

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0528E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND
TRANSMISSION ASSOCIATION, INC. FOR APPROVAL OF ITS 2020 ELECTRIC
RESOURCE PLAN.

**INTERIM COMMISSION DECISION DIRECTING THE
FILING OF A CONSENSUS PROPOSAL FOR A
PROCEDURAL SCHEDULE THAT INCLUDES
MODELING AND SETTING TIME FOR RESPONSE**

Mailed Date: April 30, 2021

Adopted Date: April 21, 2021

TABLE OF CONTENTS

I.	BY THE COMMISSION	1
A.	Statement	1
B.	Background.....	2
C.	Conservation Coalition Motion	6
D.	Conclusions and Findings.....	10
II.	ORDER.....	11
A.	It Is Ordered That:	11
B.	ADOPTED IN COMMISSIONERS' WEEKLY MEETING April 21, 2021.....	12

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission directs Tri-State Generation and Transmission Association, Inc. (Tri-State) to confer with parties to this Proceeding and to submit a consensus proposal for a procedural schedule that sets forth filing deadlines, hearing dates, and discovery

provisions, and allows for the modeling of up to five scenarios, or to submit a conferral report in the event no consensus is reached. It also sets time for responses to the consensus proposal or conferral report.

B. Background

2. This Application is the first Electric Resource Plan (ERP) filed by Tri-State before the Commission in response to legislative changes made by Senate Bill 19-236. As enacted by that bill, § 40-2-134, C.R.S., directed the Commission to promulgate new ERP Rules for Tri-State, Colorado's single wholesale electric cooperative. In developing these ERP Rules, the Commission was to consider whether each wholesale electric cooperative 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.

3. By Decision No. C20-0155, the Commission adopted amendments to the ERP Rules at 4 *Code of Colorado Regulations* 723-3-3600, *et seq.*¹ The amended ERP Rules define the Commission's well-established Phase I and II process as it applies to Tri-State. They also called for a two-part filing approach that would allow Staff of the Public Utilities Commission (Staff) and other parties to conduct discovery and learn about Tri-State's generation fleet and its underlying financial requirements, prior to the submission of Tri-State's full ERP filing.

4. Accordingly, in Proceeding No. 20M-0218E, Tri-State submitted an Assessment of Existing Resources on June 1, 2020. By Decision No. C20-0820, the Commission recognized the limited timeline and scope of that proceeding, directed modifications to the Assessment of

¹ Decision No. C20-0155, issued March 10, 2020, Proceeding No. 19R-0408E.

Existing Resources for Tri-State's full ERP filing, and encouraged Tri-State both to take note of interveners' positions and to continue to engage stakeholders in the interests of procedural efficiency.²

5. On December 1, 2020, Tri-State filed its 2020 ERP in two volumes along with six sets of Direct Testimony and other attachments. With the Application, Tri-State filed a Motion for Extraordinary Protection of Highly Confidential Information.

6. The ERP includes a 20-year resource planning period from 2021 through 2040 and a 10-year resource acquisition period (RAP) from 2021 through 2030. It includes a base case and seven alternative portfolios. While Tri-State states that it has chosen not to file its ERP as a Clean Energy Plan, for the seven alternative portfolios, Tri-State calculated carbon emissions from a 2005 baseline based on Colorado wholesale electricity sales and applied a constraint of 80 percent reduction of carbon emissions by 2030. One of the seven alternative portfolios applies the Social Cost of Carbon (SCC) as a variable operating cost within the expansion plan model. All portfolios include as a starting point, Tri-State's November 2020 retirement of the Escalante Generating Station and the planned retirements of Craig Unit 1 in 2025, Unit 2 in 2028, and Unit 3 in 2029.

7. Tri-State's preferred scenario, known as CR V4 or the Preferred Plan, targets an 80 percent carbon reduction by 2030 and acquires an additional solar resource to reduce carbon and enhance reliability. Tri-State provides a present value revenue requirement for the Preferred Plan of \$21.29 billion.

² Decision No. C20-0820, issued November 25, 2020, Proceeding No. 20M-0218E.

8. Ultimately, Tri-State does not project a capacity need under its base case portfolio until 2029, in part due to the planned retirement of Craig Unit 3. It explains that there are several uncertainties associated with the resource need in its current ERP, among them potential withdrawals of member cooperatives, the extent to which members adopt the new flexible partial requirements contract option, load changes associated with retail end-use customer programs served by its members, and its evaluation of future participation in organized markets. Given this near-term uncertainty, it proposes to use a competitive process in Phase II to acquire limited resources through 2025, with subsequent decisions from 2026 to 2030 to be made as part of its 2023 ERP. Tri-State explains that it is reluctant to add conventional thermal resources without allowing time for emerging technologies to become competitive. It further explains that it plans to modify or replace its modeling software for use in the 2023 ERP process.

9. By Decision No. C20-0876-I, issued December 9, 2020, the Commission determined it was necessary to extend the timeline of initial procedural steps to provide sufficient time for review. The Commission modified the time under which Commission Staff could submit a letter of deficiency pursuant to Rule 1303(c)(II) and waived the deadlines associated with deeming the Application complete under Rules 1303(c)(III) and (IV). The Commission stated that it would deem the Application complete by a separate Decision, at the appropriate time.

10. In response to Decision No. C20-0820 in Proceeding No. 20M-0218E, Tri-State submitted a Supplemental Filing on January 15, 2021. The Supplemental Filing included a summary of its coal cost projection with a mark-to-market analysis; a group ranking benchmarking assessment for all existing and generic resources pursuant to Commission direction; and an update on the Niyol Wind Energy Project.

11. On January 25, 2021, Commission Staff submitted a Notification of Deficiencies in Application (Deficiency Letter) pursuant to Rule 1303(c)(II). The Deficiency Letter identified deficiencies related to compliance with Electric Rule 3605 and Decision No. C20-0820. Noting that the Application includes many issues of first impression, Staff explained that there may be other issues of completeness that it was unable to identify in the ten days following Tri-State's Supplemental Filing.

12. By Decision No. C21-0061, issued February 4, 2021, the Commission granted Tri-State's Motion for Partial Variance from Decision C20-0876-I and Rule 1303(c)(II) and Request for Waiver of Response Time, filed February 1, 2021, and extended the ten-day deadline to respond to the Deficiency Letter. Tri-State subsequently submitted its response to the Deficiency Letter on February 12, 2021, in the form of Supplemental Direct Testimony and attachments.

13. Pursuant to Decision No. C21-0139-I, issued March 10, 2021, parties to this Proceeding are intervenors as of right, the Office of Consumer Counsel (OCC), the Colorado Energy Office (CEO), and Staff. Permissive intervenors include the Wyoming Cooperatives; Joint Cooperative Movants; Colorado Solar and Storage Association and Solar Energy Industries Association; Conservation Coalition (Natural Resources Defense Council, Sierra Club, and Western Colorado Alliance); Colorado Independent Energy Association; Southwest Energy Efficiency Project (SWEET); Interwest Energy Alliance; Western Resource Advocates (WRA); IBEW Local 111; and Vote Solar. Delta-Montrose Electric Association was granted intervener status for a limited purpose. The Decision also established a timeline to respond to the Motion for Extraordinary Protection.

C. Conservation Coalition Motion

14. On February 2, 2021, the Conservation Coalition submitted the Proposed Motion of Natural Resources Defense Council, Sierra Club, and Western Colorado Alliance Requesting that the Commission Instruct Tri-State to Revise Its Application (CC Motion).³ Conservation Coalition requested that the Commission direct Tri-State to revise its modeling immediately or to adopt a procedural schedule that would allow the Commission to do so no later than after the submission of rebuttal testimony. The CC Motion argues that the Commission should address these issues now rather than in a Phase I order because there are no factual disputes about the modeling choices Tri-State made and because Tri-State's current modeling will not allow the Commission to make an informed decision about which units should be retired when, thus affecting the resource need to be filled in Phase II and creating a risk of procedural inefficiency.

15. The CC Motion asks the Commission to direct Tri-State to model a meaningful range of alternatives with more appropriate scenarios and sensitivities. It argues that Tri-State's base case cannot be approved in Phase I because it omits Colorado and New Mexico laws related to carbon constraints. It next characterizes six of the alternative scenarios presented by Tri-State as minor variations on an 80 percent carbon reduction portfolio that should be viewed as load sensitivities. It states that Tri-State has not meaningfully varied retirement dates except in the SCC scenario, and it has not varied input assumptions for nearly all variables, including gas, coal, and energy market prices. It argues that the similarities between the scenarios extend to Tri-State's qualitative scores for diversity, dispatchability, and reliability, and to carbon reductions, which vary from 78 percent to 83 percent for the alternative scenarios. The

³ The Conservation Coalition states that it styled its motion as "proposed" because the Commission had not yet addressed permissive interventions at the time the motion was filed.

CC Motion urges the Commission to order Tri-State to model, at a minimum, portfolios that allow Springerville Unit 3 to retire earlier during the RAP as it is one of Tri-State's most expensive generating units; portfolios that examine a wider range of retirement dates during the RAP for Craig Units 1, 2, and 3, and Laramie River Station Units 2 and 3; portfolios that include earlier retirements of gas-fired units; and at least one sensitivity across portfolios that uses a different gas price forecast than the base gas price forecast.

16. The CC Motion also asks the Commission to instruct Tri-State to correct its use of the SCC. The CC Motion argues that there are two flaws in how Tri-State applies the SCC. First, it states that Tri-State failed to provide a comparison of the Net Present Value (NPV) inclusive of the SCC for all scenarios. The CC Motion states that Tri-State included the NPV for seven scenarios without the SCC, but the SCC scenario was presented with NPVs with and without the SCC. The CC Motion alleges this is a violation of § 40-3.2-106(2)(b)(I), C.R.S., which it says requires the NPV of each optimized portfolio to be presented with and without the SCC. Second, the CC Motion argues that Tri-State provides no rationale for why there is only one portfolio that is optimized based on the SCC, given that it has dramatically different outputs—multiple gas and oil-fired unit retirements before 2030—than the other scenarios. At a minimum, the CC Motion argues, the Commission should further instruct Tri-State to present more than one scenario that uses the SCC as an input (*i.e.*, a variable operating cost) in its modeling.

17. By Decision No. C21-0139-I, issued March 10, 2021, the Commission established a timeline for responses to the CC Motion.

18. On March 24, 2021, Tri-State filed a Response to the CC Motion. Tri-State requests that the Commission reject the CC Motion as premature, stating that it would short-circuit the Phase I process laid out for the Tri-State ERP in Electric Rule 3605. Tri-State

states that the CC Motion asks the Commission to make a decision on the merits of Phase I of Tri-State's ERP, and granting it could result in other parties seeking piecemeal relief that could create inefficiencies. Tri-State further argues that it was not required to model the scenarios suggested by the Conservation Coalition or other parties, and that the CC Motion does not identify any specific noncompliance with the Commission's ERP Rules in areas like the modeling of unit retirement dates or the SCC. Furthermore, Tri-State argues that the CC Motion would delay the Proceeding because each modeling run takes two to three weeks to complete. Additional scenario modeling would result in delaying the Proceeding by several months and creating unnecessary expenses borne by member cooperatives, according to Tri-State.

19. Staff also filed a Response to the CC Motion. Staff stated that it generally agrees with the conclusion in the CC Motion that Tri-State should calculate and present the NPV both with and without the SCC, and that the utility must present the NPV for the SCC alone. Staff also agrees that the Commission should require additional scenario modeling to examine a wider range of early unit retirements or alternative operational options, to make the proceeding more efficient. Staff believes that additional scenario modeling should occur prior to answer testimony as determining the resource need in the RAP is fundamental to the Phase I portion of the ERP proceeding. Procedurally, Staff proposes that the Commission order an interim comment and reply process on additional scenario modeling, and then direct Tri-State to model additional scenarios it deems necessary and appropriate. Staff also requests that the Commission require Tri-State to supplement its Application with the required NPV for the SCC information.

20. On March 24, 2021, WRA, SWEEP, CEO, and OCC (Joint Respondents) also filed a Joint Response to Proposed Motion of the Conservation Coalition. Joint Respondents state that they share the concerns reflected in the CC Motion and agree that Tri-State should be

required to model additional portfolios as part of its Phase I ERP. They argue that it is critical for utility modelers to develop scenarios that meaningfully compare different portfolios of resources to allow parties and the Commission to understand the potential rates of cost savings, emissions reductions, and other impacts that could result through continuing to operate existing generation assets as compared to generic alternatives. They agree with the CC Motion that Tri-State has not put forward a meaningful range of portfolios for evaluation.

21. Procedurally, Joint Respondents recommend that the Commission develop a process that allows parties to provide input on the current scenarios and for Tri-State to develop new scenarios based on that input. They distinguish their request for determination of scenarios as opposed to determination of inputs used in modeling software. Joint Respondents propose two procedural alternatives for the Commission to consider. The first procedural pathway deems the Application complete and holds a technical conference followed by comments, an interim order on scenario analysis, and supplemental direct testimony with scenarios. The second procedural pathway would withhold deeming the Application complete until after supplemental direct testimony with scenarios had been filed. Joint Respondents request that Advisory Staff oversee the proposed technical conference.

22. On March 30, 2021, Tri-State filed a Motion for Leave to Reply and Reply to the Joint Movants' Response to Proposed Motion of the Conservation Coalition (Tri-State Motion and Reply). Tri-State seeks leave to reply to Joint Respondents, characterizing the procedural schedules they proposed as effectively a new motion which constitutes surprise under Rule 1400(e)(II), and arguing that they make legal misstatements, further justifying the reply under (e)(I) and (IV). Tri-State reiterates that, as with the CC Motion, Joint Respondents' allegations that its modeled scenarios are insufficient is a policy preference rather than a failure

to comply with Commission rules. Tri-State also argues that the Joint Respondents' procedural proposals are premature and unrealistic, given the time required for it to undertake remodeling and for the Commission to reach decisions. Were the Commission to determine that a process is necessary to accommodate additional modeling of scenarios, Tri-State proposes that it include a 16-week period for modeling of up to five scenarios (3-week increments for each scenario added or removed). Tri-State further proposes modifications to discovery processes and to the overall procedural timeline, should the Commission take this approach. According to Tri-State, this could result in a Phase I decision around May 2022, with a year to complete Phase II processes prior to its 2023 ERP being filed on June 1, 2023. While Tri-State offers a schedule for the Commission's consideration, it ultimately requests the Commission deny the relief requested by Joint Respondents.

D. Conclusions and Findings

23. Rule 3605 lays out a process for Phase I that culminates in a decision approving, disapproving, or modifying the utility's ERP, including its assessment of need for additional resources in the RAP, prior to initiating Phase II.

24. Parties have proposed various alternative scenarios that could enhance the record of this Proceeding. These scenarios may incorporate different economic unit retirements, different loads, and different carbon reductions, among other parameters. Tri-State has also raised practical procedural actions that would enable additional scenario modeling to occur within the scope of this Proceeding.

25. We find that a consensus among parties as to a limited number of reasonable scenarios to model and a reasonable timeline for the Proceeding would promote procedural efficiency in this first-of-its-kind case. Accordingly, we direct Tri-State to confer with the parties

to develop a Consensus Proposal for a procedural schedule that incorporates limited additional scenario modeling. The Consensus Proposal shall define up to five additional scenarios Tri-State will model in this Proceeding, consistent with the Tri-State Motion and Reply, and shall further set forth filing deadlines, hearing dates, and discovery provisions. The Consensus Proposal shall also address whether parties stipulate to the completeness of the Application under Rule 1303(c) and whether Tri-State waives the statutory timeline associated with § 40-6-109.5(3), C.R.S. Tri-State shall file the Consensus Proposal within ten business days following the Mailed Date of this Decision or, by that same date, Tri-State shall file a report on its conferral with the parties in the event no consensus is reached. Parties may respond to the Consensus Proposal or conferral report no later than three business days following the submission of the Consensus Proposal or conferral report.

II. ORDER

A. It Is Ordered That:

1. Consistent with the discussion above, Tri-State Generation and Transmission Association, Inc. (Tri-State) is directed to confer with the parties to this Proceeding and to file a Consensus Proposal for a procedural schedule and scenarios to model within ten business days from the effective date of this Decision.

2. In the event that no consensus is reached, a conferral report shall be filed by Tri-State within ten business days of the effective date of this Decision.

3. Responses to the Consensus Proposal or conferral report are due within three business days following its submission.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 21, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners