

Decision No. C20-0437

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20M-0218E

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IN THE MATTER OF THE COMMISSION'S CONSIDERATION OF THE EXISTING RESOURCES OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. PRIOR TO ITS INITIAL ELECTRIC RESOURCE PLAN FILING PURSUANT TO 40-2-134, C.R.S.

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**DECISION OPENING PROCEEDING,  
ESTABLISHING NOTICE AND INTERVENTION PERIOD,  
AND SETTING RESPONSE TIMES**

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Mailed Date: June 11, 2020

Adopted Date: June 10, 2020

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

**I. BY THE COMMISSION**

**A. Statement**

1. On June 1, 2020, Tri-State Generation and Transmission Association, Inc. (Tri-State) filed an assessment of its existing generation resources (Assessment of Existing Resources). Tri-State made the filing consistent with the new provisions in the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3, that govern Electric Resource Plans filed by Tri-State (ERP Rules). The new ERP Rules for Tri-State were promulgated in Proceeding No. 19R-0408E pursuant to § 40-2-134, C.R.S.

2. By this Decision, we open this Proceeding for the purpose of examining the Assessment of Existing Resources filed by Tri-State.

3. As discussed below, intervention filings and responses to Tri-State's Motion for Extraordinary Protection of Highly Confidential Information, filed on June 1, 2020, are due no later than July 1, 2020. Responses to intervention filings are due July 10, 2020.

4. We will establish further procedures for this Proceeding by separate decision.

**B. Discussion**

5. On May 30, 2019, Governor Jared Polis signed into law Senate Bill 19-236. Section 40-2-134, C.R.S., as enacted by that bill, directed the Commission to promulgate new ERP Rules for Tri-State, Colorado's single wholesale electric cooperative. In developing the rules, the Commission was required to consider, among other factors determined by the Commission, whether Tri-State: serves a multistate operational jurisdiction; has a not-for-profit ownership structure; and has a resource plan that meets the energy policy goals of Colorado.

6. By Decision No. C20-0155, issued March 10, 2020, the Commission adopted amendments to the provisions in the ERP Rules at 4 CCR 723-3-3600, *et seq.*, as they apply to Tri-State.<sup>1</sup> The Commission stated in the decision that Tri-State is the first of Colorado's three electric utilities to submit an application for approval of an ERP subject to the Commission's revised ERP Rules. However, in recognition of both the time Tri-State will need to complete its first full ERP filing and the calls for prompt action among participants in the Commission's ongoing rulemakings,<sup>2</sup> Tri-State's initial ERP will be submitted in two parts. No later than June 1, 2020, Tri-State files an assessment of its existing resources pursuant to the requirements in paragraph 3605(c) of the new ERP Rules for Tri-State. Tri-State later files an application for approval of its first full ERP no later than December 1, 2020.

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<sup>1</sup> Decision No. C20-0155, issued March 10, 2020, Proceeding No. 19R-0408E.

<sup>2</sup> ERP Rules and other provisions in 4 CCR 723-3 that are common to Tri-State and the investor-owned electric utilities are under review in Proceeding No. 19R-0096E.

7. The Commission stated in Decision No. C20-0155 that the two-part filing approach will allow for Staff of the Public Utilities Commission (Staff) and other parties to Tri-State's initial ERP application proceeding to conduct discovery and learn about Tri-State's generation fleet and the underlying financial requirements in the months leading to the later review of Tri-State's complete ERP filing. The Commission concluded that the additional months of initial examination of Tri-State's generation fleet is essential to the Commission's ability to take up a full application filing made on December 1, 2020.

8. On March 30, 2020, Tri-State filed an application for rehearing, reargument, or reconsideration of Decision No. C20-0155 (Application for RRR). Among its various requests, Tri-State asked the Commission to modify the rules to specify that parties may serve discovery related to Tri-State's June 1, 2020 filing during the six-week period following the effective date of the Commission's decision regarding interventions. Tri-State argued that this timeline would allow interested parties time to intervene and propound discovery related to the June 1 filing while also ensuring that they do so in a reasonable and timely manner.

9. By Decision No. C20-0304, issued on April 28, 2020, the Commission determined that it was premature to limit discovery by rule in the specific manner that Tri-State sought in its Application for RRR.<sup>3</sup> The Commission explained that it was reluctant to incorporate a rule outside its Rules of Practice and Procedure, 4 CCR 723-1, directly related to discovery standards. The Commission stated that instead it would establish provisions governing discovery pursuant to Rule 1405 of the Rules of Practice and Procedure by procedural interim decisions rendered in the proceeding that is initiated by Tri-State's June 1, 2020 filing. The

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<sup>3</sup> Decision No. C20-0304, issued April 28, 2020, Proceeding No. 19R-0408E.

Commission further stated it would endeavor to ensure that Tri-State is able to meet the December 1, 2020 full ERP filing without being impaired by excessive discovery.

10. In accordance with the rules adopted by Decision Nos. C20-0155 and C20-0304, Tri-State filed its Assessment of Existing Resources on June 1, 2020.

11. Tri-State filed three versions of certain main documents differentiated by the required protections of information Tri-State claims to be confidential or highly confidential. Because Tri-State claims certain information in its Assessment of Existing Resources to be highly confidential, Tri-State filed a Motion Extraordinary Protection of Highly Confidential Information.

12. In its notice accompanying the filing of its Assessment of Existing Resources, Tri-State repeats its request that the Commission establish an appropriate discovery period with a firm cut-off date. Tri-State again seeks to avoid discovery burdens that impair the development of its full ERP filing due December 1, 2020.

### **C. Findings and Conclusions**

13. We find good cause to open this Proceeding for the purpose of examining the Assessment of Existing Resources filed by Tri-State on June 1, 2020. Consistent with Decision Nos. C20-0155 and C20-0304, we establish by this Decision a notice and intervention period.

14. Tri-State's Assessment of Existing Resources is available for public inspection by accessing the Commission's E-Filing system at [colorado.gov/dora/puc](http://colorado.gov/dora/puc). **This Decision is the notice that the Assessment of Existing Resources was filed by Tri-State.**

15. The Commission notice period for Tri-State's Assessment of Existing Resources shall extend through July 1, 2020. The intervention period will run concurrent with the notice

period. Intervention pleadings, including any notice of intervention of right filed by Staff, shall be filed no later than July 1, 2020.

16. Responses to Tri-State's Motion Extraordinary Protection of Highly Confidential Information shall also be filed no later than July 1, 2020.

17. Responses to Tri-State's request in its notice of the filing of its Assessment of Existing Resources that the Commission set an appropriate discovery period in this Proceeding with a firm cut-off date shall be filed no later than July 1, 2020.

18. Responses to intervention pleadings shall be filed no later than July 10, 2020.

19. We will address further procedures for this Proceeding by separate decision.

## **II. ORDER**

### **A. The Commission Orders That:**

1. This Proceeding is opened to commence the Commission's consideration of the Assessment of Existing Resources filed by Tri-State Generation and Transmission Association, Inc. (Tri-State) on June 1, 2020.

2. This Decision serves as notice of the Assessment of Existing Resources filed by Tri-State on June 1, 2020, which notice period shall extend July 1, 2020.

3. Any person desiring to intervene or participate as a party in this proceeding shall file a petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, file other appropriate pleadings to become a party no later than July 1, 2020.

4. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may submit written comments through the Commission's website at [colorado.gov/dora/puc](http://colorado.gov/dora/puc). All persons who file an objection, notice of intervention as of right,

motion to permissively intervene, or any other appropriate pleading shall do so in accordance with the instructions set forth in the Commission’s Rules of Practice and Procedure and this Decision.

5. Responses to the Motion Extraordinary Protection of Highly Confidential Information filed by Tri-State on June 1, 2020 shall be filed no later than July 1, 2020.

6. Responses to Tri-State’s request in its notice of the filing of its Assessment of Existing Resources that the Commission set an appropriate discovery period in this Proceeding with a firm cut-off date shall be filed no later than July 1, 2020.

7. Responses to intervention pleadings shall be filed no later than July 10, 2020.

8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING  
June 10, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners