

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  AQUILA, INC., d/b/a AQUILA NETWORKS	DOCKET NOS. RPU-05-2 WRU-05-48-225
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**ORDER GRANTING WAIVER REQUEST, SHORTENING TIME TO OBJECT TO  
PROPOSED SETTLEMENT, AND MODIFYING BRIEFING SCHEDULE**

(Issued November 8, 2005)

On September 9, 2005, Aquila, Inc., d/b/a Aquila Networks (Aquila), and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (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 Iowa 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 September 9, 2005, settlement agreement proposed that the only remaining issues to be litigated by the parties at the hearing scheduled for November 7, 2005, would be the Capital Additions Tracker (CAT) and rate design. On November 3, 2005, Aquila and Consumer Advocate filed a proposed settlement

for the CAT. With the CAT settlement, Aquila also filed a request for a waiver of the settlement conference required by 199 IAC 7.2(11)"b" and to permit the intervenors to address the proposed CAT settlement at the hearing. The waiver request has been identified as Docket No. WRU-05-48-225.

On November 3, 2005, Iowa Joint Utilities Management Program, Inc. (IJUMP), filed a letter indicating it had no cross-examination of the witnesses at the hearing scheduled for November 7, 2005, and would not appear. On November 4, 2005, Cornerstone Energy, Inc. (Cornerstone), filed a pleading stating it did not oppose the non-unanimous CAT settlement and supported the waiver of the settlement conference requirement.

Paragraph 199 IAC 7.2(11)"b" requires that when a non-unanimous settlement is filed, a settlement conference must be scheduled to allow all of the parties to discuss the proposed settlement. Notice of the conference is to be given at least seven days before the conference. Paragraph 199 IAC 7.2(11)"c" provides that parties that did not join in the non-unanimous settlement have 30 days to file comments contesting all or part of the settlement and reply comments are to be filed within 15 days after the comments are filed.

Because of the short time between the filing of the proposed CAT settlement and the date of the hearing, Aquila could not comply with the seven-day notice requirement for a settlement conference prior to the hearing. Aquila requested that

the Board waive this requirement and permit the intervenors to address any objections to the CAT settlement at the hearing.

The Board will grant the waiver request. Cornerstone indicated it did not oppose the CAT settlement. IJUMP indicated it did not have any cross-examination of the witnesses and would not attend the hearing. The other two intervenors, Interstate Power and Light Company and Northern Natural Gas Company, did not appear at the hearing and did not file testimony concerning the CAT issue. Waiver of the settlement conference requirement does not prevent an intervenor from opposing the settlement. The non-signatory parties still have an opportunity to comment on the proposed CAT settlement pursuant to paragraph 7.2(11)"c" and if comments are filed raising material issues of fact, paragraph 7.2(11)"e" provides for the Board to schedule a hearing.

In addition to granting the waiver request, the Board will shorten the time for filing comments contesting the CAT settlement. Paragraph 7.2(11)"c" provides 30 days for the filing of comments contesting all or part of the proposed non-unanimous settlement. Since the proposed CAT settlement only involves one issue and the hearing has already been held at which no intervenor appeared to cross-examine the witnesses, the Board will shorten the time to ten days. Comments must comply with 199 IAC 7.2(11)"d."

At the hearing on November 7, 2005, the parties requested the time for filing briefs be shortened. The Board will grant that request.

**IT IS THEREFORE ORDERED:**

1. The request to waive the requirements of 199 IAC 7.2(11)"b" filed by Aquila, Inc., d/b/a Aquila Networks, and the Consumer Advocate Division of the Department of Justice on November 3, 2005, is granted.

2. The periods for filing initial and reply comments contesting all or part of the proposed non-unanimous settlement of the capital additions tracker pursuant to 199 IAC 7.2(11)"c" are waived. Initial comments shall be filed within ten days of the date of this order and must comply with 199 IAC 7.2(11)"d." Reply comments shall be filed five days after the initial comments are due.

3. Simultaneous initial briefs are now scheduled for November 23, 2005. Reply briefs are now scheduled for December 5, 2005.

**UTILITIES BOARD**

/s/ John R. Norris

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 8<sup>th</sup> day of November, 2005.