

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of )  
AQUILA NETWORKS-MGU, f/k/a MICHIGAN )  
GAS UTILITIES, for a reconciliation of its gas cost )  
recovery revenues and expenses for the 12-month )  
period ended December 31, 2000. )  
\_\_\_\_\_ )

Case No. U-12122-R

At the November 7, 2002 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**ORDER APPROVING SETTLEMENT AGREEMENT**

On March 15, 2001, Aquila Networks-MGU, f/k/a Michigan Gas Utilities, (Aquila) filed an application, with supporting testimony and exhibits, seeking a reconciliation of its gas cost recovery (GCR) revenues and expenses for the 12-month period ended December 31, 2000. Among other things, Aquila sought authority to roll in an alleged 2000 net GCR underrecovery totaling \$7,455,078 as an increase to its 2001 GCR cost of gas sold.

Pursuant to due notice, a prehearing conference was held on May 8, 2001 before Administrative Law Judge George Schankler (ALJ). Aquila, the Commission Staff, Attorney General Jennifer M. Granholm, and the Residential Ratepayer Consortium participated in the proceedings.

Following the completion of evidentiary hearings, the filing of briefs and reply briefs, the issuance of the ALJ's Proposal for Decision, and the submission of exceptions and replies to exceptions, the parties submitted a settlement agreement resolving all issues in this case. Concurrently, the parties submitted a settlement agreement resolving all issues in consolidated Cases Nos. U-11192-R, U-11542-R, and U-11802-R, which concern Aquila's 1997, 1998, and 1999 GCR reconciliations.<sup>1</sup>

According to the settlement agreement submitted in the present case, which is attached to this order as Exhibit A, the parties agree that Aquila's alleged \$7,455,078 GCR underrecovery for 2000 should be reduced to \$3,261,633 by rolling the \$4,193,445 reduction agreed to in Cases Nos. U-11192-R, U-11542-R, and U-11802-R into the booked cost of gas sold as of January 1, 2000. They further agree that the resulting \$3,261,633 underrecovery should be reduced by \$2.4 million effective January 1, 2001, with the remainder rolled into Aquila's GCR reconciliation for 2001 (in Case No. U-12617-R) pursuant to the utility's standard refunding procedures. According to the parties, the proposed \$2.4 million reduction to Aquila's booked cost of gas represents a net adjustment for the 2000 GCR reconciliation without specific reference or attribution to particular issues in this case.

As part of the settlement agreement, Aquila also agrees that (1) it will release its excess interstate natural gas pipeline capacity through the use of the appropriate interstate pipeline companies' electronic bulletin boards, (2) one of Aquila's affiliates, Energy One Ventures, has been or will be sold to a non-affiliated company, (3) Aquila, as well as all of its subsidiaries and affiliates, will not provide non-regulated industrial and commercial natural gas sales and agency services to transportation customers within its Michigan service territory, at least until the

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<sup>1</sup> Today's order in consolidated Cases Nos. U-11192-R, U-11542-R, and U-11802-R approves that settlement agreement.

Commission specifically grants authority to provide those services, and (4) Aquila will not enter into put/call transactions without first receiving express approval of the Commission to participate in those transactions.

Finally, the document states that Aquila's entry into the settlement agreement constitutes neither an admission nor an agreement by Aquila that any of its actions were unreasonable or imprudent.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1982 PA 304, as amended, MCL 460.6h et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. The settlement agreement, attached as Exhibit A, is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A to this order, is approved.

B. Aquila Networks-MGU, f/k/a Michigan Gas Utilities, shall make all of the adjustments to its booked cost of gas sold set forth in the settlement agreement and discussed earlier in this order, including the \$2.4 million reduction specified by the parties.

C. Aquila Networks-MGU, f/k/a Michigan Gas Utilities, shall also (1) release all of its excess interstate natural gas pipeline capacity through use of the appropriate interstate pipeline companies' electronic bulletin boards, (2) ensure that Energy One Ventures is sold to a non-affiliated company and that Aquila, its subsidiaries, and its affiliates will not provide non-

regulated industrial and commercial natural gas sales and agency services to transportation customers within its Michigan service territory without prior Commission approval, and (3) refrain from entering into put/call transactions absent its receipt of prior approval by the Commission.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle  
Chairman

( S E A L )

/s/ David A. Svanda  
Commissioner

/s/ Robert B. Nelson  
Commissioner

By its action of November 7, 2002.

/s/ Dorothy Wideman  
Its Executive Secretary

regulated industrial and commercial natural gas sales and agency services to transportation customers within its Michigan service territory without prior Commission approval, and (3) refrain from entering into put/call transactions absent its receipt of prior approval by the Commission.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

By its action of November 7, 2002.

\_\_\_\_\_  
Its Executive Secretary

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of Michigan  
Gas Utilities for a Gas Cost Recovery  
Reconciliation proceeding for the 12-month  
period ended December 31, 2000

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Case No. U-12122-R

**SETTLEMENT AGREEMENT**

Pursuant to MCL 24.278 and Rule 333 of the Rules of Practice and Procedure before the Michigan Public Service Commission (MPSC or Commission), Aquila, Inc. d/b/a Aquila Networks – MGU (formerly known as “Utilicorp United, Inc.” d/b/a Michigan Gas Utilities or MGU) (Aquila Networks – MGU), the MPSC Staff (Staff), Attorney General Jennifer M. Granholm (Attorney General), and the Residential Ratepayer Consortium (RRC) agree as follows:

1. The parties have submitted testimony and exhibits in this case, have filed briefs and reply briefs. The Administrative Law Judge (ALJ) has issued a Proposal for Decision (PFD) in this case, and the parties have submitted exceptions and replies to exceptions.
  
2. Aquila Networks – MGU proposed to roll-in a 2000 net GCR under recovery of \$7,455,078 as an increase to its 2001 GCR costs of gas sold. The PFD referred to \$7,455,887 as the MGU reported underrecovery, not recognizing that MGU subsequently revised that figure to \$7,455,078. The Staff supported disallowances totaling \$1,514,226. The Attorney General supported specific disallowances totaling \$1,782,900, but proposed an overall disallowance of \$3.7 million, including the specific disallowances. The RRC supported disallowances totaling \$3,539,611. Various aspects of the disallowances proposed by the Staff, the Attorney General,

and RRC overlap. The PFD recommended adoption of disallowances totaling \$3,207,637 and a net under recovery of \$4,248,250, which assumed the reported net underrecovery was \$7,455,887, rather than \$7,455,078.

3. For purposes of this Settlement Agreement, it is not necessary to describe the various disputes between the parties.

4. Aquila Networks – MGU, the Staff, the Attorney General, and RRC agree to settle their disputes in the captioned case according to the following terms and conditions:

A. The \$7,455,078 net under recovery reported by Aquila Networks – MGU in this case will be reduced to a net under recovery of \$3,261,633 by rolling the \$4,193,445 reduction agreed upon in Case Nos. U-11192-R, U-11542-R, and U-11802-R into the booked costs of gas sold on January 1, 2000.

B. The net \$3,261,633 under recovery from this case will then be rolled into the booked costs of gas sold on January 1, 2001, as an addition to the booked costs, but that roll-in will be reduced by booking \$2,400,000 as a reduction to the booked cost of gas sold on January 1, 2001. The \$3,261,633 addition and the \$2.4 million reduction will be rolled into the GCR reconciliation for 2001 in MPSC case No. U-12617-R pursuant to MPSC-approved standard refund procedures, which will subsequently affect the interest and over/under recovery calculations for that case. The \$2.4 million reduction represents

a net adjustment for the 2000 GCR reconciliation in this case without specific reference or attribution to particular issues in this case.

C. Aquila Networks – MGU agrees that it will release excess interstate natural gas capacity via the appropriate interstate pipeline’s electronic bulletin board.

D. Aquila Networks – MGU agrees that Energy One Ventures has been or will be sold to a non-affiliate and that Aquila Networks – MGU, its subsidiaries, and/or affiliates will conduct no competitive, non-regulated industrial and commercial natural gas sales and agency services to Aquila Networks-MGU transportation customers within the Michigan territory of Aquila Networks – MGU prior to receipt of approval of the Commission to conduct any such future activity.

E. Aquila Networks – MGU agrees that it will enter into no put/call transactions without express prior approval of those types of transactions by the MPSC.

F. By entering into this settlement, Aquila Networks – MGU does not admit or agree that any of its actions were unreasonable or imprudent.

5. This Settlement Agreement has been made for the sole and express purpose of reaching compromise among the positions of the signatory parties without prejudice to their rights to take new and/or different positions in other proceedings. All offers of settlement and discussions relating to this Settlement Agreement shall be considered privileged as provided in MRE 408. If

the Commission approves this Settlement Agreement without modification, neither the parties to this Settlement Agreement nor the Commission shall make any reference to or use of the Settlement Agreement or the Order approving it as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in any other cases or proceedings; provided, however, such reference or use may be made to enforce the Settlement Agreement and Order.

6. Except as noted in Paragraph 4 A through F above, the parties understand and agree that no specific finding of fact, conclusion of law, or other precedent is or will be established by this Settlement Agreement. If the MPSC approves this Settlement Agreement without modification, the parties agree to support this Settlement Agreement before the MPSC or elsewhere, but this agreement to support shall not require any party to appear or intervene in any proceeding in which that party is not otherwise involved.


7. This Settlement Agreement is intended for final disposition of all issues established or to be raised in the captioned cases. The Staff certifies that this Settlement Agreement is reasonable, will promote the public interest, will aid the expeditious conclusion of these cases, and will minimize the time and expense that the Commission and the parties would otherwise be required to devote to these cases. The parties will file this Settlement Agreement in each of the captioned proceedings along with other documents needed to finalize these cases.

8. This settlement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of the Settlement Agreement. Failure to comply with any

provision of the Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of the Settlement Agreement, the Settlement Agreement shall be withdrawn and shall not constitute any part of the record of this proceeding or be used for any other purpose.

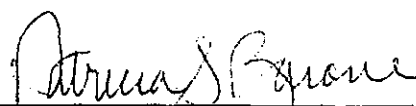
9. Each party agrees not to appeal or otherwise contest any Commission order accepting and approving this Settlement Agreement without modification.

**Aquila, Inc. d/b/a  
Aquila Networks – MGU**

By:   
Al Ernst  
Dykema Gossett PLLC  
800 Michigan National Tower  
Lansing, MI 48933


Dated: September 24, 02

**Michigan Public Service  
Commission Staff**

By:   
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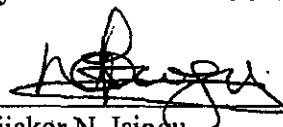
Dated: Sept. 26, 2002

**Residential Ratepayer Consortium**

By:   
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Dated: 9-26-02

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Dated: September 26, 2002

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

OCT 17 2002

In the matter of the application of Michigan Gas Utilities for a Gas Cost Recovery Reconciliation proceeding for the 12-month period ended December 31, 2000

Case No. U-12122-R

ADDENDUM TO SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 333 of the Rules of Practice and Procedure before the Michigan Public Service Commission (MPSC or Commission), Aquila, Inc. d/b/a Aquila Networks – MGU (formerly known as “Utilicorp United, Inc.” d/b/a Michigan Gas Utilities or MGU) (Aquila Networks – MGU), the MPSC Staff (Staff), Attorney General Jennifer M. Granholm (Attorney General), and the Residential Ratepayer Consortium (RRC), in addition to the terms set forth in the parties’ signed Settlement Agreement, agree as follows:

- 1. So long as the Commission approves the settlement without modification, Section 81 of the Administrative Procedures Act of 1969 is waived by the signatories.

**Aquila, Inc. d/b/a  
Aquila Networks – MGU**

By: Al Ernst  
Al Ernst  
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800 Michigan National Tower  
Lansing, MI 48933

Dated: 10/10/02

**Residential Ratepayer Consortium**

By: David L. Shaltz  
David L. Shaltz  
Shaltz & Royal, P.C.  
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Lansing, MI 48917

Dated: 10-9-02

**Michigan Public Service  
Commission Staff**

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Dated: October 10, 2002

**Attorney General Jennifer M. Granholm**

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Dated: October 10, 2002

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