

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
TRI-STATE GENERATION AND TRANSMISSION) DOCKET NO. 09A-324E
ASSOCIATION, INC., (A) FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY FOR THE)
SAN LUIS VALLEY-CALUMET-COMANCHE)
TRANSMISSION PROJECT, (B) FOR SPECIFIC)
FINDINGS WITH RESPECT TO EMF AND NOISE,)
AND (C) FOR APPROVAL OF OWNERSHIP)
INTEREST TRANSFER AS NEEDED WHEN)
PROJECT IS COMPLETED.)

AND

IN THE MATTER OF THE APPLICATION OF)
PUBLIC SERVICE COMPANY OF COLORADO) DOCKET NO. 09A-325E
(A) FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY FOR THE)
SAN LUIS VALLEY TO CALUMET TO)
COMANCHE TRANSMISSION PROJECT, (B))
FOR SPECIFIC FINDINGS WITH RESPECT TO)
EMF AND NOISE, AND (C) FOR APPROVAL OF)
OWNERSHIP INTEREST TRANSFER AS)
NEEDED WHEN PROJECT IS COMPLETED.)

**TRI-STATE'S RESPONSE TO PUBLIC SERVICE COMPANY OF COLORADO'S
REQUEST FOR CLARIFICATION OF DECISION NO. C09-0886.**

Tri-State Generation and Transmission Association, Inc. (Tri-State), by and through undersigned counsel, and pursuant to Decision No. R09-0931-I, hereby submits its Response to Public Service Company of Colorado's ("PSCo") Request for Clarification of Decision No. C09-0886 (the "Request").

1. PSCo seeks clarification as to the application of C.R.S. §40-2-126 (S.B. 07-100) to its application in this proceeding. Tri-State agrees with PSCo that it is important for the Commission to clarify its ruling in Decision No. C09-0886 as to whether and to what extent

the provisions of C.R.S. §40-2-126 apply to this proceeding. The Commission's ruling with respect to the appropriate legal standard to be employed in this case will impact PSCo's ability to obtain a CPCN for the San Luis Valley – Calumet – Comanche Project (the "Project"), and in turn will impact Tri-State's ability to provide reliable service to its Colorado electric distribution cooperative members.

2. Although Tri-State is not subject to the provisions of C.R.S. §40-2-126 because its rates are not regulated by the Commission, it nevertheless has an interest in the manner in which this provision is implemented by the Commission. The nature of this joint project is that any impediment to the Project that is faced by one participant will necessarily impact the other participant.

3. From Tri-State's perspective, the legislative mandate with respect to S.B. 07-100 projects is clear: Subsection (3) of C.R.S. §40-2-126 states that the Commission "shall" approve a CPCN application for the construction of transmission facilities if it finds (1) that the present or future public convenience and necessity requires the construction; and (2) that the construction is required either to ensure the reliable delivery of electricity to consumers, OR to enable the utility to meet the renewable energy standards initially created in Amendment 37.

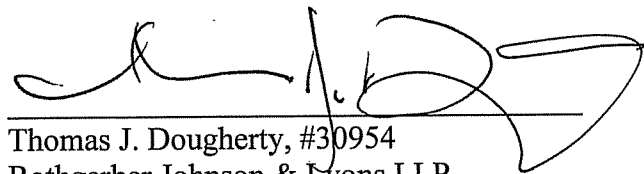
4. Tri-State agrees with PSCo's argument that an adequate showing of need in this case should not be dependent on the bidding status or likelihood of any particular generation resource being developed that will use the transmission capacity created by the Project. Rather, the evaluation should be related to the Company's ability to demonstrate that the Project is needed to adequately serve multiple resources in the designated energy resource zones. As PSCo asserts, both the legislature and the Commission have urged electric utilities

to enhance the high voltage transmission system in Colorado to open up new paths for beneficial generation resources. Within the context of the overall objectives of C.R.S. §40-2-126, it is clear that the legislature intended for the “need evaluation” to include the timely development of transmission to serve future generation sources.

5. The Project is a perfect example of the type of joint utility transmission planning that the Commission and various stakeholders have urged both PSCo and Tri-State to engage in. In order to promote such cooperative projects and further the legislative objectives set forth in S.B. 07-100, Tri-State urges the Commission to adopt the clarifications to its earlier Order as suggested by PSCo.

Respectfully submitted this 28th day of August, 2009.

By:



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CERTIFICATE OF SERVICE

COLORADO PUBLIC UTILITIES COMMISSION
DOCKETS 09A-324E and 09A-325E

I hereby certify that a copy of the foregoing was served on this 28th day of August, 2009, via email on all parties on this service list:

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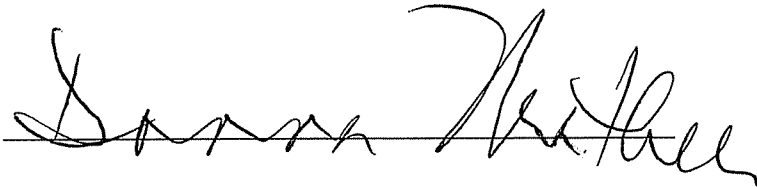
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A handwritten signature in black ink, appearing to read "Dale Hutchins", written over a horizontal line.