

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  AQUILA, INC., d/b/a AQUILA NETWORKS	DOCKET NO. WRU-02-15-225
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**ORDER DENYING WAIVER REQUEST**

(Issued May 28, 2002)

On May 16, 2002, Aquila, Inc., d/b/a Aquila Networks (Aquila), filed a request for waiver of the rate case filing requirement established in 199 IAC 7.4(6)"e"(6). Aquila indicates that it will be filing an application for permanent and temporary rate relief in the near future and subparagraph 7.4(6)"e"(6) requires the filing of the federal and state tax returns for the previous two calendar years with the application. Aquila requests a waiver of this requirement. Aquila addressed the requirements of 199 IAC 1.3 in support of the waiver request.

Aquila indicates that the tax returns are voluminous and contain a substantial amount of information that is both confidential and irrelevant to the purposes of an Iowa rate case proceeding. Aquila indicates that the returns contain a substantial amount of highly confidential information about taxable entities within Aquila, Inc., other than Aquila Networks.

Aquila asserts that no person, with limited exceptions, has a legal right to disclosure of Aquila, Inc., returns and states that it is aware of no statute or provision

of Iowa law, other than subparagraph 7.4(6)"e"(6), specifically mandating that the federal and state income tax returns be filed with a general rate case. Aquila asserts that the public health, safety, and welfare are substantially protected by the other rate case filings that Aquila will make and that the returns will be made available to Utilities Board (Board) staff and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) in Kansas City, Missouri, at Aquila corporate headquarters, or they will make them available in Iowa. Aquila states that the waiver request is for a limited duration and will end upon the filing of the general rate case.

On March 17, 2002, Consumer Advocate filed an answer, objection, and response to the Aquila waiver request. Consumer Advocate states that the income tax returns are crucial and fundamental in the establishment of just and reasonable rates required under Iowa Code § 476.8. If the Board decides to grant the waiver, Consumer Advocate requests that it be provided a copy of the previous two tax returns and it will enter into a reasonable confidentiality agreement if necessary to obtain the returns.

Aquila is correct concerning the filing requirements of 199 IAC 7.4(6)"e"(6) and the requirements of 199 IAC 1.3 for a waiver request. The Board has reviewed the information provided by Aquila in support of the waiver request and will deny the request. Although the filing of copies of federal and state tax returns is not mandated by Iowa statute, it is required for the Board to fulfill its statutory obligation to set just and reasonable rates for Iowa customers. Tax returns are a fundamental part of the

information necessary to investigate expenses, revenues, and tax consequences of a public utility's operations.

The voluminous nature of the returns does not meet the undue hardship requirements of rule 1.3 and the fact the returns contain information concerning the operation of Aquila, Inc., is not persuasive. The operations of the parent company are a relevant inquiry in a general rate case proceeding.

The Board has a rule that requires tax records filed with the Board to be withheld from public inspection. 199 IAC 1.9(5)"b"(1). Iowa Code § 422.20 and this subparagraph protect the tax returns from public disclosure.

**IT IS THEREFORE ORDERED:**

The request for waiver filed by Aquila, Inc., d/b/a Aquila Networks, on May 16, 2002, is denied.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 28<sup>th</sup> day of May, 2002.