

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\*\*\*\*\*

In the matter of the application of	)	
<b>AQUILA NETWORKS-MGU, f/k/a MICHIGAN</b>	)	
<b>GAS UTILITIES</b> , for ex parte approval of a special	)	Case No. U-13633
firm stand-by service agreement with Guardian	)	
Industries Corp.	)	
_____	)	

At the January 21, 2003 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 APPLICATION**

On November 20, 2002, Aquila Networks-MGU, f/k/a Michigan Gas Utilities, (Aquila) filed an application for ex parte approval of a firm stand-by service agreement with Guardian Industries Corp. (Guardian).

According to Aquila, except for the stand-by service provided for by the agreement, Guardian is leaving Aquila's system as a gas transportation customer. Under the agreement, Aquila continues, it will provide firm stand-by service, including natural gas transportation and balancing at rates that were structured in consultation with the Commission Staff (Staff) and using the Staff's cost of service model. Aquila further represents that the agreement (1) has a primary term of five years and two renewal terms of two years each, (2) does not violate any statutes or Commission rules, orders, or clearly established policies, (3) will not harm any other ratepayers, and (4) will not

otherwise detract from the public interest. In addition, Aquila represents that it is not seeking a final Commission determination on the ratemaking treatment of any cost of service underrecovery that might result from the agreement. Aquila therefore states that because it is not seeking any change in the rates of other customers, the Commission may approve the contract on an ex parte basis.

The Commission concludes that it should approve the contract as reasonable and in the public interest. In reaching this conclusion, the Commission finds, in the absence of a reason to believe otherwise, that the parties to the contract protected their own interests and reached a mutually beneficial bargain. Additionally, it is evident that the parties to the agreement had a clear understanding of the Commission's established policies regarding the role of special contracts in the market for gas transportation services. Based on Aquila's representations, the Commission finds that the terms of its agreement with Guardian are generally consistent with the principles set forth in the September 28, 1999 order in Case No. U-12081, which involved approval of a special contract between SEMCO Energy Gas Company and The Detroit Edison Company. Accordingly, the Commission is persuaded that the agreement should be approved. In so doing, the Commission finds that Aquila should be required to report the revenue and volumes associated with the agreement separately in its annual report to the Commission. Moreover, because the agreement does not increase any customer's rates, it may be approved without providing notice or an opportunity for hearing, pursuant to MCL 460.6a(1).

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.; 1969 PA 306, as

amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

- b. The agreement is reasonable and in the public interest, and should be approved.
- c. Ex parte approval of the application is appropriate.

THEREFORE, IT IS ORDERED that the agreement between Aquila Networks-MGU, f/k/a Michigan Gas Utilities, and Guardian Industries Corp. is approved.

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 January 21, 2003.

/s/ Dorothy Wideman  
Its Executive Secretary

amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

- b. The agreement is reasonable and in the public interest, and should be approved.
- c. Ex parte approval of the application is appropriate.

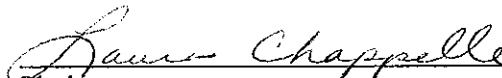
THEREFORE, IT IS ORDERED that the agreement between Aquila Networks-MGU, f/k/a Michigan Gas Utilities, and Guardian Industries Corp. is approved.


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

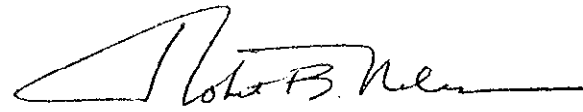
Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

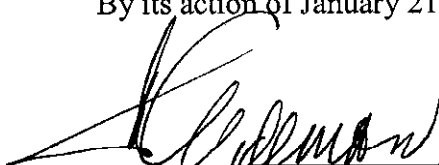


  
Chairman

  
Commissioner

  
Commissioner

By its action of January 21, 2003.

  
Its Executive Secretary

**PROOF OF SERVICE**

STATE OF MICHIGAN )

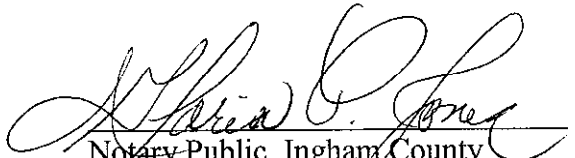
Case No. U-13633

County of Ingham )

Laura L. Vogt, being duly sworn, deposes and says that on January 22, 2003, A.D. she served a copy of the attached notice of hearing, by mailing copies thereof by first class mail, postage prepaid, or by inter-departmental mail, or by fax, to the persons as shown on the attached service list.

Laura L. Vogt

Subscribed and sworn to before me  
This 22nd day of January, 2003

  
Notary Public, Ingham County  
My Commission expires June 5, 2003

SERVICE LIST FOR DOCKET # U - 13633-  
DATE OF PREPARATION: 12/23/2002

CASE #

---

MR. CHUCK HAUSKA  
AQUILA NETWORKS  
899 S. TELEGRAPH ROAD  
MONROE MI 48161

MR. ALBERT ERNST  
DYKEMA GOSSETT PLLC  
124 W. ALLEGAN STREET  
SUITE 800  
LANSING MI 48933 1742

ALL GAS ORDERS

PAGE: 1  
DATE: 12/10/2002

MR. ROGER FISCHER  
2330 SMALLEY STREET  
JACKSON MI 49203-

CONSUMERS ENERGY COMPANY  
2000 MICHIGAN NATIONAL TOWER  
LANSING MI 48933-

DATABASE SERVICES  
LEXIS NEXIS  
P.O. BOX 933  
DAYTON OH 45401-

MR. FRED BANISTER I.D.  
DEPARTMENT OF MANAGEMENT & BUDGET  
OFFICE OF PURCHASING  
MASON BUILDING  
LANSING ID MAIL

MS. LISA DONFRIED  
MICHIGAN CONSOLIDATED GAS COMPANY  
2000 SECOND AVENUE, WCB 1024  
DETROIT MI 48226-

MR. PHILLIP CROSS  
PUBLIC UTILITIES REPORTS, INC.  
8229 BOONE BOULEVARD, SUITE 401  
VIENNA VA 22182-

MS. MONICA MARTINEZ  
SENATE DEMOCRATIC STAFF  
ROMNEY BUILDING  
LANSING ID MAIL

MR. JOHN PESTLE  
VARNUM, RIDDERING, SCHMIDT & HOWLETT  
BRIDGEWATER PLACE  
P.O. BOX 352  
GRAND RAPIDS MI 49501-0352