

Decision No. C03-1252

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 GRANTING, IN PART, MOTION FOR A
VARIANCE FROM THE FILING DATE FOR PHASE II**

Mailed Date: November 13, 2003

Adopted Date: October 29, 2003

I. BY THE COMMISSION

A. Statement

1. On October 24, 2003, Aquila, Inc., doing business as Aquila Networks-WPC (Aquila) filed a Motion for Variance From the Filing Date for Phase II (Motion for Variance) pursuant to Rule 4 *Code of Colorado Regulations* 723-1-59, requesting that the Commission grant a variance from Decision No. C03-0697. This decision requires Aquila to file Phase II of this rate case by October 31, 2003. Within the Motion for Variance, Aquila requests a six-month extension of time, or until April 30, 2004 within which to file Phase II of its rate case. Aquila also requests that the Commission waive responses to this Motion for Variance because the October 31, 2003 filing deadline is fast approaching.

2. In Decision No. C03-0697, the Commission approved a settlement agreement that resolved all issues relating to Phase I of this rate case between the parties. The settlement agreement states: "Aquila intends to file Phase II of this rate case by September 1, 2003, but in

any event, absent Commission authorization, Aquila shall file Phase II no later than October 31, 2003.”¹

3. Aquila offers two reasons for requesting the extension of time: 1) to assist the Trial Staff of the Commission with its workload; and 2) to address concerns that customer confusion will result because Aquila’s customers will receive two rate case notices in two consecutive months: one in November for Phase II of the rate case, and one in December for the limited rate case.²

4. Aquila contends in the Motion for Variance that no harm or prejudice to Aquila’s customers will result from the six months’ delay in filing Phase II of the rate case.

5. Aquila indicates that it has informed the intervenors³ in Phase I of its rate case of this Motion for Variance. Aquila states that Trial Staff of the Commission supports the motion and that the Office of Consumer Counsel does not object to the motion.

B. Findings of Fact/Discussion

6. We grant the request to waive responses because there is not sufficient time to allow for responses and act on this motion.

7. The Commission disagrees that Aquila’s customers will not be harmed by delaying the filing of Phase II of the rate case. By Decision No. C03-0697, the Commission

¹ Decision No. C03-0697, Attachment A, Paragraph 9.

² Decision No. C03-0697, Attachment A, Paragraph 6(c) provides for the filing of a limited rate case no later than December 31, 2003.

³ The Phase I intervenors were Trial Staff of the Commission, Office of Consumer Counsel, Fountain Valley Authority, Cripple Creek and Victor Gold Mining Co., City of Canon City, and Board of Water Works of Pueblo.

allowed Aquila to collect the revenue approved for Phase I of the rate case through a 15.6 percent increase that was applied equally to all customer rate classes. This ensures that Aquila has an opportunity to earn its authorized revenue level during the pending period before a determination is made on the design of rates for each customer class that will result from Phase II. It is unlikely that the rate determined in Phase II for each customer class will equal the rate currently charged including the 15.6 percent increase. For this reason, we conclude that Aquila's customers would be harmed if we granted Aquila's request for a six-month extension of time within which to file Phase II of its rate case.

8. We are aware that existing cases and also several other cases expected to be filed in the next few months will require significant time and resources of this Commission. We have reviewed those existing and future commitments and find that even a short extension of time for this case will not provide the relief that Aquila is seeking for the Trial Staff.

9. The Commission is not compelled by Aquila's argument for delay to address any customer confusion that results from two rate case notices being sent out within a couple of months. This was a possible outcome when the settlement agreement for Phase I of the rate case was signed by parties and approved by the Commission. Assuming Aquila was concerned with the pancaking of customer notices for rate increases, it should have filed Phase II of the rate case closer to the September 1, 2003 date provided for in the settlement.

10. We note that this request for extension of time does not make sense in light of Aquila's petition requesting a three-month extension of time to file its electric least cost resource

plan (LCP), Docket No. 03V-446E. In that petition, Aquila stated that it is logical and preferable to file Phase II of the rate case prior to filing the LCP plan.⁴

11. We deny Aquila's motion requesting that the Commission grant a variance from Decision No. C03-0697 for a six-month extension of time within which to file Phase II of its rate case. Due to the fact that this Motion for Variance was filed so close in time to the Phase II filing deadline and our ruling was made at the Commissioners' Weekly Meeting only two days before the deadline, it is unreasonable to expect Aquila to file Phase II of its rate case by October 31, 2003. In light of that, we grant a 30-day extension of time. Aquila shall file Phase II of the rate case no later than November 30, 2003.

II. ORDER

A. The Commission Orders That:

1. The motion by Aquila Networks–WPC requesting that the Commission grant a variance from Decision No. C03-0697 for a six-month extension of time within which to file Phase II of its rate case is granted in part, consistent with the above discussion. Aquila Networks–WPC shall file its Phase II rate case no later than November 30, 2003.

2. The request to waive responses to the motion is granted.

3. This Order is effective on its Mailed Date.

⁴ The Commission granted the requested three-month extension of time in its Weekly Meeting on October 29, 2003.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 29, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners