

Decision No. R04-0227-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04S-035E

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY AQUILA, INC., DOING BUSINESS AS AQUILA NETWORKS-WPC, WITH ADVICE NO. 588.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
SETTING HEARING AND ESTABLISHING
PROCEDURES AND PROCEDURAL SCHEDULE**

Mailed Date: March 4, 2004

I. STATEMENT

1. The captioned proceeding was commenced on December 29, 2003, when Aquila, Inc., doing business as Aquila Networks-WPC (Aquila), filed Advice Letter No. 588 and accompanying tariff sheets with the Colorado Public Utilities Commission (Commission). Aquila also filed its direct testimony and exhibits with Advice Letter No. 588.

2. On January 21, 2004, the Commission adopted Decision No. C04-0082, the effect of which was to suspend the effective date of Advice Letter No. 588 until May 28, 2004, and to direct that the matter be set for hearing. On that same day, the Commission assigned this matter to the undersigned administrative law judge.

3. Timely Notices of Intervention were filed in this proceeding by the Staff of the Commission (Staff) and the Colorado Office of Consumer Counsel (OCC). Timely Petitions for Leave to Intervene were filed by the Fountain Valley Authority, the Board of Water Works of Pueblo, Colorado, and the City of Canon City (collectively, Public Intervenors); and Cripple –

Creek & Victor Gold Mining Company, Holcim (U.S.) Inc., and the Trane Company (collectively, CHT).¹

4. A pre-hearing conference was held on March 3, 2004. See, Decision No. R04-0207-I. Appearances were entered on behalf of all the entities referred to above by their respective counsel.

5. As a preliminary matter, the Petitions to Intervene submitted by the Public Intervenors and CHT were considered and were granted. The parties then provided information concerning their availability for hearing and also presented their positions and arguments concerning the procedures and procedural schedule that should govern this case. Having given due consideration to such positions/arguments, the availability of the parties, and the requirements imposed by § 40-6-111(1), C.R.S., the procedures and procedural schedule set forth in the Order that follows shall govern this proceeding.

6. A review of the file in this matter reveals that there is substantial public interest in the rate changes proposed by Advice Letter No. 588. Therefore, the Commission will hold a public comment hearing in Pueblo, Colorado, at some point in time prior to the formal evidentiary hearings. The date, time, and location of such public comment hearing will be established by a subsequent order.

¹ Staff, OCC, the Public Intervenors, and CHT may be collectively referred to herein as “Intervenors.”

II. ORDER

A. It Is Ordered That:

1. The Petitions for Leave to Intervene filed in this matter by The Fountain Valley Authority, the Board of Water Works of Pueblo, Colorado, and the City of Canon City, Cripple Creek & Victor Gold Mining Company, Holcim (U.S.) Inc., and The Trane Company are granted.

2. The hearing of this matter is scheduled as follows:

DATES: May 24 through 28, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

3. Aquila Networks-WPC shall file, in executable electronic format, its direct testimony, exhibits, and the financial model used to develop its revenue requirement determination on or before March 12, 2004.²

4. Aquila Networks-WPC shall file, in executable electronic format, a spreadsheet showing the derivation of a monthly bill supporting its calculation of the average residential customer impact of \$4.94 per month (based on a monthly usage of 595 kWh) and the average small business customer impact of \$16.71 (based on a monthly usage of 2,342 kWh) that would

² For purposes of this Order, executable electronic filings shall be made in the document's underlying file format (Word or Excel, for example). All spreadsheets should have the various cell formula or links left intact; *i.e.*, cell contents should not be converted to values. To the extent exhibits cannot be converted into an executable electronic format, a listing of such exhibits should be provided identifying those that cannot be so converted. Electronic filings may be made via CD-ROM or by e-mailing the same to the Commission's general e-mail address, puc@dora.state.co.us. E-mail filings should adequately identify the filing being made by, for example, referencing the docket number of this proceeding and providing a brief description of the nature of the document being filed.

result from approval of the rates proposed by Advice Letter No. 588 on or before March 12, 2004.³

5. Intervenor shall file their answer testimony and exhibits, in both hard copy and executable electronic format, on or before April 12, 2004. To the extent an Intervenor proposes a revenue requirement determination, an executable electronic copy of the financial model(s) used to support such revenue requirement determination shall also be filed. Likewise, any Intervenor who proposes a revenue requirement determination shall also calculate, and file in executable electronic format, an average residential customer impact based on a monthly usage of 595 kWh and an average small business customer impact based on a monthly usage of 2,342 kWh. Such calculation shall include the items listed in footnote 3 of this Order.

6. Aquila Networks-WPC shall file its rebuttal testimony and exhibits, in both hard copy and executable electronic format, on or before May 3, 2004.

7. Intervenor shall file their cross-answer testimony and exhibits, in both hard copy and executable electronic format, on or before May 3, 2004.

8. To the extent possible, all testimony and exhibits, discovery requests and responses thereto (including attachments), and motions shall be served on all other parties electronically. If that is not possible, all such material shall be served on all parties via overnight delivery for receipt on the next business day. Parties shall provide, in writing to each other, the e-mail addresses of individuals who are to receive electronic copies and the mailing addresses of individuals who are to receive hard copies by overnight delivery.

³ The monthly bill should include such items as: service and facility charges, energy charges, incentive cost adjustment charges, and the proposed GRSA rider.

9. Any discovery request served after 12:00 noon CST on a Friday shall be deemed served as of the following business day. Responses to all written discovery requests shall be served within five business days of service of the discovery requests to which they are directed. All objections to discovery shall be filed within three business days of receipt of the discovery requests to which they are directed. Motions to compel discovery shall be filed within five business days of receipt of the objections to which they are directed. In all other respects, discovery shall be governed by Rules 77(a) and (b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado regulations*, 723-1-77(a) and (b).

10. All pre-hearing motions shall be filed on or before May 10, 2004.

11. Response time to any motion filed in this matter shall be shortened to five business days of service of the motion to which it is directed.

12. The parties shall file any desired statements of position no later than ten days after the last day of hearing.

13. Response time to any exceptions filed to the recommended decision issued in this matter shall be shortened to seven days.

14. A technical conference is scheduled in this matter as follows:⁴

DATE: May 14, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

15. This Order is shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

⁴ A technical conference may not be necessary. If so, the parties will be timely advised of the cancellation of the same. If held, the technical conference will be an on-the-record proceeding and will provide the Commission's Advisors an opportunity to ask questions of the individuals sponsoring a revenue requirement model on how to correctly input other parties' adjustments into their model.