

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0266E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. FOR PUBLIC INTEREST DETERMINATION FOR ENTRY INTO THE SOUTHWEST POWER POOL IN THE WESTERN INTERCONNECTION.

**INTERIM COMMISSION DECISION GRANTING SECOND
MOTION FOR EXTRAORDINARY PROTECTION**

Issued Date: October 24, 2025

Adopted Date: October 22, 2025

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On June 16, 2025, Tri-State Generation and Transmission Association, Inc. (“Tri-State”), in accordance with § 40-5-108, C.R.S., filed an Application (“Application”) requesting a finding that the Southwest Power Pool Regional Transmission Organization in the Western Interconnection (“SPP RTO West”) is a Statutory Organized Wholesale Market (“OWM”), as defined in Rule 3752(n), 4 Code of Colorado Regulations 723-3, and that Tri-State’s planned participation in the SPP RTO West is in the public interest. Concurrent with its Application, Tri-State also filed a Motion to Approve a Proposed Procedural Schedule, Discovery Procedures, and Treatment of Confidential Information.

2. On June 26, 2025, by Decision No. C25-0484-I, the Commission noticed the Application, established a shortened notice and intervention period to run to July 9, 2025, and set July 14, 2025, as the response deadline to Tri-State’s procedural motion.

3. On July 18, 2025, by Decision No. C25-0530-I, the Commission acknowledged the interventions of right filed by Trial Staff of the Commission (“Staff”), the Colorado Office of the Utility Consumer Advocate (“UCA”), and the Colorado Energy Office (“CEO”). The Commission also granted the motions for permissive intervention filed by: Interwest Energy Alliance (“Interwest”); Black Hills Colorado Electric, LLC (“Black Hills”); Western Resource Advocates (“WRA”); and Holy Cross Electric Association, Inc (“Holy Cross”). Also through Decision No. C25-0530-I, the Commission required Tri-State to confer with the intervening parties regarding a procedural schedule and to file a new proposed procedural schedule by July 25, 2025. Tri-State then timely filed a proposed consensus procedural schedule.

4. On August 6, 2025, by Decision No. C25-0578-I, the Commission adopted the proposed consensus procedural schedule and granted Tri-State’s procedural motion, in part.

5. On October 7, 2025, pursuant to the approved procedural schedule, the Commission held a public comment hearing at which the Commission and multiple parties requested Tri-State provide additional information to the parties.

6. On October 13, 2025, Tri-State filed an Unopposed Second Motion for Extraordinary Protection (“Motion”) in which it seeks extraordinary protection for categories of documents and information it collectively refers to as Highly Confidential Information.

7. Pursuant to Rules 1101(b) and 1400 of the of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1, Tri-State requests a Commission order granting extraordinary protection for competitively sensitive information associated with Tri-State’s Post-Hearing Supplemental Comments and associated attachments provided to parties in this Proceeding. Specifically, Tri-State requests extraordinary protection for internal and external implementation costs and participation fees, full study reports regarding the benefits of

market participation, Tri-State's commitment agreement with SPP, and detailed planning reserve margin analyses.

8. Regarding conferral, Tri-State maintains that no party took a position on the Motion but also notes that Interwest, Holy Cross, and WRA did not provide a conferral response.

9. Tri-State explains the categories for which Tri-State requests extraordinary protection include commercially sensitive information and disclosure of said information could cause irreparable harm to Tri-State's business operations.¹ Tri-State asserts a competitor could use the information to obtain a substantial competitive advantage. Tri-State also contends certain provisions of its commitment agreement with SPP are commercially sensitive information that, if disclosed, would hinder Tri-State's ability to solicit cost-effective resources and could advantage Tri-State's competitors and/or contract counterparties if disclosed.

10. Tri-State request the Commission issue a protective order that provides: (1) access to Highly Confidential Information be limited to only parties to this Proceeding that are not competitors of Tri-State, (2) for parties that are not competitors of Tri-State, access to the Highly Confidential Information be further limited to a "reasonable number of attorneys" and a "reasonable number of subject matter experts" representing a party to this proceeding, (3) "Competitors" of Tri-State be defined to include the representatives and attorneys for other public utilities and their affiliates, independent power producers and their affiliates, and any other company and their affiliates with business functions that include the sale of energy or the development of facilities for the production of energy, and (4) individuals accessing the information, with the exception of the Commission and Commission Trial Staff be required to

¹ Motion for Extraordinary Protection, pp. 4.

execute the Highly Confidential Nondisclosure Agreement (“NDA”) that is provided as Attachment A to the Motion.

11. Pursuant to Rule 1101(b), 4 CCR 723-1, Tri-State explains its proposed Highly Confidential NDA is provided as Attachment A to the Motion. However, Tri-State further explains that the NDA is the same as what was filed with its first Motion for Extraordinary Protection and that it is not requesting individuals to execute the NDA a second time in connection with the information described in the Motion. Tri-State further notes it provided notice to the parties, included an affidavit as Attachment B to the Motion and that it did not provide the relevant documents as an exhibit to the Motion because it would be overly burdensome and would result in substantial competitive harm to Tri-State. Tri-State further requests that all parties and their counsel either destroy or return to Tri-State the Highly Confidential Information described in the Motion that is provided to them during the course of this Proceeding at its conclusion

12. When presented with a motion for extraordinary protection of claimed highly confidential information, the Commission determines whether the information is, in fact, highly confidential, the level of extraordinary protection that may be warranted, and to whom access should be granted. Rule 1101(d), 4 CCR 723-1, allows the Commission to “enter a decision granting the motion and ordering the highly confidential protection which the Commission, in the exercise of its discretion, deems appropriate; may enter a decision denying the motion; or may enter any other appropriate decision.

13. The operative language in Rule 1101(b)(IV), 4 CCR 723-1, which concerns motions requesting highly confidential protection, requires that the motion:

shall include a showing that the information for which highly confidential protection is sought is highly confidential; that the protection afforded by the Commission's rules for furnishing confidential information provides insufficient protection for the highly confidential information; and that, if adopted, the highly confidential protections proposed by the movant will afford sufficient protection for the highly confidential information ...

14. We find persuasive the reasoning and arguments in the Motion and find the Motion states good cause to grant the relief sought under Rule 1101. The Commission further finds the requested protections are appropriate, are reasonable, and are consistent with the Commission's Rules and past practice. Based on the foregoing, we waive remaining response time to the Motion pursuant to Rule 1308(c), 4 CCR 723-1, and grant the motion to afford extraordinary protection and approve the non-disclosure agreement.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Motion for Extraordinary Protection of Highly Confidential Information filed by Tri-State Generation and Transmission Association, Inc. on October 13, 2025, is granted, consistent with the discussion above.

2. This Decision is effective immediately upon its Issued Date.
- a. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 22, 2025.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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TOM PLANT

Commissioners

Rebecca E. White,
Director

COMMISSIONER MEGAN M. GILMAN
ABSENT