

Re Aquila, Inc., dba Aquila Networks-WPC

Docket No. 03S-539E

Decision No C04-1570

— PUR4th —

Colorado Public Utilities Commission

December 30, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of comments regarding Aquila, Inc., doing business as Aquila Networks — WPC (Aquila) October 4, 2004 and November 1, 2004 filings made pursuant to Commission Decision Nos. C04-1060 and C04-1209 (Orders). Comments were filed on November 30, 2004 by Staff of the Commission (Staff); Colorado Office of Consumer Counsel (OCC); Fountain Valley Authority, the Board of Water Works of Pueblo, Colorado, and the City of Canon City, Colorado (collectively the Public Intervenors); and Cripple Creek & Victor Gold Mining Company, Goodrich Corporation, Holcim (U.S.) Inc. (Holcim), and the Trane Company (collectively CGHT). The comments generally suggest Aquila's filings would not result in tariffs that comply with the various portions of the Orders wherein we rendered decisions regarding Aquila's Phase II electric rate case.

B. Motions

2. By Decision Nos. C04-1060 and C04-1209, we directed Aquila to submit filings in compliance with those Decisions. We also provided the Intervenors to this matter an opportunity to file comments to those Aquila compliance filings. Staff, OCC, CGHT, and Public Intervenors all filed comments to Aquila's filings. On December 13, 2004, Aquila filed a Motion for Leave to File Reply to Comments and Objections to Aquila's filings in Compliance with Decision No. C04-1060. Aquila sought to specifically respond to Staff's filing and to incorporate new information concerning rate mitigation which Aquila contended came to light since it submitted its compliance filings.

3. Staff subsequently filed a Motion for Leave to File Sur-Reply to Aquila's Reply to

Comments and Objections. Staff sought to reply directly to Aquila's comments in its Motion for Leave to Reply.

4. We note that we did not make accommodations for Aquila to file response pleadings to the reply comments of the parties in this matter. Further, we find that the information provided by Aquila in its compliance filings, coupled with the reply comments of the parties, provides us with sufficient information from which to render a decision here. Therefore, we deny Aquila's Motion for Leave to File Reply to its compliance filings. As a result, Staff's Motion for Leave to File Sur-Reply is rendered moot. We also waive response time to Aquila's Motion.

C. Comments Filed by the Office of Consumer Counsel.

5. OCC urges us to refrain from ordering the rates proposed by Aquila in its compliance filing. The OCC maintains that those rates would immediately result in rate increases of more than 10 percent for residential customers using 500 kWh of electricity per month or less, and an increase of more than 15 percent for customers using 400 kWh per month or less. The OCC also urges us not to phase in Aquila's proposed rates. According to the OCC, such a phase-in will result in unjust and unreasonable rates. For example, the proposal would increase the tariffed monthly customer charge for a residential customer from \$5.60 to \$14.02. As a result, OCC posits that a residential customer that used no electricity for an entire year would have a bill increase of about \$93.00, or 124 percent.

6. The OCC goes on to argue that there is no cost basis for the proposed rates because the customer charge has been calculated in a non-cost-causing matter, by allocating some portion of the distribution plant according to customer count. Since there is no evidence that the cost of distribution plant, excluding the meter and the drop, varies according to customer count, the OCC maintains this allocation cannot be based upon cost.

7. We point out that the OCC raised this same argument in its application for rehearing, reargument, and reconsideration. In Decision No. C04-1209, we addressed these issues and found them without merit. Nothing in the OCC's filing here convinces us to alter that decision.

D. Comments Filed by Staff Regarding Compliance with C04-1060.

8. We originally adopted Staff's proposed functionalized average methodology regarding Line Extension Policy with the exception of use of a ten-year term of forecast incremental revenue for commercial and industrial service. *See* Ordering Paragraph 1 of Decision No. C04-1060. Staff contends that Aquila has not provided the information necessary to calculate the free construction allowance, pointing out that the information contained in Aquila's cost of service study cannot be used with the Staff's line extension models to perform the calculation.

9. We direct Aquila to work with Staff to calculate the free construction allowance.

10. In Ordering Paragraphs 2, 3, and 20 of Decision No. C04-1060 we directed Aquila to work with Staff: 1) to develop appropriate tariff language regarding its Construction Allowance

calculations; 2) to remove any rate-related provisions that may appear in its proposed Electric Extension Standards Handbook; and 3) to incorporate Staff's proposed modifications into Aquila's rules and regulations portion of its tariff. Aquila provided all parties to this case with its proposed rules and regulations tariff, including the Commission approved line extension policy, and its proposed Electric Extension Standards Handbook. Aquila further provided this information within ten calendar days of the effective date of the Commission's Orders as required. Staff indicates that it reviewed the material and conferred with Aquila to provide comment, but has not yet received anything from Aquila indicating how Staff's comments were incorporated into the rules and regulations tariffs, the line extension policy, or the Electric Extension Standards Handbook.

11. Consequently, we direct Aquila and Staff to continue working together to complete these tasks. We find it in the best interests of all parties for Aquila to work with Staff and the other parties to this case prior to making its compliance tariff filing to ensure that no party raises issue at that time regarding whether the tariffs comply with the Commission's directives in this case.

12. As part of our Order in this matter, we required the use of an updated loss factor including a 2.21 percent loss factor for the transmission voltage level in cost of service studies. *See* Ordering Paragraph 4, Decision No. C04-1060. According to Staff, Aquila did not incorporate the 2.21 percent loss factor for the demand of transmission voltage level customer Holcim. Aquila did, however, apply the loss factor to Holcim's energy. Staff argues that by, not applying losses to Holcim's demand, the coincident peak data used by Aquila is therefore incorrect. Staff concludes that this results in incorrect computation of the Average and Excess Demand (AED) allocator. *See* Ordering Paragraphs 5 and 11 of Decision No. C04-1060.

13. We direct Aquila to adjust Holcim's demand for losses. In the Phase I proceeding of this rate case, Docket No. 02S-594E, we approved a settlement agreement in which parties agreed that Holcim's demand for the test year would be 36 MW. Based on information presented in this case, we conclude that the 36 MW amount does not account for losses.

14. We also adopted a distribution system classification of costs in Federal Energy Regulatory Commission (FERC) Accounts 364 through 368001 as customer-related and demand-related. *See* Ordering Paragraph 8 of Decision No. C04-1060. Staff contends that Aquila did not appropriately classify costs that correspond to rate base amounts tracked in FERC Accounts 364 through 368001 for depreciation reserve; depreciation expense; Distribution Station Equipment Operation Expense, FERC Account 582; Construction Work in Progress; and Customer Advances for Construction. Staff argues that Aquila's classification method results in these costs being classified as customer-related rather than being classified as demand-related.

15. We agree with Staff that Aquila has not properly classified these costs. We therefore direct Aquila to appropriately classify costs for depreciation reserve; depreciation expense; Distribution Station Equipment Operation Expense, FERC Account 582; Construction Work in Progress; and Customer Advances for Construction.

16. As part of our Order, we adopted the non-coincident peak allocation method for demand-related distribution plant and associated expenses. *See* Ordering Paragraph 10 of Decision No. C04-1060. According to Staff, Aquila's cost of service study does not comply with

our Order because secondary distribution costs are not allocated to the lighting class. Staff contends that Aquila has allocated primary distribution costs to the lighting class.

17. We agree with Staff and require Aquila to allocate secondary distribution plant and associated expenses to the lighting rate class in view of the fact that lighting loads place demand on the secondary distribution plant.

18. In Ordering Paragraph 14 of Decision No. C04-1060, the Commission directed Aquila to allocate distribution costs from FERC Accounts 364 through 368 to the lighting rate class. Staff argues that distribution costs from FERC Accounts 364 through 368 are not correctly allocated to the lighting rate classes PAL, SL-1, SSL, and SL-2 because most of these customers are not metered and Aquila uses weighted customer allocators based on meter costs.

19. We reaffirm the requirement for Aquila to allocate distribution costs from FERC Accounts 364 through 368 to the lighting rate class. We agree with Staff that the use of customer weighted allocators based on meter costs will not result in the appropriate amount of costs allocated to the lighting rate class.

20. We adopted the use of AED allocation method using non-coincident peak to calculate the excess portion for allocation of transmission and generation plant and associated expenses. *See* Ordering Paragraph 11 of Decision No. C04-1060. According to Staff, Aquila used one set of energy amounts to determine the AED allocators for each customer class and a different set of energy amounts to design rates for each customer class. Staff also contends that Aquila's cost of service study allocates a portion of Aquila's investment in the Western Area Power Administration's Ca₂+on West 230/115kV intertie substation as customer-related instead of allocating all of its investment in this substation as demand-related.

21. We find that the energy amounts used to determine the AED allocators for each customer class should correspond to the energy amounts used to design rates for each customer class. We would expect the energy amounts used for both purposes to match. Regarding Aquila's investment in the Ca₂+on West substation, we find that this transmission plant should be classified as demand-related for allocation purposes.

22. We also originally adopted the use of higher summer/lower winter kWh charge (seasonally differentiated rates) for the residential rate class. *See* Ordering Paragraph 19 of Decision No. C04-1060. According to Staff, in addition to the rates for the residential rate class Aquila proposed seasonally differentiated rates for these rate classes: 1) Large General Service — Secondary; 2) Large General Service — Primary; 3) Large Power Service — Secondary; 4) Large Power Service — Primary; and 5) Large Power Service — Transmission.

23. We find that Aquila has complied with our decision adopting seasonally differentiated rates for the residential rate class. We disagree with Staff's assessment that Aquila has proposed seasonally differentiated rates for classes other than the residential rate class. We conclude that Aquila's proposed rates for the Large General Service and Large Power Service rate classes are structured such that lower load factor customers will pay more than higher load factor customers.

24. Additionally, we directed Aquila to file rate designs for each lighting rate class based on the results of a cost of service study that further allocates lighting-related costs to each lighting class. *See* Ordering Paragraph 23 of Decision No. C04-1060. Staff argues that Aquila has not

complied with this directive because the proposed rates: 1) do not include a customer charge based on customer-related costs for metered customers in the SL-2 lighting rate class; 2) do not include cost-based rates for each type of lamp; and 3) do not reflect that the same amount of energy is used for the same type of lamp irrespective of the lighting rate class. Staff also raises concerns with the inclusion of PAL and SL-1 rates in the tariff for the SSL rate class and the inclusion of language indicating that the line extension policy applies to the PAL rate class.

25. We direct Aquila to work with Staff to design rates and draft tariff language for the lighting rate classes. We also direct Aquila to consult with the Public Intervenors and any other party to this docket interested in lighting rate design. We agree with Staff that Aquila's proposed tariffs for the lighting rate classes do not represent the outcome of properly allocating lighting-related costs to each lighting rate class.

E. Comments Filed by CGHT Regarding Compliance with C04-1060.

26. We adopted Staff's method for the allocation of income tax expense in Decision No. C04-1060. *See* Ordering Paragraph 13. CGHT asserts that Aquila did not correctly allocate State and Federal income taxes in its development of rates. According to CGHT, Aquila correctly allocated income taxes in its cost of service study, but failed to carry this allocation through to Aquila's proposed rates.

27. We agree with CGHT and direct Aquila to make corrections to its proposed rates as necessary to reflect our decision adopting Staff's method for the allocation of income tax expense.

28. In Ordering Paragraph 18 of Decision No. C04-1060, we directed Aquila to perform a proof of revenue analysis that accounts for unbilled revenues and other revenue adjustments. CGHT contends that Aquila has included both billed and unbilled revenues in its rate development which results in a mismatch because the billing determinants used to determine the per unit rates correspond only to billed revenues. CGHT argues that Aquila has not properly accounted for the unbilled revenues.

29. We agree with CGHT on this matter and direct Aquila to make corrections in its proposed rates to remove unbilled revenue. The proof of revenue calculation must account for unbilled revenue to confirm that the proposed rates will collect the authorized revenue. However, only billed amounts and the authorized revenue change should be accounted for in developing rates.

F. Comments Filed Regarding Compliance with Decision No. C04-1209

30. In Decision No. C04-1209, we modified our initial decision regarding interruptible tariffs by adopting CGHT's proposed interruptible rates and reallocation proposals. Now, CGHT argues that Aquila's proposed interruptible credit differs from CGHT's proposal in that Aquila used: 1) the current value of the cost of generating resources rather than data from the test year; 2) the current number of interruptible customers rather than data from the test year; and 3) an interruption response factor to reflect the load profiles of the current interruptible customers.

CGHT asserts that Aquila did not reallocate the costs of the interruptible credits to the other customer classes as it proposed. CGHT further asserts that Aquila's proposed interruptible tariff does not comply with the Commission's directives because the tariff states that service should be interrupted at any time rather than the four summer months during which interruptible credits would be paid. CGHT recommends that Aquila be required to modify its proposed interruptible tariffs regarding when service can be interrupted to read as follows: "The Company may interrupt service under this schedule at any time during the months of June through September without advance notice." Staff has these same concerns with Aquila's proposed interruptible tariffs.

31. Staff and CGHT assert that the methodology of using an interruptible customer response factor was not presented in the Phase II rate case nor in the Commission's decision. Additionally, Staff and CGHT argue that other adjustments made by Aquila were not adjudicated (subject to discovery, responsive testimony, or cross examination).

32. We agree and direct Aquila to structure interruptible tariffs based on the interruptible and associated cost reallocation proposals presented in CGHT witness Baron's testimony. We agree with Staff and CGHT that data adjustments and an interruptible customer response factor should not be incorporated. The language of the interruptible tariff shall be clear that service will only be interrupted during the months of June through September. We direct Aquila to consult with CGHT and any other party to this docket that is interested in interruptible rate design.

G. Rate Shock and Mitigation

33. The Public Intervenors contend that Aquila's proposed rates will create rate shock for the LPS-S class. Aquila's proposal will increase the Large Power Service — Secondary (LPS-S) class rates by 40.2 percent, or 24.6 percent above the 15.6 percent General Rate Schedule Adjustment (GRSA) currently in effect. This GRSA is applied to rates that were in effect prior to July 2003. The Public Intervenors propose that rates put into effect as a result of this proceeding be phased in over a one year period. According to Public Intervenor's proposal, in the first year, each customer class would receive half of the change proposed by Aquila from the rates that are currently in effect capped at a 20 percent increase (above the rates that were in effect prior to July 2003) in the first year. The remainder of the rate increase or decrease would be implemented one year after the initial Phase II rates in this proceeding are placed into effect.

34. We find that rate shock will likely occur for the LPS-S customer class even after Aquila incorporates the directives contained in this Decision. We agree with Public Intervenors that rate mitigation is required in this case since at least one rate class is likely to experience an increase above 31.2 percent. We were persuaded by testimony during the hearing that rate shock can occur for customer classes that would receive increases of more than twice the 15.6 percent rate increase that was put into effect as a result of the Phase I rate case proceeding. However, we do not agree with the mitigation plan proposed by the Public Intervenors. A lot of time has elapsed during this proceeding, during which the 15.6 percent GRSA has been equally applied to all customer classes (to the benefit of the Public Intervenors, among others). Therefore, we require that rate increases for each customer class of up to 31.2 percent (not accounting for the rate increase authorized in Docket No. 04S-035E) above the rates that were in effect prior to July

2003 be put into effect initially. For customer class rate increases above 31.2 percent, the balance of the increase will be put into effect one year after the initial rates go into effect. Any revenue deficiency created as a result of this mitigation plan will be distributed evenly over all customers by a revenue rider applicable to all customers.

H. Procedural Schedule.

35. We find that our decisions here necessitate establishing additional procedural schedule dates. We therefore direct Aquila to file by January 28, 2005, tariffs that comply with the Commission directives in this matter. Those tariffs shall have an effective date of March 1, 2005.

II. ORDER

A. The Commission Orders That:

1. Aquila, Inc.'s Motion for Leave to File Reply to Comments and Objections is denied.
2. Response time to Aquila, Inc.'s Motion for Leave to File Reply to Comments and Objections is waived.
3. Staff of the Commission's Motion for Leave to File Sur-Reply to Aquila, Inc.'s Reply to Comments and Objections is denied as moot.
4. Aquila, Inc. shall modify or correct its cost of service study, lighting cost of service study, rate design, tariffs, and Electric Extension Standards Handbook consistent with the discussion above.
5. Aquila, Inc. shall file by January 28, 2005, tariffs with an effective date of March 1, 2005, that comply with the Commission directives in this matter.
6. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Order.
7. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING

December 15, 2004.

GREGORY E. SOPKIN POLLY PAGE

Commissioners

