

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  AQUILA, INC., d/b/a AQUILA NETWORKS	DOCKET NO. RPU-05-2
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**ORDER DENYING REQUEST TO INCLUDE ADDITIONAL ISSUE AND  
ESTABLISHING ISSUES FOR HEARING**

(Issued October 24, 2005)

On May 2, 2005, Aquila, Inc., d/b/a Aquila Networks (Aquila), filed with the Utilities Board (Board) proposed gas tariffs identified as TF-05-143 and TF-05-144. In TF-05-143, Aquila proposed to increase its Iowa gas rates to produce a permanent annual revenue increase of approximately \$4,082,132, or an overall annual revenue increase of 2.6 percent. In TF-05-144, Aquila filed proposed gas tariffs designed to produce additional annual revenue of approximately \$1,656,132, or 1.0 percent, on a temporary basis. The temporary gas tariffs became effective May 13, 2005, pursuant to Iowa Code § 476.6(10).

On May 27, 2005, the Utilities Board (Board) issued an order in Docket No. RPU-05-2, establishing a procedural schedule with a deadline of June 21, 2005, for filing applications to intervene. On June 30, 2005, the Board issued an order granting intervention to Cornerstone Energy, Inc. (Cornerstone), Northern Natural Gas Company (Northern), Iowa Joint Utility Management Program, Inc. (IJUMP), and Interstate Power and Light Company (IPL).

In the May 27, 2005, order, the Board established a procedural schedule that included dates for the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and intervenors to file direct and rebuttal testimony.

Consumer Advocate filed direct testimony. No intervenor filed prefiled direct testimony.

On September 9, 2005, Aquila and Consumer Advocate filed with the Board a joint motion for approval of a non-unanimous settlement agreement that proposed to resolve the revenue requirement issues in this docket. The settlement agreement would establish Aquila's natural gas rate base at \$69,122,678 and the overall rate of return for Aquila's rate base at 8.879 percent. The agreement would also establish an annual natural gas revenue increase for Aquila in Iowa of \$2,600,576 and a total revenue requirement of \$162,171,097. The agreed-to increase would be adjusted for rate case expense that would be amortized over a three-year period.

The settlement agreement proposed that the only remaining issues to be litigated by the parties would be the Capital Additions Tracker (CAT) and rate design. On September 15, 2005, Aquila filed rebuttal testimony on the issues to be litigated. On September 29, 2005, Consumer Advocate filed rebuttal testimony. Cornerstone, Northern, IJUMP, and IPL were not signatories to the settlement agreement and did not file rebuttal testimony on the two issues to be litigated or on any other issue.

On October 4, 2005, Aquila filed a "Proof of Notice" pursuant to 199 IAC 7.2(11)"b" with an attached notice of settlement conference. Aquila states

that it notified the intervenors of the settlement conference on September 27, 2005.

The settlement conference was scheduled for October 6, 2005.

On October 17, 2005, Aquila, Cornerstone, Northern, and IPL filed a joint statement of issues. Three issues are listed: (1) should the Capital Additions Tracker proposed by Aquila be approved; (2) should Aquila's rate design proposal to add a demand charge component to the current customer charge and commodity charge components for General Service customers be approved; and (3) should the settlement agreement between Aquila and Consumer Advocate on revenue requirement issues be approved by the Board.

Also on October 17, 2005, IJUMP filed a separate statement of issues. IJUMP states that it concurs in the issues as described in the joint statement filed by the other parties and requests the Board add another issue for cross-examination at the hearing. The additional issue is: should the aggregation charges be approved as applicable to small volume transportation for schools and governments behind different town border stations as proposed by Aquila.

It appears that IJUMP is referring to the provision in Aquila's Iowa Gas Tariff entitled "Aggregation Service." This is an optional service that allows transportation customers to be grouped together for purposes of calculating scheduling and imbalance charges. The cost of this service is \$0.04 per dekatherm of gas delivered to the aggregated group. Revenues received from this service are credited to Aquila's purchased gas adjustment (PGA). By grouping together the calculation of

the scheduling and imbalance charges, transportation customers are given the opportunity to benefit from offsetting each other in the group. Aquila did not propose any changes to this tariff provision in this docket.

Board rules require a utility seeking a general rate increase to prefile certain information and testimony in support of the increase. The Board establishes a procedural schedule to allow Consumer Advocate and intervenors to file testimony on the issues raised by the utility and on any matters a party wants the Board to consider. Prefiling testimony allows for a full and careful consideration of all issues by the parties and the Board.

If a settlement is filed proposing to resolve all issues in the case except for certain specific issues, as is the case in this docket, then a party wishing to either contest the settlement or have other issues addressed by the Board must comply with the Board's rules requiring the timely filing of comments or an objection.

Paragraph 199 IAC 7.2(11)"b" provides that a party who is given notice of the settlement conference and does not participate in the conference is deemed to have waived any objection to the proposed settlement. Paragraph 199 IAC 7.2(11)"c" provides that a party that does not join in a proposed settlement has 30 days to file comments contesting all or part of the settlement. Pursuant to 199 IAC 7.2(11)"d," comments must state the legal basis for the objection and the factual issues being contested. Paragraph 7.2(11)"d" provides that a failure to file comments constitutes a waiver of all objections to the proposed settlement.

IJUMP did not meet the filing requirements of the Board's rules in 199 IAC 7.2(11) for preserving issues when a non-unanimous stipulation is filed. IJUMP did not file testimony raising the aggregation service issue. Therefore, the request by IJUMP to include an additional issue for hearing in this docket will be denied. The Board is limiting the hearing to two issues, the CAT and the demand component in rate design. No timely objections were filed to the settlement so the Board will address the proposed settlement in a separate order prior to the hearing.

Denial of the request to include the aggregation service issue in the hearing in this docket does not preclude IJUMP from raising the issue in a complaint or in Docket No. SPU-04-1, where issues regarding small volume transportation service will be considered after the completion of the pilot program being conducted by IPL and MidAmerican Energy Company.

Board member Stamp previously was an attorney with Dickinson, Mackaman, Tyler, & Hagen, P.C., Law Firm, which is representing Aquila in this matter. However, during his time with the firm as it pertains to this matter, Board member Stamp did not do any work for Aquila, was not involved in counseling or advising Aquila, and was not privy to any confidential information involving Aquila. After reviewing the relevant professional codes, General Counsel has advised Board member Stamp that he may participate in the decision-making in this docket.

**IT IS THEREFORE ORDERED:**

1. The request filed by Iowa Joint Utility Management Program, Inc., on October 17, 2005, to include another issue to the issues to be addressed at the hearing scheduled for November 7, 2005, is denied.

2. The issues to be addressed at the hearing are: (1) should the Capital Additions Tracker proposed by Aquila be approved and (2) should Aquila's rate design proposal to add a demand charge component to the current customer charge and commodity charge components for General Service customers be approved.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 24<sup>th</sup> day of October, 2005.