

Decision No. C19-0476-I

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

PROCEEDING NO. 19V-0311E

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IN THE MATTER OF THE VERIFIED PETITION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. FOR APPROVAL OF A VARIANCE FROM RULE 3605 TO EXTEND THE FILING OF ITS NEXT ELECTRIC RESOURCE PLAN AND PETITION FOR RULEMAKING.

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**INTERIM DECISION GRANTING REQUEST FOR A  
SHORTENED NOTICE AND INTERVENTION PERIOD  
AND SHORTENING RESPONSE TIME TO MOTIONS**

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Mailed Date: June 7, 2019

Adopted Date: June 6, 2019

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

**I. BY THE COMMISSION**

**A. Statement**

1. On May 31, 2019, Tri-State Generation and Transmission Association, Inc. (Tri-State) filed a Petition for Approval of a Variance to Extend the Filing of its Next Electric Resource Plan and Request for Pre-Rulemaking Proceeding (Petition). In the Petition, Tri-State requests that the Commission expedite consideration of the Petition, to the extent possible.

2. This Decision establishes a shortened notice and intervention period for the Petition. Requests for intervention shall be filed no later than **June 20, 2019**.

**B. Discussion**

3. Rule 3605 of the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules), requires Tri-State to report to the Commission its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with

certain requirements that also apply to the investor-owned electric utilities in Colorado pursuant to Rules 3606, 3607, 3609(a), and 3610 of the Electric Resource Planning (ERP) Rules, 4 CCR 723-3-3600, *et seq.* Rule 3605 references Rule 3603, which requires Tri-State to file its next ERP no later than October 31, 2019.

4. On February 27, 2019, the Commission issued a Notice of Proposed Rulemaking through Decision No. C19-0197 in Proceeding No. 19R-0096E to amend the Electric Rules in six areas: (1) the ERP Rules; (2) the Renewable Energy Standard Rules at 4 CCR 723-3-3650, *et seq.*; (3) the Net Metering Rules presently in 4 CCR 723-3-3664; (4) the rules governing Community Solar Gardens presently in 4 CCR 723-3-3665; (5) the provisions for utility purchases from Qualifying Facilities presently at 4 CCR 723-3-3900, *et seq.*; and (6) the Interconnections Standards and Procedures presently in 4 CCR 723-3-3667. Hearings were conducted on April 29, 2019 through May 3, 2019, and post-hearing comments were submitted on May 31, 2019. A decision adopting revised Electric Rules is pending.

5. In a letter addressed to Commission Director Doug Dean dated March 1, 2019, Tri-State announced the start of its stakeholder outreach in preparation of the filing of its 2019 ERP. Tri-State stated that it would hold several public meetings as part of a process resulting in detailed reports regarding “future resources plans by Tri-State.” The first meeting for the 2019 ERP was set for March 27, 2019 at Tri-State’s headquarters.

6. On May 30, 2019, Governor Jared Polis signed into law Senate Bill 19-236 containing § 40-2-134, C.R.S., that directs the Commission to promulgate new rules that require Tri-State to submit an application for approval of an integrated or electric resource plan. The Commission is required to evaluate Tri-State’s plan using rules applicable to Tri-State. In developing such rules for Tri-State, the Commission must 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 the state.

7. In the Petition, Tri-State seeks a variance from the timing requirements of Rules 3603 and 3605 and an extension of the deadline for filing its next resource plan from October 31, 2019 to December 31, 2020.

8. Tri-State argues that an extension from October 31, 2019 to December 31, 2020 will allow sufficient time for: (1) both it and the Commission to engage with stakeholders; (2) the Commission to conduct a rulemaking proceeding focused on resource planning rules applicable only to Tri-State; (3) Tri-State to obtain and consider stakeholder input in connection with development of its next resource plan; and (4) Tri-State to develop and file its resource plan pursuant to the new rules.

9. Tri-State further argues that it would be inequitable and would constitute a hardship to require Tri-State to develop and file by October 31, 2019, a new resource plan “consistent with any new rules promulgated pursuant to Section 134.”<sup>1</sup> Tri-State adds that it also would be inequitable and would constitute a hardship to require Tri-State to complete the preparation of its 2019 resource plan under the existing rules and then require it to prepare and file shortly thereafter a different resource plan under new rules.

10. In addition to the waiver from Rule 3605, Tri-State requests that the Commission open a miscellaneous proceeding for the purpose of soliciting input and information concerning resource planning rules for Tri-State consistent with the newly enacted § 40-2-134, C.R.S.

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<sup>1</sup> Application at p. 6.

Tri-State states that it is amenable to a reasonably expedited schedule for such a pre-rulemaking proceeding so as to enable timely promulgation of new rules and the development and filing of a new resource by December 31, 2020. Tri-State explains that certain stakeholders might prefer to implement new resource planning rules for Tri-State as soon as possible rather than waiting for a full planning cycle for Tri-State's subsequent filing in 2023. Tri-State warns against simply applying to Tri-State the existing ERP Rules or the new proposed ERP Rules currently under review in Proceeding No. 19R-0096E, and then requiring Tri-State to seek a waiver or variance of the rules it argues should not apply to Tri-State. Tri-State suggests that a more prudent approach would be for the Commission to identify those ERP Rules that make sense "in the context of a multi-state, not-for-profit, wholesale electric utility that does not have a certificated service territory."<sup>2</sup> Tri-State also states that its proposed approach is consistent with the statutory considerations required in § 40-2-134, C.R.S.

11. Finally, Tri-State requests that the Commission expedite consideration of its Petition, to the extent possible.

### C. Conclusion and Findings

12. The Petition is available for public inspection at the Commission's offices located at 1560 Broadway, Suite 250, Denver, Colorado 80202, between 8:00 a.m. and 5:00 p.m., excluding weekends and state holidays. **This Decision is the notice that a Petition for Approval of a Variance to Extend the Filing of its Next Electric Resource Plan and Request for Pre-Rulemaking Proceeding has been filed by Tri-State.**

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<sup>2</sup> *Id.* at p. 7.

13. The Commission finds good cause to establish a shortened Commission notice and intervention period. Requests for intervention, including a notice of intervention by right of Staff of the Colorado Public Utilities Commission, shall be filed no later than **June 20, 2019**.

## **II. ORDER**

### **A. It Is Ordered That:**

1. Any person desiring to intervene or participate as a party in this Proceeding, including Staff of the Colorado Public Utilities Commission, 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, **by June 20, 2019**. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. 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.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
June 6, 2019.**

(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

JEFFREY P. ACKERMANN

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FRANCES A. KONCILJA

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JOHN GAVAN

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Commissioners