/b/a Aquila Networks-MPS	)	
and Aquila Networks-L&P	)	
	)	
Respondent.	)	

**ANSWER AND NOTICE OF SATISFACTION**

Comes now, Respondent, Aquila, Inc. d/b/a Aquila Networks-MPS and Aquila Networks-L&P ("Aquila") and for its Answer and Notice of Satisfaction to the complaint which is the subject of the captioned matter states as follows:

1. Aquila admits the averments contained in paragraphs 1, 2, 3, and second paragraph 8 of the complaint.
2. Aquila denies the averments contained in paragraphs 4, 5, 6, 7, 9, 10, 11, 12 and 13 of the complaint.
3. Aquila neither admits or denies the averments contained in first paragraph 8 of the complaint, Section 386.315, RSMo 2000, which statute speaks for itself.
4. Aquila denies that the Complainant is entitled to the relief prayed for in the Wherefore clause of the complaint.
5. For further answer and defense to the complaint, Aquila states that the complaint fails to set forth facts showing that the Complainant is entitled to the relief prayed for or any relief whatsoever in the premises, and fails to state a claim upon which relief can be granted against Aquila.

6. For further answer and defense to the complaint, Aquila states that it has, at all times relevant to the complaint, utilized an independent external funding mechanism that restricts disbursements only for qualified retiree benefits as required by Section 386.315 RSMo 2000 and as admitted in second paragraph 8 of the complaint. That in this regard Section 386.315 RSMo 2000, does not address the contribution of funds to an independent external funding mechanism, but rather addresses the disbursement of funds from the funding mechanism. In this regard, as indicated, Aquila has established an independent funding mechanism, a Voluntary Employee Beneficiary Association (VEBA) trust. Aquila has also funded same to the extent that contributions have been included in rates, has not made any unlawful disbursements from said trust fund and in all other respects has fully complied with Section 386.315 RSMo 2000.

7. For further answer and defense to the complaint, Aquila states that Section 386.315, RSMo 2000, and the orders of the Commission in Case Nos. ER-97-394 and EM-2002-292 cited in the complaint are so vague and indefinite with respect to the violations of said statute and orders alleged in the complaint as to deprive Aquila of fair and reasonable notice of what acts are required or prohibited by the statute and orders, and further that the provisions of said statute and orders, if applied as alleged in the complaint, or otherwise, so as to subject Aquila to any sanctions or penalties, would deprive Aquila of its property without due process of law in violation of Missouri Constitution, Article I, Section 10 and U.S. Constitution Amendment XIV, Section I, and would constitute the taking of private property of Aquila for public use without just compensation in violation of Missouri Constitution, Article I, Section 26.

WHEREFORE, having fully answered, Aquila prays that the complaint be dismissed.

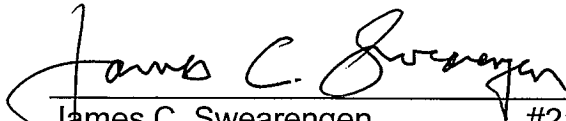
**NOTICE OF SATISFACTION**

8. The complaint alleges, in paragraph 13, that Aquila has a FAS 106 funding "deficiency" in the amount of \$8,465,161. Aquila denies that a funding "deficiency" in that amount, or in any amount, exists. To fully fund its FAS 106 obligations by the end of 2005, however, Aquila submits that a contribution in the amount of \$7,017,530 is required. (The \$1,447,631 difference represents 2001 curtailment expense for the St. Joseph Light & Power operating division, an amount which will be funded over 10 years by annual contributions in the amount of \$144,763.10 to match rate recovery anticipated to be allowed in the pending rate case beginning the first quarter of 2006 and ending in 2015.)

9. Without admitting any liability or violation of law or Commission order and without admitting that a contribution of any amount is required at this time, Aquila will contribute \$7,017,530 to its external funding mechanism by the end of 2005.

WHEREFORE, having fully satisfied, Aquila prays that the complaint be dismissed.

Respectfully submitted,



James C. Swearengen #21510  
Janet E. Wheeler #52582  
BRYDON, SWEARENGEN & ENGLAND, P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166 Phone  
(573) 634-7431 Fax  
lrackers@brydonlaw.com

Attorneys for Aquila, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, hand delivery, or electronic transmission, on this 15TH day of November, 2005, to all counsel of record.

