

Decision No. R04-0341-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
ADOPTING AND/OR MODIFYING PROCEDURES AND
PROCEDURAL SCHEDULE**

Mailed Date: April 1, 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).

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 (ALJ).

3. Timely Notices of Intervention have been filed in this proceeding by the Staff of the Commission (Staff) and the Colorado Office of Consumer Counsel (OCC). Petitions for Leave to Intervene filed 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 have been granted. See, Decision No. R04-0227-I.

4. On March 4, 2004, the matter was set for hearing on May 24 through 28, 2004, and procedures and a procedural schedule were established. *See*, Decision No. R04-0227-I. The procedural schedule set forth in that decision was designed to accommodate the issuance of a recommended decision by the ALJ within sufficient time to allow the matter to be finalized within the timeframe imposed by § 40-6-111(1), C.R.S.

5. On March 22, 2004, the Commission granted Staff's unopposed request that it issue an initial decision in this matter. *See*, Decision No. C04-0291 and § 40-6-109(6), C.R.S.¹ It then adopted a procedural schedule consistent with the processing of this proceeding in that manner. The Commission deferred to the ALJ Staff's request that the shortened deadlines for responses to discovery/audit and/or motions previously established by Decision No. R04-0227-I be lengthened.

6. The purpose of this Order is to adopt the procedural schedule approved by the Commission in Decision No. C04-0291 and to modify certain other procedures that are consistent with the initial decision process. Accordingly, the procedures and procedural schedule set forth in Decision No. R04-0227-I are cancelled and the procedures and procedural schedule the Order that follows shall govern this proceeding.

7. As indicated in Decision No. R04-0227-I, 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 Decision No. C04-0291 provides that the ALJ may modify the hearing dates and procedural schedule set forth therein upon the request of the parties so long as Statements of Position are filed no later than August 5, 2004. The parties have apparently conferred on this point and have concluded that the hearing should commence on July

II. ORDER

A. It Is Ordered That:

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

DATES: July 26 through 30, 2004

TIME: 9:00 a.m.

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

2. Intervenors shall file their answer testimony and exhibits, in both hard copy and executable electronic format, on or before April 30, 2004.² 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.³

3. Aquila Networks-WPC shall file its rebuttal testimony and exhibits, in both hard copy and executable electronic format, on or before June 21, 2004.

26, 2004, notwithstanding the fact that Statements of Position will be due less than one week after the hearing is scheduled to conclude.

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.

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

4. Intervenor shall file their cross-answer testimony and exhibits, in both hard copy and executable electronic format, on or before June 21, 2004.

5. 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.

6. 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 seven business days of service of the discovery requests to which they are directed. Motions to compel discovery shall be filed within seven 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).

7. All pre-hearing motions shall be filed on or before July 12, 2004.

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

9. The parties shall file any desired statements of position no later than August 5, 2004. No extensions of this filing deadline will be granted unless the suspension period for the tariffs proposed by Aquila Networks-WPC in this matter is extended.

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

DATE: July 14, 2004

TIME: 9:00 a.m.

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

11. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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⁴ The parties have advised that this date is available for all concerned. 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 designed to 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.