

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-645S

IN THE MATTER OF THE APPLICATION OF AQUILA, INC., FOR AN ORDER
AUTHORIZING A PLEDGE OF ASSETS TO SECURE REVISED FINANCING
ARRANGEMENTS.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
DISMISSING APPLICATION**

Mailed Date: January 22, 2003

I. STATEMENT

1. This application was filed by Aquila, Inc., on December 12, 2002. The purpose of the application was to authorize Aquila, Inc., to proceed with a pledge of assets to secure revised financing agreements for a revolving credit facility totaling \$650 million. The Commission gave notice of the application and set a hearing for January 6, 2003.

2. The Colorado Office of Consumer Counsel (OCC) and the Staff of the Commission (Staff) intervened. By Decision No. R03-0019-I, the hearing was rescheduled for February 6, 2003, and the statutory timeframe for disposition was extended from 30 to 90 days.

3. On January 21, 2003, Aquila, Inc., filed its Motion to Withdraw Verified Application Without Prejudice. As grounds for the motion Aquila, Inc., states that certain details of this transaction, including the identity of any Colorado assets to be pledged, are unavailable at present. Aquila, Inc., suggests that this information may become available later, at which point it will file a different application. Aquila, Inc., further represents that neither the OCC nor the Staff object to the granting of the motion.

4. Good grounds having been shown, the motion should be granted and the matter dismissed.

5. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. Docket No. 02A-645S, being an application of Aquila, Inc., is dismissed without prejudice. The hearing in this matter scheduled for February 6, 2003 is vacated.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KEN F. KIRKPATRICK

Administrative Law Judge

ATTEST: A TRUE COPY

Bruce N. Smith
Director