

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Aquila, Inc., d/b/a Aquila Networks ) NG-0001  
(Aquila), Omaha, seeking a general )  
rate increase for Aquila's Rate Area )  
One (Communities include )  
Plattsmouth, Bellevue, Ralston, )  
LaVista, Papillion, Gretna, )  
Waterloo, Elkhorn, Valley, and )  
Blair). )  
)  
Aquila, Inc., d/b/a Aquila Networks ) NG-0002  
(Aquila), Omaha, seeking a general )  
rate increase for Aquila's Rate Area )  
Two (Lincoln). )  
)  
Aquila, Inc., d/b/a Aquila Networks ) NG-0003  
(Aquila), Omaha, seeking a general )  
rate Increase for Aquila's Rate Area )  
Three (Communities include Adams, )  
Arlington, Ashland, Auburn, Aurora, )  
Avoca, Bancroft, Battle Creek, )  
Beatrice, Bee, Beemer, Bennet, Blue ) PLANNING CONFERENCE  
Springs, Bradshaw, Cheney, Clatonia, ) ORDER AND NOTICE OF  
Columbus, Cortland, Craig, Crete, ) HEARING  
David City, Dewitt, Dorchester, )  
Eagle, Elmwood, Emerson, Endicott, )  
Exeter, Fairbury, Fairmont, Firth, )  
Friend, Garrison, Geneva, Grafton, )  
Greenwood, Hallam, Hampton, Hickman, )  
Holland, Horner, Hooper, Humboldt, )  
Humphrey, Jackson, Johnson, Lindsay, )  
Louisville, Madison, Manley, Mead, )  
Meadow Grove, Milford, Murdock, )  
Murray, Mynard, Newman Grove, )  
Nickerson, Norfolk, North Bend, )  
Oakland, Odell, Osceola, Palmyra, )  
Panama, Pawnee City, Peru, Pierce, )  
Pilger, Plymouth, Rising City, )  
Rosalie, Schuyler, Scribner, Seward, )  
Shelby, Stanton, Staplehurst, )  
Sterling, Table Rock, Tecumseh, )  
Tekamah, Thurston, Tilden, Uehling, )  
Ulysses, Wakefield, Walthill, )  
Walton, Waverly, Wayne, Weeping )  
Water, West Point, Wilber, )  
Winnebago, Wymore and York). ) Entered: August 19, 2003

BY THE HEARING OFFICER:

On June 30, 2003, Aquila, Inc. d/b/a Aquila Networks (Aquila) filed the above-captioned rate applications. Each application was published on July 2, 2003, in The Daily Record, and the 30-day protest and formal intervention period expired on August 1, 2003. Aquila submitted prefiled direct testimony on July 18, 2003. All three rate applications were consolidated by order of the Commission entered August 19, 2003.

In order to process this application, a planning conference was held in this matter on August 13, 2002, at 2:00 p.m. at the Commission, 300 The Atrium, 1200 N Street, Lincoln, Nebraska. The following persons were present at the conference: for Aquila, Doug Law, Larry Headley and Glenn Dee; for the Public Advocate, Roger Cox and Jack Shultz; for Metropolitan Utilities District, Susan Prazan, Doug Clark and Dave DeBoer; for Cornerstone Energy, Richard Haubensstock; and for the Commission, Commissioner Frank Landis, Andy Pollock, Ellen Blumenthal, Dr. Dave Rosenbaum, and Laura Demman.

As a result of the planning conference, several issues were decided. Therefore, this order serves to memorialize those decisions and to provide a timeline for proceeding in this docket.

### **Deadlines**

Deadlines for various events were established and are set forth in Appendix A.

The Commission anticipates extending the prescribed 210-day time period for completing review of a general rate application. Section 38 of LB 790 provides that the Commission has 210 days from the date of filing to take final action on a general rate application that has not been certified for negotiations, as is the case in the present proceeding. Section 38 further provides that the Commission may extend the 210-day deadline "by a period not to exceed an additional sixty days upon a finding that additional time is necessary to properly fulfill its responsibilities in the proceeding." LB 790, Sec. 38(15)c.

At the present time, the Commission finds that it should extend the 210-day time frame by an additional 30 days, in order to properly fulfill its responsibilities. This proceeding is the Commission's first experience with a natural gas rate case, and Aquila's three rate applications were filed within one month of the new law taking effect. The Commission did not have a Public Advocate hired at the time of the rate filings, nor had

it retained a consultant. Building an extra 30 days into the timeline for this proceeding is necessary in order for the Commission to properly address Aquila's filings. It must be noted, however, that adoption of the deadlines in Appendix A does not restrict the Commission from exercising its statutory authority to extend the 210-day deadline by a full 60 days.

### **Service**

The official service list for these proceedings is set forth in Appendix B. A list of entities that will become informal intervenors upon filing the requisite statements and exhibits is set forth in Appendix C. All persons are responsible for updating their own lists.

Assumptions regarding time of receipt: The Commission will assume that documents served in the following manners were received by the following dates:

<b><u>Method of Service</u></b>	<b><u>Date of Receipt</u></b>
In person or by agent	Date of filing
Regular mail, certified mail, or registered mail	Three days after mailing
Facsimile sent before 3:00 p.m. central time on a business day	Date facsimile sent
Email sent before 3:00 p.m. central time on a business day	Date email sent

Documents sent by facsimile or email shall be followed with a paper copy via mail.

Parties are encouraged to engage in negotiations; however, the conduct of negotiations does not relieve the parties of their obligation to meet filing deadlines.

### **Discovery**

Requests: Discovery requests or Commission staff information requests shall be served upon all individuals on the service list.

Answers: Answers to discovery requests should be made as soon as possible, and no later than 10 business days from the

date of receipt. All answers shall be served upon the propounding party, the Public Advocate, the Public Advocate's consultant, the Commission and the Commission's consultant. Upon written request, one copy of answers to discovery requests shall be provided to other parties.

Objections and Motions to Compel Discovery: Unless the Commission determines that an oral argument is necessary, discovery disputes will be resolved based on the written pleadings, any sworn affidavits attached thereto, and materials, if any, provided for *in camera* inspection. A party seeking a motion to compel must demonstrate that it has in good faith conferred or attempted to confer with the non-responsive party in an effort to secure disclosure without Commission action. Material that is the subject of a successful motion to compel shall be supplied within three business days of receipt of the order granting the motion to compel, or such other date as ordered by the Commission.

Depositions: Depositions may be taken pursuant to the Nebraska Supreme Court Discovery Rules. Depositions shall be taken at a time and place agreed upon by the parties. With permission of the Commission, depositions will be admissible at hearing. Introduction of depositions at the hearing, other than during cross-examination or redirect examination, shall be governed by the deadlines for prefilings of evidence set forth in Appendix A.

Work Papers: Copies of a witness' work papers (except work papers claimed to be privileged) shall be filed on the same day as the witness' prefiling testimony is due.

### **Prefiling of Evidence**

All evidence to be offered at hearing, objections thereto, and responses to those objections shall be filed by the dates established in Appendix A. All objections shall specifically identify the testimony to which the objection is directed (by page, line number, etc.) and the specific objections raised regarding each portion of such testimony. Failure to comply with the deadlines for objections will result in waiver of objections.

All parties should eliminate argumentative, cumulative, or otherwise objectionable passages in testimony they intend to file.

A party offering prefiled testimony and exhibits into evidence at hearing will be expected to provide a copy to the court reporter.

All prefiled exhibits must be numbered.

### **Prefiled Testimony**

Service of Prefiled Testimony: All prefiled testimony and exhibits must be served upon all parties on the service list.

### **Violations of Deadlines and Requirements Set by Order**

Violations of requirements set forth in this order or an order on a motion to compel are subject to a fine of up to one thousand dollars per violation pursuant to Neb. Rev. Stat. § 75-156 (as amended by LB 790 [2003]).

### **Prehearing Conference**

The Commission anticipates that a prehearing conference will be held in this matter at a later date. Issues such as hearing procedures, use of demonstrative exhibits and timing of post-hearing briefs will be addressed at that time.

### **Hearing Fee and Accommodations**

A hearing fee of fifty dollars (\$50.00) for each half-day of hearing will be charged to the applicant payable upon billing from the Executive Director of the Public Service Commission (Neb. Rev. Stat. §75-128, Cum. Supp. 2002).

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

## **O R D E R**

IT IS THEREFORE ORDERED by the Hearing Officer in the above-captioned matter that the deadlines and requirements established in this order and attached hereto are hereby adopted.

IT IS FURTHER ORDERED that a hearing in Application Nos. NG-0001, NG-0002 and NG-0003 will be held on December 1, 2003,

at 9:00 a.m. in the Commission Hearing Room, 300 The Atrium,  
1200 N Street, Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 19th day of  
August, 2003.

COMMISSIONERS CONCURRING:

NEBRASKA PUBLIC SERVICE COMMISSION

Chair

ATTEST:

Executive Director

## Appendix A

<u>Day #</u>	<u>Date</u>	<u>Event</u>
50	August 19, 2003	Commission ruling on Petitions for Intervention.
81	September 19, 2003	Deadline for objections to and/or motions to strike Aquila's direct testimony and exhibits.
88	September 26, 2003	Deadline for responses to objections to Aquila's direct testimony.
126	November 3, 2003	Formal Intervenor's testimony, work papers and exhibits due.  Initial discovery on Aquila completed.
133	November 10, 2003	Deadline for objections to Formal Intervenor's testimony and exhibits.
140	November 17, 2003	Aquila's rebuttal testimony and exhibits due.  Discovery on Aquila's rebuttal begins.  Deadline for responses to objections to Formal Intervenor's testimony and exhibits.
154	December 1, 2003	Deadline for objections to Aquila's rebuttal testimony and exhibits.  <b>Hearing in the Commission Hearing Room.</b>

	TBD	Post-hearing briefs due.
	TBD	Commission consultant's recommendation for decision issued.
	TBD	Exceptions to proposal for decision due.
240	February 25, 2004	Final order issued.



Appendix B

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Appendix C

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