

Decision No. R20-0097-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19F-0620E

LA PLATA ELECTRIC ASSOCIATION, INC.,

COMPLAINANT,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

PROCEEDING NO. 19F-0621E

UNITED POWER, INC.,

COMPLAINANT,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

**INTERIM DECISION OF
HEARING COMMISSIONER
FRANCES A. KONCILJA
FINDING COMMISSION JURISDICTION
TO HEAR CONSOLIDATED COMPLAINT
PROCEEDINGS; ON RIPENESS OF
COMPLAINTS; AND DENYING MOTION TO STAY**

Mailed Date: February 12, 2020

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I. STATEMENT

1. La Plata Electric Association, Inc. (La Plata) and United Power, Inc. (United Power) (collectively, Complainants) filed formal Complaints against Tri-State Generation and Transmission Association, Inc. (Tri-State) on November 5 and 6, 2019 respectively.

2. United Power claims that the proposed exit charge for its withdrawal from Tri-State is unjust, unreasonable, and discriminatory on its face and as compared to the exit charge agreed upon by Tri-State and Kit Carson Electric Cooperative (Kit Carson), located in New Mexico. (United Power Complaint at ¶¶ 64-66 and 73-76).

3. La Plata claims that Tri-State’s refusal to provide any exit charge number to La Plata is unjust, unreasonable, and discriminatory, in part, because of Tri-State’s differential treatment of La Plata compared to Kit Carson and Delta Montrose Electric Association (DMEA). (La Plata Complaint at ¶¶ 52-55 and 62-65).

4. Complainants both assert the moratorium on calculating an exit fee that Tri-State has recently imposed on members seeking to withdraw functions as an unjust, unreasonable, and discriminatory exit charge. (*See* United Power Complaint at ¶ 34; La Plata Complaint at ¶ 30).

5. By Decision No. C19-0955-I issued November 25, 2019, the Commission consolidated the Complaints and designated Commissioner Frances A. Koncilja as the Hearing Commissioner.

6. By Decision No. R19-1001-I, issued December 19, 2019, Commissioner Koncilja established a procedural schedule, which among other things, set a deadline of December 20, 2019, for the Parties to file simultaneous briefs addressing whether the Commission has jurisdiction over the Complaints.

7. By this Decision, Commissioner Koncilja finds that the Commission has jurisdiction over the formal complaints and that the Complaints are ripe for review by the Commission.

II. POSITIONS OF THE PARTIES

A. Complainants' Joint Position

8. Complainants argue that the Commission has already decided this jurisdictional issue; the Commission has jurisdiction over these Complaints; Tri-State is not yet subject to jurisdiction of the Federal Energy Regulatory Commission (FERC); even if Tri-State were subject to FERC rate jurisdiction, the Commission would still have jurisdiction over these Complaints; MIECO Inc. (MIECO) is not and cannot be a member owner of Tri-State under Colorado law; and Tri-State misled its member-owners in obtaining approval of the change to its bylaws that Tri-State now uses as the basis to assert MIECO is an owner member. Complainants

further argue that, as to some of these issues, Tri-State has not produced evidence to support its positions.

9. Complainants cite prior Complaint Proceeding No. 18F-0866E,¹ where the Commission found it had jurisdiction over a DMEA complaint alleging Tri-State failed to provide an exit charge to DMEA that was just, reasonable, and non-discriminatory. Complainants argue that between resolution of that proceeding and the filing of their Complaints, nothing occurred that would dislodge Commission jurisdiction over exit charge disputes. Although Complainants are convinced Tri-State intends to raise the contention that it is now federally regulated, which preempts this Commission's jurisdiction to hear this consolidated proceeding, Complainants respond that this position is inconsistent with prior representations by Tri-State's own general counsel that FERC jurisdiction would not attach for at least 60 days after a filing at FERC, is premature, and is wrong as a matter of law.²

10. Complainants note that FERC has not ruled that Tri-State is under its jurisdiction nor accepted any filing by Tri-State that would purport to bring Tri-State's rates and charges under full FERC rate regulation. Instead, FERC rejected Tri-State's recent FERC filing. Complainants conclude that rejection alone undermines Tri-State's ostensible claim that it is already FERC rate-regulated.

11. Complainants assert that the Commission already exercised jurisdiction over the exit charge dispute in the DMEA complaint proceeding. In that case, DMEA alleged the exit charge prescribed by Tri-State violated §§ 40-3-101, 40-3-102, 40-3-108, and 40-3-111, C.R.S. The Commission relied on Article XXV of the Colorado Constitution and the Colorado Public

¹ Proceeding No. 18F-0866E, *Delta-Montrose Electric Association v. Tri-State Generation and Transmission Association, Inc.*

² At the time Complainants filed their Joint Submission, Tri-State had not yet filed tariffs with FERC.

Utilities Law (Articles 1 to 7 of Title 40 of the Colorado Revised Statutes) to find it had the statutory authority to protect the public from excessive, unjust, discriminatory, and unreasonable exit charges demanded by a public utility like Tri-State. The Commission rejected Tri-State's contention that the exit charge was a rate over which the Commission had in the past declined to exercise jurisdiction. The Commission also rejected Tri-State's arguments that the United States Constitution's Commerce and Contract Clauses barred DMEA's complaint.

12. Complainants contend the Commission's decision finding jurisdiction over the DMEA complaint fully supports finding statutory jurisdiction over Complainants' exit charge disputes here. Complainants argue that, consistent with that decision from last year, the Commission should exercise jurisdiction over the Complaints in these consolidated proceedings.

13. Complainants contend the Commission has jurisdiction over the claims in these proceedings under Article XXV of the Colorado Constitution and the Colorado Public Utilities Law. Complainants argue that, as a public utility under Colorado law, Tri-State cannot exempt itself from public utility regulation (*see* §§ 40-9.5-102 and 103, C.R.S.). Complainants cite previous Commission decisions that note Tri-State's concession that it is subject to Commission jurisdiction.³

14. Complainants also point to various sections under Article 3 of Title 40 of the Colorado Revised Statutes that confirm Commission jurisdiction over Tri-State and allow the

³ "Tri-State does not contest the findings and rulings in the Interim Decision that, setting aside the Commerce Clause issues, the Commission has jurisdiction pursuant to Article XXV and the public utilities statutes over Tri-State as a 'public utility' and to hear a complaint alleging that its rates are unjust, unreasonable, discriminatory, and preferential." *See*, Decision No. C14-0006-I, ¶ 25, Proceeding No. 13F-0145E, issued January 3, 2014); Decision No. C19-0297-I issued April 1, 2019, ¶¶ 17, 20-21, 23, Proceeding No. 18F-0866E).

Commission to hear complaints relating to discriminatory or preferential rates, charges, rules, or regulations.⁴

15. Complainants argue that MIECO is not an owner of Tri-State because MIECO has no patronage capital; cannot earn patronage capital because, as a natural gas supplier and not a retail distributor of electricity, it will not pay Tri-State for electricity or transmission services in excess of operating costs and expenses; has no vote as a member of Tri-State's Board of Directors; and has no claim on assets after dissolution. Complainants argue that, under Colorado law as well as Tri-State's articles of incorporation and public statements that Tri-State has made, including responses to Commission questions in Proceeding No. 19M-0460E, MIECO is not a member owner and cannot become a member owner.

16. Complainants claim that Tri-State is forum shopping and that is the primary, and perhaps only, reason Tri-State has attempted to bring MIECO on as a member. Complaints assert that, even if Tri-State is currently subject to FERC regulation, Tri-State has not shown that this Commission's determination of a nondiscriminatory, just, and reasonable exit charge for Complainants directly affects any FERC-regulated wholesale rate.

B. Tri-State's Position

17. Tri-State argues that the Commission lacks jurisdiction over the Complaints because the United States Congress has preempted the Commission's authority in this area. Tri-State argues that, even if this were not the case, the Commission would lack jurisdiction over the Complaints because the Complaints are not ripe for Commission review. Tri-State describes

⁴ In addition to Article XXV of the Colorado Constitution, Complainants cite to §§ 40-1-101, 102 and 103, C.R.S.; §§ 40-3-101, 102, 106, 108, and 111, C.R.S.; §§ 40-6-108 and 111, C.R.S.; and §§ 40-9.5-102 and 103, C.R.S.

itself as a generation and transmission cooperative operating across four states. Tri-State states that it engages in the wholesale sale of power and the provision of transmission service in interstate commerce. Tri-State states that it sells power to its utility members and engages in limited off-system sales at wholesale. Tri-State states that it makes no sales of energy or capacity at retail. Thus, according to Tri-State, it falls squarely within the definition of a “public utility” subject to the exclusive rate regulation of FERC under section 201(e) of the Federal Power Act (FPA).

18. The focus of Tri-State’s arguments center on admission of MIECO as a member. Tri-State describes that on September 3, 2019, Tri-State provided notice to FERC of MIECO’s admission and of Tri-State’s change in jurisdictional status from an exempt cooperative under section 201(f) of the FPA to a public utility under section 201(e) of the FPA. Tri-State takes the position that this conclusion follows inexorably from three points of federal law arising under the FPA: (1) Tri-State is now and since September 3, 2019, has been a non-exempt public utility subject to FERC’s FPA Part II jurisdiction; (2) FERC’s FPA Part II jurisdiction encompasses disputes about the terms (including exit charges) on which a member (such as La Plata and United Power) can terminate its full-requirements Wholesale Electricity Service Contract (WESC) with a FERC-jurisdictional public utility (such as Tri-State), and does so without regard to whether those exit charges or WESCs have been filed at, or accepted by, FERC; and (3) FERC’s FPA Part II jurisdiction is exclusive, so the Commission’s jurisdiction is preempted.

19. Tri-State also argues that, in addition to being preempted by federal law, the Commission lacks subject matter jurisdiction over the Complaints because they are not ripe for review. Tri-State contends the Complaints request an advisory opinion from the Commission about hypothetical future withdrawals. Tri-State argues the Commission will not entertain

complaints unless there is “an actual case or controversy between the parties that is sufficiently immediate and real so as to warrant adjudication” and will not “consider cases involving uncertain or contingent future matters.”⁵

III. FINDINGS AND CONCLUSIONS

A. Commission Jurisdiction

20. Two issues must be resolved in order to solve the issues presented: First, does the Commission have authority under state law to hear the Complaints, and second, if it does, has that authority been preempted?

21. The Colorado Constitution vests the Commission with the power to regulate the facilities, service, rates, and charges of every public utility operating within Colorado.⁶ Through the Public Utilities Law the General Assembly has also authorized the Commission “to govern and regulate all rates, charges, and tariffs of every public utility of this state to correct abuses” and “to do all things, whether specifically designated in Articles 1 to 7 of this title or in addition thereto, which are necessary or convenient in the exercise of such power.”⁷

22. That power includes hearing complaints alleging that a public utility has established or fixed an unlawful rule, regulation, or charge.⁸ The Commission can also hear complaints alleging that a utility has established preferential or discriminatory rates or charges.⁹

⁵ Tri-State Brief at p. 24.

⁶ See Colo. Const. art. XXV.

⁷ See § 40-3-102, C.R.S.

⁸ See § 40-6-108(1)(a), C.R.S.

⁹ See § 40-6-111(4)(a), C.R.S.; see also Proceeding No. 18F-0866E, *Delta-Montrose Electric Association v. Tri-State Generation and Transmission Association, Inc.*, Decision No. C19-0297-I (April 1, 2019) ¶¶ 16-23 (explaining that Colorado law empowers the Commission to hear, among other things, a member cooperative’s complaint alleging that Tri-State’s membership-exit fee “is discriminatory, unjust, or unreasonable.”).

23. The first claim in United Power’s complaint alleges the exit charge Tri-State prescribed United Power is not just and reasonable because it is too high. Under Colorado law, the Commission has jurisdiction to hear this claim.¹⁰ The Commission also has jurisdiction to hear United Power’s second claim, which alleges the exit charge is discriminatory when compared the exit charge of DMEA in Proceeding No. 18F-0866E.¹¹

24. La Plata also asserts two claims. It alleges that Tri-State’s failure to provide it with any exit charge at all is: (1) unjust and unreasonable; and (2) discriminatory because other members have received exit charges. While this presents a new variation on the exit charge theme, the Commission can hear claims arising from an omission under § 40-6-108, C.R.S., which allows the Commission to hear complaints concerning “any act or thing done *or omitted to be done*” by Tri-State that is “. . . in violation, or claimed to be in violation, of any provision of law or of any order or rule of the [C]ommission.” And, the Commission can hear these particular claims because it is the Commission’s “duty . . . to govern and regulate all rates, charges, and tariffs of every public utility of this state to correct abuses; [and to] *prevent unjust discriminations and extortions* in the rates, charges and tariffs of such public utilities of this state” (emphasis added) under § 40-3-102, C.R.S.

25. As to the question of preemption, the Hearing Commissioner cannot agree with Tri-State that its actions have left this Commission’s traditional complaint jurisdiction preempted by federal law. Tri-State points to a transaction with MIECO, which it claims resulted in this Commission losing jurisdiction over these claims and Tri-State becoming FERC rate-regulated.

¹⁰ See §§ 40-3-101, 102, and § 40-6-108, C.R.S.; *DMEA v. Tri-State*, Decision No. C19-0297-I (April 1, 2019) ¶¶ 16-23.

¹¹ See §§ 40-3-106(1), -6-111(4)(a), C.R.S.; *DMEA v. Tri-State*, Decision No. C19-0297-I (April 1, 2019) ¶¶ 16-23.

26. Yet Tri-State admitted in its answer to Commission questions in Proceeding No. 19M-0460E that MIECO has no patronage capital. Tri-State admitted that MIECO has merely the rights to acquire patronage capital. Further, Tri-State has provided no material factual basis for its assertion that MIECO is an owner of Tri-State under Colorado law governing electric co-operatives as contained in Title 7, Article 55, of the Colorado Revised Statutes. Tri-State has proffered no factual or legal basis to demonstrate how the determination by this Commission of a nondiscriminatory, just, and reasonable exit charge for La Plata or United Power can or will directly affect any FERC-regulated wholesale rate.

27. The Complaints were brought under Colorado law and will proceed as such. Nothing in Tri-State's arguments compel a finding that the Commission is without jurisdiction to hear the Complaints. The Hearing Commissioner is unwilling to abdicate the Commission's statutory duty to hear these claims.

28. A review of the record developed to date leaves the Hearing Commissioner unpersuaded that the MIECO transaction was proper under Colorado law, that it resulted in MIECO becoming a member of Tri-State, and that MIECO's membership results in the Complaints being preempted by federal law. There are simply too many questions surrounding the MIECO transaction, the propriety of its purported "membership" under Tri-State's articles of incorporation and bylaws, and Colorado law to displace the jurisdictional *status quo*. Many of these questions turn on facts that are unclear or missing from this record. Therefore, the Parties are on notice that each must be prepared to answer these questions thoroughly during the evidentiary hearings scheduled in these consolidated proceedings for March 23 through 27, 2020.

B. Ripeness

29. Tri-State urges the Hearing Commissioner to find the Complaints are not ripe for review and the Commission therefore lacks subject matter jurisdiction since they request an advisory opinion about hypothetical future withdrawals. Tri-State cites to a previous Commission Decision (Decision No. C07-0549, Proceeding No. 07F-088E, issued June 28, 2007) that states the Commission will not take a case involving uncertain or contingent future matters and the matter under consideration must be an “actual case or controversy between the parties that is sufficiently immediate and real so as to warrant adjudication.” *Id.* at ¶ 20 Tri-State argues that because Complainants have not yet decided whether to exit Tri-State, the Complaints do not present an actual case or controversy between the Parties that is sufficiently real and immediate to warrant adjudication.

30. In *Beauprez v. Avalos*, 42 P.3d 642, 648 (2002), the Colorado Supreme Court stated that ripeness “requires that there be an actual case or controversy between the parties that is sufficiently immediate and real so as to warrant adjudication.” *Id.* (citations omitted). As a result, courts do not generally consider cases involving uncertain or contingent future matters. *Id.* (citations omitted). In that case involving the failure of the Colorado Legislature to act on a redistricting plan, the court held the case was ripe because the court was convinced that no redistricting plan was forthcoming. However, it was evident there was no assurance that redistricting plans would be enacted in time for the upcoming elections. As a result, the court determined that the matter was ripe for review because of those uncertainties.

31. While the facts here are different from *Beauprez*, the court’s findings nonetheless overlay this matter deftly. Tri-State has provided no date certain as to when it will lift its moratorium on providing exit charges to cooperative members wishing to leave the fold.

Awaiting such a determination for an indeterminate period of time for Tri-State to lift the moratorium and supply an exit charge would constitute a dereliction of this Commission's duty under § 40-3-102, C.R.S., to correct alleged abuses and prevent alleged unjust discriminations and extortions in the rates, charges, and tariffs of Colorado public utilities.

32. We disagree with the arguments posed by Tri-State. We do agree the cases cited stand for the proposition that courts will not consider uncertain or contingent future matters when an injury is speculative and may not occur. (*See, e.g., DiCicco v. Natl. Gen. Ins. Co.*, 140 P.3d 314, 316 (Colo. App. 2006); *Development Pathways v. Ritter*, 178 P.3d 524, 530 (Colo. 2008); and *Beauprez*, 42 P.3d at 648). However, the Commission disagrees with Tri-State's assessment that it is the Complainants' equivocation on exiting Tri-State that causes uncertainty here. Instead, the Commission finds Tri-State's moratorium on considering requests to exit is the underlying reason for uncertainty. (*See, Beauprez* above).

33. Pursuant to § 40-3-102, C.R.S., this Commission is vested with the power and authority to correct abuses. The duty of the Commission is to adopt, govern and regulate rates, charges, as well as to "correct abuses; to prevent unjust discriminations and extortions in the rates, charges, and tariffs of such public utilities." *Id.* The language of this statute is clear – the Commission's duty is twofold, to correct abuses and prevent unjust discriminations and extortions in rates. Accordingly, the duty of the Commission is not only to correct present abuses but also to prevent them from occurring in the first instance.

34. While courts do not generally consider matters involving uncertain or contingent future matters, § 40-3-102, C.R.S., specifies the Commission is to prevent unjust discriminations and extortions. It makes sense that the Commission need not only react to alleged abuses but has the authority and duty to prevent them as well.

35. Ripeness is a question of timing. Certainly, Tri-State had adequate opportunity to provide La Plata with an exit fee but failed to do so. Tri-State provides an unclear statement that its Board of Directors will take up the matter at its April 2020 Board of Directors' meeting; however, this statement offers no definitive resolution to the moratorium Tri-State has placed on cooperatives from exiting. The Commission finds the Complaints are ripe for adjudication on the merits.

C. Tri-State Motion to Stay

36. On December 23, 2019, Tri-State filed its motion for stay of the procedural schedules in these consolidated proceedings pending resolution of FERC's decision on a Petition for Declaratory Order that Tri-State filed with FERC and Tri-State's ongoing internal efforts to establish a framework and process for withdrawals.

37. Tri-State argues that state utility commissions routinely defer to FERC on issues of jurisdiction and preemption under the FPA. Tri-State contends the question of FERC's exclusive jurisdiction over withdrawals is before FERC so the Commission should stay its proceedings pending a determination by FERC. Tri-State also asserts that a stay is warranted pending FERC's action on Tri-State's recent revised rate filings.

38. Tri-State is of the opinion that a stay is further warranted pending completion of its internal efforts to create and adopt a new policy for member withdrawal. According to Tri-State, it has directed the Tri-State Board's Contract Committee to work toward the creation of a new policy to address withdrawal and to present this new policy to Tri-State's Board of Directors in April 2020. Tri-State explains that while this new policy is being developed, it has suspended providing information related to withdrawal under the prior policy.

39. In their response to Tri-State's motion to stay, Complainants argue the motion should be denied since Tri-State has failed to satisfy its burden of proving a stay is warranted. Complainants contend the legal standard for granting a stay is whether the movant has demonstrated a pressing need for the stay, and that it will suffer prejudice that exceeds potential harm to the other parties if the stay is not granted. Complainants' Opposition to Motion to Stay (filed January 6, 2020) at pp. 5-6 (citing *In re Water Rights of U.S.*, 101 P.3d 1072, 1080 (Colo. 2004)). Complainants maintain Tri-State has failed to demonstrate a pressing need for a stay or prejudice with allowing the Commission to proceed.

40. Regarding Tri-State's argument that FERC has not ruled on the question of jurisdiction, Complainants argue that the *status quo*, as recently affirmed in Decision No. C19-0297-I, issued April 1, 2019, in Proceeding No. 18F-0866E, is that the Commission has jurisdiction to decide exit charge disputes.

41. Complainants take the position that it is within the Commission's authority to determine its own jurisdiction. (Complainants' Opposition to Motion to Stay (January 6, 2020) at p. 9) (citing *Keystone, a Div. of Ralston Purina Co. v. Flynn*, 769 P.2d 484, 484 n.6 (Colo. 1989) ("every tribunal has jurisdiction to determine the facts on which its own jurisdiction depends and to make a jurisdictional ruling based on the facts")). Complainants state that if FERC rules in the future in a way that is relevant to these complaint proceedings, it can be addressed at the time of the ruling.

42. Although not raised by any of the parties to these consolidated proceedings, the Hearing Commissioner notes that § 40-2-132, C.R.S., orders the Commission to promulgate electric resource planning rules for wholesale electric co-operatives, such as Tri-State, and that the Commission has opened a rulemaking in Proceeding No. 19R-0408E to implement this

legislative directive. Thus, it is important for the Commission and Tri-State to know as soon as possible whether La Plata or United Power plan to withdraw from Tri-State so the data for the resource plan of Tri-State is accurate and reliable. It is in the best interests of the Complainants and Tri-State to resolve these Complaints as soon as possible so that the Commission can implement the public policy of the State of Colorado and comply with legislative directives.

43. The Hearing Commissioner finds that Tri-State has not met its burden to show that a stay of these complaint proceedings is necessary at this time. The proper standard for granting or denying a stay is whether the movant has demonstrated a pressing need for the stay, and that the movant will suffer prejudice that exceeds the potential harm to other parties if the stay is not granted. *In re Water Rights of U.S.*, 101 P.3d 1072, 1080 (Colo. 2004); § 24-4-105(7), C.R.S.; Rule 4 *Code of Colorado Regulations* 723-1-1500 of the Commission's Rules of Practice and Procedure. As Tri-State has failed to show such a pressing need, the motion to stay is denied.

44. These consolidated proceedings are brought under specific provisions of Colorado law. As a result, these complaint proceedings will not be stayed based on conjecture that FERC can and will rule definitively on the jurisdictional questions presented here. As set forth above, under Colorado law, a utility remains prohibited from "establish[ing], charg[ing], or collect[ing] a discriminatory or preferential rate, charge, rule, or regulation."¹² Further, it is within the power and authority of this Commission and indeed its duty, to:

adopt all necessary rates, charges, and regulations to govern and regulate all rates, charges, and tariffs of every public utility of this state to correct abuses; to prevent unjust discriminations and extortions in the rates, charges and tariffs of such public utilities ...; to generally supervise and regulate every public utility in this state; and to do all things, whether specifically designated in articles 1 to 7 of this

¹² §§ 40-3-106(1), -111, C.R.S.

title or in addition thereto, which are necessary of convenient in the exercise of such power ...¹³

45. Tri-State throughout its filings (and here) asserts it is FERC jurisdictional, yet requests these complaint proceedings be stayed pending a determination of jurisdiction by FERC. This circular reasoning fails to serve Tri-State in its motion to stay. No circumstances have been presented here that compel this Commission to shirk its authority or duty by staying these complaint proceedings.

46. Nor is Tri-State's suggestion compelling that these complaint proceedings should be stayed pending completion of Tri-State's efforts to develop a new withdrawal policy. As Complainants point out, there is no guarantee that the new policy will lead to a withdrawal methodology that is just, reasonable, and non-discriminatory and puts an end to these complaint matters.

47. Tri-State has asserted no legal or factual basis to stay the procedural schedule in these consolidated proceedings and further delay this Commission ruling on the relief requested by the Complainants. Therefore, Tri-State's motion for stay is denied.¹⁴

IV. ORDER

A. It Is Ordered That:

1. Pursuant to Colorado Public Utilities Law, Title 40 Articles 1 through 7 of the Colorado Revised Statutes, the Commission has jurisdiction over the formal complaints filed in these consolidated Proceeding Nos. 19F-0620E and 19F-0621E by La Plata Electric Association,

¹³ § 40-3-102, C.R.S.

¹⁴ At the January 8, 2020 Commissioners' Weekly Meeting, Proceeding No. 19F-0691E *United Power, Inc. v. Tri-State Generation and Transmission Association, Inc.*, was stayed by bench order pending the outcome of this matter. That complaint proceeding continues in abeyance until further notice.

Inc. and United Power, Inc., on November 5 and 6, 2019, respectively, against Tri-State Generation and Transmission Association, Inc. (Tri-State).

2. The Complaints are ripe for review by the Commission consistent with the discussion above.

3. The motion filed by Tri-State on December 23, 2019, requesting a stay of the procedural schedules in these consolidated Proceeding Nos. 19F-0620E and 19F-0621E, is denied consistent with the discussion above.

4. This Decision is effective on its Mailed Date.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

Hearing Commissioner

ATTEST: A TRUE COPY

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

Doug Dean,
Director