

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02S-594E

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY AQUILA, INC., DOING BUSINESS AS AQUILA NETWORKS-WPC, WITH ADVICE NO. 579.

**ORDER RESCINDING ASSIGNMENT
TO AN ADMINISTRATIVE LAW JUDGE
AND NOTICE OF HEARING**

Mailed Date: May 5, 2003
Adopted Date: May 2, 2003

I. BY THE COMMISSION

A. Statement

1. On October 15, 2002, Aquila, Inc., doing business as Aquila Networks-WPC (Aquila or the Company), filed Advice Letter No. 579. The Company stated that the purpose of this filing is to increase the base energy charges in the existing tariffs by an amount equal to the proposed increase in the base energy cost in the Incentive Cost Adjustment tariff and to place into effect a General Rate Schedule Adjustment. Aquila requested that the tariffs accompanying Advice Letter No 579 become effective on 30 days' statutory notice or, in this instance, on November 15, 2002.

2. On November 8, 2002, in Decision No. C02-1268, the Commission found that the rates, terms, or conditions contained in the tariffs may be improper and set the proposed tariffs for hearing. The tariffs' effective date was suspended for 120 days until March 15, 2003, and the matter was assigned to an Administrative Law Judge (ALJ) for hearing.

3. On January 29, 2003, in Decision No. C02-0119, we granted the Stipulated Motion requesting that the Public Utilities Commission issue an Initial Decision in this proceeding.

4. On March 7, 2003, in Decision No. C02-0241, we further suspended the effective date of the tariff sheets filed by Aquila under its Advice Letter No. 579 for 90 days, or until June 13, 2003.

5. On April 18, 2003, Aquila, Trial Staff of the Colorado Public Utilities Commission, the Colorado Office of Consumer Counsel, Fountain Valley Authority, the Board of Water Works of Pueblo, City of Canon City, and Cripple Creek & Victor Mining Company, filed a Joint Motion to Approve Settlement Agreement and to Vacate Remaining Hearing and Procedural Dates (Motion to Approve and Motion to Vacate Hearing, or, collectively, Motions). On the same day, these parties filed their proposed Settlement Agreement.

6. The Motions indicated that the parties have reached an agreement to settle all disputed issues that have arisen or could have arisen in this docket regarding Advice Letter No 579 and accompanying tariff sheets. The Motion to Approve requested that the Commission approve the proposed Settlement Agreement. The Motion to Vacate Hearing requested that the remaining hearing dates of April 21 through 23, 2003, be vacated along with any remaining deadlines imposed by the existing procedural schedule.

7. On April 22, 2003, the ALJ granted the Motion to Vacate Hearing and referred the Motion to Approve Settlement Agreement to the Commission pursuant to § 40-6-109(6), C.R.S.

8. In order to accommodate the Commission's schedule, Aquila has orally indicated (to an ALJ for the Commission) that it would amend Advice Letter No. 579 in order to extend the proposed effective date by an additional 14 days, or until June 27, 2003.

B. Procedural Order

9. The Commission finds good cause to rescind the assignment of this docket to the ALJ for hearing, and, instead, will conduct an *en banc* hearing on the proposed Settlement Agreement filed by the parties commencing on May 14, 2003 and continuing on May 15, 2003 if necessary.

10. Consistent with its oral representation to an ALJ for the Commission, we request that Aquila file amended advice letters to extend the proposed effective date of the tariffs attached to Advice Letter No 579 an additional 14 days. The Company should make the filing within five days from the mailed date of this decision.

11. In addition, Aquila shall submit a copy of the proposed Settlement Agreement in Microsoft Word Format.

II. ORDER

A. The Commission Orders That:

1. The assignment of this docket to an Administrative Law Judge to Decision No. C02-1268 is rescinded. The Commission will conduct an *en banc* hearing on the proposed Settlement Agreement.

2. The proposed Settlement Agreement filed April 18, 2003 by Aquila, Inc., doing business as Aquila Networks-WPC, Trial Staff of the Colorado Public Utilities Commission, the Colorado Office of Consumer Counsel, Fountain Valley Authority, the Board of Water Works of

Pueblo, City of Canon City, and Cripple Creek & Victor Gold Mining Company is set for hearing as follows:

DATES: May 14 and 15, 2003
TIME: 9:00 a.m.
PLACE: Commission Hearing Room A
1580 Logan Street, OL2
Denver, Colorado

3. Witnesses who signed the proposed Settlement Agreement on behalf of Aquila, Inc., doing business as Aquila Networks-WPC, Trial Staff of the Colorado Public Utilities Commission, and the Office of Consumer Counsel shall be made available for examination on the proposed Settlement Agreement at the above-stated time and place.

4. Aquila, Inc., doing business as Aquila Networks-WPC should file an amended advice letter to extend the effective date of the proposed tariffs by 14 days, within 5 business days of the Mailed Date of this Order.

5. Aquila, Inc., doing business as Aquila Networks-WPC shall file a copy of the proposed Settlement Agreement in Microsoft Word format within five business days of the Mailed Date of this Order.

6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 2, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners