

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0059E

IN THE MATTER OF THE VERIFIED APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. FOR APPROVAL OF THE RETIREMENT OF THE NUCLA STATION, AND REQUEST FOR WAIVER OF RULE 3103(D).

**INTERIM DECISION REFERRING APPLICATION
TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: April 23, 2020
Adopted Date: March 25, 2020

I. BY THE COMMISSION

A. Statement

1. This Decision refers to an Administrative Law Judge (ALJ), the Verified Application and Request for Waiver (Application) filed by Tri-State Generation and Transmission Association, Inc. (Tri-State) on February 14, 2020. The Notice of Intervention of Right and Request for Hearing filed by the Office of the Consumer Council (OCC); the Notice of Intervention as of Right filed by Trial Staff of the Public Utilities Commission (Staff); the Motion for Leave to Participate as Amicus Curiae and Response to Tri-State's Request to Waive Commission Rules filed by Western Resource Advocates (WRA); the Unopposed Motion Regarding Request for Waiver, Additional Notice, and Limited Extended Intervention Period filed by Tri-State; and any other pending issues associated with this case are also referred to the ALJ. Finally, this Decision instructs the ALJ to consider several issues, as discussed below.

B. Discussion, Findings, and Conclusions

2. On February 14, 2020, Tri-State filed its Application in which it requests the following: (1) that the Commission approve the retirement of the Nucla Station and the

abandonment or discontinuation of such facilities without equivalent replacement; and (2) that the Commission waive the notice requirements of Commission Rule 3103(d) of the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3.¹

3. On March 13, 2020, the OCC filed a Notice of Intervention of Right and Request for Hearing. On March 16, 2020, WRA filed a Motion for Leave to Participate as Amicus Curiae and Response to Tri-State's Request to Waive Commission Rules. On March 17, 2020, Staff filed its Notice of Intervention as of Right. Finally, on March 23, 2020, Tri-State filed an Unopposed Motion Regarding Request for Waiver, Additional Notice, and Limited Extended Intervention Period.

4. The Nucla Station is a 100 MW coal-fired generation plant located in Nucla, Colorado. Tri-State has operated the Nucla Station for the purpose of providing wholesale electric power to its Member Systems which, in turn, provide retail service to member-customers within their respective certificated service territories. As a provider of wholesale generation and transmission services, Tri-State does not have its own certificated service territory in Colorado.

5. In July of 2019, Tri-State announced that the Nucla Station would cease operations, as part of an agreement with the Colorado Department of Health and Environment, the U.S. Environmental Protection Agency, and environmental groups.² The Nucla Station's fuel supply was exhausted on September 9, 2019, and on September 19, 2019, Tri-State announced that the Nucla Station had ceased operations. Decommissioning and dismantling the plant is scheduled to begin in the first half of 2020.

¹ Application, p. 1.

² *Id.* at p. 2.

6. Tri-State proposes to retire the Nucla generation facilities without replacement capacity.³ Under Commission Rule 4 CCR 723-3-3103(a), a utility generally cannot discontinue a facility without an equivalent replacement unless it files an application and receives Commission approval. Rule 3103(b)(II) states that such an application to discontinue a facility must include the information set forth in Rule 3102. The type of information Rule 3102 requires includes statements from the utility demonstrating that public convenience and necessity require the granting of the application, a description of the facilities, and the estimated costs.

7. On March 25, 2020, the Commission discussed Tri-State's Application at the Commission's Weekly Meeting. During the discussion, we noted that the Nucla Station's retirement raises a number of important issues that might or might not be addressed by parties through the course of the proceeding. Therefore, we direct the ALJ to investigate the following issues: (1) the reclamation of the coal mine associated with Nucla Station, to the extent that the cost of such mine reclamation is a relevant expense that should be included in the scope of the total financial impact of the Nucla Station's retirement; (2) how any disposition of water rights that Tri-State owns in connection with the Nucla Station's operations will be in the public interest; (3) a detailed cost estimate and timeframe for the Nucla Station's decommissioning; (4) a precise description of all facilities that are included in the Nucla Station's decommissioning; and (5) the ongoing monitoring and environmental compliance that will be necessary at the site.

8. Tri-State's Application is deemed complete. All matters in this proceeding, including the additional issues discussed above, are referred to an ALJ for disposition.

³ *Id.* at p. 3.

II. ORDER

A. It Is Ordered That:

1. The Application for Approval of the Retirement of Nucla Station, and Request for Waiver of Rule 3103(d) of Tri-State Generation and Transmission Association, Inc. filed February 14, 2020, is deemed complete and referred to an Administrative Law Judge, consistent with the above discussion.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 25, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners