

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

In the Matter of the Application of Aquila, Inc. d/b/a )  
KCP&L Greater Missouri Operations Company for ) Case No. EO-2009-0148  
Authority to Sell its Platte City and Liberty )  
Service Centers. )

**STAFF’S STATUS REPORT AND SUGGESTIONS IN  
OPPOSITION TO MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and respectfully responds to the Commission’s Order Directing Staff Recommendation and states its opposition to the Commission granting Aquila, Inc.’s October 21, 2008 Motion for Expedited Treatment:

1. On October 22, 2008, the Commission issued its *Order Directing Staff Recommendation*. In this Order, the Commission stated, “Because the company has requested that this matter be expedited, the Commission will require the Staff of the Commission to expeditiously file a recommendation” and ordered the Staff to file a recommendation by no later than October 28, 2008.

2. In its application, in numbered paragraph 4, Aquila states:

This Application seeks a determination by the Commission regarding the pending sale of property at Applicant’s Platte City Service Center (“the Platte City Service Center”) located in Platte City, Missouri to the entity specified in Attachment No. 2 (HC) and the proposed sale of the Liberty Service Center (“the Liberty Service Center”) to a yet-to-be determined purchaser.

3. In seeking expedited treatment Aquila, at paragraphs 11 and 12 of its application, states:

Pursuant to 4 CSR 240-2.080(16), Applicant is requesting expedited treatment of this application.

Applicant requests approval of this request by October 31, 2008, or as soon as convenient for the Commission, to be effective but no later than November 3, 2009. There will be no negative effect on Applicant’s customers or the general public if the

Commission acts by the date requested herein. This pleading was filed as soon as possible following the consummation of the merger approved in Case No. EM-2007-0374, and the execution of the Agreement.

4. Recognizing the glaring deficiency in Aquila’s request for expedited treatment, the Commission issued an Order on October 22, 2008 directing Aquila to

file, no later than October 24, 2008, a pleading explaining what harm will be avoided if the Commission does not expedite this application or what benefit will accrue if the Commission does expedite this application.

5. As quoted above, Aquila has stated in its application that there is no sale of Aquila’s Liberty Service Center pending. Attachment 2 to Aquila’s application, designated “highly confidential” in its entirety, is a copy of the pending sale agreement for the Platte City Service Center, which includes the following provisions that are directly relevant to Aquila’s request for expedited treatment:

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6. As ordered by the Commission, on October 24, 2008, Aquila filed its “Response to Order Directing Filing and Amended Motion for Expedited Treatment.” With that pleading Aquila submitted a copy of an amendment to the sale agreement for the pending sale of property

at its Platte City Service Center, which Aquila marked as “highly confidential.” In that amendment Aquila and the purchaser amended the time of closing and possession provision 8.1 of the agreement to change the date of closing from \*\*HC \_\_\_\_\_ HC\*\* to \*\*HC \_\_\_\_\_ HC\*\*. However, the clause in that provision giving Aquila the right, in its sole discretion, to \*\*HC \_\_\_\_\_ HC\*\* remains unchanged.

7. In its October 24, 2008 pleading Aquila also amended its Motion for Expedited Treatment to change its request for a Commission order with an effective date of no later than November 3, 2008 to no later than December 31, 2008.

8. Aquila, late afternoon October 7, 2008, informally provided a draft application to the Staff seeking comment from the Staff. The Staff provided those comments late in the morning of October 21, 2008, the same day Aquila filed shortly before 5:00 p.m. its application that initiated this case. The Public Counsel has informed undersigned Staff counsel that the first time he became aware that Aquila was planning to file an application regarding the impending sale of its Platte City Service Center and its Liberty Service Center at an unspecified date was when Aquila filed the application that initiated this case.

9. A copy of the Staff’s comments submitted to Aquila on October 21, 2008 is attached. Aquila has not yet responded to the Staff’s comments and has not indicated when or if it will. Until Aquila provides information that addresses the Staff’s comments, the Staff advises the Commission that it would not make a recommendation to the Commission to grant Aquila the authority it seeks for approval of the pending sale of its Platte City Service Center and to sell its Liberty Service Center. Further, until it has reviewed that information that addresses the Staff’s comments to Aquila, the Staff does not know what its post review recommendation would be.

WHEREFORE, the Staff of the Missouri Public Service Commission advises the Commission that it would not make a recommendation to the Commission to grant Aquila the authority it seeks for approval of the pending sale of its Platte City Service Center and to sell its Liberty Service Center before Aquila provides information that addresses the Staff's comments, and suggests to the Commission Aquila's application shows on its face that a Commission decision after November 3, 2008 will not require termination of the Platte City Service Center sale agreement.

Respectfully submitted,

/s/ Nathan Williams

Nathan Williams  
Deputy General Counsel  
Missouri Bar No. 35512

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-8702 (Telephone)  
(573) 751-9285 (Fax)  
nathan.williams@psc.mo.gov

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 29<sup>th</sup> day of October 2008.

/s/ Nathan Williams