

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 SHORTENING DISCOVERY
RESPONSE TIME TO SIX DAYS**

Mailed Date: March 25, 2004
Adopted Date: March 24, 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. 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. By order adopted at our March 17, 2004 weekly meeting, we determined that we did not have enough information to decide whether the matter should be set for hearing. We allowed the parties 30 days to file discovery requests and gather information to present to the Commission on whether a hearing would be necessary. Within the 30-day period, Staff and the OCC would file a response to Aquila's contention that a hearing is not necessary, and then Aquila would have 10 days to reply.

3. Before the Commission is a motion by Staff to shorten the typical response time to discovery requests from ten days to three days. Staff contends that because there is a 30-day time frame in which to conduct discovery to determine whether a hearing is necessary, the normal 10-day period is too long given that the parties must analyze information and then perhaps submit additional discovery requests. Aquila opposes this motion given that it is subject to a huge volume of discovery requests in many different matters, and that the timeframe set forth in the rules permits parties adequate time to analyze requests and prepare responses. Aquila is willing to reduce the response time to 5 days, provided, however, that: the scope of discovery is limited beyond the restrictions in our initial order; after the 30-day period expires, the normal 10-day response time is reinstated; the Commission order that service of any discovery on Friday after 12 o'clock noon shall be considered discovery served the next business day; the Commission order service of all discovery and audit requests on both counsel and Mr. Scott Keith of Aquila by e-mail. Responses would be served on Ms. Elizabeth Hayes for Staff and Dr. Schechter for the OCC.

4. We agree that the timeframe for responses to discovery should be shortened given the 30-day discovery window but believe that allowing only 3 days is overly burdensome to the party responding to the request. We also believe the scope of discovery as set forth in our original order is appropriate. Because our shortened response time only applies to the 30-day period for discovery, the normal 10-day period will automatically be reinstated at the end of that 30-day period. Therefore we will reduce the response time to six business days, order that service of all discovery requests be made to counsel and Mr. Scott Keith by e-mail, and order that service of any discovery on Friday after 12 noon shall be considered to have been served the following business day.

II. ORDER

A. The Commission Orders That:

1. The response time to discovery and audit requests shall be shortened from ten days to six business days.
2. All discovery requests shall be served upon counsel for Aquila, Inc., doing business as Aquila Networks-WPC and Mr. Scott Keith via e-mail. Responses shall be served upon Ms. Hayes and Dr. Schechter.
3. Discovery requests served after 12 noon on Fridays shall be deemed to have been served the following business day.
4. The scope of discovery shall be as set forth in our original order: Discovery shall be limited to issues that are relevant to the issues presented in this docket.
5. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 24, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners