

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03S-539E

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

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
APPROVING STIPULATION AND
GRANTING MOTION FOR
PROTECTIVE ORDER, IN PART**

Mailed Date: April 8, 2004

I. STATEMENT

1. On March 12, 2004, Aquila, Inc., doing business as Aquila Networks - WPC (Aquila), filed a Motion for Protective Order Affording Extraordinary Protection to Confidential Information (Motion for Protective Order) in the captioned matter. The Motion for Protective Order sought to limit dissemination of the cost of service model software Aquila acquired under a licensing agreement with Threshold Associates, Inc. (hereinafter the "TACOS software") pursuant to 4 *Code of Colorado Regulations* 723-16-3.2.

2. The Staff of the Colorado Public Utilities Commission (Staff) and the Colorado Office of Consumer Counsel (OCC) filed responses objecting to the relief requested by the Motion for Protective Order. None of the other intervenors in this proceeding submitted responses to that motion.

3. On March 31, 2004, the Commission referred the Motion for Protective Order to an administrative law judge (ALJ) for resolution. *See*, Decision No. C04-0335. It directed the

ALJ to set an expedited hearing for the purpose of receiving oral argument/comment from the parties in support of their respective positions. Such a hearing was scheduled for April 9, 2004, commencing at 1:00 p.m. *See*, Decision No. R04-0346-I.

4. On April 7, 2004, Aquila, Staff, and the OCC submitted a Stipulation Regarding Issues Raised in Decision No. C04-0335 and Modified Procedural Schedule (Stipulation).¹ The Stipulation sets forth a compromise reached by these parties resolving the Motion for Protective Order. Essentially, Aquila has agreed to provide Staff and OCC with executable electronic versions of the TACOS software subject to certain restrictions concerning its use by employees of the OCC, members of Staff, and counsel for these parties.² These restrictions are described more particularly in paragraph 7 of the Stipulation. These parties request, therefore, that the Motion for Protective Order be granted consistent with the terms of the Stipulation and that the April 9, 2004, hearing be vacated. The Stipulation indicates that none of the other parties to this proceeding object to its terms or to vacating the April 9, 2004, hearing.

5. The Stipulation provides for production of the TACOS software to Staff and the OCC in a manner reasonably designed to protect its confidentiality. Therefore, the Stipulation will be approved and the Motion for Protective Order will be granted consistent with the terms of the Stipulation. In addition, the hearing scheduled in connection with the Motion for Protective Order will be vacated.

¹ That portion of the Stipulation requesting changes in the procedural schedule governing this case (paragraph 8) will be considered by the Commission and will be resolved by a separate order.

² According to the Stipulation, copies of the TACOS software have already been delivered to Staff and the OCC.

II. ORDER**A. It Is Ordered That:**

1. The Stipulation Regarding Issues Raised in Decision No. C04-0335 and Modified Procedural Schedule filed in this matter by Aquila, Inc., doing business as Aquila Networks – WPC, the Staff of the Colorado Public Utilities Commission, and the Colorado Office of Consumer Counsel is, with the exception of paragraph 8 thereof, accepted and approved. The Stipulation Regarding Issues Raised in Decision No. C04-0335 and Modified Procedural Schedule, a copy of which is attached hereto as Appendix A, is incorporated into this Order as if fully set forth herein.

2. The Motion for Protective Order Affording Extraordinary Protection to Confidential Information filed in this matter by Aquila, Inc., doing business as Aquila Networks - WPC is granted consistent with the terms of the Stipulation Regarding Issues Raised in Decision No. C04-0335 and Modified Procedural Schedule and this Order.

3. The hearing previously scheduled for April 9, 2004, in connection with the Motion for Protective Order Affording Extraordinary Protection to Confidential Information is vacated.

4. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge