

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Aquila, Inc. d/b/a) Application No. NG-0041
Aquila Networks (Aquila), Omaha,)
seeking individual rate increases) ORDER ESTABLISHING REFUND
for Aquila's Rate Area One, Rate) PLAN
Area Two, and Rate Area Three.)
) Entered: May 28, 2008

BY THE COMMISSION:

On December 5, 2007, Aquila, Inc. d/b/a Aquila Networks (Aquila) filed its Interim Refund Plan to refund any differences between original interim rates and the appeal rates implemented by Aquila pending appeal to the district court. The Interim Refund Plan proposed two possible methods for the interim refund including refunding over-collections based upon individual usage and refunding a uniform amount to all ratepayers. On February 29, 2008, the district court issued orders affirming the Commission's July 24, 2007 Order. Neither the Public Advocate nor Aquila appealed the district court order.

On or about May 1, 2008, Aquila filed its Updated Refund Plan which addressed the refund of interim amounts based upon final rates. The Updated Refund Plan proposes to refund to all residential ratepayers currently on the system a uniform amount; no amounts would be refunded to any ratepayer who has left the system; that under-collections from commercial ratepayers would be offset against the refund amounts to residential ratepayers; and that any amounts which the company was unable to pay to ratepayers would be placed into an energy assistance fund. Hearing on this matter was held on May 7, 2008.

EVIDENCE

The Commission, in its July 24, 2007 Order granting Aquila's application in part, determined that Aquila was entitled to a revenue requirement of \$59,829,072¹.

Mr. Glenn Dee testified on behalf of Aquila regarding its Updated Refund Plan. Mr. Dee stated that based upon the rate design adopted by the Commission, the residential ratepayers were due a refund; however, Aquila proposed that an under-collection occurred with respect to commercial ratepayers. According to Aquila, the under-collection from commercial ratepayers resulted from the Commission's rate design and gradualism approach toward the residential ratepayers. Mr. Dee testified that based upon final rates residential ratepayers are entitled to a refund of \$4.4

¹ In the Matter of Aquila, Inc. d/b/a Aquila Networks (Aquila), Omaha, Seeking Individual Rate Increases for Aquila's Rate Area One, Rate Area Two and Rate Area Three, Docket No. NG-0041, Order Granting Application in Part (July 24, 2008).

million. However, Mr. Dee testified that due to the Commission's rate design, an under-collection occurred with respect to commercial ratepayers totaling \$894,372.

Mr. Dee proposed that the under-collection be recovered through an offset against the refund to residential ratepayers so that each residential ratepayer would receive approximately \$4.00 less than what they would otherwise receive. As an alternative, Aquila proposed the imposition of a \$50.00 surcharge on each commercial customer. Currently, Aquila has approximately 192,000 residential customers and 20,000 commercial customers. Mr. Dee testified that Aquila has the ability to obtain usage data for customers on the system during the time that the interim rates were in effect.

Mr. William Glahn testified on behalf of the Public Advocate. Mr. Glahn testified that in adopting any rate plan, the Commission should ensure that there is no discrimination between rate classes; that utilities should not be permitted to go back in time to raise rates to ratepayers; that the refunds should be based upon usage; and that those ratepayers who have left the system during the interim should receive a refund.

O P I N I O N A N D F I N D I N G S

Jurisdictional utilities have the right pursuant to the State Natural Gas Regulation Act (the Act), to implement interim rates pending the resolution of their general rate applications.² "If the rate filing is not certified by the commission for negotiations, the jurisdictional utility's filed rates may be placed into effect as interim rates, subject to refund, upon the adoption of final rates, ninety days after filing with the commission."³

The purpose of interim rates is to alleviate the burden placed on the jurisdictional utility resulting from the time lag that necessarily occurs between the filing for a general rate adjustment and the prosecution of the application. Generally, proponents of interim rates contend that without them, utilities would be forced to file rate cases more often, thereby increasing costs to ratepayers. However, the use of interim rates also injects a level of confusion for ratepayers and further complicates an already complex filing. Furthermore, it cannot be said that the protracted litigation in the present matter has not also resulted in increased costs to ratepayers.

² Neb. Rev. Stat. §§ 66-1801 et seq. (2007 Supp.).

³ Neb. Rev. Stat. § 66-1838(10)(b).

With respect to the under-collection from commercial ratepayers, the Commission has previously held that it has the authority pursuant to the Act to permit a surcharge on ratepayers for any shortfall in overall annual increases during an interim period.⁴ However, in the present matter, the residential ratepayers have received a long term benefit from the gradual approach and rate design adopted by the Commission. Every general rate application presents a unique circumstance. It is within the Commission's discretion to balance the interest of the utility in meeting its revenue requirement with the interest of all affected ratepayers and fashion an appropriate remedy for each circumstance. Therefore, the Commission finds that the total amount of the refund due to residential ratepayers shall be offset by the amount of the shortfall from commercial ratepayers.

The Commission finds that residential ratepayers shall receive refunds on a pro rata basis based upon usage during the period of interim rates. Aquila shall make reasonable efforts to locate those ratepayers who are no longer on Aquila's system. Any mailings to such customers shall be at a postal rate that ensures address correction or forwarding of mail. Additionally, if a ratepayer who is no longer on Aquila's system currently has a balance due to Aquila, the ratepayer's account shall be credited. Any amounts that cannot be refunded to residential ratepayers shall be included in the gas cost adjustment.

O R D E R

IT IS THEREFORE ORDERED by the Commission that the Refund Plan described herein is adopted.

IT IS FURTHER ORDERED that Aquila within thirty (30) days of final refund file a report with the Commission demonstrating compliance with this order including the final amounts refunded; the final amount of interest; amounts to be included within the gas cost adjustment; and a description of the efforts made to refund amounts to customers no longer on the system.

⁴ See *Aquila, Inc., d/b/a Aquila Networks (Aquila), Omaha seeking a general rate increase for Aquila's Rate Area One*; *Aquila, Inc., d/b/a Aquila Networks (Aquila), Omaha seeking a general rate increase for Aquila's Rate Area Two*; *Aquila, Inc., d/b/a Aquila Networks (Aquila), Omaha seeking a general rate increase for Aquila's Rate Area Three*, Application Nos. NG-0001, NG-0002, NG-0003, Order Approving Refund Plan (March 23, 2004).

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MADE AND ENTERED at Lincoln, Nebraska, this 28th day of May, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald T. Vay

Rod Johnson

Tim Schram

//s// Anne C. Boyle
//s// Frank E. Landis

Anne C. Boyle

Chair

ATTEST:

Michelle De

Executive Director