

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC, d/b/a BLACK HILLS ENERGY (f/k/a AQUILA, INC., d/b/a AQUILA NETWORKS)</p>	<p>DOCKET NO. RPU-08-3</p>
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**ORDER DIRECTING FILING OF
REPLACEMENT TESTIMONY AND EXHIBITS**

(Issued September 26, 2008)

On August 12, 2008, the Utilities Board (Board) issued an order denying a motion to dismiss filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), scheduling a prehearing conference, extending the statutory deadline for issuing a decision, and modifying the procedural schedule in this docket. In the order, the Board directed Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills Energy), f/k/a Aquila, Inc., d/b/a Aquila Networks (Aquila), to file supplemental direct testimony and exhibits that addressed the sale of Aquila's Iowa assets to Black Hills Energy. On September 12, 2008, Black Hills Energy filed the supplemental direct testimony and exhibits and requested the Board hold certain information in the testimony and exhibits as confidential.

On September 16, 2008, Consumer Advocate filed a response objecting to the request for confidential treatment. On September 22, 2008, Black Hills Energy filed a reply to Consumer Advocate's response.

Black Hills Energy requests confidential treatment for information in the testimony and exhibits of witnesses Steven M. Jurek, Joseph M. Barr, and Richard Kinzley. Black Hills Energy states that the information for which confidential treatment is requested is subject to the rules and regulations of the federal Security and Exchange Commission (SEC) and the SEC prohibits selective disclosure of information that could be deemed material. Black Hills Energy states that generally a public company is required to make a formal press release or file a formal SEC report and until Black Hills Energy is required to publicly disclose the information it is entitled to keep the information confidential. Black Hills Energy contends that release of the information in the rate case could subject it to adverse action by the SEC and could cause competitive harm.

Black Hills Energy states that the information should be held confidential under Iowa Code § 22.7 as trade secrets and a report to a government agency which, if released, would give advantage to competitors and serve no public purpose.

Consumer Advocate contends that the information sought to be held confidential does not qualify for confidential treatment pursuant to Iowa Code § 22.7. Consumer Advocate argues that much, if not all, of the information is normal revenue requirement information that is commonly disclosed to the public in rate cases. Consumer Advocate points out that Black Hills Energy does not explain which of the information is required to be protected by SEC regulations, which is considered a trade secret, and which is a report to a government agency. Consumer Advocate

also argues that the SEC regulations do not appear to prevent disclosure or are not applicable to the Board and Board proceedings.

In its reply, Black Hills Energy states that it considers all of the information designated as confidential to be trade secrets until the information may be disclosed in accordance with SEC rules and regulations. Black Hills Energy states that it goes to great lengths to protect the type of information sought to be protected in this docket. Black Hills Energy states that it discloses this type of information to the public only after careful consideration of the securities laws and if the information is prematurely released to the public without full disclosure that would normally accompany the information, Black Hills Energy's competitors could use the information to their advantage, or the information could be misleading to Black Hills Energy shareholders.

Black Hills Energy states that it will release some of the information through a formal SEC report on Form 8-K by the end of September 2008, in accordance with SEC requirements for the Aquila acquisition. Black Hills Energy states at that time it would be willing to disclose in this docket any information that is disclosed in the Form 8-K report.

Rather than address the separate pieces of testimony and exhibits for which confidential treatment is claimed at this time, the Board will direct Black Hills Energy to refile the supplemental direct testimony and exhibits where the information has been released to the public in the Form 8-K report. Once Black Hills Energy has

refiled the information as public in this docket, the Board will then address the request for confidential treatment of any remaining information subject to the request for confidential treatment filed August 12, 2008. Black Hills Energy need only refile the pages on which information will be made public and those pages can be inserted into the public versions of the testimony and exhibits.

IT IS THEREFORE ORDERED:

Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (f/k/a Aquila, Inc., d/b/a Aquila Networks), shall refile supplemental direct testimony and exhibits as described in this order on or before October 10, 2008.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 26th day of September, 2008.