

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

Docket No. 09A-324E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. (A) FOR A CERTIFICATE OF ) PUBLIC CONVENIENCE AND NECESSITY FOR THE SAN LUIS VALLEY-CALUMET-COMANCHE TRANSMISSION PROJECT, (B) FOR SPECIFIC FINDINGS WITH RESPECT TO EMF AND NOISE, AND (C) FOR APPROVAL OF OWNERSHIP INTEREST TRANSFER AS NEEDED WHEN PROJECT IS COMPLETED.

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AND

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Docket No. 09A-325E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO (A) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE SAN LUIS VALLEY-CALUMET-COMANCHE TRANSMISSION PROJECT; (B) FOR SPECIFIC FINDINGS WITH RESPECT TO EMF AND NOISE, AND (C) FOR APPROVAL OF OWNERSHIP INTEREST TRANSFER AS NEEDED WHEN PROJECT IS COMPLETED.

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**TRI-STATE GENERATION AND TRANSMISSION  
ASSOCIATION, INC.'S RESPONSE TO BLANCA RANCH HOLDINGS, LLC AND  
TRINCHERA RANCH HOLDINGS, LLC'S MOTION TO STRIKE TESTIMONY**

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Tri-State Generation and Transmission Association, Inc. ("Tri-State"), pursuant to Commission Rule 1400, hereby responds to the Motion to Strike Testimony (the "Motion") filed by Blanca Ranch Holdings, LLC and Trinchera Ranch Holdings, LLC (collectively "Trinchera Ranch") as follows:

1 On January 4, 2010, Trinchera Ranch filed its Motion to Strike certain portions of the rebuttal testimony of Public Service Company of Colorado ("PSCo") witness Karen Hyde and Tri-State witness James Spiers.<sup>1</sup> Specifically, Trinchera Ranch seeks to strike "everything in Mr. Spiers' testimony starting with page 6, line 5 (after the word, 'No'), and extending to page 7, line 17." (Motion at 2.)

2. As grounds therefor, Trinchera Ranch argues that "the Commission held that C.R.S. § 40-2-126 'does not apply to this docket.'" Decision No. C09-0886 at 13, ¶ 2. In a subsequent order, the Commission clarified that the "standard of review

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<sup>1</sup> This response addresses only that portion of Trinchera Ranch's Motion concerning Tri-State witness James Spiers. PSCo will respond separately regarding the Motion as it relates to Ms Hyde's testimony.

contained in § 40-2-126(3)(a), C.R.S., does not apply to this proceeding." Decision No. C09-1004 at 6, ¶ 2." (Id.)

3. Trinchera Ranch, however, fails to note that the Commission also held that:

[O]ur ruling that § 40-2-126, C.R.S. does not apply to this docket does not mean that Public Service's obligation to meet the renewable energy standards, particularly specific solar electric generation standards set forth in § 40-2-124, C.R.S. cannot be considered as a factor in determining whether there is a need for the proposed transmission line project. We also clarify that general legislative policy directives related to development of renewable energy such as those found in § 40-2-123, C.R.S., may also be considered as one of the factors in this determination.

Decision No. C09-1004 at 6, ¶ 12.

4. Nowhere in his rebuttal testimony does Mr. Spiers refer to Colorado Revised Statute § 40-2-126, nor does he state that any portion of this statute applies to this docket.<sup>2</sup> Rather, Mr. Spiers used Senate Bill 07-100 as a shorthand, recognizable reference to and example of the recent policy developments in Colorado with respect to the development of electric transmission infrastructure to enhance opportunities for the development of beneficial energy resources.<sup>3</sup> The statutes referenced by the Commission, as quoted in paragraph 3 above, are other such examples. The fact that the Commission has held that C.R.S. § 40-2-126 does not apply to this docket does not render irrelevant these recent policy developments.

5. Nevertheless, recognizing that Mr. Spiers' use of the "Senate Bill 100" reference is inconsistent with the requirement that witnesses refer to specific statutory provisions by their C.R.S. designation (see Decision No. R09-0723-I, ¶ 85) – which was an oversight on Tri-State's part – and to avoid confusion and streamline the proceedings in this docket, Tri-State does not oppose Trinchera Ranch's Motion and agrees to strike those portions of Mr. Spiers' rebuttal testimony starting with page 6, line 5 (after the word, "No"), and extending to page 7, line 17.

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<sup>2</sup> Mr. Spiers clearly states that Senate Bill 100 does not apply to Tri-State and he acknowledges that the Commission has held that Senate Bill 100 does not apply to this docket.

<sup>3</sup> Mr. Spiers' use of the "SB-100" shorthand reference to these policy developments is further evidenced by the fact that a senate bill, by itself, is not controlling law and it is only the enacted statute, C.R.S. 40-2-126, that has the force of law.

Dated this 14<sup>th</sup> day of January, 2010.



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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response of Tri-State to Blanca Ranch Holdings/Trinchera Ranch Holdings' Motion to Strike Testimony was served on this 14th day of January, 2010, via email on all parties on this service list:

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A handwritten signature in cursive script, appearing to read "Sarah Mitchell", written over a horizontal line.