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

In the Matter of an Investigation into a ) Pending Sale of Assets of Aquila, Inc. ) Case No. EO-2004-0224
STAFF REPLY TO AQUILA RESPONSE AND AQUILA OBJECTION TO STAFF MOTION TO OPEN CASE
COMES NOW the Staff of the Missouri Public Service Commission ("Staff") in reply to
Aquila, Inc.'s ("Aquila's") November 19, 2003 Response And Objection To Motion To Open
Case. In reply, the Staff states as follows:
1. Aquila does not dispute that the Commission has the power to direct that an
investigation be commenced into the authority of Aquila to sell its ** HC
HC ** Instead, Aquila argues that the
Commission should decide the ultimate question of the investigation proposed by the Staff
without directing an investigation. The consequences of the proposed sale are significant. Thus,
the Staff suggests that the matter of the Commission's jurisdiction be addressed before the sale
occurs. The consequences of such a transaction were not before the Commission when it made
the ** HC
<u>HC</u> ** The Staff contends that the Commission
should not find that it has no jurisdiction without the benefit of an investigation.
2. ** <u>HC</u>
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	<u>HC</u> **
	3. The sale by Aquila of its ** HC
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НС	** At the present, with Aquila being a ** HC
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НС	** Access to these book
and r	ecords is necessary for the Staff to determine the actual cost of the ** HC
<u>HC</u>	
НС	** These determinations are necessary in order to

**NP** 

assure that the ratepayers of Aquila Networks-MPS are not subsidizing the sale of ** HC
<u>HC</u> **
4. The necessity for access to books and records is manifested by the intricacies of the
transactions involving ** HC
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HC ** and would flow to
Aquila, not to MPS's customers through lower rates.
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<u>HC</u> ** <sup>1</sup>
1 ** <u>HC</u>

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HC	** The Staff
anticipates that t	he matters just noted will be an issue in Aquila's presently pending electric rate
increase case, El	R-2004-0034.
5. Aqui	la asserts on page 3, paragraph 6 of its November 19, 2003 Response And
Objection To M	otion To Open Case that there was no suggestion by the Staff that the sale had
any Missouri reg	gulatory implications, ** HC
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With the consummation of the proposed sale, the Commission will no longer have
similar access to the books and records necessary to determine the costs of the ** HC
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HC ** it will be impossible should the proposed transaction occur.
6. On page 5, paragraph 9 of its November 19, 2003 Response And Objection To
Motion To Open Case, Aquila argues that the Commission's authority to regulate or to prevent
** <u>HC</u>
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HC ** Both contentions by Aquila are incorrect.
A consequence of the proposed transaction, should it occur, is that Aquila's access to
information relating to the ** HC
<u>HC</u> **
Thus, Aquila's statement on page 5, paragraph 11 of its November 19, 2003 Response And
Objection To Motion To Open Case that "[t]he contemplated Transaction does not represent any
change for Missouri regulation" is also incorrect.
5. ** <u>HC</u>
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HC ** Again, Aquila's statement on page 5, paragraph 11 of its November 19, 2003
Response And Objection To Motion To Open Case that "[t]he contemplated Transaction does
not represent any change for Missouri regulation" is incorrect.
In Aquila Networks-MPS's last rate case, ER-2001-672, the Staff treated ** tHC
HC

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<u>HC</u>	**
	6. ** <u>HC</u>
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<u>HC</u>	**
	WHEREFORE, the Staff requests that (a) the Commission direct its Staff to investigate
the f	facts pertaining to the scope of the Commission's jurisdiction over Aquila's ** HC
<u>HC</u>	** requires this
Com	amission's approval, and (2) the Commission keep open this case to receive the results of the
Staff	s investigation.

Respectfully submitted,

DANA K. JOYCE General Counsel

## /s/ Steven Dottheim

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/s/ Steven Dottheim	
Steven Dottheim	_