

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-192E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., P.O. BOX 33695, DENVER, COLORADO FOR A DETERMINATION UNDER 29-20-108(5), C.R.S., THAT THE CONDITIONS IMPOSED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO, ON TRI-STATE'S PROPOSED NUCLA-TELLURIDE 115 KV TRANSMISSION LINE PROJECT WILL UNREASONABLY IMPAIR TRI-STATE'S ABILITY TO PROVIDE SAFE, RELIABLE, AND ECONOMICAL SERVICE TO THE PUBLIC.

**ORDER GRANTING PETITIONS TO INTERVENE
AND SCHEDULING CONFERENCE**

Mailed Date: July 2, 2003
Adopted Date: July 2, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application for a determination under § 29-20-108(5), C.R.S., filed by Tri-State Generation and Transmission Association, Inc. (Tri-State), on May 9, 2003. Specifically, Tri-State is seeking a determination that the conditions imposed by the Board of County Commissioners of San Miguel County, Colorado on the Nucla-Telluride 115 kV transmission line upgrade project will unreasonably impair Tri-State's ability to provide safe, reliable, and economical service to the public. On May 14, 2003, the Commission issued notice of the Application. The Coalition of Concerned San Miguel County Homeowners (Homeowners) filed a petition for intervention on June 12, 2003. On June 13, 2003, the Board of County Commissioners of San Miguel County (San Miguel County Commissioners) filed an entry of appearance and notice of intervention by

right. A petition to intervene was filed on June 16, 2003 by the Board of County Commissioners of Montrose County (Montrose County Commissioners). Staff of the Commission (Staff) filed a notice of intervention and entry of appearance on June 20, 2003. Contemporaneous with the notices of and petitions for intervention, several motions and requests were filed. Tri-State filed its response on June 24, 2003.

2. Good grounds having been stated, we grant the petitions to intervene by the Montrose County Commissioners and the Homeowners. The petition for intervention by the Homeowners included names of the individuals and associations comprising the Homeowners. As membership in the coalition changes, Homeowners is directed to notify the Commission, in writing, within five days of each such change.

3. Staff requested that this matter be set for hearing. The San Miguel County Commissioners and the Homeowners filed motions requesting that the Commission *en banc* conduct the hearings. Tri-State raised no objection and deferred to the Commission to decide if the Commission *en banc* should conduct the hearings on this matter. We agree with the San Miguel County Commissioners and the Homeowners that this Application is a matter of first impression because it is the first proceeding brought before this Commission pursuant to § 29-20-108, C.R.S. Therefore, the Commission *en banc* will conduct the open public and evidentiary hearings.

4. The Commission is required pursuant to § 29-20-108(5)(b), C.R.S., to take statements concerning the appealed local government action at a public hearing held at a location specified by the local government. Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-32-5.4 requires San Miguel County to submit to the parties and the Commission its

preference for the location of the open public hearing. The San Miguel County Commissioners request that the open public hearing be held in the Telluride area: either the Town of Telluride or the Town of Mountain Village. In what appears to be a timing problem, San Miguel County Commissioners have not submitted the requested location to all parties in this docket. However, we waive any further rule requirement and this order shall serve to notify all parties of the location preferred by San Miguel County Commissioners for the public hearing. Tri-State raised no objection and deferred to the Commission to decide on the location of the public hearing. We will conduct the public hearing in the Telluride area.

5. The San Miguel County Commissioners also request that the Commission designate a site for the public hearing, indicating that the county's customary meeting room is not adequate in size. We direct Tri-State to obtain a space adequate in size for the public hearing in either the Town of Telluride or the Town of Mountain Village. Tri-State shall confer with Terry Bote of the Commission and with a San Miguel County representative on the appropriateness of Tri-State's selection for the location of the public hearing. San Miguel County Commissioners shall provide in writing the name and contact information of its representative within five days of the mailed date of this decision. We remind Tri-State of its obligation, pursuant to Rule 4 CCR 723-32-5.8, to pay for any cost associated with the rental of space for the public hearing.

6. In accordance with Rule 4 CCR 723-32-5.2, Tri-State filed a request to set a scheduling conference in its June 24, 2003 filing. Specifically, Tri-State requests that the Commission conduct a scheduling conference within 30 days of deeming the application

complete¹ and indicates that counsel for all parties are available the morning of July 8, 2003. Tri-State further indicates that the parties are amenable to conducting the scheduling conference by telephone. We waive response time and grant the motion to hold a scheduling conference. A scheduling conference will be held starting at 9:00 a.m. on July 8, 2003. We direct Tri-State to secure a conference bridge from 9:00 a.m. to noon on July 8, 2003. We further direct Tri-State to provide the dial in number, access number, and any other information required to use the conference bridge to the Commission and all parties no later than noon on July 7, 2003.

7. Pursuant to Rule 4 CCR 723-32-5.6 we direct that all parties provide Tri-State with a list of individuals and groups to receive notice of the open public hearing no later than the close of business on July 7, 2003. The Commission requests that all parties be prepared at the scheduling conference to estimate how many individuals might attend the open public hearing.

8. We direct that all parties confer pursuant to Rule 4 CCR 723-32-5.9 and be prepared to propose dates for the filing of answer testimony, the filing of rebuttal/cross-answer testimony, the public hearing, and the evidentiary hearing. We request that all parties be prepared during the scheduling conference to discuss an appropriate location for the evidentiary hearing. The parties should also be prepared to argue their position on extending the time for decision to 210 days.

II. ORDER

A. The Commission Orders That:

1. The Petition for Intervention by the Coalition of Concerned San Miguel County Homeowners is granted consistent with the above discussion.

¹ The application was deemed complete on June 30, 2003 by minute entry.

2. The Petition to Intervene by the Board of County Commissioners of Montrose County is granted.

3. The parties' motions that an evidentiary hearing be held, and held by the Commission *en banc*, are granted.

4. The Board of County Commissioners of San Miguel County's request that an open public hearing be held either within the Town of Telluride or the Town of Mountain Village is granted consistent with the above discussion.

5. A scheduling conference to address the unresolved motions and other unresolved matters discussed above will be held at the following date, time, and place:

DATE: July 8, 2003
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

6. Consistent with the above discussion, Tri-State Generation and Transmission Association, Inc., shall provide the conference bridge to enable parties to participate at the scheduling conference telephonically.

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 2, 2003.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners