

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: AQUILA, INC., d/b/a AQUILA NETWORKS	DOCKET NOS. RPU-02-5 WRU-03-1-225 (TF-02-238, TF-02-239)
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ORDER APPROVING SETTLEMENT AND DENYING WAIVER REQUEST

(Issued February 18, 2003)

On June 3, 2002, Aquila, Inc., d/b/a Aquila Networks (Aquila), filed an application for temporary and permanent rate increases as shown in proposed tariffs, identified as TF-02-238 and TF-02-239. In TF-02-238, Aquila proposed a temporary gas rate increase that would produce additional revenue of approximately \$8.1 million. In TF-02-239, Aquila proposed a permanent annual revenue increase of approximately \$9.3 million, or an overall annual revenue increase of 5.8 percent. Aquila's proposed temporary and permanent gas rate increases were docketed for investigation and identified as Docket No. RPU-02-5.

On July 2, 2002, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to the request for temporary rates. On July 5, 2002, the Utilities Board (Board) issued an order requesting additional information from Aquila concerning the allocation of labor expense reductions due to recent employee layoffs at Aquila. On July 15, 2002, Aquila filed a reply to

Consumer Advocate's objection and its response to the Board's request for additional information. Following a review of Aquila's response, the Board issued an order on August 9, 2002, requiring additional information concerning Aquila's employee layoffs and its impact on costs. Aquila filed the additional information on September 3, and November 8, 2002.

On July 23, 2002, Aquila and Consumer Advocate filed a joint motion requesting the Board establish an annual revenue requirement for temporary rates without consideration of complete information regarding workforce reductions, then reduce that revenue requirement by \$211,959 to reflect savings and costs associated with Aquila workforce reductions. Consumer comment hearings were held August 12, 2002, in Dubuque, August 22, 2002, in Council Bluffs, and August 27, 2002, in Des Moines. On August 28, 2002, the Board issued an order finding the joint motion filed on July 23, 2002, to be reasonable and setting a temporary rate increase of \$5,653,372 (3.42 percent).

Interveners in this proceeding include MidAmerican Energy Company, Northern Natural Gas Company, Interstate Power and Light Company, U.S. Energy Services, Inc., and Otter Tail Energy Services Company. None of the interveners filed testimony in this matter.

On December 18, 2002, Aquila and Consumer Advocate filed a joint motion for approval of a settlement agreement. The settlement proposes an annual revenue increase of approximately \$4.25 million (2.58 percent) and an annual revenue requirement (including rate case expense) of \$169,820,575. Aquila and Consumer

Advocate state the settlement resolves all issues in Docket No. RPU-02-5. Aquila and Consumer Advocate request the settlement be expeditiously approved in its entirety, without condition or modification.

SETTLEMENT

The Board must look to the terms of the settlement to determine whether the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. 199 IAC 7.2(1); Iowa Code § 17A.12(5).

The annual revenue increase proposed by Aquila in its application for a permanent rate increase was \$9.3 million, or an overall annual revenue increase of 5.8 percent. The Board allowed a temporary rate increase of \$5,653,372 using previously-established regulatory principles. The proposed settlement reflects an amount significantly below Aquila's initial request and the amount approved for temporary rates.

On January 2, 2003, Aquila provided a rate design model and class cost-of-service to the Board via electronic mail. This information was also sent by electronic mail to Consumer Advocate, which had no objection. A printed copy of the electronic mail incorporating the rate design model and class cost-of-service has been filed with the Record Center and is part of the record in this matter.

The rate design was settled using the model proposed in Aquila's original filing. With respect to the class cost-of-service, the class increases and class reductions reflected in the record are proportional to Aquila's proposed increases contained in its initial filing. As in Aquila's initial proposal, most of the increase is

assigned to the general services class, which accounts for 62 percent of Aquila's throughput volumes and over 99 percent of Aquila's customers. Based on a residential-scale monthly usage of 100 therms, the general service customer increase will average \$2.58 per month.

The Board, after examining the complete record of this proceeding, finds the proposed settlement to be reasonable, consistent with law, and in the public interest. The settlement will be approved. Aquila will be required to file compliance tariffs consistent with the settlement within 20 days of the date of this order. In addition, Aquila will be required to file a refund plan consistent with the settlement within 20 days of the date of this order.

TARIFF ISSUES

While the Board finds the proposed settlement to be just and reasonable, there remain some outstanding tariff issues that the Board will address.

Reasonable Payment Agreement

In its initial filing, Aquila asked the Board for a change in its tariff amounting to a waiver of the Board's rule 199 IAC 19.4(10)"b," requiring gas utilities to consider a customer's personal financial information when establishing special payment arrangements. See Direct Testimony of Robert J. Amdor, p. 8. The waiver request has been identified as Docket No. WRU-03-1-225. Aquila states that it prefers to rely on social service agencies to verify financial hardships and determine the reasonableness of payment agreements.

Consumer Advocate originally objected to the tariff change because it felt the company should consider all the protections provided to customers in the Board's rule, rather than rely exclusively on a social service agency's verification of a customer's financial hardship.

In the proposed settlement, the parties agreed to modify Aquila's tariff so that a customer must first try to obtain an acknowledgement from social services regarding the customer's financial hardship. Only if that effort fails will Aquila consider the other requirements set out in the Board's rules.

Board subrule 199 IAC 19.4(10)"b" provides:

Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgement from the department of human services or another agency.

The rule provides that the reasonableness of a payment agreement will be determined by several factors and that a utility may require the customer confirm financial difficulty with an acknowledgment from a social service agency. The language agreed to by the parties in the proposed settlement reverses this process by providing that Aquila would only consider the required factors if a customer was first unable to obtain an acknowledgement from a social service agency. The proposed settlement language automatically places an additional burden on every affected customer to get an acknowledgement by a social service agency and

simultaneously relieves Aquila from first considering the factors required by the Board's rules. In many instances, it should be unnecessary for the customer to divulge their personal financial information to a social service agency before obtaining a reasonable payment agreement. Further, there is no showing that social service agencies will be able to give full consideration to at least one of the factors in the Board's rule, "the amount of time and the reasons why the bill has been outstanding." Customer payment agreements are sometimes necessary because of utility errors, such as meter reading errors, that can lead to relatively large "catch-up" bills. When this occurs, the utility is in a better position than a social service agency to consider this factor. Thus, for at least some customers, Aquila's proposal could effectively eliminate one of the factors in the Board's rule, at least in the initial consideration.

The Board finds that it is unreasonable to shift the burden of obtaining a third-party acknowledgement to every customer and thereby allow Aquila to avoid initial consideration of all of the factors outlined in the Board's rules. Therefore, the Board will deny this proposed tariff modification and Aquila's implicit request for a waiver of 199 IAC 19.4(10)"b".

Distribution Main Extensions

Board subparagraph 199 IAC 19.3(10)"b"(1) states that a utility will provide all gas plants at its own expense except in unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will

not attach within the agreed-upon time after the completion of the distribution main.

Board subparagraph 199 IAC 19.3(10)"b"(2) provides:

1) The utility shall finance and make the extension for a customer without requiring an advance for the construction if the estimated construction cost to provide a distribution main extension is less than or equal to three times the estimated base revenue calculated on the basis of similarly situated customers; and

2) If the estimated construction cost to provide a distribution main extension is greater than three times the estimated base revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit an advance for the construction equal to the estimated construction cost less three times the estimated base revenue to be produced by the customer no more than 30 days prior to commencement of construction.

In addition subparagraph 19.3(10)"c" provides that the utility will enter into a contract to refund a portion of the deposit if other attachments are made to the main within a ten-year period.

Aquila states that it does not prefer to enter into contracts with refundable construction deposits. Therefore, Aquila proposes to eliminate its tariff provision for distribution main extensions and use only a "project feasibility model."

While Aquila proposes to no longer accept refundable deposits for construction advances, it fails to explain exactly how main extensions will be handled. Aquila does not define the "project feasibility model" and the record is not clear as to how this term should be defined. The Board will not approve Aquila's proposed tariff provision without more detailed information about Aquila's proposed substitute mechanism.

The Board finds that this issue should not prevent approval of the proposed settlement. Instead, Aquila will be required to provide more detailed information about how it proposes to handle main extensions and what the “project feasibility model” entails. That information can be considered in a separate proceeding. Therefore, the Board will suspend implementation of this tariff revision and will issue an order in the near future opening a separate docket to consider the proposed tariff change in greater detail.

Meter Reading Mainline Taps

Presently, Aquila’s mainline tap customers read their own meters and report the readings to Aquila by phone or by mail at approximately 30-day intervals. Aquila reads these customers’ meters once a year.

Aquila proposes to assess a trip charge to these mainline tap customers if they fail to report their meter readings for two consecutive months and a company technician must be sent to read these meters. According to Aquila, because of the location of the meters for farm tap customers, technicians often must drive long distances to read the meters, thereby incurring additional expenses. Aquila proposes to implement a trip charge to alleviate some of these additional expenses.

The Board is satisfied with the reason supporting Aquila’s request for a trip charge. However, Aquila has not stated how such a charge would be calculated. Therefore, the Board will require Aquila to describe in its tariff how the trip charge will be calculated before this proposed tariff revision is approved. That information should be filed in this docket within 30 days of the date of this order. Other parties

will have 20 days to respond to Aquila's filing, after which the Board will determine what, if any, further proceedings may be necessary.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The proposed tariffs filed by Aquila, Inc., d/b/a Aquila Networks, on June 3, 2002, identified as TF-02-238 and TF-02-239, and made subject to investigation as part of this proceeding, are declared to be unjust, unreasonable, and unlawful, are rejected.

2. On or before 20 days from the date of this order, Aquila, Inc., d/b/a Aquila Networks, shall file revised proposed tariff sheets that produce an annual revenue requirement, including rate case expense, not to exceed \$169,820,575.

3. On or before 30 days from the date of this order, Aquila, Inc., d/b/a Aquila Networks, shall file a proposed refund plan consistent with the terms of the settlement.

4. The joint settlement agreement filed by Aquila, Inc., d/b/a Aquila Networks, and the Consumer Advocate Division of the Department of Justice on December 18, 2002, is approved subject to the following:

a. The proposed revision to Aquila's tariff regarding reasonable payment agreements is denied and the implicit waiver request identified as Docket No. WRU-03-1-225 is denied.

b. The proposed revision to Aquila's tariff regarding distribution main extensions is suspended and will be docketed separately for further investigation.

c. The proposed revision to Aquila's tariff regarding meter reading mainline taps is suspended until Aquila files revised tariff sheets that outline the details of the proposed trip charge, as described in the body of this order.

5. All motions or objections not specifically ruled on by the Utilities Board in this order or a previous order are overruled and denied.

6. This order constitutes the final decision of the Utilities Board in Docket No. RPU-02-5 with respect to all matters other than the matter of trip charges for mainline tap meter reading.

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 18th day of February, 2003.