

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-133E

IN THE MATTER OF THE APPLICATION OF AQUILA, INC., DOING BUSINESS AS
AQUILA NETWORKS - WPC, TO AMEND THE RESOURCE PORTFOLIO APPROVED IN
ITS 1996 INTEGRATED RESOURCE PLAN.

ORDER DISMISSING APPLICATION

Mailed Date: May 24, 2004

Adopted Date: May 5, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the Verified Application to Amend the Resource Portfolio Approved in Its 1996 Integrated Resource Plan by Aquila, Inc., doing business as Aquila Networks-WPC (Aquila). The Application requests Commission approval of certain amendments to Aquila's 1996 resource portfolio including: (1) changes to the June 3, 1999 power purchase contract between Aquila and Public Service Company of Colorado (Public Service) for the time period 2002 through 2006; (2) changes to an existing energy swap agreement between Aquila and Western Area Power Administration (Western); and (3) minor additional purchases of incremental capacity for 2004 through 2006.

2. We issued public notice of the Application, and no person has intervened in this matter. Therefore, the Application is non-contested. Now being duly advised in the premises, we dismiss the Application as unnecessary under the Commission's presently effective Electric Least-Cost Resource Planning Rules, 4 *Code of Colorado* Regulations (CCR) 723-3, Rules 3006-3615.

3. Aquila is an electric public utility and is regulated by the Commission with respect to its rates, services, and facilities. The Commission previously adopted rules relating to electric integrated resource planning, and Aquila filed integrated resource plans pursuant to those rules in 1993, 1996, and 1999. Aquila's 1996 Integrated Resource Plan (IRP) was considered and approved by the Commission in Docket No. 97A-373E. *See* Decision No. C99-825 (August 2, 1999). In this Application, Aquila seeks approval of certain changes to the resource portfolio approved in the 1996 IRP.

4. First, Aquila is amending its June 3, 1999 power purchase contract with Public Service for the period 2002 through 2006. The contract amendments increase the capacity provided by Public Service to Aquila from 219 MWs to 237 MWs (effective July 1, 2004). The amended contract also changes the resource supply from one of system contingent power with resource-specific energy to a partial requirement supply arrangement with energy priced at Public Service's system average. Under the amended contract, supply curtailments to Aquila will be allowed only during emergencies and when Public Service is curtailing its own customers. Finally, the amended contract contains a new wholesale fuel and purchased energy adjustment clause. That new clause went into effect on January 1, 2004.

5. Second, the Application requests approval of the increase in the power supply swap between Aquila and Western by 5 MWs effective April 2003. Under the new arrangement, Aquila supplies 5 MWs of Western's supply obligation in eastern Kansas, and Western supplies 5 MWs of equivalent firm capacity and energy to Aquila in Colorado.

6. Finally, the Application requests approval of increased peaking capacity purchases for the period 2004 through 2006. Specifically, Aquila is soliciting bids for an additional 10 MWs for 2004, and intends to solicit bids for 25 MWs for 2005, and 48 MWs for 2006.

7. As stated above, Aquila's 1996 IRP was considered and approved by the Commission pursuant to Integrated Resource Planning Rules previously found at 4 CCR 723-21. Those rules have since been repealed and replaced by the Commission's Electric Least-Cost Resource Planning Rules, 4 CCR 723-3, Rules 3600-3615. Under Rule 3611 (Exemptions from Competitive Acquisition) of the new Least-Cost Planning Rules, the three amendments to Aquila's 1996 IRP are exempt from the Commission's competitive acquisition process and Aquila management is free to acquire these resources without Commission review and approval under resource planning rules.¹ That is, Aquila, under the new resource planning rules, may engage in those transactions without Commission approval.

8. Since Aquila's proposed actions are no longer subject to Commission review and approval under currently effective planning rules, it is unnecessary for the Commission to review and approve the proposed changes to Aquila's 1996 IRP. Therefore, we dismiss the Application as unnecessary.²

¹ The Commission retains jurisdiction over the transactions described in the Application for other purposes, such as approving or denying cost recovery in rates.

² Because this Application is dismissed as unnecessary under the applicable rules, our decision does not constitute a determination regarding the merits or prudence of Aquila's amended 1996 portfolio.

II. ORDER

A. The Commission Orders That:

1. The Verified Application to Amend the Resource Portfolio Approved in Its 1996 Integrated Resource Plan by Aquila, Inc., doing business as Aquila Networks-WPC is dismissed consistent with the above discussion.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

3. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 5, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER JIM DYER
ABSENT.