

Decision No. C21-0139-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0528E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. FOR APPROVAL OF ITS 2020 ELECTRIC RESOURCE PLAN.

**INTERIM COMMISSION DECISION ADDRESSING
INTERVENTIONS AND SETTING RESPONSE TIME**

Mailed Date: March 10, 2021
Adopted Date: February 24, 2021

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission addresses the interventions of thirty-one organizations and sets response time to Tri-State Generation and Transmission Association, Inc.'s (Tri-State) Motion for Extraordinary Protection and the Conservation Coalition's motion asking this Commission to order Tri-State to revise its 2020 Electric Resource Plan (ERP) Application.

B. Background - Interventions

2. Thirty-one organizations have intervened or seek to intervene in this proceeding. The Office of Consumer Counsel, the Colorado Energy Office, and Commission Trial Staff all intervened as a matter of right pursuant to Colorado statute and Commission rule. The Commission need not take any action with respect to these interventions. All three agencies are parties to this proceeding.

3. As well, two groups of eight Tri-State member cooperatives (The Wyoming Cooperatives¹ and the Joint Cooperative Movants²) seek to intervene in this proceeding.

4. In its February 5, 2021 Response to Motions to Intervene Tri-State indicates that it supports the intervention of both groups of member cooperatives. Additionally, Tri-State declares that it does not object or takes no position on the intervention requests of the remaining organizations, with the exception of Delta-Montrose Electric Association (DMEA).

5. On January 25, 2021, the Colorado Solar and Storage Association (COSSA) and the Solar Energy Industries Association (SEIA) jointly moved to intervene.

6. On January 26, 2021, the Conservation Coalition (Natural Resources Defense Council, the Sierra Club, and Western Colorado Alliance) jointly moved to intervene.

7. On January 27, 2021, three organizations moved to intervene: Colorado Independent Energy Association (CIEA), the Southwest Energy Efficiency Project (SWEET), and the Interwest Energy Alliance (Interwest).

8. On January 28, 2021, Western Resource Advocates (WRA) and IBEW Local 111 moved to intervene.

9. On January 29, 2021, DMEA and Vote Solar filed their motions to intervene in this proceeding.

¹ Big Horn Rural Electric Company, Carbon Power & Light, Inc., High West Energy Inc., Wheatland Rural Electric Association, Wyrulec Company, Inc., Niobrara Electric Association, High Plains Power, Inc., and Garland Light & Power Co. These member cooperatives filed their motion to intervene January 19, 2021.

² Poudre Valley Rural Electric Association, Inc., Empire Electric Association, Inc., Highline Electric Association, K.C. Electric Association, Morgan County Rural Electric Association, Mountain View Electric Association, Inc., Southeast Colorado Power Association, and Y-W Electric Association, Inc. These member cooperatives filed their motion to intervene January 21, 2021.

C. Interventions

10. With the exception of the three organizations that intervened pursuant to statutory right, the remaining organizations' requests for permissive intervention are governed by 4 *Code of Colorado Regulations* (CCR) 723-1-1401. The rule requires motions to permissively intervene to contain:

- the grounds relied upon for intervention;
- the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention;
- why the movant is positioned to represent that interest in a manner that will advance the just resolution of the proceeding; and
- a demonstration that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented.

11. We turn first to the sixteen Tri-State member cooperatives. Each group of eight jointly moved to intervene. Both groups point out that they have a tangible interest in this proceeding because they purchase all or nearly all of their power from Tri-State and therefore the ERP may have rate impacts on them. The Wyoming cooperatives indicate that they will participate as a group rather than as individual intervenors. Both groups indicate that their participation will not be administratively burdensome. We have reviewed both motions and conclude that each group has met the standard for permissive intervention in this proceeding. Accordingly, we grant the motions to intervene filed by the Wyoming Cooperatives and the Joint Cooperative Movants.

12. Next, COSSA and SEIA indicate that Tri-State's ERP will have a direct impact on the business interests of COSSA and SEIA's members and their ability to fairly compete with each other and with Tri-State in any competitive solicitation stemming from the proceeding, and

also that amount of capacity need identified in the ERP, as well as the timeline of acquisition, directly impacts the size and scope of COSSA and SEIA's members' business presence and opportunities in Colorado. They also indicate that their intervention will advance the just resolution of the proceeding, and that no other entity adequately represents their interests. Having reviewed the motion, we conclude that it is proper to grant COSSIA and SEIA's request for permissive intervention.

13. The Conservation Coalition (Natural Resources Defense Council, the Sierra Club, and Western Colorado Alliance) indicate that they represent members who ultimately purchase power at retail from Tri-State's member cooperatives in Colorado, New Mexico, Nebraska, and Wyoming, and that the ERP may impact power plants that affect their members' health, and that the ERP may contain renewables projects in the communities where their members live, thereby affecting local economic development in members' communities. The Coalition indicates that it will work with Tri-State and other parties to ensure the proceeding is conducted in an efficient manner, and that no other parties represent the particular interest of protecting the environment, public health, and reducing emission of conventional pollutants and greenhouse gases from the electricity sector. We find that the Conservation Coalition meets the standards for permissive intervention under Rule 1401 and accordingly grant the Coalition's motion to intervene.

14. The Colorado Independent Energy Association states that it represents members who are independent power producers that operate or seek to operate generation resources in Colorado, and that it has an interest in advocating for outcomes that safeguard competitive bidding of renewable resources and market participation by independent power producers, and that the result of the ERP may have a tangible impact on its members. It indicates that it will not

unduly broaden the issues in this proceeding. Having reviewed CIEA's motion, we are persuaded that CIEA has met the standards to permissively intervene in this proceeding and therefore grant the motion.

15. The Southwest Energy Efficiency Project moves to intervene on the grounds that it is a regional organization focused on increasing demand side management and energy efficiency resources. It points out that it participated in the Pre-ERP miscellaneous proceeding and that it believes that Tri-State underestimated the amount of available energy efficiency in its members' service areas and that Tri-State could save about 180MW through demand response. SWEEP indicates that it will build on its advocacy in the Pre-ERP proceeding and ensure that the ERP accounts for the benefits of demand response and energy efficiency resources. Additionally, SWEEP indicates that its participation will not unduly delay the proceeding and that it is committed to coordinating with other parties in the interest of administrative efficiency. Having reviewed SWEEP's motion we are persuaded to exercise our discretion and grant the motion, making SWEEP an intervenor in this proceeding.

16. Interwest's petition to intervene³ indicates that the proceeding will substantially affect the pecuniary and tangible interests of Interwest's members, particularly those members that are developers of renewable energy generating facilities and manufacturers of renewable energy equipment in Colorado. Interwest states that some of its commercial members are currently developing wind and solar sites in Colorado and will likely submit proposals to respond to any requests for proposals that result from the Phase II of this ERP. As well, Interwest notes that it participated in the Pre-ERP proceeding and that no other organization will represent the renewable energy developers that comprise its commercial membership. Finally, Interwest

³ We construe the petition as a motion to intervene.

indicates that its intervention will bring no undue complication or delay. Having reviewed Interwest's motion, we find that Interwest meets the Commission's permissive intervention standard and therefore we will grant the motion.

17. Western Resource Advocates indicates that its interest in this proceeding is ensuring protection of the environment, including protecting human health, air quality, and water quality, reducing the impacts of climate change, and advocating for the overall health and beauty of Colorado's lands and ecosystems. This proceeding will impact the tangible interests WRA represents, specifically environmental protection through reduction of emissions from the electricity sector. WRA indicates that it has coordinated with the other environmental organizations that wish to intervene in this proceeding that that none will represent WRA's interests, but that WRA will coordinate with them when possible to avoid any duplicative or burdensome filings. We have reviewed WRA's motion and find that the motion satisfies our permissive intervention criteria. Accordingly, we will grant the motion to intervene.

18. IBEW Local #111 moves to intervene as it is the collective bargaining representative of employees of Tri-State and of other employers who would construct transmission and substation facilities of the type proposed in the ERP. It is also the collective bargaining representative for a number of Tri-State's member cooperatives, and that it has a unique interest in the downstream impact of this proceeding in a way that no other organization will represent. We agree with the arguments put forth in IBEW's motion and find that they may properly intervene under Rule 1401. Therefore, we grant the motion.

19. Vote Solar moves to intervene in this proceeding, as well. Vote Solar states that the proceeding will have a direct and tangible impact on Vote Solar's interests in advancing solar energy resources in Colorado, as well as Vote Solar's tangible interests in advancing Colorado's

climate and energy policy goals through well-structured resource plans that harness the robust benefits of these resources. Additionally, Vote Solar states that it will not be adequately represented by any other party because Vote Solar is a non-profit organization that is uniquely focused on advancing rooftop solar and other distributed energy resources. Vote Solar also states that its participation in this Proceeding will not unduly broaden the issues or delay the proceeding, and that it is committed to coordinating with other parties where possible to avoid duplicative presentation of issues. Having reviewed the motion filed by Vote Solar, we find that it is proper to grant Vote Solar permissive intervention in this proceeding therefore we will exercise our discretion to grant Vote Solar's motion.

20. Finally, Delta-Montrose Electric Association has moved to intervene in this proceeding. As noted above, Tri-State opposes this intervention and believes DMEA has not met the standards for permissive intervention. DMEA is a former member cooperative of Tri-State but is no longer, nor is it an electric customer of Tri-State. It seeks to intervene for a narrow purpose – to ensure that Tri-State's ERP accurately calculates DMEA's portion of Tri-State's 2005 baseline emissions. DMEA points out that this is addressed in the direct testimony of Brad Nebergall. DMEA notes that it seeks to participate to ensure that emissions assigned to DMEA do not unfairly prejudice DMEA's own contractual or regulatory obligations. Tri-State responds that DMEA should take up those concerns with AQCC or CDPHE, as those are the agencies that will ultimately calculate and enforce greenhouse gas reductions. It argues that this proceeding will not impact the calculation of DMEA's baseline emissions.

21. While Tri-State may be correct that the ultimate calculation and assignment of 2005 baseline emissions is left to other agencies, DMEA has indicated that it wants to ensure that those emissions are properly assigned in this proceeding so that DMEA is not bound by

inaccurate assignments in the future, and it indicates that no other party will adequately represent this interest. DMEA also indicates that it will represent its interest in a manner that will advance the just resolution of the proceeding, and its intervention will not unduly broaden the issues or cause undue delay. We find that DMEA's interest in ensuring that it is assigned an accurate amount of 2005 baseline emissions is a sufficient reason to justify intervention in this proceeding, albeit in a limited fashion. Therefore, we will grant DMEA intervenor status but for the limited purpose just discussed.

D. Response Time to Two Outstanding Motions

22. Now that the Commission has addressed interventions in this proceeding, it will shortly turn to two outstanding motions: Tri-State's December 1, 2020 Motion for Extraordinary Protection, and the Conservation Coalition's February 2, 2021 Motion Requesting Revisions to Tri-State's ERP Application.

23. In order to allow intervenors to respond to these motions the Commission is extending the response time to each motion. Responses are due fourteen days from the date this Decision is mailed.

II. ORDER

A. It Is Ordered That:

1. The Motion to Intervene filed on January 19, 2021 by The Wyoming Cooperatives is granted.

2. The Motion to Intervene filed on January 21, 2021 by The Joint Cooperative Movants is granted.

3. The January 25, 2021, Joint Motion to Intervene filed by the Colorado Solar and Storage Association (COSSA) and the Solar Energy Industries Association (SEIA) is granted.

4. The January 26, 2021, Motion to Intervene jointly filed by the Conservation Coalition (Natural Resources Defense Council, the Sierra Club, and Western Colorado Alliance) is granted.

5. The January 27, 2021, Motions to Intervene filed by the Colorado Independent Energy Association (CIEA), the Southwest Energy Efficiency Project (SWEEP), and the Interwest Energy Alliance (Interwest) are granted.

6. The January 28, 2021, Motions to for Leave to Intervene filed by Western Resource Advocates (WRA) and IBEW Local 111 are granted.

7. The January 29, 2021, Motions to Intervene filed by Vote Solar and Delta-Montrose Electric Association are granted consistent with the discussion above.

8. Response time for Tri-State's December 1, 2020 Motion for Extraordinary Protection, and the Conservation Coalition's February 2, 2021 Motion Requesting Revisions to Tri-State's ERP Application is set to fourteen days after this Decision is effective.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 24, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners