

Decision No. R04-0357-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-046E

IN THE MATTER OF THE APPLICATION OF AQUILA, INC., DOING BUSINESS AS
AQUILA NETWORKS-WPC, FOR APPROVAL OF A QUALITY OF SERVICE PLAN
APPROPRIATE FOR AQUILA'S COLORADO ELECTRIC OPERATIONS.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
ESTABLISHING PROCEDURAL SCHEDULE,
SHORTENING RESPONSE TIME,
AND SCHEDULING HEARING DATES**

Mailed Date: April 6, 2004

I. STATEMENT

1. On January 29, 2004, Aquila, Inc., doing business as Aquila Networks-WPC (Aquila or Applicant), filed its Verified Application for approval of a quality of service plan for Aquila's Colorado electric operations. The Application commenced this proceeding.

2. The Colorado Office of Consumer Counsel and Staff of the Commission (Staff) intervened of right. They are the only intervenors in this proceeding.

3. By Decision No. R03-0289-I, the undersigned Administrative Law Judge (ALJ) vacated the procedural schedule and scheduled a prehearing conference.

4. The prehearing conference was held on March 30, 2004. All parties were represented and participated actively.

5. At the prehearing conference, Aquila stated that it intends to waive the statutory time frames established in § 40-6-109.5, C.R.S.¹ Based on this statement and on the representations of the Applicant regarding the number and type of matters concerning Aquila which are now pending before the Commission, the ALJ will adopt the procedural schedule set out in this Order. While the procedural schedule is lengthy, it is appropriate under the circumstances.

6. The following procedural schedule and filing dates will be adopted: (a) on or before **September 20, 2004**, Applicant will file its direct testimony and exhibit; (b) on or before **November 1, 2004**, each Intervenor will file its answer testimony and exhibits; (c) on or before **December 3, 2004**, Applicant will file its rebuttal testimony and exhibits; (d) on or before **December 3, 2004**, each intervenor will file its cross-answer testimony and exhibits;² (e) on or before **December 28, 2004**, each party will file its prehearing motions; (f) on or before **January 4, 2005**, each party will file its corrected testimony and exhibits; (g) on or before **January 4, 2005**, the parties will file any stipulation reached; (h) on or before **January 7, 2005**, each party will file its response to prehearing motions;³ (i) hearings will be held on **January 11 and 12, 2005**; and (j) on or before **January 28, 2005**, each party will file its written statement of position, to which (absent further order) no response will be permitted.

7. No final prehearing conference will be scheduled at this time. Should one or both parties believe that a prehearing conference is necessary or desirable, a motion may be filed.

¹ Counsel for Aquila stated his intention to file a written waiver. This waiver should be filed on or before April 30, 2004.

² Cross-answer testimony may respond only to answer testimony.

³ This is a shortened response time.

8. Parties shall hand-deliver to the office of the ALJ a copy of any motion, and of any response to a motion, when it is filed with the Commission. This requirement does not reduce the number of copies to be filed with the Commission.

9. Parties shall serve testimony either by hand-delivery or by overnight delivery for receipt on the next business day.

10. Except as modified by this Order, the procedures and time frames set out in Rule 4 *Code of Colorado Regulations* 723-1-77 govern discovery in this proceeding.

11. Each party shall serve discovery requests and responses on counsel for every other party.

12. To the extent possible, discovery requests and discovery responses shall be served electronically, except that confidential materials shall be served by paper copy only. If electronic service of a discovery request or a discovery response is not possible, then that discovery request or response shall be served either by hand-delivery or by overnight delivery for receipt on the next business day.

13. A discovery request served after 11:00 a.m. Mountain Time on a Friday shall be deemed served as of the next business day.

14. Responses to discovery requests and objections to discovery requests may be served at the same time.

15. Motions to compel response to discovery requests shall be filed within five business days of receipt of the responses to which they are directed. Response time to a motion

to compel response to discovery will be shortened to five business days from receipt of the motion to which the response is directed.

16. Discovery requests and responses are not to be filed with the Commission and are not to be served on the Commission advisors (including Commission counsel) identified by Staff in the Rule 9(d) Notice filed by Staff in this proceeding.

17. The provisions of ¶¶ 12 through and including 16 apply to audit.

18. Parties shall provide, in writing, to one another the mailing addresses of individuals who are to receive paper copies by overnight delivery.⁴ In addition, parties shall provide, in writing, to each other the e-mail addresses of individuals who are to receive electronic copies of discovery requests and of discovery responses.

II. **ORDER**

A. **It Is Ordered That:**

1. The procedural schedule set out above is adopted.
2. Hearing in this matter is scheduled at the following dates, time, and place:

DATES: January 11 and 12, 2005

TIME: 9:00 a.m.

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

3. The parties shall follow the procedures and make the filings as set forth above.
4. This Order is effective immediately.

⁴ This requirement applies to testimony, to discovery requests, and to discovery responses.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge