

Decision No. C04-0291

**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.

---

**ORDER GRANTING, IN PART, MOTION  
FOR INITIAL COMMISSION DECISION  
AND WAIVING RESPONSE TIME**

---

---

Mailed Date: March 22, 2004  
Adopted Date: March 17, 2004

**I. STATEMENT AND FINDINGS**

1. On March 4, 2004, Administrative Law Judge (ALJ) Isley issued Decision No. R04-0227-I, which set forth the procedural schedule for this docket.

2. On March 9, 2004, Staff of the Colorado Public Utilities Commission (Staff) filed its unopposed Motion to Vacate Hearing Dates, Adopt Proposed Procedural Schedule, Waive Response Time, and Request for Initial Commission Decision. In the motion, Staff explains that the parties had met before the prehearing conference on March 3, 2004, to develop a mutually agreeable procedural schedule. At the prehearing conference, Staff informed the ALJ of certain unavoidable scheduling conflicts it had with other important Commission proceedings throughout the spring and early summer. As a result, Staff requested that the ALJ adopt the parties' proposed procedural schedule.

3. The ALJ stated that he could not agree to the parties' proposed procedural schedule because he could not commit the Commission to issuing an initial decision. In his

interim decision, the ALJ invited the parties to submit their proposed procedural schedule request directly to the Commission. Staff states that this motion is the result of that invitation.

4. The proposed procedural schedule would change the dates for filing answer testimony from April 12, 2004, to April 30, 2004, and the dates for the filing of Rebuttal and Cross Answer testimony from May 3, 2004, to June 21, 2004. It would also change the hearing dates from May 24 through 28, 2004, to July 26 through 30, 2004. Finally it would change the date for Statements of Position from ten days after the last hearing date to August 10, 2004. In addition, Staff also suggests that certain of the compressed deadlines ordered by the ALJ are no longer necessary. For example, the shortened discovery/audit and motions response times of five business days could be lengthened to seven calendar days.

5. Under this proposed procedural schedule, Staff would have the Commission deliberate on the case at the Commission Weekly Meeting of August 18, 2004, with the written order issued on August 25, 2004. Notably, the suspension period for the tariffs proposed by Aquila Networks-WPC (Aquila) in this docket expires on August 26, 2004.

## **II. CONCLUSIONS**

6. We agree to issue an initial Commission decision as requested in the motion; however, we modify Staff's proposed schedule in one respect. Specifically, assuming hearings are concluded on July 30, 2004,<sup>1</sup> Statements of Position will be due on August 5, 2004 instead of August 10, 2004. Assuming the suspension period in this docket expires on August 26, 2004

---

<sup>1</sup> The parties may request that the ALJ modify the procedures suggested in Staff's motion and now approved in this order. Except for the present determination that the Commission will issue the initial decision, the ALJ may modify any procedures or the schedule related to this proceeding. Therefore, the parties may request that the hearing be moved to earlier dates to provide more time for the filing of Statements of Position. In any event, Statements of Position shall be due no later than August 5, 2004, assuming the suspension period expires August 26, 2004.

(i.e., if Aquila does not agree to extend the proposed effective dates of the tariffs), Statements of Position shall be filed no later than August 5, 2004. No extensions of time for this August 5, 2004 filing will be granted. If this shortened period of time to prepare Statements of Position presents problems for the parties, they may propose to change the dates of the hearing, assuming the ALJ agrees to such a change. The Commission defers to the ALJ the procedural request of Staff for relief from the compressed deadlines set by the ALJ in his interim decision.

### **III. ORDER**

#### **A. The Commission Orders That:**

1. The Unopposed Motion to Vacate Hearing Dates, Adopt Proposed Procedural Schedule, Waive Response Time, and Request for Initial Commission Decision filed by Staff of the Colorado Public Utilities Commission is granted in part, consistent with the above discussion. Response time to the motion is waived.
  
2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
March 17, 2004.**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Commissioners