

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 09M-616E

IN THE MATTER OF INTEGRATED PLANNING FOR CONSTRUCTION OF ELECTRIC TRANSMISSION FACILITIES PURSUANT TO § 40-4-117, C.R.S.

**TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.
COMMENTS CONCERNING DRAFT TRANSMISSION PLANNING PROPOSAL**

Tri-State Generation and Transmission Association, Inc. (Tri-State), pursuant to Decision No. R10-0083-I (the "Decision"), submits the following comments concerning the draft Transmission Planning Proposal (the "Proposal") set forth as Attachment A to the Decision.

INTRODUCTION

Tri-State welcomes this opportunity to work with the Commission to respond to the General Assembly's requirements set forth in Colorado Revised Statute § 40-4-117 which require that the Commission, by July 1, 2010, report on:

- (a) the adequacy of the integrated transmission plan;
- (b) whether the integrated transmission plan is appropriately coordinated with transmission plans of other states and transmission operators in the region; and
- (c) whether future legislative action is required to ensure continued progress with respect of the transmission system in Colorado.

Tri-State agrees that these are appropriate issues to address particularly in view of the current challenges to constructing new high voltage transmission lines in Colorado, and the evolving focus of transmission planning from primarily load-serving and reliability to also include accommodation of potential future beneficial energy resources. Tri-State looks forward to the opportunity to continue to work with the Commission to exchange information and ideas

related to transmission planning and to develop a process that meets the needs of the Commission and stakeholders.

Consistent with the Legislature's instruction that the Commission rely upon existing or pending transmission plans when formulating its report, Tri-State believes that much of the information outlined in the Proposal already exists as a result of the ongoing activities of the Colorado Coordinated Planning Group (CCPG), the Western Electricity Coordinating Council (WECC), WestConnect, and other transmission planning bodies. To the extent the Commission is not aware of this information or is not presently receiving it, improved access to such information is a worthwhile objective.

However, much of what is outlined in the proposal goes far beyond improved information sharing. Some aspects of the Proposal seem to expand the Commission's jurisdiction, although that may not be the intent; other aspects of the Proposal would add unnecessary reporting requirements and process that could well be counterproductive to the Commission's stated goals.

Overall, Tri-State believes that the Commission's present efforts to comply with § 40-4-117, C.R.S. should focus on an assessment of the information currently available with regard to coordinated planning of the Colorado transmission system and the coordination of those plans with other states in the region. Any proposal for changes to the manner in which transmission planning is undertaken in Colorado, and whether the Commission should promulgate rules related to integrated transmission planning, should not be driven by the Legislature's July 1, 2010 deadline but rather should be the product of a more considered and detailed dialogue that includes a thorough evaluation of the current coordinated planning processes and products.

COMMISSION QUESTIONS

At paragraph 5 of the Decision, the Commission specifically requests input on certain questions. Tri-State believes these questions are an appropriate starting point for discussing the issues the Proposal purports to address as well as the specific elements of the Proposal itself.

Question #1 – Under the draft transmission planning proposal, would the Commission have all of the information necessary to assess whether the existing transmission infrastructure is adequate, efficient, and reliable, and will continue to be so in the future?

Answer – Tri-State believes the Commission already has access to the information necessary to assess whether the existing transmission infrastructure is adequate, efficient, and reliable and will continue to be so in the future. The information resides in reports available on the WECC and WestConnect websites. Tri-State believes that these are exactly the types of existing or pending transmission plans referred to in § 40-4-117(3)(a) that are to serve as the basis for the Commission's report to the General Assembly. Furthermore, Tri-State looks forward to discussing these and other sources of planning information during the upcoming workshops in this docket. In this regard, the Proposal contains some good concepts and may lead to improvements in communication among the Commission, Staff, and stakeholders.

Question #2 – Does the draft transmission planning proposal request information that is necessary for the assessment mentioned above?

Answer – Tri-State believes that the information requested in the Proposal goes beyond what is needed to complete a valid assessment of the transmission system.

From a reliability standpoint, mandatory NERC reliability standards require that Transmission Planners “demonstrate through a valid assessment that [their] portion of the interconnected transmission system is planned such that the Network can be operated to supply

customer demands and projected Firm (non-recallable reserved) Transmission services, at all demand levels over the range of forecast system demands” intact and under single or multiple contingencies. Similarly, NERC/WECC Transmission Planning standards "ensure that reliable systems are developed that meet specified performance requirements with sufficient lead time, and continue to be modified or upgraded as necessary to meet present and future system needs." NERC prescribes what constitutes a valid assessment and the results are audited. Given that Tri-State and other Colorado electric utilities must comply with the relevant standards, the Commission can be confident the system is being reliably planned.

Tri-State recognizes that the Commission's concerns in this area are not limited to reliability and also include considerations of transmission system adequacy and efficiency. However, without a clear and common understanding of what is meant by "adequacy and efficiency," Tri-State is unable to provide meaningful comments on these aspects at this time. Tri-State recommends that these considerations be the subject of further discussions among the Commission and stakeholders.

Question #3 – Does the draft transmission planning proposal request information not otherwise needed to fulfill the requirements promulgated by FERC in Order 890, the NERC Reliability Standards, the policies and procedures of WECC or CCPG, or good utility practices?

Answer – Yes, Tri-State believes that some of the information that would be required under the Proposal exceeds that which is necessary to comply with FERC Order 890, NERC reliability standards, the policies and procedures of WECC and CCPG, and good utility practices. While the Proposal does contain some concepts which may be beneficial to the Commission and Colorado stakeholders, some of the planning and reporting requirements contained in the Proposal will require significant additional effort by Tri-State and the other members of CCPG.

At this point, Tri-State does not believe the purported benefits of these additional requirements outweigh the cost, time, and resources that will be required to comply with them.

Question #4 – Will the transmission planning proposal result in coordinated, open, and transparent planning?

Answer – This question seems to presume that there is presently a lack of coordinated, open, and transparent transmission planning in Colorado. If that is the case, Tri-State fundamentally disagrees with this presumption. The Proposal will not add significantly to the coordinated, open, and transparent transmission planning process that already exists in Colorado and the surrounding region. The activities of CCPG, WestConnect, and WECC achieve the goals of coordinated transparent transmission planning.

One of the perceived problems with the current transmission planning process relates to the differences between transmission planning and policy considerations which are evidenced by the differing priorities of the various transmission system stakeholders. Transmission providers are primarily interested in assuring that the transmission infrastructure is reliable, robust, and sufficient to meet future needs. Other stakeholders, however, believe the planning priorities should focus on the promotion of renewable energy development or greenhouse gas reductions. If the transmission planning process does not result in plans that promote these alternate priorities to the satisfaction of such stakeholders, their plans are often criticized as being inadequate. That is not the case. The transmission planning process is open to all stakeholders and all objectives – reliability, load growth, delivery of existing and planned firm generation, accommodation of planned and potential renewable resources – are considered during the planning process. The fact that one particular interest may not be addressed to the satisfaction of a particular stakeholder does not mean that the entire process is flawed.

Question #5 – Will all transmission providers in Colorado fully cooperate in the transmission planning process envisioned by this proposal?

Answer – The willingness of all transmission providers, in particular non-jurisdictional transmission providers, to participate in the process outlined in the Proposal will likely depend on whether the Commission appears to be focused on a collaborative or directive approach to transmission planning. There are a number of elements in the Proposal that could be misconstrued as an effort by the Commission to expand its authority over non-jurisdictional transmission providers. If utilities perceive that they will benefit from the Commission’s involvement in the transmission planning process, they will be more willing to cooperate fully. It is more likely that this goal will be achieved if the Proposal recognizes the benefits of the existing transmission planning processes, builds on those processes and the information resulting therefrom, and minimizes the additional planning and reporting requirements associated with the Proposal.

Question #6 – In addition to the questions contained in the draft transmission planning proposal, should the Commission ask any additional questions to fulfill its responsibilities under § 40-4-117, C.R.S.?

Answer – One of the questions that the Proposal does not appear to address adequately is directly related to the question posed by the General Assembly in § 40-4-117(2)(b), C.R.S.: “whether the integrated transmission plan is appropriately coordinated with transmission plans of other states and transmission operators in the region.” Despite such legislative direction, the Proposal appears strongly focused on the parochial needs of the State of Colorado with little or no discussion of interactions with surrounding states. While it is understandable that the Commission should limit the focus of the Proposal given that its jurisdiction is likewise limited

to the State of Colorado, Tri-State believes that any discussion of transmission planning in Colorado must include consideration of how best to integrate the Colorado transmission system with the interconnected transmission systems of our neighboring states and the region.

The Proposal appears to rely heavily on the principles set forth in FERC Order 890 for guidance. In Order 890, FERC stated:

Just as we intend to coordinate with state regulators and other agencies, we also encourage those parties to collaborate amongst themselves as well, **particularly regionally, in order to reach agreement on how best to review and approve new transmission facilities that are the product of the coordinated and regional planning process** required by this Final Rule. We intend to defer to such agreements between state regulators and other agencies in a given region as appropriate. We are, moreover, sensitive to concerns, such as Allegheny's, about the overlapping nature of regulatory jurisdiction over planning matters. We believe the planning principles in this Final Rule will help alleviate this concern by facilitating coordination through open, transparent planning and enhanced exchange of information. We also understand Santa Clara's concern that certain state regulators do not represent all energy consumers in some states; however, we do not believe this detracts from the significant interest that state regulators and other agencies have with regard to transmission planning for their state and region.

FERC Order 890, ¶ 575 (emphasis added).

This provision of Order 890 makes clear that effective transmission planning must be regional in nature and look beyond Colorado's borders. Tri-State continues to make the case, as it has in discussions with the Colorado Governor's Energy Office, that the current public policies of the state can only be effectively met with more active interstate interaction and alliances. Tri-State, as the owner and operator of a multi-state transmission system is keenly aware of the necessity of developing a reliable and efficient inter-state transmission system. Rather than seeking to duplicate, or possibly compete with, existing coordinated transmission planning process in Colorado, Tri-State recommends that the Commission, as part of its upcoming report to the General Assembly, investigate other models of interstate collaboration such as the Upper

Midwest Transmission Development Initiative, created in 2008 by the states of Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin. Tri-State believes that collaboration at this level would be beneficial to both the State of Colorado and its neighbors.

SPECIFIC COMMENTS ON PROPOSAL

With these general comments in mind, Tri-State offers the following specific comments on individual elements of the Proposal.

Transmission Planning Proposal – Premises

The Proposal characterizes the current problem as being a state of "insufficient information available for the Commission to determine whether the transmission system is reliable in the near-term or the planning horizon. Hence, the basic change proposed in the Proposal is that information will be submitted to the Commission reflecting coordinated planning that is currently taking place."

While Tri-State agrees in principle with the change proposed in this portion of the Proposal, Tri-State disagrees with the implied premise that the Commission should be determining "whether the transmission system is reliable in the near-term or the planning horizon." Tri-State does not believe that the Legislature's instruction that the Commission should report on "the adequacy of the integrated transmission plan" contemplates that the Commission should be duplicating or evaluating reliability considerations already adequately addressed by various coordinated transmission planning bodies such as NERC and WECC. Nor does Tri-State believe that the Legislature's one-time reporting instruction contemplates that the Commission should put in place permanent, reliability reporting requirements.

That said, Tri-State agrees that the Commission should have access to "information . . . reflecting coordinated planning that is currently taking place." To that end, Tri-State agrees that

an appropriate objective of this Docket should be to determine how best to ensure that the Commission has timely access to current coordinated transmission planning information. Furthermore, Tri-State encourages the Commission to use this opportunity to determine how the Commission and its Staff might more fully participate in these existing transmission planning processes and forums.

The Proposal also includes a critical assumption that "non-jurisdictional transmission providers will fully participate in the planning process." While Tri-State believes that non-jurisdictional transmission providers presently have the opportunity and are welcome to participate in the current, coordinated transmission planning forums and processes, Tri-State has serious concerns about the assumption that all such entities will voluntarily participate in the transmission planning reporting and approval processes set forth in the Proposal. Given that the Commission has no jurisdiction over entities such as the Western Area Power Administration, municipal utilities, and merchant transmission providers – all of which can or do play substantial roles in the Colorado and regional transmission system and related planning, Tri-State questions whether the Proposal can be realistically implemented without such entities' participation. While Tri-State does not speak for all such entities, Tri-State anticipates that non-jurisdictional transmission providers will have many of the same concerns with regard to the Proposal as expressed by Tri-State and jurisdictional transmission providers.

Cost Allocation

While not specifically included in the Proposal itself, the Commission states as a Reason for Action:

The manner in which the costs of new transmission are allocated is critical to the development of new infrastructure. The cost recovery mechanism for single-utility, single-state projects built for reliability reasons is well-defined. The cost allocation for reliability-driven regional projects and conventional generation interconnection requests

is generally well-defined, except when multiple utilities are involved and there is disagreement about the benefits. There are serious cost allocation issues for multi-state, multi-utility, multi-purpose, and renewable integration projects. Despite years of effort on a national level, cost allocation remains the number one barrier for these larger types of transmission proposals.

Decision at 5.

Tri-State agrees that cost allocation is one of the key challenges in “developing multi-state, multi-utility, multi-purpose, and renewable integration projects;” however, Tri-State is concerned that this issue goes beyond the General Assembly's instructions in §40-4-117, C.R.S. This is further evidenced by FERC's recognition in Order 890 that cost allocation is not a proper part of the transmission planning process.

In any event, the Proposal offers no suggestions for resolution of this challenge. This challenge is further complicated by the "build it and they will come" philosophy advocated by some stakeholders which argues for building transmission to accommodate potential future renewable resource generation projects. (*See generally* Renewable Energy Development Infrastructure Report at 49.) Under this philosophy, Colorado utilities like Tri-State would be required to increase rates to their customers to build transmission that may or may not ever be demonstrated to be cost-effective or even needed. This is not a sound way to plan and manage transmission system improvements and investments. Tri-State recommends that the Commission, in a separate docket, explore the appropriate means to allocate costs and risks associated with such multi-state, multi-utility, multi-purpose, and renewable integration projects.

Proposed Geographic Regions Within Colorado

While Tri-State recognizes the value of transmission planning that takes into consideration the potentially unique needs of different parts of the state, this aspect of the Proposal does not accurately reflect CCPG's use of geographic regions for study purposes.

Furthermore, CCPG is in the process of modifying its geographic region subcommittees. Tri-State recommends that the Commission wait for CCPG to complete this process then re-evaluate how geographic considerations factor into the Proposal.

Coordination Among Geographic Regions Within Colorado

Tri-State agrees that the Commission should have access to and should thoroughly consider the Colorado-only, multi-state, and regional studies that are produced by CCPG, WestConnect, and WECC. To the extent that the Commission is not presently receiving this information, Tri-State encourages the Commission to use this docket to determine existing means to access this information. Furthermore, it is Tri-State's understanding that Commission Staff is presently a member of CCPG and, therefore, has access to all CCPG reports either through direct communication as part of participation in CCPG activities or via the WestConnect website. The Proposal includes recommendations concerning cost sharing associated with various studies, Tri-State does not believe that compensation for study costs is an impediment to undertaking the necessary studies or to various stakeholders' participation therein. To the extent that this is a concern at all, Tri-State believes this issue is best addressed in the specific planning forum itself rather than as part of the Commission's Proposal.

Reliability Criteria

All of the State's transmission providers are required to comply with the terms of Section 215 to the Federal Power Act as added by the Energy Policy Act of 2005:

The [Federal Energy Regulatory Commission] shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. **All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.**

Federal Power Act, section 217(b)(1) (emphasis added).

Tri-State firmly believes that additional oversight of transmission system reliability by the Commission is unnecessary and will provide no substantive value. To the extent that the Commission is interested in Tri-State's reliability criteria compliance, or that of other Colorado electric utilities, such information is already available through WECC and NERC compliance reports. This includes "the basic methodology, criteria, and process that [are used] to develop [] transmission plans in order to ensure that the standards are consistently applied." Tri-State agrees that the Commission should have access to this information to inform its various decisions. However, to the extent that the Proposal's recommendation that the "Commission should have an opportunity to review these unique criteria" implies that the Commission should also approve these criteria, Tri-State disagrees with this recommendation as both unnecessary and beyond the Commission's responsibility. Such criteria are already evaluated as part of the applicable NERC and WECC compliance processes.

Voltage Coordination Guidelines

As with various other reporting requirements included in the proposal, the CCPG approved Voltage Coordination Guidelines are already available on the publicly accessible WestConnect website (<http://www.westconnect.com>). Tri-State does not believe that it is appropriate or necessary to shift to the utilities the responsibility to submit this publicly available information to the Commission.

Transmission Studies to be Performed

As a preliminary matter, Tri-State believes that the Commission should engage in a comprehensive discussion of the current coordinated transmission planning process before identifying new studies to be performed. Such a discussion will better inform the Commission of

the advantages and disadvantages of some of the studies identified in the Proposal, will identify where information requested in the Proposal may already exist, and may identify opportunities to incorporate Proposal objectives into existing study processes without creating new study requirements. Absent such a threshold discussion, Tri-State believes that a thorough response to the numerous transmission study recommendations contained in the Proposal is not possible. Accordingly, the comments below respond to this portion of the Proposal at only a high level.

The Proposal calls for transmission planning studies in three distinct time frames: operating (within one year), five years, and 10 years. Addressing first the operating timeframe, it must be recognized that operating studies are not planning studies. Therefore, Tri-State believes that an operating (current year) study is beyond the scope of the General Assembly's purpose in enacting §40-4-117, C.R.S. and is not an appropriate consideration for this docket. Furthermore, these would be totally new studies and would result in additional work load, which is contrary to both the statute's guidance that the Commission's report to the legislature should rely on existing studies as well as the Proposal's oft-stated intent to not require Colorado utilities to do more than they are already doing.

To the extent that the proposed five and ten year studies are reliability-focused, mandatory transmission reliability standards (TPL-001, 002, 003, 004) already require transmission providers to conduct valid annual assessments. For example, Tri-State uses an holistic approach that includes and considers the WECC Annual Study,¹ the WestConnect Annual Study (publicly available at www.WestConnect.com), and the CCPG Annual Assessment (also available on the WestConnect website). In addition, enforcement authorities

¹ The WECC Annual Study (including stability, power flow, and cases used) is available to the Commission and other WECC members at <http://www.wecc.biz/committees/StandingCommittees/PCC/TSS/TechStudies>.

conduct on-site audits to verify compliance.² The results of those audits are also listed on the NERC website. Commission Staff is active in the WECC, WestConnect, and CCPG forums. As these reports are released, Staff could collect, comment, and collate the results all from existing reports and studies. Staff could then review the study results with the Commission thereby informing the Commission of the reliability of Colorado's power system. If a reliability issue is identified in the studies, then the Commission will be informed of the mitigation measures through the Rule 3206 and CPCN processes.

The proposal also prescribes study conditions including winter and summer peak loads and maximum output of renewable resources. Although suitable when studied in the appropriate venue, these system conditions should not be evaluated in the context of valid, annual reliability assessments as defined by NERC.

Short-Circuit Studies to be Performed

As apparently recognized in the Proposal, the CCPG Short Circuit Task Force (SCTF) meets periodically to revise its system-wide short circuit model. (Under the new CCPG charter, the SCTF will be a more "permanent" work group rather than a task force.) The model represents the transmission system with equivalent boundaries in southern Montana, western Wyoming, central Utah, northern and eastern Arizona, southern New Mexico, and the DC interconnections to the east. Each entity is then provided with the opportunity to use that model. The model is currently being updated to represent the 2010 summer system. Tri-State uses the model primarily to set and coordinate transmission and generation protection systems, but it is also used to periodically verify that interrupting device ratings are appropriate, determine grounding cable sizes, determine available arc-flash energy for personnel safety, and to provide

² The annual audit schedules are posted on the NERC website (<http://www.nerc.com/commondocs.php?cd=3>).

short circuit information to its distribution members and other interconnection customers. For example, Tri-State's system generally has fault duties in its transmission system that are well below equipment ratings and its breaker specification calls for a current interrupting capability of 40,000 Amperes. The short circuit model results have been validated in many areas as accurately representing fault duties within acceptable margins for transmission protection systems to operate correctly.

Log Items to Address Reliability Criteria Violations

As discussed above, Tri-State believes that Proposal elements focusing on the current operations time frame are beyond the scope of what is required to comply with §40-4-117, C.R.S. and, therefore, are not an appropriate consideration for this docket. To the extent that criteria violation log items are a concern of the Commission at all, a Log Item system already exists and Tri-State does not believe there is a valid reason to create another system to track and report this same information. Transmission providers keep track of their own corrective actions as part of their annual assessments. In addition, the annual WECC study referenced above includes a summary of "Log Items," and the CCPG annual assessment reports summarize potential violations. As with other reliability-related elements of the Proposal, Tri-State agrees that the Commission should take advantage of the already available reliability information addressing "log items," and there is no need for the Commission to put in place new, duplicative requirements addressing the same information.

Transmission Impediments to Economic Dispatch

The Proposal states that "Transmission providers shall make an assessment of the transmission obstacles to a statewide economic dispatch of generation. . . . Ignoring institutional ownership of generating facilities, the assessment should assume that the most

efficient generation is dispatched first until the load of all utilities is met.” Tri-State has serious concerns with regard to this requirement and the Commission's existing authority.³ Furthermore, as a practical matter, in order to perform such a dispatch scenario planners must assume “control” over generation owned by numerous non-jurisdictional utilities, including the Federal government. There is no sound basis for such an assumption. Tri-State believes that an assessment that “Ignor[es] institutional ownership” will have no meaningful value and will result in wasted application of study resources.

Studies to Evaluate Alternative Scenarios or Public Policy Initiatives

Once again, Tri-State believes that such public policy-based evaluations and studies of alternative scenarios are beyond the scope of the General Assembly's instructions in §40-4-117, C.R.S. Tri-State does not disagree that such evaluations and studies may have value if they are appropriately defined and designed, however, Tri-State believes that such efforts are more appropriate for other dockets or initiatives.

Long Range Conceptual Planning Studies

Tri-State agrees that it may be appropriate to develop independent, conceptual “corridor” “plans” for the 20 year time frame. These conceptual plans should not be referred to as “studies” so as to avoid implications of commitment or precision. The concept of a “master plan,” as discussed in the Proposal, should be avoided. Tri-State believes that a Commission-approved master plan will lead to unintended and undesired consequences including potential regulatory and project delays if an entity believes that a proposed project does not “align” with the master plan. Transmission providers may also find themselves applying for a CPCN that is a variation

³ In addition, §40-4-117(5) expressly provides that “[n]othing in this section shall be construed to limit or expand the commission's existing authority concerning the regulation of transmission facilities.”

to the master plan. As system conditions and needs change, the Commission and transmission providers need the flexibility to evaluate and propose projects that best meet the needs at hand and should not be restricted by a “master plan” developed under a prior set of circumstances and considerations.

To the extent that such conceptual plans are developed, Tri-State believes that the appropriate forum for such plans is CCPG. The scope of any such plans should be limited to identifying potential projects with in-service dates beyond the 10 year planning study horizon and not tied to other external programs or initiatives.

Availability of Studies

Again, Tri-State does not disagree with the concept that transmission studies should be available to the Commission and interested stakeholders. However, the Proposal's recommendations with regard to the availability of studies has practical implementation difficulties. The Proposal contemplates that all transmission studies will be posted on one common website. As discussed above, most of the reliability information is already available in just two places - WestConnect and WECC. The balance of the studies discussed in the proposal are utility specific and conducted under individual transmission tariffs. Studies are posted on a utility's publicly accessible OASIS website. Tri-State posts its tariff studies on a user friendly website and has links between its OASIS and the website. To the extent that the Commission or Staff have identified difficulties in accessing the appropriate information via a particular jurisdictional utility's website, Tri-State believes that these docket is the appropriate forum to identify such difficulties and discuss opportunities for improvements.⁴ Tri-State, however, does

⁴ Tri-State solicited further input on its website during its December 2009 FERC 890 Meeting and would welcome further suggestions to improve access.

not believe that the Commission should require the integration of all such information into a common website.

Commission Involvement in Planning Activities

The Proposal describes the process the Commission will use to review the proposed "unified transmission plan based on the concept of planning for a single transmission system":

The Proposal envisions an evidentiary proceeding after the transmission plans are filed. The Commission would open this proceeding to interventions by stakeholders in the projects included in the plan. At the conclusion of the evidentiary process, the Commission would either approve or reject each of the transmission plans presented. Commission approval of a transmission plan would result in a rebuttable presumption of need for all projects consistent with that plan, subject to changed circumstances. This presumption is intended to fast-track a jurisdictional utility's future application for a Certificate of Public Convenience and Necessity (CPCN). Applications for CPCN for projects not included in the unified statewide plan or one of the six regional plans would not be treated to such a fast-track proceeding.

It is at this point that Tri-State has its most serious objection to the Commission's Proposal. Tri-State understands the merits of preparing joint transmission plans for each of the sub-regions identified in the Proposal. However, Tri-State interprets this section to mean that, in the event that there is a component of the sub-regional plan that does not "satisfactorily answer" one of the Commission's questions, the Commission has the right to reject the plan.

For example, if the perceived plan deficiency was the result of an action or omission of a non-jurisdictional utility, the Commission could effectively deny the fast-track CPCN option to another utility's project within that sub-region. This scenario would result in other utilities pressuring the non-jurisdictional party into modifying its plan to meet the Commission expectations. This could result in the coercion of non-jurisdictional utilities. This is but one example of where Tri-State believes the Proposal would result, intentionally or otherwise, in the expansion of the Commission's jurisdiction.

In addition, Tri-State has serious concerns about how such an evidentiary hearing would be implemented as a practical matter. Based on the Proposal, the evidentiary hearing would appear to consider the unified transmission plan for the entire State of Colorado. This would require the participation of all jurisdictional utilities. Similarly, as recognized in the Proposal, such an evidentiary hearing to be meaningful would also require the participation of numerous non-jurisdictional utilities. Such participation cannot be guaranteed and, frankly, is unlikely. Also, if such a hearing is open to "interventions by stakeholders in the projects included in the plan," depending on the number and size of the projects included in a given year's plan, the size and complexity of such a proceeding would be difficult if not entirely unworkable. Finally, it is unclear that the rebuttable presumption of need for projects included in the approved unified plan would actually result in fast-tracking the subsequent CPCN approvals for such projects. Tri-State believes that the more likely outcome is that special interests or project opponents will use both the unified plan proceeding and the subsequent CPCN proceeding as opportunities to challenge, delay, or modify the proposed projects.

Commission Review of the Transmission Plan

Tri-State has equally strong concerns about the "questions" the Proposal sets forth for Commission review of the unified, statewide transmission plan. Many of these questions are vague and ambiguous. For example, what is a "just" transmission system? What is a "truly coordinated" transmission plan? There are also jurisdictional implications with regard to the Commission's consideration of whether transmission expenditures are planned in a cost-effective manner, whether the transmission system meets all applicable NERC reliability criteria, and whether the transmission planning is conducted with strict adherence to the letter and spirit of FERC planning principles. In addition, who will determine what are "all necessary transmission

expenditures" and by what criteria will the Commission substitute its judgment for the business judgment of the individual utilities involved? These are but a few of the serious concerns that Tri-State has with regard to the nature and application of the "questions" by which the Commission will evaluate the proposed, unified, statewide transmission plan.

CONCLUSION

Tri-State recognizes the challenges that face the Commission and Colorado's electric utilities when it comes to efficiently planning the state's electric transmission system. By these comments, Tri-State does not seek to erect roadblocks to improving the transmission planning process or the sharing of information related to it. Instead, Tri-State believes that such improvements should be the result of a well-informed discussion and a collaborative process. While the current Proposal includes some elements that are worthy of further discussion, Tri-State is concerned that the Proposal, as currently drafted, has jurisdictional and practical infirmities that will be counterproductive to the very goals the Commission hopes to accomplish.

Tri-State looks forward to the upcoming workshop and the opportunity to continue to work with the Commission, other Colorado electric utilities, and various stakeholders to further this discussion and identify meaningful opportunities to improve the transmission planning process in Colorado and the region.

Respectfully submitted this 19th day of February, 2010



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of the foregoing Comments of Tri-State Generation and Transmission Association, Inc. were hand-delivered on this 19th day of February, 2010 to:

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and a true copy of said Comments was served via e-mail on this 19th day of February, 2010 to:

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