

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

DOCKET NO. 04A-046E

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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.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
VACATING PROCEDURAL SCHEDULE,  
SCHEDULING PREHEARING CONFERENCE,  
AND LISTING ISSUES FOR DISCUSSION**

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Mailed Date: March 19, 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. On January 30, 2004, the Commission gave public notice of the Application. *See* Notice of Application Filed, dated January 30, 2004 (Notice). In that Notice, the Commission established an intervention period and a procedural schedule.

3. On March 1, 2004, the Colorado Office of Consumer Counsel intervened of right and requested a hearing in this matter.

4. On March 12, 2004, Staff of the Commission intervened of right and requested a hearing in this matter.

5. The Commission deemed the application complete as of March 16, 2004, and referred this matter to an administrative law judge (ALJ). *See* Minute Orders dated March 10 and 17, 2004.

6. By this Order, the undersigned ALJ will vacate the procedural schedule set out in the Notice.

7. It is necessary to schedule a hearing and to establish a procedural schedule in this proceeding. To do so, a prehearing conference will be held on March 30, 2004. The provisions of Rules 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and 4 CCR 723-1-79(b)(4) govern this prehearing conference.

8. The parties should be prepared to discuss these matters at the prehearing conference: (a) date by which Applicant will file its direct testimony and exhibit; (b) date by which each Intervenor will file its answer testimony and exhibits; (c) date by which Applicant will file its rebuttal testimony and exhibits; (d) date by which each intervenor will file its cross-answer testimony and exhibits;<sup>1</sup> (e) date(s) by which each party will file its corrected testimony and exhibits; (f) date by which each party will file its prehearing motions;<sup>2</sup> (g) whether a final prehearing conference is necessary and, if it is, date for that prehearing conference; (h) date by which the parties will file any stipulation reached;<sup>3</sup> (i) hearing dates; and (j) whether there should be post-hearing statements of position and, if so, the date for post-hearing statements of position and whether responses should be permitted. Further, the parties should review, and be prepared

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<sup>1</sup> Cross-answer testimony may respond only to answer testimony.

<sup>2</sup> This date should be at least 10 days before the final prehearing conference or, if there is no final prehearing conference, 14 days before the hearing.

<sup>3</sup> This date should be at least seven calendar days before the first day of hearing.

to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Parties may raise any additional issues.

9. In considering proposed dates, parties should keep in mind that the Commission deemed the Application complete as of March 16, 2004. Absent Applicant's waiver of the statutory time frame or a finding of extraordinary circumstances, a Commission decision in this proceeding should issue within 210 days of that date (*i.e.*, October 12, 2004). *See* §§ 40-6-109.5(2) and 40-6-109.5(4), C.R.S. Any procedural schedule must take into consideration, and allow time for, preparation of a recommended decision, preparation of exceptions to the recommended decision and response to exceptions, and preparation of a Commission decision on exceptions,<sup>4</sup> all of which should occur by October 12, 2004.

10. In this proceeding, absent waiver of the provisions of § 40-6-9.5, C.R.S., the hearing must be held no later than the week of July 26, 2004. The parties are advised that the ALJ is unavailable July 13, 14, 19, and 20, 2004.

11. The undersigned expects the parties to consult prior to the prehearing conference with respect to the listed matters. The parties are encouraged to present, if possible, a procedural schedule and hearing date(s) which are satisfactory to both parties.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The procedural schedule established in the Notice of Application Filed, dated January 30, 2004, is vacated.

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<sup>4</sup> As a general rule and not including the time necessary for preparation of a transcript if one is ordered, these activities consume two and one-half to three months from the filing of the statements of position or responses to statements of position, whichever occurs later.

2. A prehearing conference in this docket is scheduled as follows:

DATE: March 30, 2004

TIME: 9:00 a.m.

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

3. The parties shall follow the procedures, and be prepared to discuss the matters, as set forth above.

4. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge