

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-052E

IN THE MATTER OF THE APPLICATION OF AQUILA, INC., DOING BUSINESS AS AQUILA NETWORKS-WPC, FOR APPROVAL OF ITS 2003 LEAST-COST RESOURCES PLAN.

**ORDER GRANTING PARTIES 30 DAYS FOR DISCOVERY
AND NEGOTIATION TO DETERMINE
WHETHER A HEARING IS REQUIRED IN THIS DOCKET.**

Mailed Date: March 22, 2004
Adopted Date: March 17, 2004

I. BY THE COMMISSION

A. Statement

1. On February 2, 2004, Aquila, Inc., doing business as Aquila Networks-WPC (Aquila), filed an application for approval of its 2003 Least-Cost Resources Plan (LCP). Commission Staff (Staff) and the Colorado Office of Consumer Counsel (OCC) each filed a notice of intervention on March 2, 2004, and both asked that this application be set for a hearing before an administrative law judge. Cripple Creek & Victor Gold mining Company and Holcim, Inc., filed a petition for intervention, but do not request that the matter be set for hearing. Aquila then filed its Opposition to Intervenor's Request for a Hearing on March 12, 2004.

2. LCPs must be filed with the Commission every four years. Rule 4 *Code of Colorado Regulations* (CCR) 723-21-3613(a)(2003) allows the Commission discretion as to whether to hold a hearing on this application. Aquila asserts that it will not require additional resources to supplement its supply-side mix until 2012, and its LCP does not present a plan for acquiring any major resources during that time, other than the extension of a contract approved by the Commission in its 1999 Integrated Resource Plan. Since it will file its next LCP in 2007,

Aquila argues that there is no need for a hearing, since any determination of whether and how it should acquire additional resources can be handled in that docket.

3. Staff asserts that it has concerns regarding the load forecasting methodology, concerns regarding Aquila's near-term resource adequacy, and concerns regarding Aquila's resource acquisition plans. OCC believes Aquila's proposal to acquire any capacity needs through 2011 on the open market on a short-term basis may not be in the best interests of its consumers. Both OCC and Staff thus request a hearing but present no specific information in support of their positions.¹ We believe that Aquila's position has potential merit and do not want to set this matter for hearing unnecessarily. However, we have a duty to ensure that there are adequate power resources to serve the public at a fair cost to consumers. We do not have enough information at this time to determine whether a hearing is required. We will thus grant the parties 30 days for discovery, and direct the parties to exchange information to determine whether there needs to be a hearing before an ALJ. Discovery shall be limited to issues that are relevant to the LCP Rules 4 CCR 723-3600-3615. Within 30 days of the mailed date of this order, Staff and OCC shall file responses to Aquila's Opposition to Intervenor's Request for a Hearing. Aquila shall then have ten days to reply. The Commission will then determine whether a hearing is required, and if a hearing is required the Commission may establish the scope of the proceeding, based on these pleadings.

¹ We recognize that at the time of intervention parties typically have not developed their full case, and we find that the general statements of concern provided by Staff and OCC are adequate for the purposes of intervention. Staff's inclusion of "any and all other issues not raised herein that are relevant to this proceeding" is appropriate in the context of an intervention.

II. ORDER**A. The Commission Orders That:**

1. Additional information is required in order to determine whether Commission Staff's and Office of Consumer Counsel's motions for a hearing should be granted.
2. The parties shall be permitted 30 days from the mailing date of this Order to conduct discovery to determine whether there are genuine factual disputes that may be resolved only through a hearing.
3. Discovery shall be limited to issues that are relevant to the Least Cost Resource Planning Rules 4 *Code of Colorado Regulations* 723-3600-3615.
4. Within 30 days of the mailing date of this Order, Office of Consumer Counsel and Commission Staff shall file a response to Aquila, Inc., doing business as Aquila Networks-WPC's opposition to a hearing, setting forth in detail specific reasons for holding a hearing.
5. Within ten days of the date of service of the later of Commission Staff's and Office of Consumer Counsel's responses, Aquila, Inc., doing business as Aquila Networks-WPC may file a reply.
6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 17, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners