

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-150G

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IN THE MATTER OF THE JOINT APPLICATION TO TRANSFER A PORTION OF  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM AQUILA, INC.,  
DBA AQUILA NETWORKS-PNG, TO COLORADO NATURAL GAS, INC.

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**COMMISSION ORDER AUTHORIZING TRANSFER  
AND ISSUANCE OF CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY**

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Mailed Date: May 30, 2003  
Adopted Date: May 28, 2003

**I. BY THE COMMISSION**

**A. Statements**

1. On April 15, 2003, Aquila, Inc., doing business as Aquila Networks-PNG (Aquila), and Colorado Natural Gas, Inc. (CNG) (collectively Joint Applicants), filed a verified application requesting an order from the Commission to transfer to CNG a portion of Aquila's Certificate of Public Convenience and Necessity (CPCN) in certain areas of Teller County, Colorado, as more fully described below.

2. This application for authority to transfer CPCN is made under § 40-5-101, C.R.S., and Rule 55 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

3. The matter is uncontested and unopposed. In accordance with § 40-6-109(5), C.R.S., and 4 CCR 723-1-24, the Commission may decide this matter pursuant to its modified procedures without a formal hearing.

**B. Findings of Fact**

4. Aquila is a Delaware corporation in good standing with its principal office and place of business located at 1815 Capitol Avenue, Omaha, Nebraska 68102. Aquila's principal office in Colorado is located at 7060 Alegre Street, P.O. Box 280, Fountain, Colorado 80817. CNG is a Colorado corporation in good standing with its principal office and place of business located at 111 Mt. Evans Boulevard, Pine, Colorado 80470.

5. Applicants are corporations authorized to do business in the State of Colorado and are local distribution companies, engaged, *inter alia*, in the purchase, distribution, transportation, and sale of natural gas in various certificated areas in the State of Colorado.

6. Aquila obtains its natural gas supply at wholesale for its entire Colorado service area from third party suppliers in conjunction with supply made available by Colorado Interstate Gas Company (CIG). All gas supply is transported by CIG. CNG's natural gas requirements for both Bailey and Cripple Creek service areas are met through firm gas sales agreements. Supplies needed to serve CNG's Bailey service area are transported for delivery to CNG's system via Public Service Company of Colorado's (PSCo) system. Supplies needed to serve CNG's Cripple Creek service area are transported for delivery to CNG's system via Aquila. Pipeline delivery services provided by PSCo and Aquila are subject to the jurisdiction of this Commission. Applicants have access to a natural gas supply sufficient to meet the projected needs of customers in the areas sought in this Application.

7. Aquila currently provides natural gas service to approximately 53,500 residential, commercial, and industrial customers in the Colorado service territory. CNG currently provides natural gas service to approximately 4,350 residential and commercial customers in its service

territory. Aquila seeks Commission approval to transfer a portion of its CPCN (as authorized by the Commission in Decision No. C01-11 in Docket No. 00A-603G) in specific areas of Teller County, Colorado to CNG. CNG likewise seeks a CPCN conferring to it the right to provide natural gas sales, distribution, and transportation services in Teller County, Colorado in the area described generally as follows:

Township	Range	Sections
12 South	69 West	All of 17, 18, 19, 20, 21
12 South	70 West	All of 26, 27, 28, 33, 34, 35
13 South	70 West	SW $\frac{1}{4}$ of 12, all of 2, 3, 4 and all of 9, 10, 11 that lie north of US Hwy 24.

8. The proposed area to be transferred from Aquila to CNG includes the subdivisions of Tranquil Acres, Shadow Lake Estates, Spring Valley, Aspen Moors, Skycrest, Aspen Village, Broken Wheel Village, and Highland Lakes. The proposed transfer involves only areas certificated but not served. There are currently no customers located, nor natural gas service being provided, in the territory to be transferred. Moreover, no assets are involved in the proposed transfer. As such there are no accounting entries to be made in conjunction with the transfer, nor is there a sales agreement or contract of sale between Applicants.

9. Applicants represent that because natural gas service is not currently being provided, and no customers currently exist in the territory to be transferred, it is not possible (nor useful) to evaluate “the benefits and detriments, if any, to the customers each of the party,” nor is it possible (nor useful) to compare “the kinds and costs of service rendered before and after the proposed transfer.” *See*, Rules 4 CCR 723-1-55(c)13(D) and (E). Applicants state that given the existing and anticipated future location of Aquila’s and CNG’s facilities, Applicants believe the

proposed transfer of Aquila's currently certificated service territory to CNG as described herein is not contrary to the public interest.

10. Neither CNG nor any person affiliated with CNG holds authority duplicating in any respect the authority sought to be transferred to CNG herein. CNG and Aquila are the only public utilities of like character providing similar service in or near the territory involved in this Application.

11. Through this Application, CNG is seeking a CPCN to extend and operate its natural gas distribution system to designated areas within Teller County, Colorado. The service territory for which CNG seeks the issuance of a CPCN is comprised of territory that is adjacent to existing service territory in the area, thus constituting service territory into which CNG reasonably expects to expand service in the ordinary course of business through a logical and orderly expansion of its system, as customer growth dictates in the future. The proposed territory is not currently served by any other natural gas provider. CNG seeks to provide natural gas public utility services to new potential customers in the proposed service territory.

12. CNG will construct, own, and operate a four-inch PE main pipeline to serve the area to be transferred to it by Aquila pursuant to this Application. CNG represents that it has the operational and management experience, the financial capability, and is qualified in all respects to extend its natural gas distribution operations as set forth herein. A copy of CNG's most recent balance sheet, income statement, and statement of retained earnings, dated December 31, 2002, are attached to the Application. CNG believes that these exhibits demonstrate that CNG is financially capable of constructing and operating the extension of its natural gas distribution

system as proposed herein and CNG requests that these financial statements be accepted in lieu of a feasibility study.

13. CNG's tariff, including the rates and regulations of CNG, are on file with the Commission and will be applicable to the operations proposed in this Application.

14. Applicant is prepared to begin the construction process concerning the system extension described in this Application and will commence construction as soon as is practical following the grant of this Application. As permitted by Rule 4 CCR 723-1-55(c)(5) of the Commission's Rules of Practice and Procedure, Applicant has submitted financial statements in lieu of a feasibility study. However, at the time of extending operations pursuant to existing tariff provisions into territory contiguous to existing service territory, Applicant should maintain records that would allow audit by the Staff of the Commission. Any area of the requested CPCN not served by Applicant within a reasonable time frame will be subject to review, revision, or termination by this Commission in light of circumstances regarding the availability of service, reliability of supply, or ability of another utility to commence service.

15. The present and future public convenience and necessity respectively now requires and will require the extension and operation of a natural gas distribution system as proposed in this Application.

16. This Application for a CPCN is made under § 40-5-101, C.R.S., and Rule 55 of the Commission's Rules of Practice and Procedure.

17. The Commission issued Notice of the Application on April 18, 2003. No protest, objections, or petitions to intervene and requests for hearing have been filed. Therefore, the application may be granted without formal hearing.

18. The granting of the requested CPCN will be in the public interest, and it should be granted.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The joint application to transfer a portion of Certificate of Public Convenience and Necessity from Aquila, Inc., doing business as Aquila Networks-PNG, to Colorado Natural Gas, Inc., is granted.

2. The request by Colorado Natural Gas, Inc., to submit financial statements in lieu of a feasibility study, is granted.

3. A Certificate of Public Convenience and Necessity is granted to Colorado Natural Gas, Inc., to extend and operate its natural gas distribution system in specific portions of Teller County as described herein, and this Order shall be deemed to be, and shall be, a Certificate of Public Convenience and Necessity.

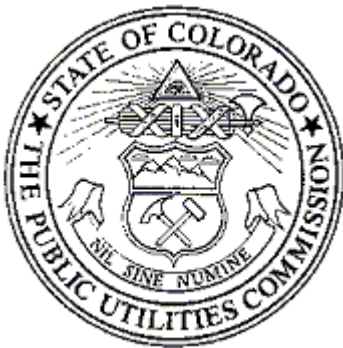
4. The Commission shall retain jurisdiction of this proceeding to the end that it may take such action and enter such orders as may appear necessary to fully effectuate this Order. Any area of the requested Certificate of Public Convenience and Necessity not served by Colorado Natural Gas, Inc., within some reasonable time frame will be subject to review, revision, or termination by this Commission.

5. The authority herein granted shall be exercised from and after the date of this Decision.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
May 28, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners