

Decision No. C19-0690

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18F-0866E

DELTA-MONTROSE ELECTRIC ASSOCIATION,

COMPLAINANT,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

COMMISSIONERS' DECISION CLOSING PROCEEDING

Mailed Date: August 16, 2019

Adopted Date: August 14, 2019

I. BY THE COMMISSION

A. Statement

1. For the better part of this year, the Commission, its advisors, and the parties to this proceeding have labored to give this dispute the hearing it deserves. Thousands of pages of argument, briefing, testimony, and public comment fill the record. Forty-four organizations or individuals intervened or participated as *amici*. Dozens more filed public comments. In our view, and perhaps more importantly in the public's view, this is a proceeding that in some ways is larger than a business dispute between one cooperative electric association and its nonprofit generation and transmission association.

2. The Commission devoted tremendous energy to adjudicating the disputes that flared up between the parties. It scheduled an emergency prehearing conference at Delta-Montrose Electric Association's (DMEA) request, and when it was revealed that Tri-State

Generation and Transmission Association, Inc. (Tri-State) was working towards becoming rate regulated by the Federal Energy Regulatory Commission (FERC), this Commission was prepared to move forward the evidentiary hearing so DMEA's case could be heard. On July 15, 2019, three hours before we were set to deliberate on moving the hearing, DMEA and Tri-State filed a Joint Notice of Settlement in Principle.

3. At the Commission's July 17, 2019 Weekly Meeting, we voiced our concern that the settlement might not be in the public interest, that its terms could be onerous and would be hidden from the public and the Commission, that the third party in this proceeding—the Colorado Energy Office—had been silent on the settlement, and that throughout this proceeding, Tri-State had employed dilatory tactics that were detrimental to stakeholders and the Commission.

4. To protect the public interest and the dignity of this tribunal, we ordered the Colorado Energy Office to submit a filing indicating whether its counsel believed the terms of the agreement were in the public interest and we ordered the parties to file a public version and a highly confidential version of the executed settlement agreement.

5. For the same reasons, and concerned that Tri-State had been working to undermine our jurisdiction as we and the other parties worked to resolve this dispute, we ordered Tri-State to file a summary of all actions taken by Tri-State, its employees and any third party consultants, including attorneys, from the period January 1, 2019, through Friday, July 12, 2019, concerning the steps it has taken to consider and move Tri-State toward regulation by FERC.

6. Tri-State never filed its summary.

7. Instead, the parties filed a Stipulation for Dismissal on July 19, 2019. The filing had the effect of limiting our ability to enforce, in this proceeding anyway, the orders we had

issued in our attempt to provide some transparency for the public. *See* Colorado Rule of Civil Procedure 41.

8. Left with nothing more to adjudicate, we have no other choice but to close this proceeding.

II. ORDER

A. The Commission Orders That:

1. This proceeding is closed.
2. This Decision is effective on its Mailed Date.

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING August 14, 2019.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

Commissioners

Doug Dean,
Director

COMMISSIONER JOHN GAVAN IS RECUSED.