

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

In the Matter of Aquila, Inc., d/b/a	)	
Aquila Networks - MPS and Aquila	)	
Networks - L&P for Authority to	)	
Transfer Operational Control of Certain	)	<b><u>Case No. EO-2008-0046</u></b>
Transmission Assets to the Midwest	)	
Independent Transmission System	)	
Operator, Inc.	)	

**PUBLIC COUNSEL’S STATEMENT OF POSITIONS**

COMES NOW the Office of the Public Counsel and for its Statement of Positions on the agreed-upon list of issues states as follows:

**1. Is “not detrimental to the public interest” the appropriate standard for the Commission to use in making its determinations in this case?**

Yes.

**2. Should the Commission determine that Aquila’s application to join MISO is not detrimental to the public interest? What considerations should the Commission take into account in making its determination?**

No. The Commission should determine that Aquila’s application to join MISO is detrimental to the public interest at this time. Considerations that the Commission should take into account in making its determination with respect to the public interest standard include:

- The Company’s RTO cost benefit study shows that the customer benefits from its participation in an RTO are expected to be much greater if Aquila participates in the SPP RTO rather than the MISO RTO.
- There is a high degree of uncertainty regarding whether any potential benefits to Missouri customers might be achieved from Aquila’s participation in MISO. This uncertainty is due to: (1) AmerenUE’s re-evaluation of whether it wishes to continue to participate in MISO; (2) the continuing uncertainty about whether Aquila will be acquired by KCPL’s parent company, Great Plains Energy (GPE) and whether if this acquisition does occur, the generating units of KCPL and Aquila will be jointly dispatched to serve the combined native loads of KCPL and Aquila; and (3) the possibility that MISO will develop and offer more favorable terms under which former Mid-Continent Area Power Pool (MAPP) members

may be allowed to participate in MISO markets and uncertainty about whether these same terms would be made available to Aquila as a new member.

**3. If the Commission approves Aquila's application to join MISO, should the Commission make its approval subject to certain conditions? If so, what are the conditions?**

Any such approval should be contingent upon all seven of the conditions that are summarized in the list that begins on page 37 of Staff witness Proctor's rebuttal testimony.

**4. In making its determination whether to grant Aquila's application to join MISO, should the Commission compare Aquila's membership in MISO to other alternatives? If so, what are the alternatives and what do the comparisons of the alternatives show?**

Yes. In making its determination whether to grant Aquila's application to join MISO, the Commission should compare Aquila's membership in MISO to other alternatives that are currently available or may become available in the foreseeable future. These alternatives include the stand-alone option, the SPP option, and the possible development of more favorable terms under which former MAPP members may be allowed to participate in MISO markets (the MISO Module F option). The CRA cost-benefit study shows that participating in the SPP RTO is expected to provide the most beneficial long-term impacts on Aquila's cost of service so any other choices would be detrimental to the public interest.

**5. To what extent should the Commission take into account the following in its determination of whether or not to approve Aquila's application to join MISO?**

**a. The CRA International, Inc. cost-benefit study sponsored by Aquila;**

The Commission should take into account the projections of the CRA study showing that the benefits from participating in the SPP RTO are expected to be greater than the benefits from participating in the MISO RTO.

**b. Cost-benefit analyses sponsored by parties other than Aquila;**

Public Counsel takes no position on this issue at this time.

**c. Costs and/or benefits not included in the CRA International cost-benefit study sponsored by Aquila or cost-benefit analyses sponsored by parties other than Aquila;**

Public Counsel takes no position on this issue at this time.

**d. Aquila's current relationships with MISO and SPP;**

Public Counsel takes no position on this issue at this time.

**e. Differences in the development of electricity markets between MISO and SPP;**

Public Counsel takes no position on this issue at this time.

**f. The proposed acquisition of Aquila by Great Plains Energy that is the subject of Case No. EM-2007-0374;**

If the Commission approves Aquila's application to join MISO and if Great Plains Energy (GPE) is able to complete its acquisition of Aquila, Missouri consumers may be harmed by constraints and/or extra costs that could arise if attempts to create additional efficiencies in the operations of its KCPL and Aquila operating companies are frustrated by having the two operating companies in different RTOs.

**g. Union Electric Company's continuing membership in MISO;**

While Public Counsel believes that the Commission has sufficient evidence to determine that Aquila's participation in the MISO RTO would be detrimental to the public interest, the Commission should be careful not to approve participation in the MISO RTO prior to having the current uncertainties resolved regarding AmerenUE's continued participation in MISO.

**h. Aquila's obligation to MISO made in FERC Docket No. ER02-871 to file and support Aquila's application to join MISO;**

This obligation is not relevant to the Commission's determination of whether or not to approve Aquila's application to join MISO.

**6. If the Commission authorizes Aquila to join MISO, should the Commission determine now whether all future FERC-approved administrative fees Aquila is assessed by MISO and all future costs Aquila incurs from MISO in making prudent purchases of capacity and/or energy to serve its bundled retail load should be considered to be prudently incurred expenses for purposes of including them in Aquila's cost of service in Aquila's next general electric rate case before this Commission?**

No. The Commission should, and can lawfully only, make these ratemaking determinations in a rate case where all relevant factors can be taken into account contemporaneous with the ratemaking decisions.

WHEREFORE, Public Counsel respectfully submits this Statement of Positions.

Respectfully submitted,

OFFICE OF THE Public Counsel

**/s/ Lewis R. Mills, Jr.**

By: \_\_\_\_\_

Lewis R. Mills, Jr. (#35275)  
Public Counsel  
P O Box 2230  
Jefferson City, MO 65102  
(573) 751-1304  
(573) 751-5562 FAX  
lewis.mills@ded.mo.gov

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all parties this 18<sup>th</sup> day of March 2008.

General Counsel Office  
Missouri Public Service  
Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
GenCounsel@psc.mo.gov

Mills Lewis  
Office Of Public Counsel  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opcservice@ded.mo.gov

Williams Nathan  
Missouri Public Service  
Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
Nathan.Williams@psc.mo.gov

Parsons Renee  
Aquila, Inc.  
20 West 9th Street  
Kansas City, MO 64105  
renee.parsons@aquila.com

Boudreau A Paul  
Aquila, Inc.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
PaulB@brydonlaw.com

Bishop Schwartz Dayla  
City of Independence, Missouri  
111 E. Maple St.  
Independence, MO 64050  
dschwartz@indepmo.org

Garner B. Allen  
City of Independence, Missouri  
111 E. Maple Street  
Independence , MO 64050  
agarner@indepmo.org

Robbins I Alan  
City of Independence, Missouri  
1700 Pennsylvania Ave, NW  
Suite 500  
Washington, DC 20006  
arobbins@jsslaw.com

Roby D Debra  
City of Independence, Missouri  
1700 Pennsylvania Ave., NW  
Suite 500  
Washington, DC 20006  
droby@jsslaw.com

Teuwen B Elizabeth  
City of Independence, Missouri  
1700 Pennsylvania Ave., NW,  
Suite 500  
Washington, DC 20006  
eteuwen@jsslaw.com

Lumley J Carl  
Dogwood Energy, LLC  
130 S. Bemiston, Ste 200  
St. Louis, MO 63105  
clumley@lawfirmemail.com

Curtis Leland  
Dogwood Energy, LLC  
130 S. Bemiston, Suite 200  
St. Louis, MO 63105  
lcurtis@lawfirmemail.com

Blanc D Curtis  
Kansas City Power & Light  
Company  
1201 Walnut, 20th Floor  
Kansas City, MO 64106  
Curtis.Blanc@kcpl.com

Comley W Mark  
Midwest Independent  
Transmission System Operator,  
Inc.  
601 Monroe Street., Suite 301  
P.O. Box 537  
Jefferson City, MO 65102-0537  
comley@ncrpc.com

Linton C David  
Southwest Power Pool, Inc.  
424 Summer Top Lane  
Fenton, MO 63026  
djlinton@charter.net

Starnes H Heather  
Southwest Power Pool, Inc.  
415 North McKinley, Ste. 140  
Little Rock, AR 72205-3020

Powell J William  
Union Electric Company  
111 South Ninth Street  
Suite 200, City Centre Building  
Columbia, MO 65205-0918  
powell@smithlewis.com

Lowery B James  
Union Electric Company  
111 South Ninth St., Suite 200  
P.O. Box 918  
Columbia, MO 65205-0918  
lowery@smithlewis.com

Sullivan R Steven  
Union Electric Company  
1901 Chouteau Avenue  
P.O. Box 66149 (MC 1300)  
St. Louis, MO 63166-6149  
srsullivan@ameren.com

Byrne M Thomas  
Union Electric Company  
1901 Chouteau Avenue  
P.O. Box 66149 (MC 1310)  
St. Louis, MO 63166-6149  
tbyrne@ameren.com

Burns A Beth  
Union Electric Company  
1901 Chouteau Avenue  
P.O. Box 66149 (MC 1300)  
St. Louis, MO 63166-6149  
bburns@ameren.com

**/s/ Lewis R. Mills, Jr.**

---