

Decision No. C04-0382

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03S-539E

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RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY AQUILA, INC., DOING BUSINESS AS AQUILA NETWORKS-WPC, WITH ADVICE NO. 586.

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**ORDER MODIFYING PROCEDURAL  
SCHEDULE AND SUSPENSION PERIOD**

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Mailed Date: April 14, 2004  
Adopted Date: April 13, 2004

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of a request of Aquila, Inc., doing business as Aquila Networks – WPC (Aquila), the Trial Staff of the Commission (Trial Staff), and the Colorado Office of Consumer Counsel (OCC) to modify the procedural schedule in this docket. The request was included with the Stipulation Regarding Issues Raised in Decision No. C04-0335 (Stipulation) filed on April 7, 2004. The Stipulation addresses all issues raised regarding Aquila's Motion for Protective Order for the proprietary cost of service modeling software, Threshold Associates Cost of Service (TACOS) software, used by Aquila in its direct case. Decision No. R04-0365-I approved the Stipulation and granted the Motion for Protective Order.

2. Aquila, the Trial Staff, and the OCC request that: 1) the filing date for answer testimony and exhibits be extended from April 14, 2004 to May 4, 2004; 2) the filing date for rebuttal and cross-answer testimony be extended from May 21, 2004 to June 4, 2004; 3) the cut-off date for discovery requests on rebuttal and cross-answer testimony by shortened from

June 16, 2004 to June 15, 2004; and 4) the response time to discovery on rebuttal and cross-answer testimony be shortened to seven calendar days, or no later than the close of business June 22, 2004. The Stipulation represents that Aquila provided an executable electronic version of TACOS to the Trial Staff and the OCC on April 6, 2004 and that the Stipulation was provided to all other intervenors in the docket. The filing also represents that counsel for the other intervenors have no objections to the proposed procedural schedule changes.

3. By Ordering Paragraph No. 1 in Decision No. C03-1423, the effective date of the tariff sheets filed by Aquila on December 1, 2003 under its Advice Letter No. 586 was suspended for 120 days, until April 30, 2004, or until further order of the Commission.

**B. Discussion and Findings of Fact**

4. We are pleased that the parties have reached an acceptable resolution regarding the Motion for Protective Order. To allow Staff and the OCC time to use the TACOS model in their review and analysis of Aquila's direct case, we grant the request to modify the procedural schedule. All other procedural dates, including the June 21, 2004 date for the technical conference,<sup>1</sup> shall remain intact.

5. The Commission finds that its consideration of this matter will not be completed before April 30, 2004, and it is therefore necessary to suspend the effective date of these tariffs for an additional 90 days until July 29, 2004, pursuant to § 40-6-111(1)(b), C.R.S.

6. At the prehearing conference Aquila represented that it would accept a waiver by the Commission of the statutory timeframe required in this proceeding if the Commission agreed

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<sup>1</sup> The technical conference will be an on-the-record proceeding before an Administrative Law Judge designed to provide the Commission's Advisors an opportunity to ask questions of the individuals sponsoring a cost of service model on how to correctly input other parties' adjustments into their model.

to issue a decision by September 3, 2004. Even though the Commission agreed to issue a decision by September 3, 2004 (*see* Decision No. C04-0176) under the requirements of § 40-6-111(1)(b), C.R.S., the Commission can only suspend the effective date of the proposed tariffs by 210 days, which in this instance is July 29, 2004. Under the current procedural schedule a decision will not be issued by July 29, 2004. Therefore, we advise Aquila that it may be necessary to file an amendment to its Advice Letter No. 586 to change the effective dates of its proposed tariffs to allow the Commission to issue a decision in this matter by September 3, 2004 without exceeding the 210-day suspension period for the tariffs.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The request to modify the procedural schedule is granted consistent with the above discussion.
2. The effective date of the tariff sheets filed by Aquila, Inc., doing business as Aquila Networks – WPC, on December 1, 2003 under its Advice Letter No. 586, is further suspended for 90 days pursuant to § 40-6-111(1)(b), C.R.S., until July 29, 2004.
3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
April 13, 2004.**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners

COMMISSIONER JIM DYER ABSENT.