STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: AQUILA, INC., d/b/a AQUILA NETWORKS, BLACK HILLS CORPORATION, AND BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC	DOCKET NO. SPU-07-12

ORDER APPROVING SETTLEMENT AGREEMENT, NOT DISAPPROVING PROPOSAL FOR REORGANIZATION, GRANTING REQUEST TO DISCONTINUE SERVICE, AND REQUIRING REPORTS

(Issued August 31, 2007)

PROCEDURAL BACKGROUND

On April 4, 2007, Aquila, Inc., d/b/a Aquila Networks (Aquila), Black Hills Corporation (Black Hills), and Black Hills/Iowa Gas Utility Company, LLC (BH Iowa Gas) (collectively, Joint Applicants), filed a joint proposal for reorganization pursuant to Iowa Code §§ 476.76 and 476.77 (2007) and 199 IAC 32, along with an application for permission for Aquila to discontinue providing utility service in Iowa pursuant to Iowa Code § 476.20(1) and 199 IAC 7.1(6). The filing is the result of the "Asset Purchase Agreement" dated February 6, 2007, entered into by and among Aquila, Black Hills, Great Plains Energy Incorporated (GPE), and Gregory Acquisition Corporation. Under the agreement, Black Hills will acquire all of the natural gas assets of Aquila located in Iowa, Kansas, Nebraska, and Colorado, and the electric assets in Colorado. The acquisition by Black Hills is interrelated to and dependent upon the sale by Aquila of its Missouri electric utility assets to GPE. With the application, Joint Applicants filed supporting information that included the prefiled direct testimony and exhibits of witnesses supporting the proposal for reorganization.

On April 12, 2007, the Board issued an order docketing the proposal for reorganization and application to discontinue service and establishing a procedural schedule. The Board, pursuant to Iowa Code § 476.77(2), extended the review deadline to October 1, 2007. On May 3, 2007, the Board granted intervention to MidAmerican Energy Company (MidAmerican). On May 10, 2007, the Board issued an order requesting additional information from Joint Applicants. On May 24, 2007, the additional information was filed.

On June 4, 2007, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed prefiled direct testimony. On June 15, 2007, Joint Applicants filed rebuttal testimony. On June 19, 2007, Consumer Advocate filed corrections to the prefiled testimony, workpapers, and exhibits of witness Gregory Vitale.

On June 22, 2007, Joint Applicants and Consumer Advocate filed a "Joint Motion and Settlement Agreement" (Settlement Agreement) that purports to resolve all of the issues regarding the proposal for reorganization and request to discontinue service. Joint Applicants and Consumer Advocate also filed a motion to suspend the procedural schedule, including the hearing set for June 27, 2007. On June 26, 2007, Aquila filed a supplement to the motion. In the supplement, Aquila indicated that

MidAmerican had no objection to the motion to suspend the procedural schedule and that MidAmerican did not take a position on the joint motion and Settlement Agreement. Aquila indicated that MidAmerican would not contest the settlement or any part thereof.

On June 25, 2007, the Board issued an order canceling the hearing set for June 27, 2007, and tentatively rescheduling the hearing for July 25, 2007. On June 29, 2007, the Board issued an order with questions for Joint Applicants and Consumer Advocate about the settlement and other issues not addressed by the settlement.

On July 9, 2007, Joint Applicants filed responses to the Board's questions in the June 29, 2007, order. On July 9, 2007, Consumer Advocate filed a pleading stating that the responses filed by Joint Applicants were not inconsistent with the Settlement Agreement. On July 12, 2007, the Board issued an order canceling the July 25, 2007, hearing.

PROPOSAL FOR REORGANIZATION

Black Hills is proposing to acquire all of the assets of Aquila in Iowa and to become a rate-regulated public utility subject to the Board's jurisdiction under Iowa Code chapter 476. Black Hills is a holding company subject to the Public Utility Holding Company Act of 2005. Black Hills currently has subsidiaries that provide regulated natural gas and electric service in South Dakota, Wyoming, and Montana. Black Hills has non-regulated subsidiaries that provide wholesale energy production and marketing throughout the western United States and western Canada. In addition, Black Hills maintains a wholly-owned subsidiary that provides centralized services to affiliate companies in the Black Hills system.

Under the terms of the acquisition agreement, Black Hills will assume the contractual obligations and liabilities of Aquila associated with the assets acquired. Aquila's Iowa natural gas assets will be held by a separate subsidiary, BH Iowa Gas. Black Hills has formed Black Hills Utility Holding Company, Inc. (BHUH), which will hold all of the acquired utility assets of BH Iowa Gas as well as the assets of the other separate subsidiaries in Kansas and Nebraska.

Iowa Code § 476.77 states that a reorganization shall not take place if the Board disapproves. The statute then sets out five issues the Board may consider in reaching its decision of whether to disapprove the reorganization. The Board will address below the provisions of the proposal for reorganization as modified by the Settlement Agreement and other Black Hills commitments as they relate to the statutory issues and other issues the Board considers necessary to address.

1. Whether the Board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.

Article VIII of the Settlement Agreement states that BH Iowa Gas will be authorized to keep its books and records at its corporate offices in Rapid City, South Dakota, and to make such books and records available for examination upon request by the Board. The Settlement Agreement did not provide for retention of gas pipeline safety records at local offices in Iowa or for viewing of the records not kept at local offices in Omaha, Nebraska, which is the current practice. In the June 29, 2007, order requesting additional information, the Board asked whether Black Hills would commit to retaining gas pipeline safety records at the local offices in Iowa or would make them available in Omaha, Nebraska, upon request. In its July 9, 2007, response, Black Hills indicated it would make such a commitment.

Board rules at 199 IAC 18.2 and 18.3 require that all records of regulated public utilities shall be kept and made available for examination in Iowa unless otherwise authorized by the Board. The Board considers the modification of this requirement where the financial and corporate records of BH Iowa Gas will be kept in Rapid City, South Dakota, to be reasonable. The Board's decision is based upon the commitment by Black Hills to retain pipeline safety records at local offices in Iowa or, for those records not kept in the local offices, to provide the records for review in Omaha, Nebraska.

2. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.

A primary consideration in determining whether to disapprove a proposal for reorganization where all of the assets of a rate-regulated public utility are acquired by another entity is the measures the acquiring entity will put in place to protect Iowa consumers from non-regulated risks entered into by the acquiring entity. This consideration involves not only the ability of the acquiring entity to attract capital and maintain a reasonable capital structure, but also what measures the acquiring entity will adopt to insulate Iowa ratepayers from non-regulated business risks. In this instance, there is little controversy over the ability of Black Hills to attract capital and the proposed capital structure. The primary consideration involves what insulation, or ring-fencing measures, are being adopted to insulate BH Iowa Gas from the risks of Black Hills and its non-regulated subsidiaries.

The Settlement Agreement provides numerous ring-fencing commitments that continue those made under the Public Utility Holding Company Act (PUHCA) of 1935, prior to its repeal. In addition, the Settlement Agreement provides that Black Hills will endeavor to maintain an investment-grade credit rating and that any additional insulating commitment made by Black Hills in settlements in the other jurisdictions where Black Hills is acquiring Aquila assets will also apply to BH Iowa Gas.

The Board must consider whether these ring-fencing measures are reasonable and provide sufficient protection for Iowa ratepayers. One component of the consideration is a comparison of the ring-fencing measures to be adopted by Black Hills with the protections for ratepayers under Aquila's current corporate and financial circumstances.

A. Capital attraction

In determining whether Black Hills has the ability to attract capital on reasonable terms, the Board will consider debt availability at a reasonable price as a good indicator. Rating agencies rank the relative investment qualities of various bonds and the risk of default for each company. The rating agencies consider a company's internal financing, as well as many other factors, including business risk, financial risks, financial metrics, expansion risks, and regulatory risks. A utility that fails to maintain an investment-grade rating for its bonds can incur significantly higher capital costs than a utility with an investment-grade rating.

Black Hills has a low investment-grade rating. While this can be seen as a reason to question the acquisition, this rating is higher than Aquila's rating, which is currently below investment-grade. The Board recognizes that there is no guarantee that Black Hills will maintain the investment-grade rating in the future; however, Black Hills appears to have a conservative corporate management strategy that should help it retain the investment-grade rating. For example, one indication of its conservative management approach is that existing non-regulated generation resources are pledged almost exclusively to long-term supply contracts with utilities. Also, during the 2001-2002 national energy crisis, Black Hills maintained its investment-grade credit ratings while continuing its marketing and independent power production businesses.

The 2001-2002 crisis contributed to many of the financial problems faced by Aquila today. Aquila (with its debt-financed non-regulated investments) came close to bankruptcy and was required to restructure its business and sell off assets. Aquila still faces financial challenges, although Aquila’s program of divestiture has helped buy down debt and clean up its balance sheet. Aquila still has considerable debt on its books, including a $500 million debt issue (with a 14⅞ percent interest rate) coming due in 2012. In addition, Aquila has sold many of its utility and other assets, thereby reducing the number of utilities over which Aquila can spread its corporate expenses.

It appears that Black Hills has greater ability than Aquila to attract capital on reasonable terms at this time and has demonstrated this ability over the last five years. Black Hills' low investment-grade credit rating creates some concern that Black Hills might lose that rating with the acquisition of Aquila assets or if it were to choose to enter into more unregulated investments. However, Black Hills has committed that it will endeavor to maintain an investment-grade credit rating. In addition, the ring-fencing mechanisms Black Hills will implement should help to limit any adverse effects on Iowa ratepayers from non-regulated activities.

B. Capital structure

Maintenance of a reasonable capital structure has two components: (1) current or initiating status and whether it is reasonable, and (2) likelihood of the continuation of reasonableness. Based upon the pro forma capital structure shown in Schedules 9 and 20 (Confidential) filed with the Application, the proposed capital structure appears reasonable. The Settlement Agreement in Article VI, section 1(j), provides some assurance of the continuation of a reasonable capital structure. That provision states that BH Iowa Gas will not make any dividend payments to its parent, BHUH, or to Black Hills, if the payment of dividends would reduce BH Iowa Gas' stand-alone equity level below 40 percent of its total capitalization. The Board understands that this commitment may have limited effect since Black Hills has indicated that BH Iowa Gas will not be issuing debt and the commitment appears to only apply if BH Iowa Gas issues debt.

Even though there appears to be no firm commitment by Black Hills to an operative minimum equity ratio, Black Hills' allocation of debt via inter-company notes to a utility subsidiary is unlikely to create any additional risk as compared to Aquila's allocation of debt to a utility division. In addition, with the ring-fencing mechanisms adopted by Black Hills, it appears that Black Hills' ability to maintain a reasonable capital structure into the future is better than that of Aquila.

C. Corporate structure and insulation

Iowa Code § 476.77 does not specifically mention corporate structure and insulation measures as part of this statutory issue. The Board considers them to be relevant aspects of determining the corporate financial integrity of the acquiring corporation. One of the questions addressed in the prefiled testimony was what ring-fencing measures were necessary or appropriate to insulate BH Iowa Gas from the risks of the non-utility subsidiaries of Black Hills. Article VI, sections 1, 2(a) and (b), and 3 of the Settlement Agreement provide the measures agreed to by the parties. The Board will discuss the most significant of these measures in this section.

Article VI, section 1, provides that Black Hills will maintain the ring-fencing structures and commitments made by Black Hills when it became a registered holding company in compliance with PUHCA of 1935, prior to that law's recent repeal. One of the commitments is retaining the holding company structure that Black Hills currently has in place and the creation of BHUH as a separate holding company for the regulated utility assets in Iowa, Nebraska, and Kansas. This provision establishes a corporate structure that will help insulate BH Iowa Gas from the non-regulated subsidiaries of Black Hills.

Black Hills also commits to maintaining separate money pools for utility and non-utility subsidiaries under its current structure and agreements. This separation will provide another protection from the risks associated with non-utility affiliates of BH Iowa Gas.

Black Hills commits that: (1) BHUH and BH Iowa Gas will not provide financing for, extend credit to, issue long-term debt for, or pledge utility assets in support of non-utility subsidiaries; (2) BHUH and BH Iowa Gas will not guarantee any new debt obligations, notes, debentures, or any other security of Black Hills or its non-regulated operations; (3) new stand-alone or project financing for non-utility business activities will be without recourse to BHUH or BH Iowa Gas; (4) non-utility subsidiaries will be prohibited from lending money directly to BHUH and BH Iowa Gas; and (5) non-utility subsidiaries will be prohibited from carrying an inter-company accounts payable balance with any utility of BHUH on a recurring basis that is above the level of normal business transactions. These provisions provide additional ring-fencing protections for BH Iowa Gas from any risks associated with the activities of its non-regulated affiliates.

Black Hills commits that services provided by BHUH or BH Iowa Gas to any non-utility subsidiaries of Black Hills will be charged at the tariff rate, if applicable, or at the higher of cost or market. This provision provides some additional protection to BH Iowa Gas.

Black Hills commits that BH Iowa Gas will not make dividend payments to BHUH or Black Hills, without Board authorization, if it issues debt that would reduce BH Iowa Gas' stand-alone equity level below 40 percent of its total long-term capitalization. This provision could provide some additional protection, but there appears to be no plans to have BH Iowa Gas issue any debt, so the provision may have little practical effect.

Black Hills commits that BHUH and BH Iowa Gas will hold all of their assets in their own names and will maintain adequate capital and number of employees in light of their business purposes. This should ensure help that BH Iowa Gas assets are not being used by affiliates as collateral or for other purposes that might increase the danger of loss and the danger of being consolidated in any bankruptcy.

D. Board discussion

In the proposal for reorganization, Black Hills proposes the creation of a separate holding company, BHUH, within which BH Iowa Gas and the public utility subsidiaries in Kansas and Nebraska will be operated as separate corporate entities. BH Iowa Gas and BHUH will be a part of Black Hills, which currently has an investment-grade credit rating. It is important to the Board's review of the proposal for reorganization that Black Hills has an investment-grade credit rating and has made a commitment to endeavor to maintain that rating. The investment-grade rating should put Black Hills in a better position to attract capital than Aquila and this should benefit BHUH and BH Iowa Gas by lowering the cost of debt for those companies.

Ring-fencing provides two interrelated types of commitments that benefit the regulated utility. First, there are ring-fencing measures that insulate the public utility against excessive cash extraction by the parent. Second, there are ring-fencing measures that insulate the public utility from being consolidated in any bankruptcy of the parent.

The Settlement Agreement appears to mainly deal with the first set of benefits. However, Black Hills in its July 9, 2007, response regarding ring-fencing and bankruptcy argued that the Settlement Agreement includes several measures that provide insulation in the event of a bankruptcy proceeding involving Black Hills or its other subsidiaries. The ring-fencing measures specified by Black Hills are: (1) the holding company structure; (2) utilization of separate money pools; (3) non-recourse, project-level debt at certain subsidiaries; (4) stand-alone credit facility for Enserco Energy Inc. (Enserco); and (5) the practice of Black Hills to limit the issuance of parent guarantees for subsidiary debt. While the ring-fencing measures listed by Black Hills do not include all of the possible measures to prevent inclusion of BH Iowa Gas assets in a Black Hills bankruptcy or to assure a higher credit rating for

BHUH, the measures listed as a whole provide more insulation than currently exists under the Aquila corporate structure.

In addition, if the acquisition is not completed, under its current corporate structure Aquila faces a number of challenges that may affect its ability to continue to provide service at the same level and rates as currently exist. These challenges include: (1) corporate overhead expenses remain at or near previous levels even though sales of utilities and non-regulated assets have reduced the size of the company and it is likely that regulatory agencies will be reluctant to have their ratepayers pay for these corporate expenses or to pay down debt left over from failed non-regulated investments; (2) the $500 million debt due in 2012 makes it difficult to get interest expense down and would be expensive to call; and (3) it is doubtful that Aquila will be able to regain an investment-grade credit rating until its interest expense is reduced significantly.

Based upon the investment-grade credit rating given Black Hills, the commitment of Black Hills to endeavor to maintain that rating, the establishment of BHUH and BH Iowa Gas as separate corporations, and the ring-fencing commitments made by Black Hills as part of the application and Settlement Agreement, the Board finds that the acquisition of Aquila by Black Hills meets the statutory requirements concerning capital attraction and capital structure.

3. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.

There are several subissues that the Board considered under this statutory issue. These subissues are addressed in the Settlement Agreement or in other commitments made by Black Hills. The subissues are addressed below:

A. Base rates and tariff provisions

The Settlement Agreement provides in Article VI, sections 2(c) and (d) that BH Iowa Gas will maintain and accept all existing Aquila tariffs, except for changes approved by the Board, and rates and terms of conditions of service for customers will not be changed without Board approval.

Customers should see no major change in service or rates since BH Iowa Gas will adopt Aquila's tariffs. Under the terms of the Settlement Agreement, BH Iowa Gas will continue to provide natural gas service to Aquila’s customers in accordance with Aquila’s approved tariff rates and rules and regulations presently on file with the Board.

B. Shared services

The Settlement Agreement, Article VI, section 1(f), provides that on January 1 of each year BH Iowa Gas will file with the Board all shared services agreements between the utility and the holding company or other subsidiaries and affiliates. Article VI, section 1(g), provides that if a non-utility subsidiary or affiliated utility receives a material benefit from a cost incurred by BHUH or BH Iowa Gas, then the non-utility or affiliated utility will be charged a portion of that cost to compensate

BHUH or BH Iowa Gas. Article VI, section 1(h), provides that services provided by BHUH or BH Iowa Gas to any non-utility subsidiaries of Black Hills will be charged at the tariff rate, if applicable, or at the higher of cost or market.

These provisions in the Settlement Agreement regarding shared services between BH Iowa Gas and other Black Hills affiliates are reasonable and the January 1 filings will allow the Board to monitor the relationship between BH Iowa Gas and other Black Hills affiliates.

C. Cost benefit analysis

Exhibit MTT-2 shows that, on a preliminary basis, Black Hills is projecting net benefits to Iowa customers. Black Hills states that financial benefits will result from the asset acquisition and it expects to have a lower allocation of corporate and common administrative cost to the new utility subsidiaries than currently exists for Aquila. Consumer Advocate presented a different cost benefit analysis in its testimony. The settlement removes the cost benefit analysis as an issue in this case. The question of whether there are any benefits from the acquisition of Aquila need not be addressed in this docket, although it may come up in future dockets.

D. Pipeline safety programs

In the application, Black Hills committed to keep all existing Aquila field operations and field customer-service employees in their existing functions and locations and indicated there was no planned change in Aquila personnel involved in natural gas distribution service, including maintenance and repair of the distribution system. The Settlement Agreement does not specifically repeat this commitment; however, it does provide that Black Hills will make no material change in management or employee levels at BH Iowa Gas.

In its July 9, 2007, response, Black Hills stated that it will adopt the current Aquila Operations and Maintenance Manual, continue the comprehensive training program for service call response employees, continue other activities designed to minimize first-response times, and will continue activities designed to minimize the effect of an aging workforce. These commitments should help ensure that BH Iowa Gas will be able to provide the same level of service and meet federal and Board safety requirements.

E. Pipeline permits

Board rules at 199 IAC 10.19 requires that where a corporate restructuring will reassign the ownership of a pipeline permit, even where there will be no change in the operating personnel, notice to the Board of the transfer is required. The proposal for reorganization is sufficient notice of the change in ownership and Black Hills indicated that BH Iowa Gas will be the owner of the pipelines. Black Hills also provided a list of the pipeline permits that BH Iowa Gas will own. The Board has reviewed the list and finds it is complete. These actions satisfy the requirements in rule 199 IAC 10.19.

F. Board discussion

The Board finds that the provisions in the Settlement Agreement and Black Hills' commitments indicate that the acquisition of Aquila assets by Black Hills is unlikely to impair the ability of BH Iowa Gas to provide safe, adequate, and reliable service. BH Iowa Gas will provide service under the same tariffs and rates as Aquila is currently providing service and Black Hills has indicated that it has offered employment to all of the operational and field services personnel, as well as the managers of Aquila's gas operations. Finally, BH Iowa Gas has provided a complete list of gas pipeline permits that it will take over after the acquisition is complete.

4. Whether ratepayers are detrimentally affected.

There are several subissues the Board has considered in addressing this statutory issue.

A. Call center

In the July 9, 2007, response, Black Hills indicates that planning is underway to expand staffing at its Lincoln Call Center to cover customer service requirements 24 hours a day, 365 days a year. Black Hills indicates that a second, smaller call center is being planned to provide business continuity and to take a portion of the calls during peak times. Black Hills indicates that from a staffing perspective these will be viewed as one center with the majority of the agents in Lincoln and 15 percent to 20 percent at the second site.

There was some concern that call center operations might be adversely affected by the acquisition of the Aquila assets. Black Hills has indicated that Aquila's call center in Raytown, Missouri, would ultimately no longer be in use for Black Hills' customers. There was concern whether the Lincoln Call Center would have adequate capacity to answer calls without excessive wait times during the proposed transition from Aquila to Black Hills. The update by Black Hills in the July 9, 2007, response alleviates most of the concerns. Adding a second call center appears to be sufficient to accommodate the loss of the Raytown call center.

B. Cost allocation manual

The Settlement Agreement, Article VI, section 1(i), provides that Black Hills and BHUH will maintain cost allocation procedures for BH Iowa Gas in accordance with the then-current cost allocation manual (CAM). Black Hills Service Company costs will be charged in accordance with the CAM on file with the Board. The costs that are included for services provided by any non-utility subsidiary of Black Hills to BH Iowa Gas or BHUH shall be reasonably necessary and appropriate for the utility business and shall be charged on a valuation no higher than market prices.

Board rules at 199 IAC 33.4 requires the cost methodology for allocation purposes to be fully distributed cost. Black Hills' CAM explains how costs are assigned but does not specifically state that this methodology is in use. Board rules at 199 IAC 33.5 requires every rate-regulated gas public utility to file a CAM on or before September 1 of each year. (If the utility has not changed its manual since the last filing, the utility may file a letter with the Board to that effect.) The Board issued an order accepting Aquila's current CAM on February 13, 2007. Black Hills will be required to file its CAM under this rule. Compliance with the current CAM is reasonable and consistent with Board rules. Any issue of the reasonableness of the allocation of costs from Black Hills to BH Iowa Gas may be reviewed in BH Iowa Gas' rate cases.

C. Board discussion

The commitments made by Black Hills regarding retention of Aquila employees, establishment of a second call center, and adoption of a CAM for allocating costs to BH Iowa Gas should prevent Iowa ratepayers from being detrimentally affected by the acquisition. Call center operations and existing service quality are the primary contacts that a customer has with a utility and under the terms of the Settlement Agreement and other Black Hills commitments, customers should see little change in these contacts. Any issues concerning allocation of costs will be addressed in BH Iowa Gas rate cases, if necessary.

5. Whether the public interest is detrimentally affected.

The public interest is addressed by the terms of the Settlement Agreement and the July 9, 2007, responses. Consumer Advocate is a party to the Settlement Agreement and supports the July 9, 2007, responses.

If Black Hills keeps the commitments that it has made in the Settlement Agreement and the July 9, 2007, responses, then the public interest should not be detrimentally affected by the sale of Aquila assets. Black Hills has committed to retain Aquila employees and managers, maintain Aquila operations procedures, maintain the Lincoln Call Center and provide for a backup center, continue Aquila's activities to meet federal and Board safety requirements, establish a corporate structure that includes some ring fencing protection, and has a relatively conservative corporate history. The commitments made by Black Hills should help to ensure that service will continue at the level now provided and that the communities where Aquila serves should see no change in service or adverse effects from the acquisition. Based on this record, the Board finds that the sale of Aquila will not detrimentally affect the public interest and, given the alternative of Aquila continuing service, may have a beneficial effect into the future.

6. Natural gas purchasing.

In the Settlement Agreement, Article VI, section 2(f), Black Hills commits to maintaining a reliable gas supply portfolio for BH Iowa Gas. In the July 9, 2007, response, Black Hills states that Enserco, a subsidiary, currently supplies gas to Aquila and that Enserco will continue to supply Aquila only if it is best for Aquila’s customers. Black Hills states it has not determined whether gas supplies for BH Iowa Gas will be supplied by or through Enserco or some other Black Hills affiliate in the future. Black Hills will make its decision based upon the expected benefits for Aquila’s consumers with respect to the possibility of Enserco remaining a supplier to

Aquila and its ability to demonstrate that Enserco's opportunity to supply natural gas is achieved in a competitive environment without special knowledge or favoritism.

In addition, Black Hills states that the Settlement Agreement provides in Article VI, section 1(i); that goods and services provided by non-regulated subsidiaries shall be necessary and appropriate for the utility business and shall be charged no higher than market price. Black Hills also states that it will comply with Article VI, section 1(l), requiring that it operate each of its utility businesses in accordance with prudent utility standards and practices, and will not engage in any practice with respect to allocation, assignment or distribution of capital, shared expenses, or other costs that is unduly discriminatory or preferential.

The question of manipulation of gas purchasing practices to the detriment of public utility customers has been addressed by Aquila and other public utilities in Iowa in their natural gas purchasing procedures. The provisions in the Settlement Agreement and the July 9, 2007, response, establish Black Hills' general intentions, although, they do not provide in detail how the procedures Black Hills has in place are designed to prevent manipulation from happening. The Board will accept Black Hills' commitments as an indication that it will not engage in this practice, but this is a question that the Board will continue to monitor.

7. Acquisition premium.

The Settlement Agreement, Article IX, provides that Black Hills will record an acquisition premium for accounting purposes as a result of the proposed transaction.

Black Hills believes it is good public policy to allow shareholders an opportunity to retain benefits from acquisitions initiated by a utility that create the potential to increase efficiency, reduce costs, or increase productivity. Article IX establishes parameters, agreed to among the parties, with respect to the potential issues involving recovery of an acquisition premium in future rate cases.

The parameters for addressing the issues associated with the recovery of an acquisition premium established in the Settlement Agreement do not bind the Board to any particular treatment of the issues in future cases. The parameters are an agreement among the parties to this docket and are binding only on those parties that are signatories to the Settlement Agreement. Recovery of the acquisition premium may be an issue in BH Iowa Gas' future rate cases and the Board will be able to address the issue based upon the evidence in those proceedings and not based upon the parameters agreed to in this settlement.

8. Settlement Agreement and Iowa Code § 476.77.

Board rules at 199 IAC 7.18(17A, 476) provides that the Board will not approve a settlement unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Based upon the discussion of the statutory issues and other issues above, the Board finds that the Settlement Agreement filed by Joint Applicants is reasonable, consistent with law, and in the public interest.

Iowa Code § 476.77(1) provides that a proposal for reorganization should be disapproved if the reorganization would be contrary to the interest of the public utility's ratepayers or the public interest. The discussion of the statutory issues shows that Aquila's customers should see little or no difference in service or rates after the acquisition and that BH Iowa Gas has committed to maintain Aquila activities to ensure the system is safely maintained. Black Hills appears to be a more financially sound company than Aquila, and Black Hills has committed to retaining Aquila employees and hiring additional employees where necessary. In addition, commitments by Black Hills and the provisions in the Settlement Agreement provide additional protection for Iowa ratepayers and the public in general. Based upon these factors, the Board finds that the reorganization is not contrary to ratepayer interests and is not contrary to the public interest.

DISCONTINUANCE OF SERVICE

Article VII of the Settlement Agreement provides that at such time as the proposed reorganization is consummated, BH Iowa Gas will be ready, willing, and able to provide utility service in Iowa comparable to the utility service currently provided by Aquila and that Aquila accordingly be authorized, pursuant to Iowa Code § 476.20(1), to discontinue providing utility service in Iowa at that time.

Iowa Code § 476.20(1) requires that a utility obtain permission from the Board before it discontinues utility service to a community or part of a community. Board rules at 199 IAC 7.6 provide that the Board will approve the discontinuance if it finds that the utility service is no longer necessary or the Board finds the transferee is ready, willing, and able to provide comparable utility service. Based upon the terms in the Settlement Agreement and Black Hills' commitment to retain Aquila employees and continue Aquila's method of operation, the Board finds that BH Iowa Gas will be ready, willing, and able to provide comparable utility service to current Aquila customers once the acquisition is executed. The Board will grant the application for discontinuance of natural gas service as requested by Aquila, contingent upon the acquisition being completed.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The Settlement Agreement filed on June 22, 2007, by the Consumer Advocate Division of the Department of Justice, Aquila, Inc., d/b/a Aquila Networks, Black Hills Corporation, and Black Hills/Iowa Gas Company, LLC, is approved.

2. The proposal for reorganization filed by Aquila, Inc., d/b/a Aquila Networks, Black Hills Corporation, and Black Hills/Iowa Gas Company, LLC, on April 4, 2007, is not disapproved.

3. Aquila, Inc., d/b/a Aquila Networks, is granted permission to discontinue natural gas service in Iowa upon the completion of the acquisition by Black Hills Corporation. Aquila, Inc., d/b/a Aquila Networks, shall file notice of the specific date service will be discontinued prior to discontinuance.

4. Black Hills Corporation shall file any order from other jurisdictions approving a settlement that authorizes the transfer of any of the assets of Aquila, Inc., d/b/a Aquila Networks to Black Hills Corporation. The filing shall include a brief statement concerning any additional insulation measures or commitments that are to be included in the Settlement Agreement approved in this order.

5. All motions or objections not specifically ruled on by the Utilities Board are overruled and denied.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 31st day of August, 2007.