

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

In the matter of Aquila, Inc. d/b/a)	
Aquila Networks-L&P, for authority)	
to file tariffs changing the steam)	HR-2010-0028
Quarterly Cost Adjustment for ser-)	
vice provided to customers in the)	
Aquila Networks-L&P service terri-)	
tory.)	

**PRUDENCE CHALLENGE BY AG PROCESSING INC A COOPERATIVE
IN THE FORM OF A COMPLAINT CONCERNING
RECOVERIES FROM STEAM CUSTOMERS OF
IMPRUDENTLY INCURRED AMOUNTS BY AQUILA, INC.
AND ITS SUCCESSORS INCLUDING
KCP&L GREATER MISSOURI OPERATIONS CO.**

COMES NOW Ag Processing Inc a Cooperative ("AGP") and for its Complaint against Aquila, Inc. d/b/a Aquila Networks-L&P, now KCP&L Greater Missouri Operations Co. (collectively referred to, as the context may require, as "GMO" or "Aquila"), and states as follows:

COUNT I - COMMON ALLEGATIONS

1. AGP is a cooperative association and operates a soybean processing facility in St. Joseph, Missouri. AGP's address is 12700 West Dodge Road, Omaha, NE 68154. The address at the St. Joseph, Missouri facility is 900 Lower Lake Road, St. Joseph, MO 64502.

2. GMO is the successor utility in interest to St. Joseph Light & Power Company and Aquila, Inc. d/b/a Aquila Networks-L&P, having claimed to have acquired the common stock of

Aquila, Inc. d/b/a Aquila Networks - L&P, and thus the utility property, through intermediaries. GMO's corporate offices in Missouri are at 1200 Main Street, Kansas City, MO 64105. Its mailing address is P. O. Box 418679, Kansas City, MO 64141-9679.

3. Great Plains Energy (GPE) is the corporate parent of both Kansas City Power & Light Company (KCPL) and GMO and owns or controls all the common stock of both entities.

4. Through an intermediary identified as Gregory Acquisition Corporation (Gregory), GPE acquired the common shares of Aquila, Inc. including Aquila, Inc. d/b/a Aquila Networks--L&P.

5. Subsequent to such acquisition, the name of Aquila, Inc. d/b/a Aquila Networks-L&P was changed to GMO.

6. By means of claimed acquisition, GMO is now and has been continuously the utility obligated to provide steam service to AGP's soybean processing facility in St. Joseph, Missouri.

7. In Case No. HR-2005-0450 Aquila, Inc. d/b/a Aquila Networks-L&P sought a rate increase for its steam service area in St. Joseph, Missouri.

8. As a result of a negotiated settlement, GMO was authorized to implement a rate adjustment mechanism to reflect changes in fuel cost for its steam system.

9. A true copy of the February 28, 2006 Missouri Public Service Commission ("Commission") Order approving that negotiated settlement is attached hereto as Exhibit A.

10. A true copy of the settlement document as approved by the Commission in Exhibit A is attached hereto as Exhibit B.

11. Pursuant to that rate adjustment mechanism, Aquila was permitted to establish a base level of fuel costs that were incurred in generating steam for its steam distribution system in St. Joseph Missouri.

12. Pursuant to that rate adjustment mechanism, Aquila was permitted to make rate adjustments on a quarterly basis relative to the base established for its steam fuel adjustment.

13. Pursuant to that rate adjustment mechanism, these quarterly adjustments were identified as Quarterly Cost Adjustments or "QCA."

14. Pursuant to that rate adjustment mechanism, each adjustment was collected subject to refund and subject to a true-up proceeding for each calendar year, 2006 through present.

15. The rate adjustment mechanism that was agreed upon and embodied in the aforesaid settlement (Exhibit B) included the following statement:

Any Aquila steam customer or group of steam customers in the L&P service area may make application to initiate a complaint for the purpose of pursuing a prudence review by use of the existing complaint process. The application for the complaint and the complaint proceeding will not be prejudiced by the absence of a step two prudence review by Staff.

16. AGP is an Aquila steam customer in the L&P service area as provided in the foregoing quoted paragraph.

17. AGP is not subject to and is not prejudiced by the absence of a "step two" prudence review by Missouri Public Service Commission Staff.

18. Any steam customer may institute a complaint questioning the prudence of any cost that is proposed to be or has been recovered through the QCA mechanism without regard to a limitation on the time period within which such complaint may be brought.

19. The settlement stipulation that was approved by the Commission in Case No. HR-2005-0450 does not provide for hedging.

20. The settlement stipulation that was approved by the Commission in Case No. HR-2005-0450 addresses the accounting process for hedges.

21. The Settlement Stipulation in Case No. HR-2005-0450 does not pre-approve either the imprudent execution or implementation of a hedging program or the imprudent administration of any hedging program.

22. Coal is the base load fuel used to raise steam at the Lake Road Generating Station.

23. Natural gas is used as a peaking or "swing" fuel to raise steam at the Lake Road Generation Station.

24. The quantities of natural gas used as a swing fuel at the Lake Road Generation Station are subject to substantial variations from time to time.

25. Prior to March 6, 2006, Aquila conducted no hedging program for the fuel used to raise steam in its steam service territory in St. Joseph, Missouri.

26. On or about March 6, 2006, Aquila commenced natural gas hedging for the swing fuel used in raising steam for its steam service territory in St. Joseph, Missouri ("Aquila Steam Hedging Program").

27. Hedges placed under the Aquila Steam Hedging Program were a collection of natural gas NYMEX futures contracts and call options.

28. The Aquila Steam Hedging Program that commenced in March, 2006 was suspended on or about November 21, 2007.

29. No hedging contracts or hedges were entered after November 21, 2007.

30. After November 21, 2007, Aquila had a continuing obligation to prudently administer and execute the hedge program.

31. Despite this obligation, after November 21, 2007, Aquila executed and administered its hedging program imprudently.

32. The Aquila Steam Hedging Program had no direct impact on the physical gas supply for the GMO steam generation and distribution system.

33. Aquila began the Aquila Steam Hedging Program for its steam service territory in St. Joseph, Missouri without notice to and without the knowledge of the steam customers in St. Joseph, Missouri.

34. Aquila began the Aquila Steam Hedging Program for its steam service territory in St. Joseph, Missouri without the consent of the steam customers in St. Joseph, Missouri.

35. Aquila began the Aquila Steam Hedging Program for its steam service territory in St. Joseph, Missouri without notice to the Commission.

36. Aquila began the Aquila Steam Hedging Program for its steam service territory in St. Joseph, Missouri without the consent of the Commission.

37. The Aquila Steam Hedging Program commenced by Aquila on and after March 6, 2006 consisted of "hedging" 1/3 of its projected supplies with natural gas future contracts, hedging 1/3 of its projected natural gas requirements with options contracts, and allowing the remaining 1/3 to be purchased without hedge protection at market prices.

38. Prudent administration and execution of the Aquila Steam Hedging Program requires prudent determination of the quantities of natural gas to be hedged.

39. Prudent administration and execution of the Aquila Steam Hedging Program requires prudent management of the hedge program.

40. Aquila failed in its responsibility to prudently manage and execute the Aquila Steam Hedging Program.

41. The Aquila Steam Hedging Program addressed herein was separate and distinct from any other hedging programs engaged in by Aquila.

42. The Aquila Steam Hedging Program was implemented by some or all of the same individuals as were performing other Aquila hedging programs.

43. The Aquila Steam Hedging Program employed the same strategies as did other Aquila hedging programs.

44. The Aquila Steam Hedging Program employed the same assumptions as did other Aquila hedging programs.

45. The Aquila Steam Hedging Program employed the same methodologies as did other Aquila hedging programs.

46. The Aquila Steam Hedging program did not recognize the role of natural gas as a swing fuel in the generation of steam.

47. The Aquila Steam Hedging program did not prudently take into account the quantities of natural gas, if any, that might have been prudently hedged.

48. The projected natural gas requirements for which Aquila conducted the Aquila Steam Hedging Program on and after March 6, 2006 were the result of an Aquila forecast of fuels required to raise steam, including quantities of natural gas as a swing fuel.

49. Through December 2010, Aquila, and then as GMO financially settled hedges placed under the Aquila Steam Hedging Program.

50. The settlement costs of the Aquila Steam Hedging Program have been booked to the steam fuel cost accounts as the financial instruments matured and were settled.

51. Aquila has owned and operated the regulated steam business at all times after the merger of St. Joseph Light & Power Company into Aquila.

52. The L&P Division is an internal division of Aquila and is not a separate legal entity.

53. The acquisition of Aquila by GPE occurred on July 14, 2008.

54. The provision of steam as a certificated and regulated service in St. Joseph, Missouri has been continuously operated by Aquila since Aquila's acquisition of St. Joseph Light & Power as a division of Aquila.

55. Aquila's corporate name was changed to KCP&L Greater Missouri Operations Co. (GMO) on October 17, 2008 and it has continued to operate the regulated steam business in St. Joseph, Missouri thereafter.

56. GMO continues without interruption to have all the rights, liabilities and obligations of Aquila with respect to the regulated steam operations in St. Joseph, Missouri, of which AGP is a customer.

57. In File No. HR-2009-0092 the Commission approved a settlement the effect of which, among other things, was to modify certain terms of the QCA tariff pertaining to the QCA. A copy of the Order and the modified QCA tariff is attached hereto as Exhibit C. The modification did not directly affect any of the provisions of the QCA tariff pertaining to Aquila's Steam Hedge

Program activity as to which an imprudence determination is herein sought.

58. In File No. HC-2010-0235 the Commission determined that Aquila's steam fuel hedging activities relevant to QCA Periods 2006 and 2007 were imprudent and ordered a refund of roughly \$2.9 million. This decision is final insofar as the Commission is concerned. A true copy of the Commission's September 28, 2011 Report and Order in File No. HC-2010-0235 is attached hereto as Exhibit D.

59. GMO (as the successor to Aquila) did not seek a stay from the Commission of any portion of this decision.

60. In File No. HT-2011-0343, the Commission directed GMO (as the successor to Aquila) to begin to refund roughly \$2.9 million to steam customers in St. Joseph pursuant to the terms of the OCA tariff and pursuant to the Commission's Report and Order in File No. HC-2010-0235. A true copy of the Commission's November 22, 2011 Order in File No. HT-2011-0343 is attached hereto as Exhibit E. GMO (as the successor to Aquila) did not seek a stay from the Commission of any portion of the Commission's order in File No. HT-2011-343 to refund amounts determined to be imprudently collected in File No. HC-2010-0235 pursuant to the settlement. A true copy of the Commission's November 29, 2011 Order approving a new QCA tariff embodying a refund and that QCA Tariff is attached hereto as Exhibit F.

61. The Commission has jurisdiction over this matter by reason of its general superintending jurisdiction over the

operations and charges of Missouri utilities and by reason of its approval of the settlement in File No. HR-2005-0450 (Exhibit B).

COUNT II - 2009 QCA PERIOD

62. AGP incorporates by reference as though fully set out the allegations contained in paragraphs 1-61 of this pleading.

63. A quarterly QCA filing was submitted by Aquila on July 15, 2009, was ultimately assigned File No. HR-2010-0028, and applied to costs for the period beginning with the first quarter of 2009 and continuing through the fourth quarter of 2009, or the "2009 QCA Period".

64. Aquila included in the QCA for the 2009 QCA Period \$1,244,510 of natural gas hedging costs.

65. The natural gas hedging costs for which Aquila sought and has obtained recovery, subject to prudence review and refund, exceeded 10% of the total fuel costs for the 2009 QCA Period.

66. The \$1,244,510 hedging settlement costs that Aquila included in the 2009 QCA Period continued to reflect settlements of hedging commitments that Aquila had made solely for financial purposes, and not to acquire or provide quantities of natural gas that were not needed for service to its customers during the 2009 QCA period.

67. Through QCA charges with respect to the 2009 QCA Period, Aquila recovered \$1,224,510 hedging settlement costs from its steam service customers in St. Joseph, Missouri.

68. The amounts recovered by Aquila through charges with respect to the 2009 QCA Period were all collected subject to refund.

69. Aquila failed to prudently administer its hedge program for natural gas and incurred hedge obligations it did not need and that it could have reasonably foreseen that it would not need for the 2009 QCA Period.

70. The Aquila Steam Hedging Program costs incurred by Aquila with respect to the 2009 QCA Period and recovered from Aquila steam customers in St. Joseph were imprudently incurred.

71. The costs incurred by Aquila with respect to the 2009 Period were also imprudently incurred in that Aquila imprudently purchased hedging instruments without prudent regard for the nature and extent of its natural gas requirements and current market conditions and engaged in a mechanistic approach to attempting to control its natural gas costs. Such costs should be refunded to steam customers in St. Joseph, Missouri in the same manner as they were originally excessively charged.

72. The costs incurred by Aquila with respect to the 2009 Period were also imprudently incurred in that Aquila attempted to mitigate price changes that were already being mitigated through a "spreading" mechanism embodied in the HR-2005-0450 settlement document (Exhibit B) and the QCA mechanism

established pursuant to the settlement and should be refunded to steam customers in St. Joseph, Missouri in the same manner as they were originally excessively charged.

73. The Aquila Steam Hedging Program and Aquila's hedging practices were known or should have become known to GPE when it performed its investigations in connection with negotiating a purchase price for Aquila.

74. The Aquila Steam Hedging Program financial losses, and Aquila's failure to reasonably project its natural gas needs for hedging purposes, and its additional failure to monitor and adjust natural gas quantities hedged that resulted in the hedge program financial losses that were known or should have become known to GPE when it performed its investigations in connection with negotiating a purchase price of Aquila.

75. Any risk associated with the Aquila Steam Hedging Program and Aquila's steam gas hedging practices was accounted for in the purchase price agreed upon between Aquila and GPE as a result of that investigation.

76. Any risk associated with the Aquila Steam Hedging Program and Aquila's failure to prudently manage the Steam Hedge Program and to adjust downward the amount of natural gas hedges that it was purchasing or committing to purchase through its hedging program was accounted for in the purchase price agreed upon between Aquila and GPE as a result of that investigation.

WHEREFORE, AGP prays that the Commission issue a determination that Aquila was imprudent as described above and

requiring that Aquila or its successors in interest or name
refund to steam customers in St. Joseph the sum of \$1,224,510
with interest thereon as provided by law and Commission rule and
with a refund by check to the customers in proportion to the
amounts of such imprudent hedging cost paid by each customer.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

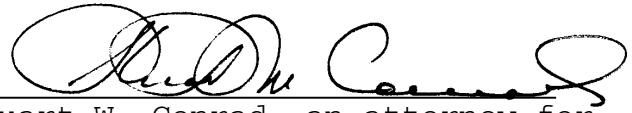
A handwritten signature in black ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.

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ATTORNEYS FOR AG PROCESSING INC

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing complaint upon identified representatives of KCP&L Greater Missouri Operations Company and upon representatives of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel by United States Mail, postage prepaid, and by electronic means as an attachment to e-mail, all on the date shown below.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad, an attorney for
Ag Processing Inc a Cooperative

Dated: January 29, 2012

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 28th day of
February, 2006.

In the Matter of the Tariff Filing of Aquila, Inc.,)	
to Implement a General Rate Increase for)	<u>Case No. HR-2005-0450</u>
Retail Steam Heat Service Provided to)	Tariff No. YH-2005-1066
Customers in its L&P Missouri Service Area.)	

ORDER REGARDING STIPULATION AND AGREEMENT

Issue Date: February 28, 2006

Effective Date: March 6, 2006

Syllabus: This order approves the stipulation and agreement submitted by the parties.

On May 27, 2005, Aquila, Inc., submitted proposed tariff sheets (YH-2005-1066) intended to implement a general rate increase for steam service provided to retail customers in its L&P operating division in Missouri. On June 1, the Commission suspended the Company's proposed tariff sheets until April 24, 2006.

On February 17, 2006, Aquila, Inc., the Staff of the Missouri Public Service Commission, AG Processing, Inc., and the City of St. Joseph filed a nonunanimous stipulation and agreement. That stipulation and agreement resolves all disputes between the parties regarding the proposed steam rate increase. A copy of the stipulation and agreement is attached to this order as Attachment 1.

Not all parties signed the stipulation and agreement. However, Commission Rule 4 CSR 240-2.115(2) provides that if no party objects to a nonunanimous stipulation and agreement within seven days of its filing, the Commission may treat that stipulation and

EXHIBIT A

agreement as unanimous. No party has filed a timely objection to the stipulation and agreement and the Commission will treat it as unanimous.

Staff filed suggestions in support of the stipulation and agreement on February 24. On February 27, the Commission held an on-the-record presentation regarding the proposed stipulation and agreement. At that proceeding, the Commission questioned the signatory parties, as well as those parties that did not sign but did not object to the stipulation and agreement.

As a part of the stipulation and agreement, the parties agreed to specific tariff language that Aquila will file to implement the agreed upon rate increase. That tariff has not yet been filed but the stipulation and agreement asks the Commission to authorize Aquila to file such a tariff. The stipulation and agreement also asks the Commission to allow that tariff, after it is filed, to become effective on March 1, 2006.

The parties agree that if the Commission approves the stipulation and agreement without modification or condition, then the prefiled testimony of all witnesses may be included in the record of this proceeding. The Commission will admit such evidence into the record.

The Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case.¹ Furthermore, Section 536.090, RSMo Supp. 2005, provides that when accepting a stipulation and agreement, the Commission does not need to make either findings of fact or conclusions of law. The requirement for a hearing is met when the opportunity for hearing has been provided and

¹Section 536.060, RSMo Supp. 2005.

no proper party has requested the opportunity to present evidence.² Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the stipulation and agreement.

Based on the agreement of the parties and the testimony received at the on-the-record presentation, the Commission believes that the parties have reached a just and reasonable settlement in this case.

IT IS ORDERED THAT:

1. The Stipulation and Agreement filed on February 17, 2006, is approved as a resolution of all issues in this case (See Attachment 1).
2. All signatory parties are ordered to comply with the terms of the Stipulation and Agreement.
3. The proposed steam heat service tariff sheets (YH-2005-1066) submitted on May 27, 2005, by Aquila, Inc., are rejected.
4. Aquila, Inc., is authorized to file the tariff sheets agreed to as part of the Stipulation and Agreement. Aquila, Inc., may request that the tariff sheets be allowed to become effective on March 6, 2006.
5. The prefiled testimony of all witnesses is admitted into evidence and is included in the record of this proceeding.

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

6. This order shall become effective on March 6, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton and Appling, CC., concur
Gaw, C., dissents, dissenting opinion to follow

Woodruff, Deputy Chief Regulatory Law Judge

STATE OF MISSOURI
MISSOURI PUBLIC SERVICE COMMISSION

In the matter of Aquila, Inc. d/b/a)	
Aquila Networks-L&P, for authority)	
to file tariffs increasing steam)	HR-2005-0450
rates for the service provided to)	
customers in the Aquila Networks-)	
L&P area.)	

NONUNANIMOUS STIPULATION AND AGREEMENT

COME NOW Aquila, Inc. d/b/a Aquila Networks - L&P ("Aquila"), the Staff of the Missouri Public Service Commission ("Staff"), Ag Processing, Inc. ("AGP"), and the City of St. Joseph, Missouri ("St. Joseph") (collectively "the Signatory Parties") and state to the Missouri Public Service Commission ("Commission") as follows:

PROCEDURAL BACKGROUND

1. Aquila, doing business as Aquila Networks-L&P, serves steam customers in an area that includes St. Joseph, Missouri (the "L&P service area"). On May 27, 2004, Aquila submitted to the Commission revised tariff sheets designed to increase rates for steam service Aquila provides to its steam customers in the L&P service area. The tariff sheets bore an effective date of June 26, 2005, and were designed to produce an

annual increase of \$5,000,000, exclusive of applicable fees and taxes.

2. On June 1, 2005, the Commission issued its Order suspending the effective date of the tariff sheets until April 24, 2006. Thereafter, various parties intervened in this proceeding. By order issued July 21, 2005, the Commission established a procedural schedule. Thereafter the Commission continued the commencement of the hearing from time-to-time. During these continuances, Aquila and AGP met for the purpose of exploring settlement of the outstanding issues. As a result of those discussions and negotiations, the Signatory Parties have resolved as among themselves all remaining issues in this case and stipulate and agree as follows:

RESOLUTION OF ISSUES

Revenue Requirement.

3. The proposed steam service tariff sheets filed by Aquila with the Commission on May 27, 2005, should be rejected and Aquila should be authorized to file with the Commission revised tariff sheets containing rate schedules for steam service in its L&P service area that are designed to produce an increase in base overall gross annual steam revenues, exclusive of applicable fees and taxes, in the amount of \$4,500,000.

Goal for Effective Date of Rates.

4. The Signatory Parties agree to a goal of a March 1, 2006 effective date for the tariff sheets agreed to herein. In the event the Commission does not deem the March 1, 2006 effective date to be practicable, the Signatory Parties urge the Commission to permit the rate increase to take effect as soon thereafter as possible. The Commission, in any order approving this Nonunanimous Stipulation and Agreement, for good cause shown pursuant to Section 393.143(11), should authorize Aquila to file tariff sheets in conformance with the tariff sheets attached hereto for illustrative purposes as Appendix A, said tariffs to have an effective date of March 1, 2006, or such other date as is ordered, less than thirty (30) days from the filing date, without the necessity of Aquila filing a separate motion seeking such authorization.

Rate Design.

5. The increase in revenues will be accomplished by increasing each rate element on an equal percentage basis. Said percentage is approximately 37.48% and is calculated by dividing the agreed-to increase of \$4,500,000 by the Staff's adjusted steam revenues of \$12,006,485 for calendar year 2004, updated through June 30, 2005, as shown in Schedule 2 attached to the

prefiled direct testimony of Janice Pyatte (a copy of which is attached hereto as Appendix B).

Reliability Study.

6. At its cost, Aquila will perform a study of recent reliability problems as recommended in the direct testimony of AGP witness Johnstone. Aquila will identify solutions and report to the Commission Staff and interested parties within 90 days after the final order in this proceeding.

System Resource Study.

7. At its cost, Aquila will perform a system resource study as recommended in the direct testimony of AGP witness Johnstone. Aquila will incorporate applicable results of the reliability study referred to in paragraph 6 above into the steam system resource study, identify economical system resource options, and report the study results to the Commission Staff and interested parties within 240 days after the final order in this proceeding.

Fuel Cost Customer/Utility Alignment Mechanism.

8. Aquila will file rate adjustments quarterly to reflect 80% of the change in the actual fuel costs above or below a base amount of \$3.005 per million BTU.

8.1. The cost of fuel will be the amounts expensed in Account 501. The amounts expensed will continue to be based on the cost definitions currently used for the inclusion of costs in this account and on the currently used cost allocation methods, as explained in some additional detail: The cost of gas in Account 501 will include the cost of physical gas deliveries and financial instruments, when settled, associated with gas delivered in the quarterly period. The cost of coal expenses to Account 501 will continue to reflect the average cost of coal inventory and the cost allocation method(s) described in the excerpt of the direct testimony of Mr. Tim Nelson prefiled in this case, a copy of which is attached hereto as Appendix C.

8.2. For purposes of the quarterly rate adjustments, there will be defined minimum amounts of coal generation per Appendix D. If coal generation falls below any defined minimum amount, additional coal generation will be imputed up to the defined minimum at a cost according to the attached provision and the amount of natural gas fired generation will be reduced for the purposes of the fuel rate adjustments by a like amount according to economic dispatch principles. Aquila agrees that it will not seek an accounting authority order for fuel costs incurred, but not recovered, due to operation of this minimum coal provision. Further, Aquila will not attempt to recover from its electric customers costs not fully paid for from its steam

operations that should be properly paid for by steam customers absent the agreement to impute coal generation to a defined minimum. As an example, Aquila will not seek to recover steam operation costs from Aquila's electric customers for any costs relating to the coal imputation discussed above.

8.3. Aquila will make quarterly filings with the Commission to adjust the fuel rider. Each quarterly rate adjustment will include the fuel costs from the preceding quarter. The quarterly fuel rider factors will be calculated by dividing the fuel costs by the preceding twelve month billing determinants; provided, however, that any steam load that increases or decreases expected BTU billing units by more than 5 percent can be added or subtracted to the historic billing determinants for the purpose of the quarterly fuel rider computation and rate. Each quarterly rate adjustment will remain in effect for twelve months.

8.4. As detailed below, there will be prudence reviews and true-up of revenues collected and costs. A reconciliation account shall be created to track, adjust and return true-up amounts and prudence amounts not otherwise refunded. The difference between the costs intended for recovery and revenues collected will be tracked in a reconciliation account. Fuel costs collected in rates will be refundable based on true-up results and findings in regard to prudence. Adjustments, if any,

necessary by Commission order pursuant to any prudence review shall also be placed in the reconciliation account for collection unless a separate refund is ordered by the Commission. A reconciliation rate shall be established at a level designed to bring the reconciliation account to zero over a period of not less than 12 months and not more than 24 months. The rate may be adjusted quarterly.

8.5. The fuel rate adjustment will not include carrying costs related to the timing of fuel cost recovery.

8.6. In consideration of the sharing provisions of the fuel rate mechanism, and the intent to rely on an alignment of customer and Company interests in efficient operations, a two-step approach to prudence review will be followed. In step one the Staff will review to ascertain:

8.6.1. that the concept of aligning of company and customer interests is working as intended; and,

8.6.2. that no significant level of imprudent costs is apparent.

8.7. This review may be entirely a part of surveillance activity. Aquila steam customers in the L&P service area will be given timely notice of the results of the step one review. In consideration of Step one results, the Staff may proceed with a full prudence review, if deemed necessary. Such full prudence review shall be conducted no more often than once

every 12 months and shall concern the prior 12 month period or calendar year only, provided however that the full prudence review addressing the first partial year, if pursued, will be included with a full prudence review of the first full calendar year of operation of this rate mechanism.

8.8. Any Aquila steam customer or group of steam customers in the L&P service area may make application to initiate a complaint for the purpose of pursuing a prudence review by use of the existing complaint process. The application for the complaint and the complaint proceeding will not be prejudiced by the absence of a step two prudence review by Staff.

8.9. Pursuant to any prudence review of fuel costs, whether by the Staff or Aquila steam customer(s), there will be no rate adjustment unless the resulting prudence adjustment amount exceeds 10 percent of the total of the fuel costs incurred in an annual review period.

8.10. The fuel rate adjustment mechanism will be set forth in a rate schedule of general applicability.

9. Aquila will continue to allocate the cost of Lake Road operations between steam and electric in the Aquila Networks -- L&P division, and between steam and Aquila, Inc. and any other entities, in accordance with recent practice and as set forth in the steam cost allocation manual and as provided in stipulated agreements in Commission Case Nos. ER-2004-0034 combined with HR-

2004-0024 and incorporating the agreements from Case No. EO-94-36. The allocation method(s) will continue until another approach is presented and approved or agreed among parties in a general rate proceeding.

10. An application for a steam general rate proceeding will not be filed prior to January 1, 2007, unless the reliability study required by Paragraph 6 above or the system resource study required by Paragraph 7 above results in actions, improvements, changes in operating procedures, or projects placed in service before September 1, 2007, which would increase annual steam system revenue requirements by 10% or more.

11. Surveillance:

Quarterly Requirements:

11.1. Monthly reports labeled "Management Report - Steam (Attachment S-1);

11.2. Monthly reports labeled "Plant Statistics" (Attachment S-2);

11.3. Relevant pages from IEC reports including the monthly fuel report concerning Lake Road production statistics (Attachment S-3).

Steam Service Agreement.

12. The Aquila/AGP Steam Service Agreement dated April 22, 2004 will be amended for the purpose of extending the term of

the contract and all provisions including the pricing provisions, to April 21, 2010. The Aquila/AGP letter agreement dated March 22, 2004 will continue in effect. Aquila agrees that for future ratemaking determinations, AGP will be treated as if it were paying the full tariff rate.

Agreements Not Prejudicial.

13. Agreements in this proceeding will not prejudice any party or be determinative of a particular cost allocation approach that could be adopted by the Commission in a proceeding affecting Aquila's electric or steam rates. The absence of an imprudence finding in the context of the steam fuel rate mechanism will not prejudice any party or be determinative in an Aquila electric rate proceeding.

14. None of the signatories to this Nonunanimous Stipulation and Agreement shall be deemed to have approved or acquiesced by their agreement to the fuel adjustment mechanism in this case that the Commission should adopt the same, or a similar, fuel adjustment mechanism by a rulemaking, including, but not limited to, rules the Commission may promulgate under Section 386.266 RSMo Supp 2005 (Senate Bill 179).

GENERAL PROVISIONS

Admission of Party Testimony.

15. The Signatory Parties agree that, in the event the Commission approves this Nonunanimous Stipulation and Agreement without modification or condition, then the prefiled testimony of all witnesses in this proceeding may be included in the record of this proceeding, without the necessity of such witnesses taking the stand.

Contingent Waiver of Rights.

16. This Nonunanimous Stipulation and Agreement is being entered into solely for the purpose of settling all issues in this case as among the Signatory Parties. None of the signatories to this Nonunanimous Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost determination or cost allocation or revenue related methodology, and none shall be prejudiced or bound in any manner by the terms of this Nonunanimous Stipulation and Agreement in this or any other proceeding, whether this Nonunanimous Stipulation and Agreement is approved or not, except as otherwise expressly specified herein.

17. This Nonunanimous Stipulation and Agreement has resulted from extensive negotiations among Aquila and AGP, and the terms hereof are interdependent. In the event the Commission

does not unconditionally approve this Nonunanimous Stipulation and Agreement, then this Nonunanimous Stipulation and Agreement shall be void and no Signatory Party shall be bound by any of the agreements or provisions hereof, except as otherwise provided herein.

18. If the Commission does not unconditionally approve this Nonunanimous Stipulation and Agreement without modification, and notwithstanding its provision that it shall become void therein, neither this Nonunanimous Stipulation and Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any party has for a decision in accordance with §536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatory Parties shall retain all procedural and due process rights as fully as though this Nonunanimous Stipulation and Agreement had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Nonunanimous Stipulation and Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

19. In the event the Commission accepts the specific terms of this Nonunanimous Stipulation and Agreement, the Signa-

tory Parties waive their respective rights to call and to cross-examine witnesses pursuant to § 536.070(2); present oral argument and written briefs pursuant to §536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo 2000; their respective rights to seek rehearing, pursuant to §386.500 RSMo 2000; and their respective rights to judicial review pursuant to §386.510 RSMo 2000. This waiver applies only to a Commission Order respecting this Nonunanimous Stipulation and Agreement issued in this proceeding, and does not apply to any matters raised in any other Commission proceeding, or any matters not explicitly addressed by this Nonunanimous Stipulation and Agreement.

Staff Right to Disclose.

20. The Staff shall file suggestions or a memorandum in support of this Nonunanimous Stipulation and Agreement. Each of the parties shall be served with a copy of any such suggestions or memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's suggestions or memorandum, responsive suggestions or a responsive memorandum which shall also be served on all parties. The contents of any suggestions or memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Nonunanimous Stipulation and Agreement,

whether or not the Commission approves and adopts this Nonunanimous Stipulation and Agreement.

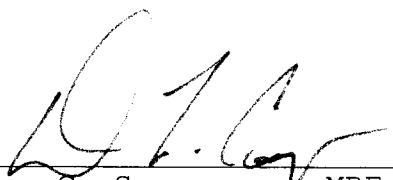
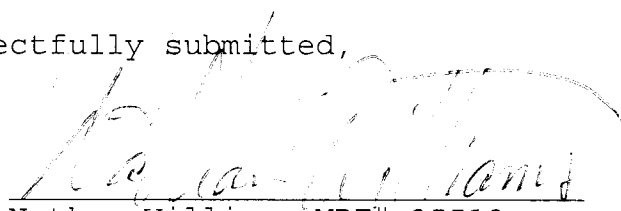
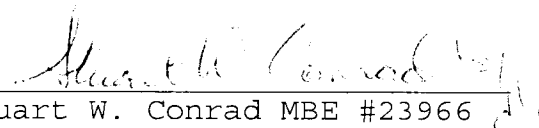
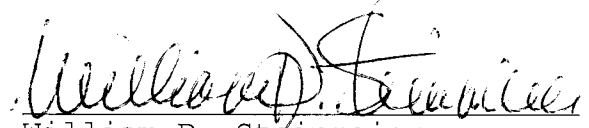
21. At any Commission agenda meeting at which this Nonunanimous Stipulation and Agreement is noticed to be considered by the Commission, the Staff shall have the right to provide, whatever oral explanation the Commission requests, provided that the Commission and Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation, if provided at a meeting where the advanced notice was less than 5 days, shall be disclosed to all the parties, and to the extent it refers to matters that are either privileged as a result of participation in settlement discussions, or are protected from disclosure pursuant to any protective order issued in this case the disclosure shall have appropriate protections. If the Staff is not a signatory or non-opposing party, Staff shall have only those rights that are afforded to any other party in a proceeding before the Commission.

Integration.

22. This Nonunanimous Stipulation and Agreement incorporates the agreements of the Signatory Parties on all issues that the Signatory Parties presented to the Commission as issues to be decided in Case No. HR-2005-0450.

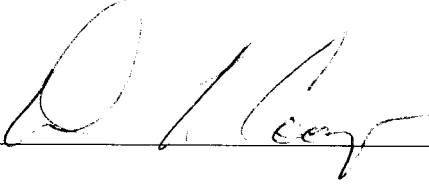
WHEREFORE, for the foregoing reasons, the Signatory Parties respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Nonunanimous Stipulation and Agreement.

Respectfully submitted,


James C. Swearengen MBE #21510
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Jefferson City, MO 65110-4595
ATTORNEY FOR THE CITY OF ST.
JOSEPH, MISSOURI

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by electronic mail on this 17th day of February, 2006, to the Parties of record as shown by the Commission's records.



STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1 1st
 Canceling P.S.C. MO. No. 1

Revised Sheet No. 1
 Original Sheet No. 1

Aquila, Inc., dba**AQUILA NETWORKS****KANSAS CITY, MO 64138**

For St. Joseph, MO & Environs

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<u>Type of Service</u>	<u>Schedule</u>	<u>Sheet No.</u>
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DESCRIPTION OF AUTHORIZED SERVICE TERRITORY

Company provides steam service for heating and processing in the vicinity of Lake Road generating station in the City of St. Joseph, Missouri.

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Issued:

Issued by: Gary Clemens, Regulatory Services

Effective:

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1 1st Revised Sheet No. 2
Canceling P.S.C. MO. No. 1 Original Sheet No. 2

Aquila, Inc., dba

AQUILA NETWORKS

KANSAS CITY, MO 64138

For St. Joseph, MO & Environs

STEAM SERVICE
STEAM

AVAILABILITY

Available for firm service from the Company's facilities to customers located in the vicinity of Lake Road Generating Station who shall contract to use this service for continuous periods of not less than two (2) years.

BASE RATE, MO981 Net two parts

1. Reserved Capacity Charge:
For all BTU of Reserved Capacity, per month, per million BTU..... \$404.30

Plus

2. Energy Charge per million BTU:
For the first 300 million BTU's per million BTU's of reserved capacity..... \$5.8768
For all over 300 million BTU's per million BTU's of reserved capacity..... \$4.7762

QUARTERLY COST ADJUSTMENT

The Energy Charge is subject to the Quarterly Cost Adjustment Rider.

LICENSE, OCCUPATION, FRANCHISE OR OTHER SIMILAR CHARGES OR TAXES

See Company Rules and Regulations

LATE PAYMENT CHARGE

See Company Rules and Regulations

DETERMINATION OF RESERVED CAPACITY

The Reserved Capacity shall be the actual demand for the billing period but not less than eighty-percent (80%) of the highest actual demand established in the previous eleven (11) months, and in no case less than three (3) million BTU's per hour.

SPECIAL RULES

The pressure, temperature and heat content of all service under this schedule shall be only as specified by the Company.

Service will be furnished under, and this schedule shall be subject to Company Rules and Regulations.

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1 1st
Canceling P.S.C. MO. No. 1

Revised Sheet No. 3
Original Sheet No. 3

Aquila, Inc., dba
AQUILA NETWORKS
KANSAS CITY, MO 64138

For St. Joseph, MO & Environs

STANDBY OR SUPPLEMENTARY SERVICE
STEAM

AVAILABILITY

Available for steam service to any customer who shall contract for a minimum monthly Reserved Capacity of three (3) mmBtu for a period of sixty (60) consecutive months, where the customer desires service as standby or supplementary to service provided by the customer's own facilities.

BASE RATE

Demand Charge per mmBtu

For each million Btu's of Reserved Capacity per month \$751.71

Fixed Energy Charge per mmBtu

For each million Btu's per month..... \$1.4974

Energy Fuel Charge per mmBtu

The energy fuel charge shall be determined based on the incremental cost of fuel for the period of actual energy usage.

Rental Charge per month

The Company and customer shall enter into a steam equipment rental contract and the customer shall agree to pay to the Company, in addition to his bill for service, a monthly rental charge therefor equal to one and three-fourths percent of the Company's total investment in all steam equipment solely dedicated to providing steam service to the customer.

QUARTERLY COST ADJUSTMENT

The Energy Charge is subject to the Quarterly Cost Adjustment Rider.

MINIMUM

The minimum monthly bill shall be the Demand Charge plus the Rental Charge.

LICENSE, OCCUPATION, FRANCHISE OR OTHER SIMILAR CHARGES OR TAXES

See Company Rules and Regulations

LATE PAYMENT CHARGE

See Company Rules and Regulations

DETERMINATION OF RESERVED CAPACITY

The customer shall subscribe to a prespecified demand level that shall be used in the calculation of the demand charge. In no case shall the specified reserved capacity be less than three (3) million BTUs per hour. The Company agrees to deliver, upon a minimum of six (6) hours notification, a demand level equal to, or less than, the subscribed demand level. If the customer requests and the Company delivers a demand greater than the subscribed level, the new actual demand delivered shall be used to calculate the monthly demand charge in the subsequent twenty-four (24) month period. At the end of the twenty-four (24) month period, if no higher demand has been delivered, the customer may again subscribe to a lower demand level. Delivery of a demand level that is higher than the subscribed level is subject to the Company's approval and the system conditions at the time of request. The Company does not assure delivery above the subscribed level.

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Issued by: Gary Clemens, Regulatory Services

Effective:

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1 1st
Canceling P.S.C. MO. No. 1Revised Sheet No. 5
Original Sheet No. 5**Aquila, Inc., dba****AQUILA NETWORKS****KANSAS CITY, MO 64138**

For St. Joseph, MO & Environs

**CONTRACT SERVICE
STEAM**AVAILABILITY, MO982

Company may, in those instances in which it faces competition from an alternate supplier of industrial steam service or the possibility of self-generation of industrial steam by a customer, enter into a special rate contract(s) with the customer on such terms and conditions as may be agreed upon by Company and the customer which, in Company's sole discretion, are deemed necessary to continue to maintain services to an existing customer, to reestablish service to a previous customer or to acquire new customers.

All such contracts shall be furnished to the Commission Staff and to the Office of the Public Counsel and shall be subject to the Commission's jurisdiction.

Unless otherwise specified or modified in the contract between the customer and Company, such service shall be subject to all other applicable Company rules, regulations, tariffs and General Terms and Conditions of Service applicable to industrial steam service on file with and approved by the Commission and as the same may be changed lawfully from time to time. The rates provided by any such contract shall not, however, exceed the tarified rate which would otherwise be applicable nor be less than \$4.8943 per mmBtu. Any such contract shall not bind the Commission for ratemaking purposes.

QUARTERLY COST ADJUSTMENT

The Energy Charge of any contract under this tariff is subject to the Quarterly Cost Adjustment Rider.

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1 1st
Canceling P.S.C. MO. No. 1

Revised Sheet No. 6
Original Sheet No. 6

Aquila, Inc., dba

AQUILA NETWORKS

For St. Joseph, MO & Environs

KANSAS CITY, MO 64138

AG PROCESSING SPECIAL CONTRACT
STEAM

AVAILABILITY

In Case No. ER-2004-0034, the lead case consolidated with Case No. HR-2004-0024, the Missouri Public Service Commission approved a special contract with Ag Processing, Inc., which is on file with the Commission as Appendix C to the Unanimous Stipulation And Agreement approved to become effective on the original effective date of this schedule. In Case No. HR-2005-0450, the Missouri Public Service Commission amended the special contract with Ag Processing, Inc., as shown in the stipulation and agreement approved to become effective on the effective date of the first revised version of this schedule.

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1Original Sheet No. 6.1

Canceling P.S.C. MO. No. _____

Sheet No. _____

Aquila, Inc., dba**AQUILA NETWORKS**

For St. Joseph, MO & Environs

KANSAS CITY, MO 64138

<p style="text-align: center;">QUARTERLY COST ADJUSTMENT RIDER STEAM</p>
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AVAILABILITY

This Quarterly Cost Adjustment (QCA) Rider applies to all sales of steam service provided under all steam rate schedules and contracts.

The Company will file rate adjustments quarterly to reflect eighty percent (80%) of the change in the actual fuel costs above or below a base amount of \$3.0050 per million BTU. The sum of the Current Quarterly Cost Adjustment (CQCA), plus the three (3) preceding CQCA's, plus reconciling adjustments, if any, plus the Reconciliation Rate will be billed in addition to all other charges under applicable tariff provisions.

CALCULATIONS

Current Quarterly Cost Adjustment (CQCA):

The CQCA is the rate adjustment component designed to reflect the customer share of the variation in fuel cost for the most recent quarter. In the computation of the CQCA the numerator is the portion of fuel costs to be collected or refunded based on costs incurred for the previous quarter. The denominator is the number of annual billing units used to compute the rate component.

CQCA = Customer Share of Fuel Cost Variation for the Preceding Quarter divided by Annual Billing Determinants

$$\text{Or, CQCA} = \frac{[\text{AM} \times (\text{FCPM}_{pq} - \text{FCPM}_b)] \times \text{BD}_{pq}}{\text{BD}_{p12} + \text{BDA}_{f12}}$$

Or, using spreadsheet software math conventions, except substituting variables for cell references:

$$\text{CQCA} = \frac{((\text{AM} * (\text{FCPM}_{pq} - \text{FCPM}_b)) * \text{BD}_{pq})}{\text{IF (OR (BD}_{pq} > \text{BD}_{pq-4} * 1.05, \text{BD}_{pq} < \text{BD}_{pq-4} * .95), \text{BD}_{p12} + \text{BDA}_{f12}, \text{BD}_{p12})}}$$

Where:

CQCA= Current Quarterly Cost Adjustment

AM= Alignment Mechanism = 80%

FCPM_{pq}= Fuel Cost per million BTU for the preceding quarter

FCPM_b= Base Fuel Cost per million BTU = \$3.0050

BD_{pq}= Billing Determinants (million BTU delivered to retail customers) for the preceding quarter

BD_{pq-4} = Billing Determinants for the corresponding quarter one (1) year prior to the preceding quarter

BD_{p12}= Billing Determinants for the preceding year

BDA_{f12}= Billing Determinants Adjustment for the following year; provided, however, that this term shall be zero (0) unless BD_{pq} varies by more than five percent (5%) up or down from BD_{pq-4} and Company determines that an adjustment is appropriate.

Note: Billing determinants shall reflect usage corresponding to the period of fuel cost computations, regardless of the "billing" or "revenue month" in which such usage is billed.

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Aquila, Inc., dba**AQUILA NETWORKS**

For St. Joseph, MO & Environs

KANSAS CITY, MO 64138
QUARTERLY COST ADJUSTMENT RIDER (Continued)
STEAM
Reconciling Adjustments and the Reconciliation Rate:

At the end of the twelve (12) months of collection of each CQCA, the over- or under-collection of the intended revenues (the numerator of the CQCA) will be applied to customers' bills thru a Reconciliation Rate. The Company shall use a collection/refund/credit amortization period of twelve (12) months, provided that an amortization period of twenty-four (24) months may be used, if needed in the Company's discretion, to minimize any extraordinary increases in energy charges. Other fuel cost refunds, or credits related to the operation of this rider may also flow through this reconciliation process, as ordered by the Commission. The Reconciliation Rate shall be calculated similarly to the CQCA, except that the amount shall not be multiplied by the Alignment Mechanism again. Any remaining over- or under-collection from the Reconciliation Rate shall be applied to the next Reconciliation Rate.

DETAILS

1. The cost of fuel will be the amounts expensed in account 501. The amounts expensed will continue to be based on the cost definitions currently used for the inclusion of costs in these accounts and on the currently used cost allocation methods, as explained in some additional detail: the cost of gas will include the cost of physical gas deliveries and financial instruments associated with gas delivered in the quarterly period. The cost of coal expenses to account 501 will continue to reflect the average cost of coal inventory and the cost allocation method(s) including but not limited to the following:

The fuel allocation is performed on a daily basis as is done in actual operations at the Lake Road Generating Station. Fuel is expense allocated based on the following equations:

$$F_S = [S / (E + S)]$$

$$F_E = F - F_S$$

Where,

F is total 900-PSI boiler fuel

F_S is 900-PSI boiler fuel allocated to industrial steam sales

F_E is 900-PSI boiler fuel allocated to the electric turbines

S is industrial steam sales steam mmBtu from boilers

E is 900-PSI electric turbine steam mmBtu from boilers

The remaining fuel not allocated to the industrial steam sales system in the first equation is allocated to the electric system as shown in the second equation. Because the variable "F" shown above includes fuel burned for Lake Road plant auxiliary steam, fuel consumed for that purpose is properly allocated between the electric and industrial steam sales systems.

Aquila, Inc., dba**AQUILA NETWORKS****KANSAS CITY, MO 64138**

For St. Joseph, MO & Environs

QUARTERLY COST ADJUSTMENT RIDER (Continued) STEAM
--

2. There shall be defined minimum amounts of coal generation. The BTUs from coal, for the purposes of the Quarterly Cost Adjustment mechanism shall be the actual BTUs for the computation period, provided however, that in any period of computation for a rate adjustment, the BTU attributed to coal shall not be less than 495,695 million for the most recent three (3) months, shall not be less than 1,052,814 million for the most recent six (6) months, shall not be less than 1,617,803 million for the most recent nine (9) months, and shall not be less than 2,184,104 million for the most recent twelve (12) months. If coal generation falls below any defined minimum amount, additional coal generation will be imputed for the computation period up to the defined minimum that produces the largest adjustment and the amount of gas fired generation for the computation period will be reduced for the purposes of the Quarterly Cost Adjustment by a like amount. The cost attributed to any coal BTU imputed as a result of this coal performance standard shall be either the cost used for BTU burned during the period that is the basis for the adjustment (the 3, 6, 9, or 12 month standard) or the cost from the most recent quarter in which coal was burned, whichever is less. The gas cost associated with any reduction in gas BTU occasioned by any coal imputation will be the average gas cost per BTU for the time period that is used to price any imputed coal usage. Aquila agrees that it will not seek an accounting authority order for fuel costs incurred, but not recovered, due to operation of this minimum coal provision.

3. Aquila will make quarterly rate filings with the Commission to adjust the Quarterly Cost Adjustment Rider. Each quarterly rate adjustment will include the fuel costs from the preceding quarter. The Current Quarterly Cost Adjustment factors will be calculated by dividing the fuel costs by the preceding twelve (12) month billing determinants; provided, however, that in the event that steam BTU billing units in a computation period increase or decrease by more than five percent (5%) compared to the corresponding period one year earlier Company may make an adjustment to the historic billing determinants for use in the denominator of the Current Quarterly Cost Adjustment rate computation. Each Quarterly Cost Adjustment will remain in effect for twelve (12) months.

4. There are provisions for prudence reviews and the true-up of revenues collected with costs intended for collection. The reconciliation account shall track, adjust and return true-up amounts and any prudence amounts not otherwise refunded. Fuel costs collected in rates will be refundable based on true-up results and findings in regard to prudence. Adjustments, if any, necessary by Commission order pursuant to any prudence review shall also be placed in the reconciliation account for collection unless a separate refund is ordered by the Commission. A reconciliation rate shall be established at a level designed to bring the reconciliation account to zero over a period of not less than twelve (12) months, provided that an amortization period of twenty-four (24) months may be used, if needed in the Company's discretion, to minimize any extraordinary increases in energy charges. Other fuel cost refunds, or credits related to the operation of this rider may also flow through this reconciliation process, as ordered by the Commission. The Reconciliation Rate shall be calculated similarly to the CQCA, except that the amount shall not be multiplied by the Alignment Mechanism again. Any remaining over- or under-collection from the Reconciliation Rate shall be applied to the next Reconciliation Rate.

5. The quarterly rate adjustments will not include carrying costs related to the timing of fuel cost recovery.

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1

Original Sheet No. 6.4

Canceling P.S.C. MO. No.

Sheet No.

Aquila, Inc., dba

AQUILA NETWORKS

For St. Joseph, MO & Environs

KANSAS CITY, MO 64138

QUARTERLY COST ADJUSTMENT RIDER (Continued)
STEAM

6. In consideration of the sharing provision of this Rider, and the intent to rely on an alignment of customer and Company interests in efficient operations, a two (2) step approach to the review of prudence review will be followed. In Step One, Commission Staff will review to ascertain:

6.1. that the concept of aligning of Company and customer interests is working as intended;
and,

6.2. that no significant level of imprudent costs is apparent.

7. This review may be entirely a part of surveillance activity. Customers will be given timely notice of the results of the Step One review no later than 75 days after the end of each year. In consideration of Step One results, the Staff may proceed with Step Two, a full prudence review, if deemed necessary. A full prudence review, if pursued, shall be complete no later than 225 days after the end of each year. Such full prudence review shall be conducted no more often than once every twelve (12) months and shall concern the prior twelve (12) month period or calendar year only, provided however that the full prudence review addressing the first partial year, if pursued, will be included with a full prudence review of the first full calendar year of operation of this rate mechanism.

8. Any customer or group of customers may make application to initiate a complaint for the purpose of pursuing a prudence review by use of the existing complaint process. The application for the complaint and the complaint proceeding will not be prejudiced by the absence of a full (Step Two) prudence review by Staff.

9. Pursuant to any prudence review of fuel costs, whether by the Staff process or the complaint process, there will be no rate adjustment unless the resulting prudence adjustment amount exceeds 10% of the total of the fuel costs incurred in an annual review period.

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STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1Original Sheet No. 6.5

Canceling P.S.C. MO. No. _____

Sheet No. _____

Aquila, Inc., dba**AQUILA NETWORKS**

For St. Joseph, MO & Environs

KANSAS CITY, MO 64138

<p style="text-align: center;">QUARTERLY COST ADJUSTMENT RIDER (Continued)</p> <p style="text-align: center;">STEAM</p>

RATE:

Current Quarterly Cost Adjustment Table:

<u>Period</u>	<u>First</u> <u>Effective Date</u>	<u>Last</u> <u>Effective Date</u>	<u>CQCA (by</u> <u>Quarter)</u>
2006 Q2			

Reconciliation Table:

<u>Period</u>	<u>First</u> <u>Effective Date</u>	<u>Months</u>	<u>Last</u> <u>Effective Date</u>	<u>Monthly Recon</u> <u>(by Quarter)</u>
2006 Q2				

Quarterly Cost Adjustment Table:

<u>Period</u>	<u>First</u> <u>Effective Date</u>	<u>Last</u> <u>Effective Date</u>	<u>Monthly QCA</u>
2006 Q2			

Credits are shown in parentheses, e.g. (\$.05).

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Effective:

**AQUILA NETWORKS - L&P STEAM
CASE NO. HR-2005-0436
ADJUSTMENTS TO STEAM SALES AND REVENUE
(CALENDAR YEAR 2004, UPDATED THROUGH JUNE 30, 2005)**

	Sales (MMBTU)			Revenue		
	MO810 (1)	MO812 (2)	Total	MO810 (1)	MO812 (2)	Total
TY Steam Sales & Revenues	234,509	1,514,510	1,749,019	\$1,104,072	\$5,864,216	\$6,968,288
Annualization for Billing Corrections	6,114	-	6,114	\$25,088	\$0	\$25,088
Annualization for Unbilled	81	2,055	2,136	\$18,008	\$57,990	\$75,997
One Steam Account Becomes Inactive	(12,889)	-	(12,889)	(\$71,643)	\$0	(\$71,643)
Annualization for Rate Change	(768)	-	-	\$64,117	\$342,084	\$406,202
Leap Day Adjustment		(4,542)	(5,310)	(\$3,246)	(\$19,790)	(\$23,036)
Special Contract Discounts		-	-		\$290,500	\$290,500
Annualization for Conjunctive Billing		-	-		\$53,048	\$53,048
Annualization for Load Changes	870,546	-	870,546	\$4,282,042	\$0	\$4,282,042
Total	1,097,593	1,512,023	2,609,616	\$5,418,436	\$6,588,049	\$12,006,485

(1) MO810 refers to steam accounts billed on the standard steam rate schedule.

(2) MO812 refers to steam accounts billed on a special steam contract.

Exhibit No.:

Issues: Lake Road Generating
Station, Production
Modeling System,
And Natural Gas Pricing

Witness: Timothy M. Nelson

Sponsoring Party: Aquila Networks-L&P

Case No.: HR-

Before the Public Service Commission
of the State of Missouri

Direct Testimony

of

Timothy M. Nelson

TMN 3: 3-Month Average 2006 NYMEX Strip, Oct 1 to Dec 31, 2004

I. Lake Road Generating Station Operating Description

Q. Please describe the Lake Road generating facilities.

A. The plant is located in south St. Joseph, Missouri, on the east bank of the Missouri River.

The plant consists of four steam turbine-generators, three combustion turbines, and six steam boilers. The plant's generating units have a net electric generating capability of 253.8 MW. In addition to generating electricity, the plant also supplies steam in the form of continuous process steam for sale to industrial steam customers. The steam sales are provided at a nominal pressure of 150-PSI. Steam sales are also provided to one customer at a nominal pressure of 850-PSI. When I refer to PSI, as in 150-PSI, I mean pressure measured in pounds per square inch. I will also use the term "pound" as in 900-pound system, which means the 900-PSI system.

Q. Please explain the Lake Road 900-PSI system.

A. The 900 PSI system, which is used to provide steam for the 900-PSI turbine-generators and L&P's industrial steam sales, operates at a nominal steam pressure of 900 PSI and is fed by four 900-PSI boilers (Boilers 1, 2, 4 & 5) and one 200-PSI boiler (Boiler 3). Boilers 1, 2, 3 and 4 burn natural gas as their primary fuel. With the exception of Boiler 3, these boilers use #2 fuel oil as a back-up fuel. Much of the 900-PSI system energy is produced by Boiler 5, which burns coal for its primary fuel, and natural gas for its back-up fuel. Therefore, in the 900-PSI system there are multiple boilers providing steam to a common header system

1 which in turn can drive three turbine-generators (1, 2, and 3) and also supply steam for
2 industrial steam sales.

3 Q. Which fuels and production systems are dedicated to providing services to the steam
4 customers?

5 A. There is no dedicated fuel source and there are no dedicated production systems for these
6 customers. The configuration of this plant has common facilities used for both electric
7 and steam production. Schedule TMN 1 entitled "Lake Road Generating Station – Fuel
8 and Steam Flow Diagram", is attached. By inspection of this diagram it is evident that
9 the 900-PSI system is common to multiple fuel inputs and produces steam for multiple
10 turbines as well as the steam customers. The 200-PSI system also operates via multiple
11 sources and has no dedicated production equipment.

12 II. Production Modeling System

13 Q. What method is used to allocate Lake Road's operating costs between the electric and
14 steam customers.

15 A. Aquila uses production costing modeling software to simulate the electric system and
16 steam customer loads. Schedule TMN 2 entitled "Steam Production Model for Lake
17 Road" is a diagram that describes the process flow for the calculation method.

18 Q. What is a production costing model?

19 A. Aquila uses the production costing model, RealTime®, to perform an hour-by-hour
20 chronological simulation of the Company's electric system, where the generators are

1 “dispatched” to meet the hourly system electric load, to determine the energy costs and
2 fuel consumption.

3 Q. What is meant by “hour-by-hour chronological simulation”?

4 A. RealTime® solves each hour’s demand chronologically before moving onto the next
5 hour. Using this methodology, RealTime® can more accurately simulate real world
6 operating conditions and constraints.

7 Q. How are the fuel expenses associated with the operation of the 900-PSI and 200-PSI
8 systems allocated between the L&P division’s electric and industrial steam operations?

9 A. Aquila allocates fuel expense between its L&P division’s electric operations and
10 industrial steam operations using the allocation methodology approved by the
11 Commission in its Case No. EO-94-36.

12 Q. Please describe the steam/electric fuel and purchase power expense model used by
13 Aquila.

14 A. Aquila created two models in RealTime®, one for electric and one for steam, and two
15 Microsoft Excel® spreadsheets to determine the annualized fuel and purchase power
16 expense costs for the electric system. The RealTime® “electric” model is used first to
17 dispatch the electric system to meet the system load

18 After the electric model has been run the 900-PSI electric turbines hourly MW
19 load is exported to a text file. This text file is then imported into the “Unit 123 to Steam”
20 spreadsheet where the steam input necessary for each of the three generators is calculated
21 using the respective unit heat rate curves. In this spreadsheet, the total steam required for

1 the turbines is calculated and then exported to a comma separated value (csv) file. The
2 csv file is imported into the RealTime® steam model as another steam load for the steam
3 system.

4 In the RealTime® steam model the electric turbine steam input from above is
5 combined with the hourly steam sales loads too produce 900-PSI boiler hourly steam load
6 input to the model. Boilers 1, 2, 3, and 4 are modeled as burning natural gas and Boiler 5
7 burns coal. The RealTime® steam model is then run using these steam loads to
8 determine the total fuel burn and fuel cost for the Lake Road 900-PSI boilers.

9 After running the RealTime® steam model the fuel allocation is performed on a
10 daily basis in the "Steam electric model" spreadsheet. To perform the allocation several
11 inputs are required. From the steam model: 1) daily fuel quantity burned, by fuel type, 2)
12 daily fuel cost by fuel type, and, 3) industrial steam sales mmBtu. From the electric model:
13 1) daily MW generated by the 900-PSI electric turbines, and, 2) the 900-PSI electric
14 turbines steam mmBtu from the "Unit to Steam" spreadsheet.

15 The fuel allocation is performed on a daily basis as is done in actual operations at
16 the Lake Road Generating Station. Fuel is expense allocated based on the following
17 equations:

$$F_S = [S / (E + S)] \times F$$

$$F_F = F - F_S$$

20 Where,

21 F is total 900-PSI boiler fuel

1 F_S is 900-PSI boiler fuel allocated to industrial steam sales

2 F_E is 900-PSI boiler fuel allocated to the electric turbines

3 S is industrial steam sales steam mmBtu from boilers

4 E is 900-PSI electric turbine steam mmBtu from boilers

5 The remaining fuel not allocated to the industrial steam sales system in the first equation
6 is allocated to the electric system as shown in the second equation. Because the variable
7 “F” shown above includes fuel burned for Lake Road plant auxiliary steam, fuel
8 consumed for that purpose is properly allocated between the electric and industrial steam
9 sales systems.

10 Q. Has the significant increase in steam load caused fuel costs charged to steam to change?

11 A. Yes.

12 Q. Why?

13 A. The steam capacity from Boiler 5 that burns coal for it fuel source has reached its
14 maximum output. Boilers 1, 2, 3 and 4, which use gas as the primary fuel, have to be
15 used to supply any additional steam load. Steam from Boilers 1, 2, 3 and 4 cost per
16 mmBtu is significantly higher than Boiler 5 causing the cost of service to increase.

17 **III. Natural Gas Pricing**

18 Q. What does Aquila propose as the price of natural gas?

19 A. Attached is Schedule TMN 3. This is the average of NYMEX futures prices for the 2006
20 time frame. Aquila proposes to use this average of actual market transactions as the
21 estimate for market prices.

Confidential and Privileged Settlement Document
Confidential Draft January 12, 2006

Aquila Steam
Coal System Performance Standard

Month	Test Period Fuel Million BTU per Aquila Direct Case			
	Coal	Coal - Quarterly Totals	Coal - Sorted Quarterly Totals	Coal - Cumulative Performance Standards
J	202,635			
F	195,170			
M	159,314	557,119	495,695	495,695
A	177,341			
M	198,924			
J	188,724	564,989	557,119	1,052,814
J	187,991			
A	187,887			
S	190,423	566,301	564,989	1,617,803
O	110,912			
N	188,695			
D	196,088	495,695	566,301	2,184,104

Coal Performance Standard:

The btus from coal, for the purposes of the rate adjustment mechanism shall be the actual btus for the computation period, provided however, that in any period of computation for a rate adjustment, the BTU attributed to coal shall not be less than 495,695 million for the most recent 3 months, shall not be less than 1,052,814 million for the most recent six months, shall not be less than 1,617,803 million for the most recent nine months, and shall not be less than 2,184,104 million for the most recent 12 months.

Cost of Imputed Coal fired production

The Cost attributed to any coal BTU imputed as a result of the coal performance standard shall be either the cost used for BTU burned during the period that is the basis for the adjustment (the 3, 6, 9, or 12 month standard) or the cost from the most recent quarter in which coal was burned, whichever is less.

Aquila Networks - L&P
Management Report - Steam
Comparing Current Period to HR-2005-0450
As of Month_Year

Line No.	Description	12 Months Ended		12 Months Ended		12 Months Ended	
		HR-2005-0450	As of Month_Year	As of Month_Year	Prior Month Variance	As of Month_Year Adjusted	
1	Rate Base						
2	Rate of Return						
3	Net Operating Income Required						
4	Net Operating Income Available						
5	Net Operating Income Needed						
6	Revenue Requirement Effect						
7	Expected Disallowances						
8	Final Revenue Requirement						
9	Operating Revenues						
10	Electric						
14	Total Revenues						
15	Operating/Maintenance Expenses:						
16	Steam Power Generation - Fuel						
17	Other Power Generation - Fuel						
18	Total Fuel Used for Generation						
19	Purchased Power (Energy)						
20	Total Fuel and Purchased Power						
21	Net Margin						
22	Capacity Charge (Demand)						
23	Net Margin After Capacity						
27	Steam Power Generation						
28	Other Power Generation						
29	Other Power Supply Expenses						
30	Transmission Expenses						
31	Distribution Expenses						
32	Total Operating Expenses						
36	Steam Power Generation						
37	Other Power Generation						
38	Transmission Expenses						
39	Distribution Expenses						
40	A&G General Plant Maintenance						
41	Total Maintenance Expenses						
42	Customer Accounting						
43	Customer Service						
44	Sales						
45	A&G Operating						
46	Depreciation & Amortization						
47	Taxes:						
48	General Taxes						
49	Current Income Taxes						
50	Deferred Income Taxes						
51	Investment Tax Credit						
	Total Income Taxes						
52	Total O&M, A&G and Taxes Expense						
53	Earnings Before Interest & Taxes (EBIT)						
54	Net Operating Income						
55	Carrying Costs - AAO						
56	Adjusted NOI						
57	Return on Rate Base						
58	Return on Equity-Divisional Target						
59	Return on Equity-Divisional Actual						
60	Return on Equity-Corporate						

**SJLP MISSOURI OPERATIONS
PRODUCTION STATISTICS
As of Month_Year**

	CURRENT MONTH MWH			Fuel Cost per MWH		
	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>
<u>NET GENERATION</u>						
Lake Road #1,2,3						
Lake Road #4/6						
Lake Road #5,6,7						
Iatan						
Total Generation						
	CURRENT MONTH MWH			Energy Charge per MWH*		
	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>
<u>PURCHASED POWER</u>						
Ameren						
Associated Electric						
Kansas City Power & Light						
Mid-American Energy Co.						
Nebraska Public Power District						
Otter Tail Power Co.						
The Energy Authority						
Intercompany Purchases						
WPE/Gray County						
Omaha Public Power District						
Others						
Total Purchased Power						
TOTAL OUTPUT						
Less: Company Use						
TOTAL DELIVERED TO SYSTEM						
SJD MWH Sales (net of co. use)						
SJG Book 1 Sales						
SJG Book 2 Sales						
TOTAL MWH SALES						

*Excludes Demand

% of MWH Unaccounted For

Peak Load (KW)

Date of Peak

**SJLP MISSOURI OPERATIONS
PRODUCTION STATISTICS
As of Month_Year**

	YEAR-TO-DATE MWH			Fuel Cost per MWH		
	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>
<u>NET GENERATION</u>						
Lake Road #1,2,3						
Lake Road #4/6						
Lake Road #5,6,7						
Iatan						
Total Generation						
	YEAR-TO-DATE MWH			Energy Charge per MWH*		
	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>
<u>PURCHASED POWER</u>						
Ameren						
Associated Electric						
Kansas City Power & Light						
Mid-American Energy Co.						
Nebraska Public Power District						
Otter Tail Power Co.						
The Energy Authority						
Intercompany Purchases						
WPE/Gray County						
Omaha Public Power District						
Others						
Total Purchased Power						
TOTAL OUTPUT						
Less: Company Use						
TOTAL DELIVERED TO SYSTEM						
SJD MWH Sales (net of co. use)						
SJG Book 1 Sales						
SJG Book 2 Sales						
TOTAL MWH SALES						
% of MWH Unaccounted For						
Peak Load (KW)						
Date of Peak						

**SJLP MISSOURI OPERATIONS
PRODUCTION STATISTICS
As of Month_Year**

Generation Expense:

Dollars in 000's

	CURRENT MONTH			YEAR-TO-DATE		
	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>	<u>This Year</u>	<u>Last Year</u>	<u>Variance</u>
Lake Road #1,2,3						
Fuel						
Operations						
Maintenance						
Steam Processor						
Fuel						
Operations						
Maintenance						
Lake Road #4/6						
Fuel						
Operations						
Maintenance						
Lake Road #5,6,7						
Fuel						
Operations						
Maintenance						
Iatan						
Fuel						
Operations						
Maintenance						
TOTAL GENERATION EXPENSE						
Fuel						
Operations						
Maintenance						
PURCHASED POWER EXPENSE						
Purchased Power						
Capacity Demand Charge						
Transmission						
TOTAL PURCH. POWER EXPENSE						
TOTAL POWER SUPPLY COSTS						

**SJLP MISSOURI OPERATIONS
PRODUCTION STATISTICS
As of Month_Year**

	CURRENT MONTH MWH			Fuel Cost per MWH		
	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>
NET GENERATION						
Lake Road #1,2,3						
Lake Road #4/6						
Lake Road #5,6,7						
Iatan						
Total Generation						
	CURRENT MONTH MWH			Energy Charge per MWH*		
	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>
PURCHASED POWER						
Ameren						
Associated Electric						
Kansas City Power & Light						
Mid-American Energy Co.						
Nebraska Public Power District						
Otter Tail Power Co.						
The Energy Authority						
Intercompany Purchases						
WPE/Gray County						
Omaha Public Power District						
Others						
Total Purchased Power						
TOTAL OUTPUT						
Less: Company Use						
TOTAL DELIVERED TO SYSTEM						
SJD MWH Sales (net of co. use)						
SJG Book 1 Sales						
SJG Book 2 Sales						
TOTAL MWH SALES						

% of MWH Unaccounted For

Peak Load (KW)

Date of Peak

*Excludes Demand

**SJLP MISSOURI OPERATIONS
PRODUCTION STATISTICS
As of Month_Year**

NET GENERATION	YEAR-TO-DATE MWH			Fuel Cost per MWH		
	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>
Lake Road #1,2,3						
Lake Road #4/6						
Lake Road #5,6,7						
Iatan						
Total Generation						

PURCHASED POWER	YEAR-TO-DATE MWH			Energy Charge per MWH*		
	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>
Ameren						
Associated Electric						
Kansas City Power & Light						
Mid-American Energy Co.						
Nebraska Public Power District						
Otter Tail Power Co.						
The Energy Authority						
Intercompany Purchases						
WPE/Gray County						
Omaha Public Power District						
Others						
Total Purchased Power						

TOTAL OUTPUT						
Less: Company Use						
TOTAL DELIVERED TO SYSTEM						

SJD MWH Sales (net of co. use)						
SJG Book 1 Sales						
SJG Book 2 Sales						
TOTAL MWH SALES						

% of MWH Unaccounted For

Peak Load (KW)
Date of Peak

**SJLP MISSOURI OPERATIONS
PRODUCTION STATISTICS
As of Month_Year**

Generation Expense:
Dollars in 000's

	CURRENT MONTH			YEAR-TO-DATE		
	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>	<u>This Year</u>	<u>Budget</u>	<u>Variance</u>
Lake Road #1,2,3						
Fuel						
Operations						
Maintenance						
Steam Processor						
Fuel						
Operations						
Maintenance						
Lake Road #4/6						
Fuel						
Operations						
Maintenance						
Lake Road #5,6,7						
Fuel						
Operations						
Maintenance						
Iatan						
Fuel						
Operations						
Maintenance						
TOTAL GENERATION EXPENSE						
Fuel						
Operations						
Maintenance						
PURCHASED POWER EXPENSE						
Purchased Power						
Capacity Demand Charge						
Transmission						
TOTAL PURCH. POWER EXPENSE						
TOTAL POWER SUPPLY COSTS						

SJLP MISSOURI OPERATIONS
PLANT STATISTICS
As of Month_Year

Current Month

	<u>Steam Process</u>				
	<u>Lake Rd. #1,2,3</u>	<u>Boiler</u>	<u>Lake Rd. #4/6</u>	<u>Lake Rd. #5,6,7</u>	<u>Total Lake Rd.</u>
					<u>Iatan</u>

Maintenance Expenses:

Labor Related
Loadings
Materials
Office Expense
Outside Services
Other

Total Maintenance Expense

Maint. Cost per Net MWH Gen.

Total Maint. Cost per Net MWH Gen.

Operating Expenses:

Labor Related
Loadings
Materials
Office Expense
Outside Services
Other

Total Operating Expense

Optg. Cost per Net MWH Gen.

Total Optg. Cost per Net MWH Gen.

Production Expenses:

Total Production Expense

Prod. Exp. per Net MWH Gen.

Total Prod. Exp. per Net MWH Gen.

Impact of Capital Investment on Earnings

Plant Value (12 Mo. Avg Bal)
Less: Depr. Cost (12 Mo. Avg Bal)
Net Book Value (12 Mo. Avg Bal)
Carrying Cost (Approx 10% APR)
Capital Cost

Capital Cost per Net MWH Gen.

Total Capital Cost per Net MWH Gen.

Statistics:

MWH Generated
MWH Station
MWH Net Generation

Tons/Coal
Gal/Oil
MCF Gas Used
Cost per Ton Coal
Cost per Gal. Oil
Cost per MCF Gas

Fuel Cost - Coal
Fuel Cost - Oil
Fuel Cost - Gas
Emissions
MMBTU of Fuel Used
Fuel Cost per MMBTU
Fuel Cost per Net MWH Gen.

Fuel HHV (btu/lb,cf, mbtu/gal)
Net Heat Rate (Btu/Kwh)

CALCULATION OF FUEL COSTS FOR STEAM CUSTOMERS

SJG

As of Month Year

PER DOE REPORT

Gas MCF's Used

Tons Coal Used

PER MARGIN QUERY

Lake Road Coal Costs

Gas Costs

Units

Avg. Unit Costs

MCF's Used

Steam costs for gas

input

	High BTU	Tons	Low BTU	Tons	Total Coal Costs	Allocation		Total Tons	% Alloc
Coal Burn					\$ -	actual charges	High BTU	-	
Freight Expense					\$ -	25/75	Low BTU	-	
Undistrib Coal					\$ -	50/50		-	
Fly Ash					\$ -				
GPS Inventory Adj					\$ -				
					\$ -				
					\$ -				

Unit Costs	Steam costs High BTU	Steam costs Low BTU	Tons Used	
			-	
			\$ -	Steam costs for coal

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day
of June, 2009.

In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Steam Heating Service.)))))	<u>Case No. HR-2009-0092</u> Tariff No. YH-2009-0195
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**ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT
AND AUTHORIZING TARIFF FILING**

Issue Date: June 10, 2009

Effective Date: June 23, 2009

Syllabus

This order approves the Unanimous Stipulation and Agreement executed by KCP&L Greater Missouri Operations Company ("GMO"), the Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel ("Public Counsel"), and Ag Processing, Inc. ("Ag Processing") to resolve all issues in this case ("Agreement"). The order also rejects GMO's initial tariff filing and authorizes GMO to file tariffs in compliance with the Agreement.

I. Procedural History

On September 5, 2008, GMO submitted to the Commission proposed tariff sheets intended to implement a general rate increase for steam heating service provided in its Missouri service area. The proposed tariff sheets were assigned tariff file number YH-2009-0195 and bear an effective date of August 5, 2009. According to GMO's

application, the tariff sheets were designed to produce an annual increase of \$1.3 million in GMO's Missouri jurisdictional revenues.

On September 12, 2008, the Commission issued notice and set a deadline for intervention requests. The Commission granted the request for intervention of Ag Processing.

On November 20, 2008, the Commission set the procedural schedule. This schedule included an evidentiary hearing scheduled for May 4-7, 2009, and a True-Up hearing scheduled for June 1-2, 2009. On March 18, 2009, the Commission granted a request of GMO to extend all of the True-Up proceedings and the True-Up hearing was reset for July 1-2, 2009.¹

The Commission held local public hearings in Lee's Summit, Sedalia, St. Joseph, Marshall, Carrollton, Nevada, and two separate hearings in Kansas City, Missouri.² The Commission utilized the same locations and times to conduct combined local public hearings for ER-2009-0089, ER-2009-0090, and HR-2009-0092.

The evidentiary hearing commenced on May 4, 2009. Once preliminary matters were complete, the parties requested a recess to engage in settlement negotiations. Following completion of the negotiations, the parties indicated that they had reached an agreement in principle and announced their intention to memorialize a Unanimous Stipulation and Agreement and file it with the Commission. Consequently, the Commission

¹ Order Modifying Procedural Schedules For True-Up Proceedings and Formally Adopting Test Year And Update Period, issued March 18, 2009. See also, Order Rescinding Conditions Imposed in the Commission's Order Modifying Procedural Schedules for True-Up Proceedings, issued April 15, 2009.

² Order Setting Public Comment Hearings, issued January 6, 2009; Order Rescheduling Public Comment Hearings, issued January 16, 2009; Notice Regarding Requests for Additional Local Public Hearings, filed February 25, 2009; Order Expanding Access To Public Comment Hearings, issued February 25, 2009.

suspended the remainder of the evidentiary hearing to allow for the filing of the Agreements and for responses or objections.³

On May 13, 2009, GMO filed the Agreements. Deadlines were set for responses, suggestions supporting the agreements and replies to the suggestions.⁴ No one objected to the Agreement and no party requested that the evidentiary hearing be resumed to hear any issue.

On June 8, 2009, the Commission convened a hearing for the formal presentation of the Agreement and to direct questions about the Agreement to the parties' counsel and subject matter experts.⁵ The Commission did not order briefs and closed the recording of all evidence at the conclusion of the stipulation hearing on June 8, 2009.

II. The Agreement

The Agreement purports to resolve all issues in this matter.⁶ Among other provisions, the Agreement provides that GMO should be authorized to file revised tariff sheets containing new rate schedules for steam heating service designed to produce overall Missouri jurisdictional gross annual steam heating revenues, exclusive of any applicable license, occupation, franchise, gross receipts taxes or other similar fees or taxes, in the amount of \$384,000. The Agreement provides that these revenues shall be for steam heating service rendered on and after July 1, 2009, without the necessity for GMO to file any other motion or pleading. The parties further agreed that the exemplar tariffs filed

³ Transcript, Volume 11.

⁴ *Notice and Order Suspending Evidentiary Hearing, Setting Deadlines for Filings, and Setting Deadline For Requesting A Hearing*, issued May 4, 2009.

⁵ Transcript, Volume 12.

⁶ *Unanimous Stipulation and Agreement*, filed on May 13, 2009. The Agreement is attached to this order as Appendix A.

with the Agreement implement the terms of the agreement and resolve all revenue requirement and all rate design issues in this case.⁷

The Agreement also establishes certain modifications to the Fuel Cost Customer/Utility Alignment Mechanism that was originally approved by the Commission in Case No. HR-2005-0450.⁸ In addition, GMO agrees that it will not seek to *implement* another rate increase in base rates for steam service sooner than 14 months following the effective date of the tariffs approved in this proceeding.⁹

Finally, the Agreement includes a contingent waiver of rights indicating that if the Commission approves in whole the Agreement, the signatories agreed to waive their rights to call and cross-examine witnesses,¹⁰ to present oral argument and written briefs,¹¹ and to judicial review.¹²

By submitting the Agreement for consideration by the Commission, the parties jointly recommend that the Commission accept the Agreement as a fair compromise of their respective positions on the issues in this matter.¹³ The parties negotiated the various terms of these provisions and no party has objected or sought a hearing with respect to any of these provisions. There are no disputed issues between the parties with regard to the provisions of the Agreement.

⁷ Agreement, para. 3.

⁸ Agreement, para. 2.

⁹ Agreement, para. 4.

¹⁰ Section 536.070(2).

¹¹ Section 536.080.1.

¹² Section 386.510.

¹³ *Id.*

III. Relevant Legal Standards

A. Jurisdiction

GMO is a “heating company” and a “public utility,” as defined in Sections 386.020(20) and (43), respectively, and is subject to the personal jurisdiction, supervision, and control of the Commission under Chapters 386 and 393 of the Missouri Revised Statutes. GMO filed its application pursuant to Commission Rules 4 CSR 240-2.060, 3.030, and 3.425. These rules outline the minimum filing requirements for GMO to pursue its rate increase request.

B. Standards for Approving Stipulations and Agreements

The Commission has the legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised in this case.¹⁴

In reviewing the Agreement, the Commission notes:

Every decision and order in a contested case shall be in writing, and, except in default cases, or cases disposed of by stipulation, consent order or agreed settlement, the decision, including orders refusing licenses, shall include or be accompanied by findings of fact and conclusions of law.¹⁵

Should the Commission find that the terms of the Agreement are lawful and just and reasonable, the Commission may approve the Agreement as a resolution of all factual issues in this matter.

¹⁴Section 536.060, RSMo; and 4 CSR 240-2.115(1)(B).

¹⁵Section 536.090, RSMo. This provision applies to the Public Service Commission. *State ex rel. Midwest Gas Users' Association v. Public Service Commission of the State of Missouri*, 976 S.W.2d 485, 496 (Mo. App. 1998).

C. Precedential Effect

An administrative body, that performs duties judicial in nature, is not and cannot be a court in the constitutional sense.¹⁶ The legislature cannot create a tribunal and invest it with judicial power or convert an administrative agency into a court by the grant of a power the constitution reserves to the judiciary.¹⁷

An administrative agency is not bound by stare decisis, nor are agency decisions binding precedent on the Missouri courts.¹⁸ “In all events, the adjudication of an administrative body as a quasi-court binds only the parties to the proceeding, determines only the particular facts contested, and as in adjudications by a court, operates retrospectively.”¹⁹

The Commission emphasizes that its decision in this matter is specific to the facts of this case. Evidentiary rulings, findings of fact and conclusions of law are all determined on a case-by-case basis. Consequently, consistent with the Commission’s statutory authority, this decision does not serve as binding precedent for any future determinations by the Commission.

¹⁶ *In re City of Kinloch*, 362 Mo. 434, 242 S.W.2d 59, 63[4-7] (Mo. 1951); *Lederer v. State, Dept. of Social Services, Div. of Aging*, 825 S.W.2d 858, 863 (Mo. App. 1992).

¹⁷ *State Tax Comm’n v. Administrative Hearing Comm’n*, 641 S.W.2d 69, 75 (Mo. banc 1982); *Lederer*, 825 S.W.2d at 863.

¹⁸ *State ex rel. AG Processing, Inc. v. Public Serv. Comm’n*, 120 S.W.3d 732, 736 (Mo. banc 2003); *Fall Creek Const. Co., Inc. v. Director of Revenue*, 109 S.W.3d 165, 172 -173 (Mo. banc 2003); *Shelter Mut. Ins. Co. v. Dir. of Revenue*, 107 S.W.3d 919, 920 (Mo. banc 2003); *Southwestern Bell Yellow Pages, Inc. v. Dir. of Revenue*, 94 S.W.3d 388, 390 (Mo. banc 2002); *Ovid Bell Press, Inc. v. Dir. of Revenue*, 45 S.W.3d 880, 886 (Mo. banc 2001); *McKnight Place Extended Care, L.L.C. v. Missouri Health Facilities Review Committee*, 142 S.W.3d 228, 235 (Mo. App. 2004); *Cent Hardware Co., Inc. v. Dir. of Revenue*, 887 S.W.2d 593, 596 (Mo. banc 1994); *State ex rel. GTE N. Inc. v. Mo. Pub. Serv. Comm’n*, 835 S.W.2d 356, 371 (Mo. App. 1992).

¹⁹ *State ex rel. Gulf Transport Co. v. Public Serv. Comm’n*, 658 S.W.2d 448, 466 (Mo. App. 1983); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759, 765, 89 S. Ct. 1426, 1429, 22 L.Ed.2d 709 (1969); *State ex rel. Summers v. Public Serv. Comm’n*, 366 S.W.2d 738, 741[1-4] (Mo. App. 1963); *State ex rel. Consumers Public Service Co. v. Public Serv. Comm’n*, 352 Mo. 905, 180 S.W.2d 40, 46[6-8] (banc 1944); Sections 386.490 and 386.510.

IV. Discussion

This case illustrates one of the most important public policy questions faced by this Commission: What is the proper balance between keeping rates affordable in order to protect the health and welfare of consumers and ensuring that utilities have the necessary cash flow to operate their business, maintain their infrastructure, and have an opportunity to earn a fair return on investment, which is necessary to encourage development and maintenance of infrastructure?²⁰

The Commission recognizes that the recommended revenue requirement presented in the Agreement is not a trivial amount of money to customers. The increased cost of all utilities along with the recent rise in other costs have had an effect on customers' ability to keep current on their bills. That being said, the Commission also recognizes that the Agreement before the Commission resulted from extensive negotiations between parties with diverse interests and the Commission's neutral Staff.

Subject matter experts, including accountants, economists and engineers, filed extensive testimony outlining their respective analyses and positions prior to the parties reaching a consensus as to the reasonableness of the Agreement and all of its elements. The parties agree to the conclusion that the proposed revenue and rate design set out in the Agreement are just and reasonable.

The Commission further notes that no party has objected to the proposed annual revenue requirement, or to any component of any calculations, allocations, negotiations or compromise resulting in the proposed annual revenue requirement as set forth in the Agreement. No party has objected to the use of any determinants utilized for the purpose

²⁰ See *generally*, Section 386.610, RSMo 2000.

of determining rate design in the Agreement. And finally, no party requested a hearing on any issue related to the determination of the proposed annual revenue requirement, rate design, or any other provision set forth in the Agreement.

GMO has compromised on its requested revenue requirement by entering into the Agreement and recommending to the Commission that its authorized revenue requirement in this case represents an increase in revenues associated with its steam heating service of \$384,000. All the parties agree to this revenue requirement.

The Reconciliation filed in this case reveals that the parties initially had differing positions on rate base, revenue, expenses, depreciation, and taxes, as well as the many components and allocations that determine these factors. Indeed, as the Commission has recognized many times, the complexity of the issues and the number of parties often involved in rate cases can be staggering. Parties regularly engage in settlement negotiations, sometimes, as in this case, resolving their disputes with “black box” settlements. That is to say, the many parties arrive at, for example, a final revenue requirement number that they all find acceptable. But that settlement does not reveal how the parties arrived at that number, who moved how many dollars on what issue, etc.

Regardless, the Commission determines that the proposed increase in overall Missouri gross annual steam heating revenues, exclusive of any applicable license, occupation, franchise, gross receipts taxes, or similar fees or taxes, of \$384,000, effective for steam heating services rendered on and after July 1, 2009, is just and reasonable.

This revenue requirement is no more than is sufficient to keep GMO’s utility plants in proper repair for effective public service, and insure to GMO’s investors a reasonable return upon funds invested. The Commission further concludes that none of

the adjunct provisions to the Agreement are contrary to any statute or rule, or in any way violate the public interest. The Commission shall approve all of the provisions encompassed the Agreement.

Furthermore, because the exemplar tariffs have been on file at the Commission since May 13, 2009, and all parties agree to those tariffs becoming effective on July 1, 2009, the Commission finds that good cause exists to approve revised tariffs without the need for those tariffs having been filed for an additional 30 days.

V. Decision

By submitting the Agreement for consideration by the Commission, the parties jointly recommend that the Commission accept the Agreement as a fair compromise of their respective positions on the issues in this matter. Based on the Agreement and the testimony, comments, and positions presented at the stipulation hearing, the Commission finds that the parties have reached a just and reasonable settlement in this case. Rate increases are necessary from time to time to ensure utilities have the cash flow to maintain safe and adequate service. Accordingly, the Commission shall authorize GMO to file tariffs in compliance with the Agreement. The parties shall be directed to comply with the terms of the Agreement.

The Commission shall, as agreed to by the parties, admit, without modification or condition, the prefiled testimony (including all exhibits, appendices, schedules, etc. attached thereto) of all the witnesses.

THE COMMISSION ORDERS THAT:

1. The Unanimous Stipulation and Agreement filed on May 13, 2009, is hereby approved as the resolution of all factual issues encompassed within that Agreement in case

number HR-2009-0092. A copy of the Unanimous Stipulation and Agreement is attached to this order as Appendix A.

2. The signatories to the Unanimous Stipulation and Agreement are ordered to comply with the terms of the Agreement.

3. The proposed steam heating service tariff sheets (YH-2009-0195) submitted on September 5, 2008, by KCP&L Greater Missouri Operations Company for the purpose of increasing rates for steam heating service to retail customers are hereby rejected.

4. The specific tariff sheets rejected are:

P.S.C. MO. No. 1

2nd Revised Sheet No. 1, Canceling 1st Revised Sheet No. 1

2nd Revised Sheet No. 2, Canceling 1st Revised Sheet No. 2

2nd Revised Sheet No. 3, Canceling 1st Revised Sheet No. 3

2nd Revised Sheet No. 4, Canceling 1st Revised Sheet No. 4

2nd Revised Sheet No. 5, Canceling 1st Revised Sheet No. 5

1st Revised Sheet No. 6.1, Canceling Original Sheet No. 6.1

Original Sheet No. 6.6

Original Sheet No. 6.7

Original Sheet No. 6.8

Original Sheet No. 6.9

5. KCP&L Greater Missouri Operations Company is authorized to file tariffs in compliance with the terms of the Unanimous Stipulation and Agreement.

6. Tariffs filed in accordance with Ordered Paragraph No. 5 shall be filed with an effective date of July 1, 2009.

7. The prefiled testimony of the witnesses, including all attachments thereto, are received into the case file pursuant to the Unanimous Stipulation and Agreement. A copy of the exhibits list is attached to this order as Appendix B.

8. The remainder of the procedural schedule adopted by the Commission on November 20, 2008, and subsequently modified on March 18, 2009, including the evidentiary hearing is canceled.

9. This order shall become effective on June 23, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Clayton, Chm., Davis and Jarrett, CC.,
concur, with separate concurring opinions
to follow;
Gunn, C., concurs.

Dippell, Deputy Chief Regulatory Law Judge

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

In the Matter of the Tariff Filing of KCP&L)
Greater Missouri Operations Company for) **Case No. HR-2009-0092**
Approval to Make Certain Changes in Its) Tariff No. YH-2009-0195
Charges for Steam Heating Service.)
.

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW KCP&L Greater Missouri Operations Company (“GMO”), the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“Public Counsel”), and Ag Processing, Inc. (“AGP”) (collectively, “the Signatories”) and for their agreement to resolve all issues in this case, state as follows:

1. The Signatories agree the Commission should reject the proposed steam service tariff sheets GMO filed September 5, 2008 that initiated this general rate increase case. They further agree that the Commission should authorize GMO to file revised tariff sheets containing rate schedules for steam heating service designed to produce an increase in overall Missouri jurisdictional gross annual steam heating revenues, exclusive of any applicable license, occupation, franchise, gross receipts taxes or other similar fees or taxes, of \$384,000. The Signatories agree the increase in steam heating service base rates of \$384,000 shall be applied on an equal percentage basis to the non-fuel portion of the base rates. The revised tariff sheets are intended to become effective for service rendered on and after July 1, 2009 without the necessity for GMO to file any motion or other pleading to request their implementation for service provided on and after that date.

2. The Signatories agree that the contract constituting the current **Fuel Cost Customer/Utility Alignment Mechanism** (that was agreed to and recommended by the

parties in a Unanimous Stipulation And Agreement) approved by the Commission by its *Order Regarding Unanimous Stipulation and Agreement* issued February 28, 2006 in Case No. HR-2005-0450 that is commonly referred to as a Quarterly Cost Adjustment (“QCA Agreement”) be modified or amended in the following particulars:

a. The base rate for the fuel component contained in the QCA Agreement shall be changed from \$3.005 per MMBtu to \$3.95 per MMBtu. As a result of this “rebasings,” the energy charges per MMBtu contained on GMO’s steam heating service tariff rate sheets to be submitted pursuant to paragraph 1 of this Unanimous Stipulation and Agreement shall increase by (and shall reflect an increase of) \$1.1598 per MMBtu. Exemplar revised tariff sheets designed to implement this portion of this Unanimous Stipulation and Agreement and contract amendment are attached as Schedule 1.

b. The Signatories agree that the QCA quarterly rate adjustments GMO files shall be changed to reflect eighty-five percent (85%) of the actual fuel costs above or below the newly-agreed base of \$3.95 per MMBtu for the fuel component contained in the QCA, rather than the current eighty percent (80%).

c. The Signatories agree that the input level of the QCA 12-month coal performance standard shall be amended from 2,184,104 MMBtus to 1,920,000 MMBtus, and the input level of the QCA three-month coal standard shall be amended from 495,695 MMBtus to 460,000 MMBtus. The nine- (9) and six- (6) month coal performance standards contained in the current QCA shall be removed. If the actual sales decrease below the test year sales level of 2,594,975 MMBtus, the Signatories agree the twelve-(12) month and three-(3) month coal performance standards shall be reduced in

direct proportion, *i.e.* by multiplying the standard by actual sales (after annualization) and dividing the result by 2,594,975 MMBtus. However, if customer loads increase above the test year sales level of 2,594,975 MMBtus, the input levels of the QCA twelve-(12) month and three-(3) month standards will remain unchanged at 1,920,000 MMBtus and 460,000 MMBtus, respectively.

d. The QCA coal performance standards are based on expected normal availability of Lake Road Boiler #5. In the event of a major scheduled outage for system maintenance and improvement, such as occurred in the last quarter of 2008, the Coal Performance Standard shall be subject to further adjustment as agreed upon by the Signatories herein, to reflect the reduced availability of the coal-fired boiler resulting from the scheduled outage. As an example, should the coal-fired boiler be scheduled to be off line for 55 days in one quarter due to a major outage, the three-(3) month standard would be reduced to a level of 38.89% $((90-55)/90)$ of the three-(3) month standard. A corresponding adjustment of 84.93% $((365-55)/365)$ would be made to the twelve-(12) month standard.

3. The rates reflected in the exemplar tariff sheets of attached Schedule 1 are part of this Unanimous Stipulation and Agreement and are agreed to implement the respective provisions of this Unanimous Stipulation and Agreement and have been calculated based on the billing determinants developed by Staff in this proceeding. Subject to all provisions herein, this Unanimous Stipulation and Agreement resolves all revenue requirement and all rate design issues in this case.

4. GMO agrees that it will not seek to implement an increase in the base (non-QCA) rates for steam service sooner than fourteen (14) months following the

effective date of the tariffs the Commission approves in this proceeding. Provided that GMO submits any revised base rate tariff with a proposed effective date that is as least as long as required by this provision and that the effective date is at least eleven (11) months after the filing date of the rate case which proposes revised base rate tariffs, then the Signatory Parties agree that they will not seek to suspend the effective date of the tariffs beyond the effective date that is proposed by GMO.

5. Any Signatory may file suggestions, a memorandum or other pleading in support of this Unanimous Stipulation and Agreement, and the other Signatories shall have the right to file suggestions, memoranda or other pleadings in response. The contents of any suggestions, memorandum or other pleading provided by Staff, GMO, Public Counsel or anyone else are its own.

6. This Unanimous Stipulation and Agreement is being entered into solely for the purpose of settling all of the issues in this case, and not for any other purpose. None of the Signatories shall be deemed to have approved or acquiesced in any question of Commission authority, accounting authority order principle, cost of capital methodology, capital structure, decommissioning methodology, ratemaking or procedural principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this Unanimous Stipulation and Agreement, or for which provision is made in this Unanimous Stipulation and Agreement, unless otherwise expressly specified herein.

7. This Unanimous Stipulation and Agreement represents a negotiated settlement. Except as specified herein, the Signatories to this Unanimous Stipulation and

Agreement shall not be prejudiced, bound by, or in any way affected by the terms or conditions of this Unanimous Stipulation and Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket or any pending judicial review and/or appeal including, but not limited to Case No. EM-2007-0374; (c) in this proceeding should the Commission decide not to approve this Unanimous Stipulation and Agreement in the instant proceeding, or in any way condition its approval of same.

8. The provisions of this Unanimous Stipulation and Agreement have resulted from extensive negotiations among the Signatories and are interdependent. If the Commission does not unconditionally approve and adopt each and every term of this Unanimous Stipulation and Agreement without modification, it shall be void and none of the Signatories shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof, unless otherwise agreed to by the signatory parties.

9. If approved and adopted by the Commission, this Unanimous Stipulation and Agreement shall constitute a binding agreement among the Signatories. The Signatories shall cooperate in defending the validity and enforceability of this Unanimous Stipulation and Agreement and the operation of this Unanimous Stipulation and Agreement according to its terms and conditions.

10. This Unanimous Stipulation and Agreement is not a contract with the Commission. Acceptance of this Unanimous Stipulation and Agreement by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigative or other power which the Commission presently has according to governing law. Thus, nothing in this Unanimous Stipulation and Agreement is intended to impinge or restrict in any manner the exercise

by the Commission of any statutory right, including the right to access information, or any statutory obligation.

11. If the Commission does not unconditionally approve this Unanimous Stipulation and Agreement without modification, and notwithstanding its provision that it shall become void thereon, neither this Unanimous Stipulation and Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any party has to a hearing on the issues presented by the Unanimous Stipulation and Agreement, for cross-examination, or for a decision in accordance with Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Unanimous Stipulation and Agreement had not been presented for approval, and any suggestions, memoranda, testimony or exhibits that have been offered or received in support of this Unanimous Stipulation and Agreement shall thereupon become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever, unless otherwise agreed to by the Signatories.

12. If the Commission accepts each and every specific term of this Unanimous Stipulation and Agreement without modification or condition, each of the Signatories waives its respective rights to cross-examine witnesses pursuant to Section 536.070(2) RSMo 2000; to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 2000; to the reading of the transcript pursuant to Section 536.080.2 RSMo 2000; to seek rehearing pursuant to Section 386.500 RSMo 2000 and to judicial review

pursuant to Section 386.510 RSMo 2000. These waivers apply only to a Commission Order Approving Unanimous Stipulation and Agreement or other Report and Order approving this Unanimous Stipulation and Agreement issued in this proceeding, and do not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Unanimous Stipulation and Agreement. Additionally, and subject thereto, the prefiled testimony and exhibits of the witnesses for the Signatories shall be deemed admitted into the record of this proceeding as though timely introduced without objection.

13. If the Commission has questions for representatives or witnesses of one or more of the Signatories, the Signatories shall make available, at any on-the-record session, their witnesses and attorneys for the issues settled by this Unanimous Stipulation and Agreement, provided that all of the Signatories are given adequate notice of the on-the-record session. The Signatories agree to cooperate in presenting this Unanimous Stipulation and Agreement to the Commission for approval, and shall take no action, directly or indirectly, in opposition to approval of this Unanimous Stipulation and Agreement.

14. This Unanimous Stipulation and Agreement embodies the entirety of the agreements between the Signatories in this case and may be modified by the Signatories only by a written amendment executed by all of the Signatories.

WHEREFORE, for the foregoing reasons, the Signatories respectfully request that the Commission issue an Order approving the terms and conditions of this Unanimous Stipulation and Agreement.

Respectfully submitted,

STAFF OF THE MISSOURI PUBLIC
SERVICE COMMISSION

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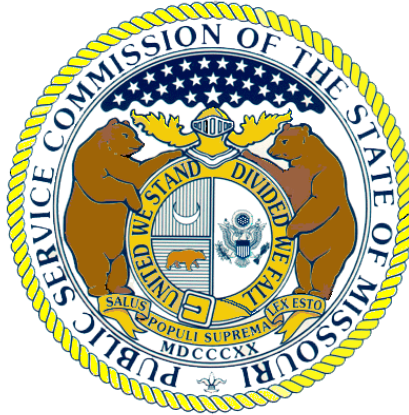
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, this 13th day of May, 2009, to all counsel of record.

/s/ James M. Fischer
James M. Fischer

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



Ag Processing, Inc., a Cooperative,

Complainant,

v.

KCP&L Greater Missouri Operations
Company,

Respondent.

File No. HC-2010-0235

REPORT AND ORDER

Issue Date: September 28, 2011

Effective Date: October 8, 2011

EXHIBIT D

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Ag Processing, Inc., a Cooperative,)	
)	
Complainant,)	
)	
v.)	<u>File No. HC-2010-0235</u>
)	
KCP&L Greater Missouri Operations)	
Company,)	
)	
Respondent.)	

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Appearances

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and

David L. Woodsmall, Esq., Finnegan, Conrad & Peterson, 428 East Capitol Avenue, Suite 300, Jefferson City, Missouri, 65101, for Complainant, Ag Processing, Inc., a Cooperative.

Karl Zobrist, Esq., and **Lisa A. Gilbreath, Esq.**, SNR Denton US LLP, 4520 Main Street, Suite 1100, Kansas City, Missouri 64111, for Respondent, KCP&L Greater Missouri Operations Company.

Samuel D. Ritchie, Associate Counsel, Missouri Public Service Commission, Post Office Box 360, 200 Madison Street, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

Judge: **Morris L. Woodruff, Chief Regulatory Law Judge.**

REPORT AND ORDER

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

Procedural History

On January 28, 2010, Ag Processing Inc., a Cooperative, (AGP) filed a complaint against Aquila, Inc., d/b/a Aquila Networks – L&P, now known as KCP&L Greater Missouri Operations Company (KCPL-GMO). The complaint is related to Aquila's provision of industrial steam service to AGP's soybean processing plant in St. Joseph, Missouri.

AGP initially filed its complaint in Case Numbers HR-2007-0028 and HR-2007-0399, which are cases in which the Commission is considering possible Quarterly Cost

Adjustments under KCPL-GMO's steam tariffs. The Commission separated AGP's complaint from those two cases and assigned it its current case number in an order issued on February 11, 2010.

KCPL-GMO filed a timely answer to AGP's complaint on March 15, 2010. Thereafter, AGP and KCPL-GMO prefiled direct and rebuttal testimony. Although the Commission's Staff and the Office of the Public Counsel are parties to this complaint action, neither presented any evidence and neither took any position regarding AGP's complaint.

The Commission conducted an evidentiary hearing on November 18 and 19, 2010. AGP and KCPL-GMO filed initial briefs on January 11, 2011, followed by reply briefs on February 9, 2011.

The Steam Services Provided by KCPL-GMO

1. KCPL-GMO's predecessor companies began making and supplying industrial steam from the Lake Road Plant in St. Joseph, Missouri in the 1930s, originally serving the animal packing plants located in that area. The Lake Road Plant's boilers are also used to produce steam to drive turbines to generate electricity. KCPL-GMO currently has five customers for the steam it produces. They are AGP; Triumph Foods, LLC; Albaugh Chemical; Nestlé/Purina PetCare; and Land O' Lakes, Omnium Division, a chemical company.¹

¹ Rush Direct, Ex. 104, Pages 6-7, Lines 18-23, 1-2.

2. AGP is KCPL-GMO's largest steam customer. During 2006 and 2007, the period at issue in this case, AGP took about two-thirds of the industrial steam supplied to the steam customers from the Lake Road Plant.²

3. The industrial steam is produced primarily from a coal-fired boiler. But, since the steam load exceeds the capacity of the coal-fired boiler, natural gas is also used as a fuel source. Natural gas costs more than coal, so coal is used as the base-load fuel, while natural gas is used as a swing fuel when extra steam production is needed.³

The Hedging Program

4. In February 2006, KCPL-GMO's predecessor, Aquila, instituted a program of financial hedging for its natural gas supply. The company continued to purchase physical natural gas supplies in the same manner, but began buying and selling financial instruments to adjust its effective gas cost.⁴ Previously, the company had simply purchased the natural gas it needed at market rates.⁵

5. Aquila decided to make all purchases for its 2006 hedging program on February 16, 2006, believing that it had an opportunity to lock in its natural gas needs for the year at a satisfactory price level.⁶ Aquila's average hedge purchase price for all of 2006 for steam customers was \$8.15 per MMBtu for future contracts, and an average strike price of \$8.71 per MMBtu for call option purchases. The company sold puts at a

² Johnstone Direct, Ex. 1, Page 2, Lines 6-7.

³ Johnstone Direct, Ex. 1, Page 2, Lines 8-12.

⁴ Johnstone Direct, Ex. 1, Page 2, Lines 13-19.

⁵ Transcript, Page 190, Lines 6-13.

⁶ Gottsch Direct, Ex. 102, Page 14, Lines 13-16.

\$6.00 per MMBtu average. Aquila made these purchases anticipating that natural gas prices would rise throughout the balance of the year.⁷

6. However, natural gas prices did not rise throughout the balance of the year, instead dropping to \$4.12 per MMBtu in September 2006.⁸

7. Aquila's natural gas hedge program for its steam production was in place once again for 2007. Aquila also purchased the 2007 hedge positions in 2006, but spread those purchases out over 9 months.⁹ Again, natural gas market prices trended lower than the hedge positions.¹⁰

8. At AGP's request, Aquila suspended its natural gas hedging program for its steam production in October 2007.¹¹

9. The net cost of Aquila's natural gas hedge program for its steam production was \$1,164,960 in 2006 and \$2,441,861 in 2007. Under Aquila's Quarterly Cost Adjustment tariff, 80 percent of those costs were collected from Aquila's steam customers. The net hedging program costs Aquila collected from its steam customers amounted to \$931,968 for 2006 and \$1,953,488 for 2007.¹² Those are the costs that AGP contends should be refunded to Aquila's steam customers.

Should Aquila have Adopted a Hedging Program?

10. The mere fact that Aquila's hedging program's cost exceeded the savings realized from that program does not mean that Aquila was imprudent or that the hedge

⁷ Gottsch Direct, Ex. 102, Pages 14-15, Lines 23, 1-5.

⁸ Blunk Direct, Ex. 105, Page 24, Line 8.

⁹ Johnstone Direct, Ex. 1, Page 13, Lines 17-21.

¹⁰ Johnstone Direct, Ex. 1, Page 20, Lines 6-7.

¹¹ Johnstone Direct, Ex. 1, Page 31, Lines 18-19.

¹² Johnstone Rebuttal, Ex. 2, Page 30, Lines 8-11.

program's net costs should be refunded to Aquila's steam customers. The purpose of a hedging program is not to make money, nor is it to ensure that customers pay the lowest possible cost. Rather the purpose of a hedging program is to mitigate the risk of price volatility. A properly designed and implemented hedging program will reduce peak prices, but may also may limit participation in a falling market.¹³ In other words, in some circumstances customers may pay more for natural gas than they would have if the hedging program was not in place.

11. Aquila's hedging program was designed to be market neutral, meaning the company was not supposed to attempt to predict whether the price of natural gas would rise or fall, but rather would purchase financial contracts that would result in an average market cost over a period of time in the future.¹⁴

12. In general, the Commission has encouraged utilities to implement and utilize hedging programs to mitigate price volatility. In fact, the Commission has a rule, 4 CSR 240-40.018, which requires natural gas utilities to engage in hedging activities to mitigate price volatility. That regulation does not apply to Aquila's steam operations, but it does indicate the Commission's support for hedging activities by Missouri's utilities.

13. Aquila's concerns about price volatility in the natural gas marketplace were certainly justified in 2006 and 2007. Since the winter of 2000-2001, the natural gas marketplace had experienced significant price fluctuations. In that winter alone, gas prices ranged from \$4.485/MMBtu to \$9.978/MMBtu. In December 2004 gas was at

¹³ Gottsch Direct, Ex. 102, Page 5, Lines 3-19.

¹⁴ Gottsch Direct, Ex. 102, Page 8, Lines 1-4.

\$6.83/MMBtu. By December 2005, it peaked at \$15.378/MMBtu.¹⁵

14. Volatility did not end in 2006. By September 2006, prices had dropped to \$4.120/MMBtu. Prices climbed back to \$13.58/MMBtu in July 2008, but then dropped below \$4.00/MMBtu in January 2009.¹⁶

15. In addition, in the summer of 2005, the natural gas producing regions of the United States Gulf Coast had been struck by two severe hurricanes, Katrina and Rita, causing major disruptions in the nation's supply of natural gas.¹⁷ In early 2006, weather forecasters were again predicting an active hurricane season for 2006¹⁸, with a resulting chance for new natural gas price spikes.

16. Because of the history of price volatility and predictions of future volatility due to concerns about the weather and natural gas supplies, Aquila acted prudently when it considered entering into a natural gas hedging program in February 2006.

17. In February 2006, Aquila entered into a stipulation and agreement to resolve Case No. HR-2005-0450, its pending rate case before the Commission. The implementation of a natural gas price hedging program for Aquila's steam operations had been discussed in the testimony filed in that case, including in the testimony filed on behalf of AGP by Maurice Brubaker.¹⁹

18. The stipulation and agreement that resolved Case No. HR-2005-0450 contemplated the establishment of a natural gas price hedging program by Aquila for its

¹⁵ Blunk Direct, Ex. 105, Page 24, Lines 1-12.

¹⁶ Blunk Direct, Ex. 105, Schedule WEB-12.

¹⁷ Blunk Direct, Ex. 105, Page 27, Lines 5-21.

¹⁸ Gottsch Direct, Ex. 102, Schedule GLG-4.

¹⁹ Blunk Direct, Ex. 105, Schedule WEB-6, Pages 6 and 7 of 16.

steam operations. Specifically, Section 8.1 of that stipulation and agreement provided that “[t]he cost of gas in Account 501 will include the cost of physical gas deliveries and financial instruments, when settled, associated with gas deliveries in the quarterly period.”²⁰

19. The parties to the stipulation and agreement discussed and understood the term “financial instruments” as used in Section 8.1 to mean the futures contracts and option contracts that would be used in Aquila’s natural gas hedging program for its steam operations.²¹

20. The stipulation and agreement that resolved Case No. HR-2005-0450 created a Quarterly Cost Adjustment (QCA) mechanism. The QCA required Aquila to file quarterly rate adjustments to reflect 80 percent of changes in actual fuel costs above or below an established base amount. Aquila was not allowed to pass 20 percent of its fuel costs to its customers under the QCA to better align its interests with those of its customers.²²

21. The QCA also contained a coal performance standard that limited the amount of fuel costs that could be passed through to the steam customers. Aquila primarily produced steam using a coal-fired boiler. It used its natural gas-fired boiler only when demand for steam could not be met using the coal-fired boiler. Since coal was a less expensive fuel than natural gas, the QCA established a minimum standard for coal-fired steam production that protected customers from higher fuel costs if Aquila

²⁰ Clemens Direct, Ex. 101, Schedule GLC-1, Page 5 of 16.

²¹ Clemens Direct, Ex. 101, Page 3, Lines 10-14. See also, Transcript, Page 64, Lines 5-25.

²² Clemens Direct, Ex. 101, Schedule GLC-1, Section 8, Page 4-16.

failed to meet those production standards.²³

22. Under the QCA, quarterly fuel cost variations are collected from customers over the following twelve-month period. The effect is to protect steam customers from price volatility by increasing retail prices gradually in a period of increasing prices and reducing prices gradually in a period of decreasing prices, thereby averaging the ups and downs as fuel prices move up and down from quarter to quarter.²⁴

23. Since the QCA, apart from a separate hedging program, had the effect of reducing fuel cost volatility for customers, AGP contends Aquila was imprudent in not taking that effect of the QCA into account when deciding to implement its natural gas fuel cost hedging program.

24. While the QCA had the effect of reducing fuel cost volatility for Aquila's steam customers, it was not a fuel cost hedging program. The QCA did not affect the effective price that Aquila would have to pay to obtain its natural gas supplies.²⁵ In other words, the QCA would delay Aquila's ability to pass higher natural gas costs to its customers, but it would only be a delay. Inevitably, those higher costs would be passed to the steam customers. In contrast, a properly functioning hedging program could effectively reduce the costs paid for fuel, to the benefit of both Aquila and its customers.

25. When they created the QCA, the parties to the stipulation and agreement contemplated the creation of a price hedging program as part of the QCA as evidenced by the language in section 8.1 of that stipulation and agreement that allowed the cost of

²³ Johnstone Direct, Ex. 1, Pages 8-9, Lines 7-24, 1-4.

²⁴ Johnstone Direct, Ex. 1, Pages 6-7, Lines 3-8, 1-9.

²⁵ Transcript, Page 176, Lines 7-12.

financial instruments to be included as a cost of gas.²⁶ It is only with the benefit of 20/20 hindsight, knowing that natural gas prices did not rise precipitously during the period in question, that it can be argued that the price protections afforded by the hedging program were not necessary. Therefore, the Commission finds that Aquila was not imprudent in implementing a natural gas price hedging program of some type. The next question is whether the hedging program it actually adopted was prudently designed.

Was Aquila's Hedging Program Prudently Designed?

26. The hedging program that Aquila implemented for its steam operations was taken directly from the hedging program it had been using for its electric operations.²⁷

27. Aquila's natural gas hedging program for steam production was to procure one-third of the monthly forecast quantity of natural gas through fixed price New York Mercantile Exchange (NYMEX) futures contracts, one-third in options contracts, and the remaining one-third at the then prevailing spot market.²⁸

28. Aquila's one-third program was designed to dampen both upward and downward swings in the market price of natural gas. When natural gas prices went up Aquila's exposure to the increased costs was limited because one-third of those costs would be fixed by the options contracts, one-third would be capped by the options contracts, and only one-third would be subject to market rates. If market prices dropped, Aquila would not have to exercise the options on one-third of the gas

²⁶ Clemens Direct, Ex. 101, Schedule GLC-1, Page 5-16.

²⁷ Transcript, Page 164, Lines 17-24.

²⁸ Gottsch Direct, Ex. 102, Page 3, Lines 15-22.

requirements, while another one-third of those gas requirements would be purchased at market rates. Thus, two-thirds of the gas requirement could be purchased at the lower market cost, to the benefit of both Aquila and its steam customers.²⁹

29. Aquila's one-third hedging program for steam production was taken directly from its hedging program for electric production. Aquila did not closely evaluate that program to customize it for application to its steam production, but no evidence was presented to establish that the one-third hedging program was imprudently designed or that it would not have produced reasonable results given appropriate inputs.

30. Indeed, Aquila ran a comparison study of what the results would have been if an alternative gas hedging program administered by Kase & Company known as EZ Hedge had been used in 2006 and 2007. Using the same inputs as Aquila's one-third program, EZ Hedge would have lost \$1,457,660 for 2006 and \$3,686,720 for 2007. Both amounts are significantly higher than the losses that resulted from Aquila's one-third hedging program.³⁰

31. The Commission finds that AGP has failed to present sufficient evidence to create a serious doubt about the prudence of the design of Aquila's natural gas hedging program for its steam operations. Rather, the problem with Aquila's hedging program was with its implementation, not its design. The Commission will address that issue in the next section of this report and order.

Was the Hedging Program Prudently Implemented?

32. AGP alleges that Aquila's hedging program was imprudently implemented in two respects. The first involves Aquila's transactions in financial instruments.

²⁹ Gottsch Direct, Ex. 102, Pages 6-7, Lines 17-23, 1-10.

³⁰ Gottsch Direct, Ex. 102, Page 17, Lines 9-13.

33. As part of its hedging program, Aquila purchased financial instruments to balance the cost of purchasing the physical supplies of natural gas it would need to produce steam. As previously indicated, part of Aquila's hedging program was to purchase options to hedge one-third of anticipated volumes.

34. Options come in two flavors. A call option provides the purchaser with the option to purchase gas in a future month at a price referred to as a strike price. A call option helps protect the purchaser against a rising price.³¹ The other flavor of option is a put option. A put option provides the purchaser with the option to sell gas in a future month at a set strike price. Such an option would give the holder of the option an opportunity to participate more fully in a falling price market.³²

35. AGP criticized Aquila as imprudent for selling put options in the apparent belief that market prices would rise, thereby depriving its customers of protection against the falling market that actually developed.³³

36. Aquila bought and sold both call and put options to hedge its costs through the use of a price collar. That program applies the premium gathered from selling a put to the cost of the premium of the call.³⁴ Thus, Aquila's decision to sell puts does not by itself indicate that the company acted imprudently. The prudence standard does not require that Aquila correctly foresee the direction the natural gas market will take. The company's sale of put options in a market in which prices fell does not establish that the company acted imprudently.

³¹ Johnstone Direct, Ex. 1, Page 14, Lines 6-12.

³² Johnstone Direct, Ex. 1, Page 14, Lines 16-22.

³³ Johnstone Direct, Ex. 1, Page 15, Lines 2-17.

³⁴ Gottsch Direct, Ex. 102, Page 7, Lines 16-19.

37. AGP's other accusation of imprudence in the implementation of Aquila's hedging program concerns the volumes of gas that Aquila decided to hedge. The problem is that Aquila chose to purchase financial instruments to hedge much more gas than it actually burned.

38. For the period of April 2006 through December 2007, Aquila purchased hedge positions for approximately 2,000,000 mmBtus of gas for steam production. During the same period the company actually burned only 1,500,000 mmBtus of gas for steam production.³⁵

39. Remember, Aquila intended to operate a one-third hedging program. That means that one-third of its natural gas purchases for steam production should have been unhedged, to be purchased at market rates. Since its forecasts of usage were so far off, Aquila in effect bought none of its gas supplies at market rates, rendering its one-third hedging program ineffective from the start.

40. Aquila's hedging of more gas than it actually burned is problematic because that position tends to amplify variations in the natural gas market. If the hedged volume is reasonably close to the physical quantity needed, the net price of the amount of gas hedged can be locked in regardless of market price levels.³⁶ If Aquila's one-third hedging program had been based on a better forecast of gas usage, that program could have worked as designed and Aquila's customers would have benefited from reduced volatility.

41. However, when physical volumes of gas are substantially less than the volumes hedged, the hedging program will create a price change opposite in direction to

³⁵ Transcript, Pages 88-89, Lines 3-25, 1-11. See *a/so*, Ex. 109.

³⁶ Johnstone Direct, Ex. 1, Page 18, Lines 4-6.

the change in the market. In other words, the net cost of gas under the hedging program will actually go up in a down market and down in an up market. The results will be very volatile and potentially very beneficial or very costly.³⁷

42. Since market prices in 2006 and 2007 trended down as compared to the hedge positions, the effect was to substantially increase net gas costs. If costs had gone up instead, windfall benefits would have resulted from substantially decreased net gas costs. But the point of a hedging program is to decrease volatility, not to speculate on windfall profits or losses.³⁸

43. The impact of the hedging program on net gas prices in October 2006 provides a good illustration of the problem with the operation of Aquila's hedging program. In that month, the market price of gas had fallen to \$4.62. However, under the hedging program, the net cost of gas for that month was \$12.76. That extreme price variation occurred because the physical volume of gas purchased was only 25 percent of the design volumes. The first one-third of the hedging program, which was designed to purchase futures contract to protect against rising prices was itself 35 percent larger than the physical volumes used so that losses on that portion of the hedge were amplified. In effect, Aquila had 160,000 mmBtu in costly hedge positions spread over only 58,939 mmBtus physically used to produce steam.³⁹

44. Throughout the years in question, Aquila's forecasted/budgeted natural gas usage far exceeded the actual amounts burned for steam production.⁴⁰ That

³⁷ Johnstone Direct, Ex. 1, Page 18, Lines 15-18.

³⁸ Johnstone Direct, Ex. 1, Page 20, Lines 6-10.

³⁹ Johnstone Direct, Ex. 1, Page 21, Lines 1-12.

⁴⁰ Johnstone Rebuttal, Ex. 2, Page 22, Chart Reb-2.

variation and its devastating effect on the hedging program is sufficient to demonstrate a serious doubt as to the prudence of Aquila's operation of that hedging program. Thus, the initial presumption of prudence is overcome, and the burden shifts to Aquila to dispel those doubts and prove that the hedging program was operated prudently. Aquila has failed to meet that burden.

45. Aquila explained that its forecast for the volumes of steam it would need to produce, and thus the amount of natural gas it would hedge was based on information submitted by its customers. Aquila had only a handful of large industrial steam customers, so the company simply asked its customers to estimate how much steam they would need in the future. An Aquila employee, Joseph Fangman, periodically spoke with the customers about their anticipated need for steam.⁴¹ Fangman then passed that raw information on to another Aquila employee, Tim Nelson, who did the actual forecasting.⁴² The record does not indicate how Tim Nelson prepared his forecasts because he did not testify.

46. AGP offered Aquila reasonably accurate estimates of its steam usage, but the estimates Aquila obtained from some of its other steam customers were described by Fangman as "soft" and "fuzzy", less reliable.⁴³ In fact, those other customers significantly overestimated the amount of steam they would use.⁴⁴

47. Aquila was aware that its customer's estimates of steam usage were unreliable. In his testimony Fangman described one industrial customer that always

⁴¹ Transcript, Page 279, Lines 4-12.

⁴² Fangman Direct, Ex. 103, Page 4, Lines 13-20.

⁴³ Transcript, Page 289, Lines 1-22.

⁴⁴ Ex. 9.

expected to be ramping up production in the next month, thus requiring more steam, but which never actually increased production as planned.⁴⁵

48. Aquila would place the blame for its inaccurate forecasts squarely on its customers, arguing that as the sole available supplier of steam, it has an obligation to plan to meet all the needs of its customers.⁴⁶ While certainly Aquila had an obligation to meet the needs of its customers, it was Aquila's responsibility to determine the reasonableness of its customer's estimates. Aquila knew that those customer estimates were not reliable and had an obligation to structure its hedging program to account for the uncertainty of volumes of gas, yet there is nothing in the record to indicate that it did so. Aquila has not met its burden of proving that it operated its hedging program in a prudent manner.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Burden of Proof

A. In form, this is a complaint brought by AGP against Aquila/KCPL-GMO. Normally in a complaint brought before the Commission, the burden of proof would be on AGP, the complainant, as the party asserting the affirmative on the issue of the utility's imprudence.⁴⁷ However, this case is more complicated than a straight-forward complaint.

⁴⁵ Fangman Direct, Ex. 103, Page 10, Lines 11-19.

⁴⁶ Transcript, Page 294, Lines 11-16.

⁴⁷ *State ex rel. GS Technologies Operating Co. v. Pub. Serv. Comm'n*, 116 S.W. 3d 680, 693 (Mo. App. W.D. 2003).

B. An approved stipulation and agreement that resolved Aquila's 2005 steam rate case (HR-2005-0450) established a Quarterly Cost Adjustment mechanism that allowed Aquila to make quarterly rate adjustments to reflect 80 percent of the change in its actual fuel costs above or below an established base amount.⁴⁸

C. That stipulation and agreement also establishes a method by which the prudence of Aquila's fuel purchase decisions can be reviewed. The Commission's Staff is required to conduct an initial, first-step, prudence review to determine "that no significant level of imprudent costs is apparent." If it determines a further review is necessary, Staff may also proceed, as a second-step, with a full prudence review.⁴⁹

D. However, the stipulation and agreement also allows any Aquila steam customer, including AGP, to file a complaint to initiate the second-step full prudence review, even if Staff chooses not to pursue such a review.⁵⁰ It is just such a complaint that AGP has currently brought before the Commission.

E. Because this is actually a full prudence review of Aquila's fuel purchasing decisions rather than an ordinary complaint, AGP is not saddled with the burden of proof throughout the proceeding. Instead, the Commission's modified prudence standard of review is applicable.

F. Under that standard of review, which the Commission established in a 1985 decision, a utility's expenditures are presumed to be prudently incurred, but, if some other participant in the proceeding creates a serious doubt as the prudence of the expenditure, then the utility has the burden of dispelling those doubts and proving the

⁴⁸ Clemens Direct, Ex. 101, Schedule GLC-1, Page 4 of 16.

⁴⁹ Clemens Direct, Ex. 101, Schedule GLC-1, Pages 6-8, of 16.

⁵⁰ Clemens Direct, Ex. 101, Schedule GLC-1, Page 8 of 16.

questioned expenditure to have been prudent.⁵¹ The Commission's standard of review regarding prudence decisions has subsequently been accepted by reviewing courts.⁵²

G. Based on its findings of fact, the Commission has concluded that AGP has demonstrated serious doubt about the prudence of Aquila's decisions regarding its gas-cost hedging program. Therefore, Aquila/KCPL-GMO must shoulder the burden of proving that those decisions were prudent.

Appropriate Relief

H. The approved stipulation and agreement also affects the degree of relief that is appropriate in this case. In a typical complaint case, the Commission would grant relief only to the party that brought the complaint. Since AGP is the only steam customer that filed a complaint, it would be the only customer that received relief. However, as previously indicated this is not a typical complaint.

I. As the Commission previously concluded in section D of these conclusions of law, the approved stipulation and agreement that resolved Aquila's 2005 steam rate case allowed AGP to initiate a full prudence review of Aquila's fuel purchasing decisions by filing this complaint. Thus, this action took on the character of a prudence review rather than a complaint that would be limited to AGP's specific concerns.

⁵¹ *In the matter of the determination of in-service criteria for the Union Electric Company's Callaway Nuclear Plant and Callaway rate base and related issues. And in the matter of Union Electric Company of St. Louis, Missouri, for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the company*, 27 Mo. P.S.C. (N.S.) 183 (1985).

⁵² *State ex rel. Associated Natural Gas v. Pub. Serv. Comm'n*, 954 S.W.2d 520, 528-29 (Mo. App. W.D. 1997).

J. Since this action is a full prudence review, it applies to all of Aquila's steam customers. The Commission found that Aquila did not act prudently with regard to all its steam customers, not just with regard to AGP. Therefore, the relief ordered by the Commission should apply to all of Aquila's steam customers.

Decision

The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision. After applying the facts as it has found them to its conclusions of law, the Commission has reached the following decision.

The evidence showed that Aquila hedged the purchase price of far more natural gas than it actually needed to use to produce steam to serve its customers. By doing so, Aquila operated a hedging program that actually increased rather than reduced price volatility. AGP amply demonstrated serious doubt about the prudence of Aquila's operation of the hedging program. Therefore, Aquila had the burden of proving that it operated the hedging program in a prudent manner. Aquila failed to meet that burden.

Aquila collected net hedging costs from its steam customers amounting to \$931,968 for 2006 and \$1,953,488 for 2007. The record is not clear about how much net hedging costs Aquila would have incurred if it had properly forecast the amount of natural gas it needed to purchase to supply steam to its customers. Perhaps it would have incurred some costs even if it has been completely accurate in its forecasting.

Neither party presented any evidence that would allow the Commission to make that determination.

However, it appears that net hedging costs would have been small if the required amount of natural gas had been accurately forecast. As AGP's witness, Donald Johnstone, explained, small changes in volumes would have only small effects on the hedging program. Because of the previously described amplification effect, large variations in volumes result in very large problems.⁵³

In any event, Aquila had the burden of proving that it operated its hedging program in a prudent fashion. It failed to establish that any part of the cost of operating that program was prudently incurred. Therefore, the Commission finds that Aquila's entire net cost of operating its natural gas price hedging program for steam production in 2006 and 2007 was imprudently incurred and must be refunded to its steam customers through operation of the QCA.

THE COMMISSION ORDERS THAT:

1. KCP&L Greater Missouri Operations Company shall refund to its steam customers, through operation of the Quarterly Cost Adjustment, the net cost of operating its natural gas price hedging program for steam production in the amount of \$931,968 for 2006 and \$1,953,488 for 2007.

⁵³ Transcript, Page 110, Lines 2-6.

2. This order shall become effective on October 8, 2011

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Davis, Jarrett, and
Kenney, CC., concur;
and certify compliance with
Section 536.080, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 28th day of September, 2011.

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 22nd day of
November, 2011.

In the Matter of)	
KCP&L Greater Missouri Operations Company)	File No. HT-2011-0343
Application for Authority to File Tariffs)	
Changing the Steam QCA for Service)	Tariff No. YH-2012-0159
Provided to Customers in its Service Territory)	

**ORDER REJECTING TARIFF AND
REQUIRING THE FILING OF A NEW TARIFF**

Issue Date: November 22, 2011

Effective Date: November 22, 2011

The Missouri Public Service Commission is rejecting the pending tariff sheet, and is requiring KCP&L Greater Missouri Operations Company ("GMO") to file a tariff in compliance with this order, because the pending tariff sheet does not comply with the Commission's order to refund over-collected amounts through GMO's Quarterly Cost Adjustment ("QCA").

Procedure

GMO filed the tariff sheet on October 14.¹ The tariff sheet bears an effective date of December 1, 2011. Staff filed its recommendation favoring rejecting the tariff on November 8.

On November 9, AG Processing, Inc. ("AG Processing") filed a motion seeking to participate in this action.² GMO filed a response to the motion on November 10.³ The

¹ All dates are in 2011.

² *Statement by AG Processing Inc. a Cooperative with Respect to a Series of Filings by KCP&L Greater Missouri Operations Company Regarding the Steam Quarterly Cost Adjustment for the St. Joseph Service Territory.*

³ *Response of KCP&L Greater Missouri Operations Company to Statement by Ag Processing, Inc.,* filed on November 10, 2011.

Commission issued an order granting AG Processing's motion on November 10. GMO and AG Processing, Inc. filed responses to the recommendation on November 16. The Commission convened a conference on November 18, 2011.

No tariff sheet is under suspension so no hearing is necessary.⁴ Therefore, this action is not a contested case⁵ and the Commission need not separately state its findings of fact. Based on the verified filings and its own records, the Commission independently finds and concludes as follows.

Merits

The tariff sheet does not comply with the Commission's order in AG Processing, Inc. v. KCP&L Greater Missouri Operations, Company⁶ ("prudence review"). In the prudence review, the Commission ordered as follows:

[GMO] shall refund to its steam customers, through operation of the [QCA], the net cost of operating its natural gas price hedging program for steam production in the amount of \$931,968 for 2006 and \$1,953,488 for 2007.[⁷]

That decision became final when the Commission denied GMO's application for rehearing on November 2.⁸ So, as of that date, GMO must refund \$2,885,546 through its QCA. The QCA is the subject of the pending tariff. But the pending tariff provides no refund.

GMO argues that the prudence review sets no due date for the refund. But GMO's current tariff provides a 12-month period under the paragraph titled "Reconciling Adjustments and the Reconciliation Rate":

⁴ Section 393.150.1, RSMo 2000.

⁵ Section 536.010(4), RSMo Supp. 2010.

⁶ File No. HC-2010-0235, *Report and Order* issued on September 28, effective October 8.

⁷ *Id.* at page 20, ordered paragraph 1.

⁸ File No. HC-2010-0235, *Order Denying Application for Rehearing*, issued and effective on November 2, 2011.

At the end of the twelve (12) months of collection of each CQCA, the over-or under-collection of the intended revenues (the numerator of the CQCA) will be applied to customers' bills through a Reconciliation Rate. [⁹]

That paragraph also sets a 12-month period to refund over-collections:

[GMO] shall use a collection/refund/credit amortization period of twelve (12) months [. ¹⁰]

In addition, Staff cites¹¹ GMO's current tariff under "Details," which re-iterates the timing and mechanism for prudence-based refunds:

There are provisions for prudence reviews and the true-up of revenues collected with costs intended for collection. The reconciliation account shall track, adjust and return true-up amounts and any prudence amounts not otherwise refunded. Fuel costs collected in rates will be refundable based on true-up results and findings in regard to prudence A reconciliation rate shall be established at a level designed to bring the reconciliation account to zero over a period of not less than twelve (12) months [. ¹²]

Those provisions share a single exception, a 24-month period for "extraordinary increase in energy prices," but no price increase is at issue. Those provisions¹³ control with the same force and effect of a statute.¹⁴

GMO suggests a 30-month refund period but cites no authority in the Reconciliation Provision or elsewhere. GMO alleges possible financial harm under a 12-month refund but offers no persuasive support for its allegation. GMO also states that it intends to appeal the

⁹ PSC MO. No. 1, Original Sheet No. 6.7, first paragraph.

¹⁰ *Id.*

¹¹ Transcript, volume 1, page 9, lines 1 through 9.

¹² PSC MO. No. 1, Original Sheet No. 6.9, paragraph 4.

¹³ Those provisions share one exception, a 24-month period for "extraordinary increase in energy prices," but no price increase is at issue.

¹⁴ Southwestern Bell Yellow Pages, Inc. v. Wilkins, 920 S.W.2d 544, 548 (Mo. App., E.D. 1996).

prudence review but offers no authority staying the prudence review's effect in the meantime.

AG Processing asks the Commission to order an immediate refund of the whole amount by check to each customer. But the current tariff, as cited above, expresses a preference for making a refund through customer bills:

At the end of the twelve (12) months of collection of each CQCA, the over-or under-collection of the intended revenues (the numerator of the CQCA) will be applied to customers' bills through a Reconciliation Rate.

Therefore, the Commission will order the refund through customers' bills.

AG Processing also asks for an award of interest on each refund but cites no authority for that relief.

Ruling

Therefore, the Commission will reject the pending tariff, and order GMO to file a new tariff in compliance with the Commission's order in the prudence review and this order. Staff advised GMO to prepare for this eventuality by letter dated November 2,¹⁵ and supported its recommendation with citations to GMO's current tariff, while GMO has shown no substantial support for any other outcome. Those facts show good cause for the Commission to order that the effective date of the compliance tariff shall be less than 30 days after filing.¹⁶

¹⁵ Filed on November 3. Staff also attempted to expedite this process by inquiring, in its *Informational Pleading and Suggestions* filed on October 21, whether the Commission expected the refund to be part of the pending tariff. But that was before the Commission had ruled on the application for rehearing in the prudence review. Staff's recommendation, AG Processing's motion, and responses to those filings also merited consideration before the Commission determined the pending tariff.

¹⁶ Section 393.140(11), RSMo 2000.

THE COMMISSION ORDERS THAT:

1. The tariff sheet assigned Tracking No. YH-2012-0159 is rejected.
2. The specific tariff sheet rejected is:

PSC MO. No. 1

10th Revised Sheet No. 6.10, Canceling 9th Sheet No. 6.10

3. KCP&L Greater Missouri Operations Company ("GMO") shall file a tariff sheet in compliance with the terms set forth in the body of this order ("compliance tariff"). The compliance tariff shall bear an effective date of December 1, 2011. GMO shall file the compliance tariff in this file no later than November 25, 2011.

4. The Commission's Staff shall file its recommendation on the compliance tariff no later than November 29, 2011.

5. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Davis, Jarrett, and
Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 22nd day of November 2011.



A handwritten signature in black ink, appearing to read "S. C. Reed", is written over a horizontal line.

Steven C. Reed
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 22, 2011

File/Case No. HT-2011-0343

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Commission**

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Enclosed find a certified copy of an ORDER in the above-numbered matter(s).

Sincerely,



**Steven C. Reed
Secretary**

Individuals listed above with a valid e-mail address will receive electronic service. Individuals listed above without a valid e-mail address will receive paper service.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of)	
KCP&L Greater Missouri Operations Company)	File No. HT-2011-0343
Application for Authority to File Tariffs)	
Changing the Steam QCA for Service)	Tariff No. YH-2012-0237
Provided to Customers in its Service Territory)	

ORDER APPROVING COMPLIANCE TARIFF SHEET

Issue Date: November 29, 2011

Effective Date: December 1, 2011

The Missouri Public Service Commission is approving the tariff sheet (“compliance tariff sheet”) filed in compliance with the Commission’s order dated November 22, 2011.

On November 23, 2011, KCP&L Greater Missouri Operations Company filed the compliance tariff sheet. On November 29, 2011, Staff filed its recommendation favoring approval of the compliance tariff sheet as conforming to the order dated November 22, 2011.¹ No hearing is necessary before approving the compliance tariff sheet,² so this action is not a contested case, and the Commission need not separately state its findings of fact.

Based on the statements in the file, the Commission independently finds and concludes that the compliance tariff sheet supports safe and adequate service at just and reasonable rates, so the Commission will approve the compliance tariff sheet.³

¹ That order requires the compliance tariff sheet to include a refund of previously over-collected amounts of which the sum, as Staff correctly notes, is \$2,885,456.

² Section 393.150.1, RSMo 2000.

³ The order dated November 22, 2011, sets forth the grounds for an effective date less than 30 days.

THE COMMISSION ORDERS THAT:

1. The tariff sheet assigned Tracking No. YH-2012-0237 is approved.
2. The specific tariff sheet approved is:

PSC MO. No. 1

10th Revised Sheet No. 6.10, Canceling 9th Sheet No. 6.10

3. This order shall become effective on December 1, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 29th day of November, 2011.

STATE OF MISSOURI, PUBLIC SERVICE COMMISSION

P.S.C. MO. No. 1 10thCanceling P.S.C. MO. No. 1 9th**KCP&L Greater Missouri Operations Company**
KANSAS CITY, MO 64105Revised Sheet No. 6.10Revised Sheet No. 6.10**For St. Joseph, MO & Environs****QUARTERLY COST ADJUSTMENT RIDER (Continued)**
STEAMRATE:

Current Quarterly Cost Adjustment Table:

<u>Period</u>	<u>First Effective Date</u>	<u>Last Effective Date</u>	<u>CQCA (by Quarter)</u>
2011 Q3	12/1/11	11/30/12	(\$0.2212)
2011 Q2	9/1/2011	8/31/2012	(\$0.1915)
2011 Q1	6/1/2011	5/31/2012	(\$0.2986)
2010 Q4	3/1/2011	2/29/2012	(\$0.3551)

Reconciliation Table:

<u>Period</u>	<u>First Effective Date</u>	<u>Months</u>	<u>Last Effective Date</u>	<u>Monthly Recon (by Quarter)</u>
2011 Q3	12/1/11	12	11/30/12	(\$1.1513)
2011 Q2	9/1/2011	12	8/31/2012	\$0.0003
2011 Q1	6/1/2011	12	5/31/2012	\$0.0029
2010 Q4	3/1/2011	12	2/29/2012	\$0.0045

Quarterly Cost Adjustment Table:

<u>Period</u>	<u>First Effective Date</u>	<u>Last Effective Date</u>	<u>Monthly QCA</u>
2011 Q3	12/1/2011	2/29/2012	(\$2.2100)

Credits are shown in parentheses, e.g. (\$.05).

Issued: November 23, 2011

Issued by: Tim Rush, Director Regulatory Affairs

Effective: December 1, 2011