

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
AQUILA INC., d/b/a AQUILA NETWORKS-MGU,)	
for authority to implement a gas cost recovery)	Case No. U-13550
plan and factors for calendar year 2003.)	
_____)	

At the June 27, 2003 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

TEMPORARY ORDER APPROVING A GAS COST RECOVERY FACTOR

On September 30, 2002, Aquila Inc., d/b/a Aquila Networks-MGU, (Aquila) filed an application for approval of its gas cost recovery (GCR) plan and factors for 2003, with prefiled testimony and exhibits supporting a factor of up to \$4.70 per thousand cubic feet (Mcf).

At a prehearing conference on November 13, 2002, Administrative Law Judge Daniel E. Nickerson, Jr., (ALJ) granted leave to intervene to Attorney General Jennifer M. Granholm (Attorney General)¹ and the Residential Ratepayer Consortium (RRC), and approved a procedural schedule. The Commission Staff (Staff) also participated.

On March 18, 2003, due to a sharp increase in natural gas prices subsequent to the preparation and filing of Aquila's application, the parties submitted an interim settlement agreement that

¹ On January 1, 2003, Michael A. Cox replaced Ms. Granholm as Attorney General.

provides for a temporary GCR factor of up to \$6.08 per Mcf. Aquila and the Staff supported the interim settlement agreement. The Attorney General and RRC filed statements of non-objection.

The interim settlement agreement provides that it would be reasonable and appropriate for the Commission to issue a temporary order authorizing Aquila to charge a temporary GCR factor up to \$6.08 per Mcf until the Commission issues a final order in this docket. The parties reserve the right to support or challenge the reasonableness and prudence of Aquila's actual 2003 gas supply costs in future proceedings in this case or in Aquila's 2003 GCR reconciliation case. The interim settlement agreement further provides that if Aquila believes that its current GCR underrecovery status has been sufficiently mitigated, it will prospectively reduce its GCR factor at its first reasonable opportunity to do so.

The GCR process was created by the Legislature over 20 years ago to protect ratepayers from automatic adjustment clauses and to enable utilities to recover their gas costs, albeit without a markup or a profit of any kind. The Commission is required to annually review a utility's GCR plan and to conduct a second review after conclusion of each plan year to verify the utility's entitlement to recovery of such costs. In so doing, the burden is on the utility to demonstrate that its GCR costs are attributable to reasonable and prudent management decisions. The Commission has, on many occasions, disallowed costs that were not so attributed.

Based on the interim settlement agreement, the Commission concludes, pursuant to MCL 460.6h(8), that it would be appropriate to authorize Aquila to charge a temporary GCR factor up to \$6.08 per Mcf until the Commission issues a final order in this docket. Moreover, because all issues concerning the reasonableness and prudence of Aquila's 2003-2004 GCR plan and the utility's gas acquisition policy will remain subject to review in this proceeding, the Commission is persuaded that granting the relief recommended in the interim settlement is in the

public interest. Today's action will mean that the monthly bills of a typical residential customer using 1,200 hundred cubic feet (ccf) per year will increase by an average of \$5.26 per month during the summer and by an average of \$22.63 per month during the winter.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1982 PA 304, as amended, MCL 460.6h et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. The interim settlement agreement, attached as Exhibit A, is approved.
- c. Aquila should be authorized to implement a temporary GCR factor of up to \$6.08 per Mcf until the Commission issues a final order in this docket.

THEREFORE, IT IS ORDERED that:

- A. The interim settlement agreement, attached as Exhibit A, is approved.
- B. Aquila Inc., d/b/a Aquila Networks-MGU, is authorized to implement a temporary GCR factor of up to \$6.08 per thousand cubic feet until the Commission issues a final order in this docket.
- C. Aquila Inc., d/b/a Aquila Networks-MGU, shall file, within 30 days, tariff sheets consistent with this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle

Chairman

(S E A L)

/s/ David A. Svanda

Commissioner

/s/ Robert B. Nelson

Commissioner

By its action of June 27, 2003.

/s/ Robert W. Kehres

Its Acting Executive Secretary

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of June 27, 2003.

Its Acting Executive Secretary

STATE OF MICHIGAN
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of Aquila Inc. d/b/a)	
Aquila Networks-Michigan Gas Utilities for authority)	
to implement a gas cost recovery plan and factors)	Case No. U-13550
for calendar year 2003.)	
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INTERIM SETTLEMENT AGREEMENT

On September 30, 2002, Aquila Inc. d/b/a Aquila Networks – MGU (“Aquila”) filed an application with the Michigan Public Service Commission (“Commission”) in this case seeking approval of a gas cost recovery (“GCR”) plan for the 12-month period January 2003 through December 2003 (the “2003 GCR Year”) and authorization of a GCR factor of \$4.70 per thousand cubic feet (“Mcf”) for the 2003 GCR Year. Aquila filed testimony and exhibits in support of its position concurrently with its application.

The initial prehearing conference in this case was held on November 13, 2002, before Administrative Law Judge Daniel E. Nickerson, Jr. (“ALJ”). The parties to this case are Aquila, Attorney General Michael A. Cox (“AG”), the Residential Ratepayer Consortium (“RRC”) and the Commission Staff.

Aquila’s September 30, 2002, filing requested authority to implement a GCR factor of \$4.70 per Mcf. Effective January 1, 2003, Aquila self implemented a GCR factor of \$4.3846 per Mcf, approximately \$0.32 less than the \$4.70 per Mcf ceiling GCR factor to reflect refunds resulting from the Commission’s November 7, 2002 orders approving settlement agreements relative to the following dockets: Case No. U-11192-R

(1997 GCR year), Case No. U-11542-R (1998 GCR year), Case No. U-11802-R (1999 GCR year) and Case No. U-12122-R (2000 GCR year).

On February 7, 2003, the AG, RRC and the Commission Staff filed direct testimony and exhibits. Following the filing of their direct testimony and exhibits, the parties met to discuss potential settlement of all issues. In light of progress during those discussions and to facilitate such settlement discussions, the ALJ agreed to defer rebuttal filings to March 31, 2003.

While the parties believe that they have made significant progress, they believe that there are still issues to be resolved. However, the parties believe it reasonable and appropriate to enter into this interim settlement agreement which incorporates certain adjustments to Aquila's proposed GCR factor and sets forth agreement on certain substantive issues.

Subject to the acceptance and approval of the Commission without modification, the parties agree and stipulate as follows on an interim basis:

1. The parties stipulate that Aquila should be authorized to charge GCR factors up to \$6.08 per Mcf for April, May and June 2003, and thereafter until such time as the Commission issues its final order in this docket. The parties reserve the right to support or challenge the reasonableness and prudence of Aquila's actual 2003 gas supply costs in further phases of this GCR plan docket or in Aquila's 2003 GCR reconciliation.

2. Aquila agrees that during the 2003 GCR year, if it believes that its under-recovery status has been sufficiently mitigated, it will prospectively reduce its GCR factor at its first reasonable opportunity to do so.

3. The parties agree that accelerated locking provisions identified in Aquila's 2003 GCR Plan should not be implemented at this time.

4. This settlement agreement is entered into for the sole and express purpose of reaching an interim compromise among the position of the parties. All offers of settlement and discussions relating to this settlement are, and shall be considered, privileged under MRE 408. If the Commission approves this settlement agreement without modification, neither the parties to this settlement agreement nor the Commission shall make any reference to, or use this settlement agreement or the order approving it as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this settlement agreement.

5. This settlement agreement is based on the facts and circumstances of this case and is intended for interim disposition of Case No. U-13550. So long as the Commission approves this settlement agreement without any modification, the parties agree not to appeal, challenge, or otherwise contest the Commission order approving this settlement agreement. Except for the matters specifically referenced in this settlement agreement, the parties agree and understand that this settlement agreement does not limit any party's right to take new or different positions on similar issues in other administrative proceedings or appeals related thereto.

6. This settlement agreement is not severable. Each provision of this settlement agreement is dependent upon all other provisions of this settlement agreement. Failure to comply with any provision of this settlement agreement constitutes failure to comply with the entire settlement agreement. If the Commission rejects or modifies this

settlement agreement or any provision of this settlement agreement, this settlement agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall be without prejudice to the pre-negotiation positions of the parties.

7. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969, MCL 24.281, as it applies to this interim settlement agreement, if the Commission approves this settlement agreement without modification.

WHEREFORE, the parties hereto respectfully request that the Commission approve this interim settlement agreement and make it effective in accordance with its terms by an expedited order.

AQUILA INC. d/b/a AQUILA
NETWORKS - MGU

MICHIGAN PUBLIC SERVICE
COMMISSION STAFF

By: _____



Albert Ernst
Christine Mason Soneral
Dykema Gossett PLLC
800 Michigan National Tower
Lansing, MI 48933

By: _____



Kristin M. Smith
Assistant Attorneys General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911

Dated: _____

3/10/03

Dated: _____

3/10/03

STATE OF MICHIGAN
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

**In the matter of the application of Aquila Inc. d/b/a)
Aquila Networks-Michigan Gas Utilities for authority)
to implement a gas cost recovery plan and factors)
for calendar year 2003.)**

Case No. U-13550

ATTORNEY GENERAL AND RESIDENTIAL RATEPAYER CONSORTIUM
STATEMENT OF NON-OBJECTION
TO
INTERIM SETTLEMENT AGREEMENT

WHEREAS:

1. There has been a sharp increase in natural gas prices since Aquila filed its 2003 GCR Plan;
2. If Aquila charges the \$4.70 per Mcf GCR factor requested in its 2003 GCR Plan for the remaining months of 2003, Aquila will experience an under recovery of its 2003 gas costs;
3. Any under recovery of Aquila's 2003 gas costs will be passed on to customers in higher GCR billing factors in 2004; and
4. Aquila has agreed that if charging the \$6.08 per Mcf GCR factor sufficiently mitigates the under recovery of its 2003 gas costs, Aquila will prospectively reduce its GCR factor at its first reasonable opportunity to do so.

THEREFORE: in accordance with Rule 333 of the Commission's Rules of Practice and Procedure, R 460.17333, Attorney General Michael A. Cox and the Residential Ratepayer Consortium hereby submit this Statement of Non-Objection.

ATTORNEY GENERAL MICHAEL A.
COX

RESIDENTIAL RATEPAYER
CONSORTIUM

By: Donald E. Erickson
Don Erickson
Assistant Attorney General
Special Litigation Division
6th Floor G. Mennen Williams
Bldg.
525 W. Ottawa Street
Lansing, MI 48913

By: David L. Shaltz
David L. Shaltz
Shaltz & Royal, PC.
3303 West Saginaw, Suite C-1
Lansing, MI 48917

Dated: March 13, 2003

Dated: 3/10/03