

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Aquila, Inc., d/b/a Aquila Networks) NG-0001
(Aquila), Omaha, seeking a general)
rate increase for Aquila's Rate Area)
One (Communities include)
Plattsmouth, Bellevue, Ralston,)
LaVista, Papillion, Gretna,)
Waterloo, Elkhorn, Valley, and)
Blair).)
)
Aquila, Inc., d/b/a Aquila Networks) NG-0002
(Aquila), Omaha, seeking a general)
rate increase for Aquila's Rate Area)
Two (Lincoln).)
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Aquila, Inc., d/b/a Aquila Networks) NG-0003
(Aquila), Omaha, seeking a general)
rate Increase for Aquila's Rate Area)
Three (Communities include Adams,)
Arlington, Ashland, Auburn, Aurora,)
Avoca, Bancroft, Battle Creek,)
Beatrice, Bee, Beemer, Bennet, Blue) ORDER RULING ON
Springs, Bradshaw, Cheney, Clatonia,) PETITIONS FOR FORMAL
Columbus, Cortland, Craig, Crete,) INTERVENTION
David City, Dewitt, Dorchester,)
Eagle, Elmwood, Emerson, Endicott,)
Exeter, Fairbury, Fairmont, Firth,)
Friend, Garrison, Geneva, Grafton,)
Greenwood, Hallam, Hampton, Hickman,)
Holland, Horner, Hooper, Humboldt,)
Humphrey, Jackson, Johnson, Lindsay,)
Louisville, Madison, Manley, Mead,)
Meadow Grove, Milford, Murdock,)
Murray, Mynard, Newman Grove,)
Nickerson, Norfolk, North Bend,)
Oakland, Odell, Osceola, Palmyra,)
Panama, Pawnee City, Peru, Pierce,)
Pilger, Plymouth, Rising City,)
Rosalie, Schuyler, Scribner, Seward,)
Shelby, Stanton, Staplehurst,)
Sterling, Table Rock, Tecumseh,)
Tekamah, Thurston, Tilden, Uehling,)
Ulysses, Wakefield, Walthill,)
Walton, Waverly, Wayne, Weeping)
Water, West Point, Wilber,)
Winnebago, Wymore and York).) Entered: August 19, 2003

BY THE COMMISSION:

1. On June 30, 2003, Aquila, Inc., d/b/a Aquila Networks (Aquila) filed the above-captioned rate applications. Each application was published on July 2, 2003, in The Daily Record, and the 30-day protest and formal intervention period expired on August 1, 2003.

2. On July 22, 2003, Cornerstone Energy, Inc. (Cornerstone) filed a Petition of Formal Intervention with the Commission in order to represent its interest as a natural gas marketer.

3. On July 28, 2003, Metropolitan Utilities District (M.U.D.) filed a Petition of Formal Intervention for NG-0001, seeking to represent its interests as a customer of Aquila and a potential certified competitive natural gas provider.

4. On July 28, 2003, Kinder Morgan, Inc. (Kinder Morgan) filed a Petition of Formal Intervention for NG-0001, seeking to represent its interests as a natural gas utility subject to the Commission's jurisdiction.

5. On July 29, 2003, the Commission's Public Advocate filed a Petition of Formal Intervention, seeking to represent the interests of Nebraska citizens and jurisdictional utility ratepayers, other than high-volume ratepayers.

6. On August 6, 2003, Aquila filed an Opposition to M.U.D.'s Petition of Formal Intervention (Opposition).

7. On August 11, 2003, M.U.D. filed a Response to Answer of Aquila Opposition to Petition of Formal Intervention of M.U.D. (Response).

8. On August 19, 2003, the Commission held an oral argument on M.U.D.'s petition, Aquila's Opposition, and M.U.D.'s Response.

8. The Commission has discretion to grant a petition of formal intervention. A petition of formal intervention must set forth the interest of the intervenor in the proceeding, the grounds upon which the intervention is made, and shall specify the facts and circumstances relied upon for such intervention. Neb. Admin. Code Ti. 291, Ch. 1, Sec. 15.01A. Furthermore, applicable law limits a formal intervenor's participation in the proceeding "to the extent of his/her express interest in the matter." Neb. Admin. Code Ti. 291, Ch. 1, Sec. 15.01C.

9. In support of its petition, Cornerstone states that it currently markets gas on Aquila's systems in Nebraska, and is in the process of seeking approval to be certified as a competitive natural gas provider in Nebraska. Cornerstone further asserts that the rates determined in this proceeding could impact its ability to market gas in Nebraska.

10. In support of its petition, M.U.D. maintains that it has an interest in Aquila's Rate Area One proceeding, Application NG-0001, as a customer of Aquila. M.U.D. states that it purchases natural gas from Aquila to operate M.U.D.'s water pumping station located at 78th and Harrison Street, LaVista, Nebraska, and to operate its well house located on Flavin Street in Elkhorn, Nebraska. M.U.D. further asserts that it intends to become a certified competitive natural gas provider on Aquila's system. M.U.D. maintains that it desires to participate in the NG-0001 rate case in order to ensure that Aquila's rates are nondiscriminatory, fair and reasonable, and accessible to all competitive natural gas providers.

11. In support of its petition, Kinder Morgan states that it provides natural gas service in Nebraska subject to the Commission's jurisdiction pursuant to the recently enacted State Natural Gas Regulation Act, LB 790 [2003]. Kinder Morgan contends that because Aquila's rate filings are the first rate proceedings under the Act, it has a direct interest in monitoring the conduct of the proceeding. Kinder Morgan further maintains that its interest may not be represented by any other party.

12. In support of its petition, the Public Advocate states that it is charged with the responsibility to represent the interests of Nebraska citizens and all classes of jurisdictional utility ratepayers, other than high-volume ratepayers. The Public Advocate further asserts that the purpose of its intervention is to test Aquila's contention that the rates currently being charged to its customers do not and will not provide it with sufficient revenue to enable it to meet the cost of furnishing natural gas and earn a fair and reasonable rate on its investment. The Public Advocate maintains that it must have an opportunity to present evidence and cross-examine Aquila's witnesses.

13. The Commission concludes that the Public Advocate and Cornerstone have met the requirements of Neb. Admin. Code Ti. 291, Ch. 1, Sec. 15, and as such should be granted intervention in these proceedings. LB 790 [2003] clearly requires the Public Advocate's participation in a general rate filing proceeding,

and Cornerstone has articulated a legitimate interest in the proceeding as a current marketer on Aquila's system.

14. With respect to Kinder Morgan, the Commission finds that as a jurisdictional utility pursuant to LB 790 [2003], Kinder Morgan should be entitled to monitor the proceedings, but should not be granted full formal intervenor status. Kinder Morgan has not articulated a direct interest that requires full participation in the proceedings as a formal intervenor. The Commission therefore finds that Kinder Morgan should be granted status as an informal intervenor.

15. With respect to M.U.D., the Commission finds that M.U.D. has not articulated an interest in this matter that entitles it to participation as a formal intervenor. M.U.D. is a customer of Aquila, and a potential applicant for a certificate as a competitive natural gas provider. In an effort to efficiently manage these rate proceedings under the time constraints established by LB 790 [2003], and to minimize expenditure of state and ratepayer resources, the Commission finds that M.U.D.'s petition for formal intervention should be denied. As a customer of Aquila that is not a high-volume ratepayer, M.U.D.'s interests will be represented by the Public Advocate. The Commission recognizes, however, that as both a customer and a potential applicant for a certificate as a competitive natural gas provider, M.U.D. may want to monitor the progress of the rate case. M.U.D. should therefore be granted status as an informal intervenor in NG-0001.

16. Regarding the process for granting Kinder Morgan and M.U.D. status as informal intervenors, the Commission finds that both entities' Petitions for Formal Intervention provide sufficient grounds for granting status as informal intervenors. Applicable regulations require that a prefiled statement and any exhibits accompany the petition for intervention. See Neb. Admin. Code Ti. 291, Ch. 1, Rule 015.02B. Therefore, upon receipt of a prefiled statement and exhibits consistent with Neb. Admin. Code Ti. 291, Ch. 1, Rule 015.02B, status as an informal intervenor will become effective.

O R D E R

IT IS THEREFORE ORDERED by the Commission that the petitions for intervention of the Public Advocate and Cornerstone should be, and are hereby, granted.

IT IS FURTHER ORDERED by the Commission that the petitions for intervention of Kinder Morgan and Metropolitan Utilities District should be, and are hereby, denied, and Kinder Morgan

and Metropolitan Utilities District are granted status as informal intervenors upon filing of a statement and exhibits in conformance with Neb. Admin. Code Ti. 291, Ch. 1, Rule 015.02B.

MADE AND ENTERED at Lincoln, Nebraska, this 19th day of August, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director