



December 8, 2009

Chairman Ron Binz
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, CO 80202

Dear Chairman Binz:

In January of this year, the Commission opened an investigatory docket (Docket No. 09I-041E) (the "Docket") to examine whether the Commission should revise its regulations pertaining to the resource plans of Tri-State Generation and Transmission Association, Inc. ("Tri-State"). In the Docket the Commission indicated, among other things, that it was concerned about the Commission's ability to understand and evaluate new generation resources Tri-State might propose to develop in the state of Colorado, as well as whether there exists a reasonable opportunity for parties other than Tri-State's members to participate in Tri-State's resource planning process.

The Commission invited a series of comments on the issue and held a meeting on July 16 wherein Tri-State and various members of the industry and public appeared before the Commission to discuss the legal and policy implications of the issue and to answer questions from the Commission. Western Resource Advocates ("WRA") filed comments in the Docket as a member of the Environmental and Community Groups ("ECG") and participated in the July 16 meeting representing ECG.

As outlined by the comments filed in the investigatory Docket, the positions of Tri-State and ECG with respect to the role of the Commission and the next steps that the Commission should take are in conflict. ECG has proposed to the Commission that it move forward with a new rulemaking that would expand the role of the Commission over Tri-State's resource planning process and that to do so would be lawful. Tri-State has argued that the expansion of the Commission's role into Tri-State's resource planning would be inappropriate and contrary to law.

Subsequently, Tri-State and WRA have engaged in a series of discussions with each other in an attempt to craft a process that meets our respective goals and addresses the concerns expressed by the Commission in the opening of this Docket without the need to litigate the legal issues raised in the Docket. We are pleased to report that Tri-

Chairman Ron Binz
December 8, 2009
Page Two

State and WRA have reached an agreement on a process to be used in Colorado that we believe meets those goals.

As Tri-State has previously stated, it is re-evaluating its resource needs and resource planning process. As a part of the re-evaluation, Tri-State has resolved to take steps to ensure that the Commission is able to understand Tri-State's process and to provide a meaningful opportunity for the public to participate in that process. Tri-State views this new process as a regional, system-wide planning process that can be used in each of the states in which it operates and with other agencies that may have jurisdiction over these issues, including the Rural Utilities Service and the Western Area Power Administration. This letter, however, and the attached document entitled "Tri-State's Colorado Resource Planning Process" are designed to address the particular process that Tri-State will use in Colorado with this Commission.

In general, Tri-State will increase the information it files and will adopt a public participation process that will provide the opportunity for meaningful public input into Tri-State's resource planning process. The process is also intended to increase the transparency with which Tri-State develops its plan.

Tri-State will develop its Resource Plan in a two-step process. The first step will involve a public participation process in which members of the public, the Commission Staff and Office of Consumer Counsel will have the opportunity to provide meaningful input to Tri-State in advance of and during the development of the Resource Plan. During this stage, Tri-State will develop its Resource Plan, with regular reports and opportunities for input and discussion by the public. The Resource Plan will contain a planning period of from 20 to 40 years; a Resource Acquisition Period of 6-10 years; and an Action Plan which will describe Tri-State's intended actions during the Resource Acquisition Period. In developing its plan, Tri-State will fully consider the input of members of the public. Members of the public will also have a final opportunity to comment on the plan to Tri-State before it is filed with the Commission.

The second step is the filing of the Resource Plan with the Commission. Tri-State will file with the Commission the first plan under this process by November 30, 2010. After filing, Tri-State will appear before the Commission in an Open Meeting to fully explain the planning process and the Resource Plan. In order to preserve Tri-State's positions regarding jurisdiction, this Open Meeting would not be a hearing and the Commission would not enter an order approving the Resource Plan. However, in our view, the Commission's current rules permit the Commission to solicit public comment, to request additional information, to ask follow-up questions and to express any opinions it may have with regard to the Resource Plan.

Chairman Ron Binz
December 8, 2009
Page Three

Tri-State intends to file a Resource Plan with the Commission every four years. It will also continue to file Annual Updates and will appear before the Commission on an annual basis if requested. In addition, it will provide an annual opportunity to members of the public, Commission Staff and the OCC to meet with Tri-State between plans.

Attached to this letter is a detailed description of the new Tri-State Colorado Resource Planning Process which has been developed by Tri-State and WRA. Both Tri-State and WRA agree that the implementation of this new process by Tri-State is a reasonable settlement of the differences between our positions respecting the issues raised in the Docket.

Accordingly, Tri-State and WRA request that, after inserting this letter and attachment into the record, the Commission close the current docket and take no further action at this time with respect to its Resource Planning Rules as they affect Tri-State.

Sincerely,

**TRI-STATE GENERATION AND
TRANSMISSION**

Kenneth Anderson
Executive Vice President/General Manager

WESTERN RESOURCE ADVOCATES

John Nielsen
Energy Program Director

KA/JN:slm

Enclosure

Tri-State's Colorado Resource Planning Process

December 2009

OVERVIEW

The Colorado Public Utilities Commission ("Commission") has opened an investigatory docket to review the role of the Commission in the resource planning efforts of Colorado generation and transmission cooperatives. As a part of that docket, Environmental and Community Groups ("ECG") argued that the Commission should commence a rulemaking that would expand the scope and role of the Commission with respect to the resource plans of Colorado generation and transmission cooperatives. ECG believed this would provide for a better information exchange and opportunity for the public to understand the resource plans and planning done by generation and transmission cooperatives. Tri-State Generation and Transmission Association, Inc. ("Tri-State") is the only generation and transmission cooperative in Colorado. It opposed changes to the current Commission rules. Tri-State believes that a change to the rules would have the effect of the Commission replacing its elected Board of Directors as the regulatory body that is authorized to make decisions with respect to resource planning.

In subsequent discussions with Western Resource Advocates ("WRA"), a member of ECG, Tri-State has proposed to conduct a public participation process to inform the development of its resource plans and to expand the information included in these plans, which ultimately will be filed with the Commission. WRA agrees that Tri-State's proposal as set forth in this document is a reasonable process and should expand the amount of information available and the opportunity for public participation with respect to Tri-State's resource planning.

As a result of reaching agreement with Tri-State on this proposal, WRA will forego seeking changes to the Commission's regulations to govern Tri-State's resource plan through the first iteration of the planning process described herein, as long as WRA is satisfied that this process is being followed and is meaningful and productive.

PURPOSE

The purposes of this document are to set forth the contents of Tri-State's resource plans, to outline the information to be provided by Tri-State and the process that will be used in the public participation process that Tri-State will implement prior to filing its resource plans with the Commission, to suggest how the Commission consider such plans and to set forth how public input into Tri-State's planning process will occur between the filings of Resource Plans.

SECTION 1
CONTENTS OF THE RESOURCE PLAN

Tri-State's Resource Plans will contain the following information. Terms appearing in this document that are defined in 4 CCR 723-3-3602 shall have the same meaning in this document as they have in that section, except for "Resource Plan," the contents of which are set forth in this section.

1. **A statement of the planning and resource acquisition periods that Tri-State has chosen, including a statement as to why such periods were chosen.**
2. **Electric demand and energy forecasts.**
 - a. *System-wide forecast requirements:* For each year within the planning period:
 - i. Annual sales of energy and coincident summer and winter peak demand;
 - ii. Annual sales of energy and coincident summer and winter peak demand for each major customer class;
 - iii. Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand;
 - iv. Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand;
 - v. Typical day load patterns for each major customer class and
 - vi. Annual load factors
 - b. *Tri-State regional (ECO, WCO, NM, WY and NE) forecast requirements:* For each region:
 - i. Annual sales of energy and coincident summer and winter peak demand;
 - ii. Annual sales of energy and coincident summer and winter peak demand for each major customer class;
 - iii. Typical day load patterns for each major customer class; and
 - iv. Annual load factors.
 - c. *Range of forecasts:* Tri-State shall develop and justify ranges of forecasts of coincident summer and winter demand and energy sales that it may reasonably be required to provide to meet (i) system requirements and (ii) the requirements of its members on a region-by-region basis during the planning period. The ranges shall include base case; high and low forecast scenarios of coincident summer and winter peak demand and annual energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.

- d. *Description and justification:* Tri-State shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this section, as well as the forecasts themselves. In complying with this subsection, Tri-State shall describe the manner in which its members develop their forecasts and the way in which Tri-State uses its member forecasts to determine the forecasts referenced in such subsections.
- e. *Demand-Side Management:* Tri-State shall explain the effect of Demand-Side Management on the forecasts set forth in this section.
- f. *Historical data:* Tri-State shall compare the annual forecasts of coincident summer and winter peak demand and energy sales made by Tri-State to meet (i) its system requirements and (ii) Tri-State regional requirements, to the actual coincident demand and energy sales experienced, in each case, by Tri-State for each of the five years preceding the year in which the plan under consideration is filed with the Commission. In addition, Tri-State shall compare the annual forecasts in its most recent previous resource plan to the annual forecasts in the current resource plan.
- g. *Format and graphical presentation of data:* Tri-State shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting stakeholders in electronic format.

3. An evaluation of existing resources.

Tri-State will describe its existing generation resources, all generating facilities for which the utility has obtained a CPCN from the Commission pursuant to 40-5-101, C.R.S., at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description will include, where applicable, the following:

- a. Name(s) and location(s) of Tri-State-owned generation facilities.
- b. Rated capacity and net dependable capacity of Tri-State-owned generation facilities.
- c. Fuel type, heat rates, annual capacity factors and availability factors projected for Tri-State-owned generation facilities over the planning period.

- d. Emission rates (in pounds per MWh) and total tons per year of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide.
- e. Estimated in-service dates for generation facilities for which a CPCN has been granted to the utility but which are not in service at the time the plan under consideration is filed with the Commission.
- f. Estimated remaining useful lives of existing generation facilities without significant new investment or maintenance expense.
- g. The amount of capacity and/or energy purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy purchased pursuant to such contracts.
- h. The amount of capacity and energy provided pursuant to wheeling or coordination agreements and a description of any contract provisions that allow for modification of the amount of capacity and energy provided pursuant to such wheeling or coordination agreements.
- i. The amount of capacity and/or energy sold to other utilities, the duration of such sales contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy sold pursuant to such contracts.
- j. The percentage of kilowatt-hours generated by each fuel used by the utility on its existing system, for the latest year for which such information is available.
- k. For each existing supply-side resource on its system, the amount of water consumed per MWh of electricity produced and the total annual amount of water consumed.

4. An assessment of planning reserve margins and contingency plans for the acquisition of additional resources.

Tri-State will provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices). Tri-State will also develop and justify planning reserve margins for each year of the planning period for the base case, high, and low load forecast scenarios. Tri-State will develop contingency plans for each year of the resource acquisition period.

5. An assessment of need for additional resources.

By comparing the electric energy and demand forecasts with the existing level of resources developed and planning reserve margins, Tri-State will assess the need to acquire additional resources during the resource acquisition period and the planning period.

6. **The costs, performance characteristics and other principal information on which Tri-State relies in considering the types of resources it may acquire during the planning period.**
7. **A description of any studies or investigative efforts underway relevant to the resource planning process and related resources, including any studies relating to Demand-Side Management.**
8. **An assessment of alternative ways of meeting the need for additional resources.**

Tri-State will consider the output of reasonable resource scenario modeling over the planning period, including those reasonable modeling scenarios requested by members of the public in the Public Participation process, and will provide comments regarding these scenarios. Tri-State will model scenarios that provide an analysis of the effect on the costs of Tri-State's plan over the planning period of including high levels of (i) renewable resources, (ii) new clean energy and energy-efficient technologies and (iii) Demand-Side Management in the plan under differing assumptions regarding the level of fuel and other resource costs over time. For purposes of this agreement, "new clean energy and energy-efficient technologies" means a supply- or demand-side resource or demonstration project that is clean and incorporates one or more technologies, representing a substantial portion of its overall installed cost, that have not been regularly commercially demonstrated up to the point the resource may be acquired.

9. **Projected emissions.**

Tri-State will project the emissions associated with each of the alternative scenarios assessed under section 8, in pounds per MWh and tons per year, of sulfur dioxide, nitrogen oxides, particulate matter, mercury and carbon dioxide for each year in the planning period.

10. **Projected water consumption.**

Tri-State will project the amount of water consumed per MWh of electricity produced and the total amount of water consumed in each of the alternative scenarios assessed under section 8 for each year in the planning period.

- 11. An explanation of how Tri-State helps and plans to help its Colorado members meet the renewable energy standard applicable to such members established in 40-2-124(c)(V), C.R.S.**
- 12. An explanation of the role of Demand-Side Management in helping Tri-State meet resource needs during the planning period.**

In the explanation, Tri-State will include a description of how Tri-State is working, and plans to work, with its members to develop Demand-Side Management resources.
- 13. Existing transmission capabilities and future needs.**
 - a. Tri-State will report its existing transmission capabilities and future needs during the planning period for facilities of 115 kilovolts and above, including associated substations and terminal facilities. Tri-State will generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources. With respect to future needs, Tri-State will explain the need for facilities based upon future load projections (including reserves). To the extent reasonably available, Tri-State will include a description of the length and location of any facilities needed, their estimated costs, terminal points, voltage and megawatt rating, alternatives considered or under consideration, and other relevant information.
 - b. Tri-State will report on how it has considered the effect of its transmission system and plans for new transmission facilities on the siting of renewable resources and new clean-energy technology facilities.
 - c. Tri-State will report on the transmission facilities needed to support the resources contained in the scenarios modeled under Section 8.
- 14. An explanation of the planning risks that Tri-State faces.**

Tri-State will include in the explanation how it has assessed such risks under different assumptions of future resource costs, fuel prices, environmental and other regulation, including regulation of greenhouse gas emissions, and other variables. Tri-State will also include whether it has plans to mitigate such risks and, if so, will identify such plans.
- 15. An explanation of how Tri-State coordinates and plans to coordinate (i) its operations and (ii) its plans to acquire new generation resources and transmission facilities with other utilities.**
- 16. A statement of the criteria that Tri-State uses in the development of its plan.**

17. An Action Plan.

Tri-State will describe the specific actions it will take during the resource acquisition period starting with the filing of its plan with the Commission. The action plan will include a status report of the specific actions contained in any previous action plan.

18. An explanation of Tri-State's current rate design for the sale of power by the utility to its members and the effect of that rate design on and its consistency with its resource plan.

19. An explanation of whether and, if so, how Tri-State's plan will give the fullest possible consideration to the cost-effective development of new clean energy and energy-efficient technologies, bearing in mind the beneficial contribution such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.

20. A description of the effect of Tri-State's plan on Colorado's economic prosperity, insulation from fuel price increases, energy security and the environment.

21. An explanation of any policies or regulations relating to resource planning (i) implemented by states other than Colorado in which Tri-State provides electricity to members and (ii) implemented by agencies of the federal government of which Tri-State seeks the public and the Commission to be aware of in their review of Tri-State's resource plan.

SECTION 2
PUBLIC PARTICIPATION PROCESS

Tri-State will incorporate a Public Participation process into the development of its resource plan. The purpose of this process is to give the public, including the Commission Staff and the Office of Consumer Counsel, an opportunity to provide meaningful input to Tri-State before, during and after the development of its plan prior to Tri-State filing its plan with the Commission.

1. At least 8 months prior to the filing date of its resource plan with the Commission, Tri-State shall initiate the public participation process.

- a. Tri-State shall initiate the process by providing effective notice to the public at least 30 days prior to the first scheduled meeting of Tri-State with members of the public. Such notice shall include:
 - i. a brief description of the resource planning process;
 - ii. time, date and location of the first meeting;

- iii. a statement that interested members of the public should notify Tri-State of their interest in participating in the process, and
 - iv. Tri-State contact information.
- b. Tri-State or its designee shall chair the public participation process, schedule meetings, and develop agendas for these meetings. With adequate notice to Tri-State, participants shall be allowed to place relevant items on the agenda of public participation process meetings.
 - c. Meetings held as part of the public participation process shall be noticed and scheduled as necessary and shall be open to members of the public who shall be heard and their input considered as part of the public participation process. Notes of such meetings will be taken by Tri-State and circulated to attendees prior to the next meeting. Upon request, the utility shall provide an executive summary containing a non-technical description of its most recent resource plan.
 - d. As part of the public participation process, Tri-State will make reasonable information available to the public that is relevant to the development of its plan. Tri-State reserves the right to deem certain information as business proprietary and confidential.
 - e. All of the topics set forth in Section 1 of this agreement will be open for discussion as part of the public participation process.
 - f. Tri-State shall run reasonable modeling scenarios requested by members of the public.
 - g. Tri-State acknowledges that disputes may arise during the public participation process. Tri-State commits to try to resolve these disputes in a manner that is sensitive to all participants in the public participation process. Tri-State will maintain a record of any such disputes and the way in which they were resolved, and will include that record in the report referenced in subsection 2 of this section.
2. **Tri-State shall prepare a report of all verbal and written comments received in the public participation process and will provide a written response to such comments. Such comments and responses shall be included in Tri-State's filing with the Commission as described in this agreement.**
3. **In order to allow members of the public to offer input to Tri-State between public participation processes, Tri-State agrees to hold a meeting with members of the public on the subject of its resource plan prior to the filing of any Annual Progress report. Such meeting will be held at least three months prior to the filing of any such report with the Commission.**

SECTION 3 **FILINGS WITH THE COMMISSION**

1. **First filing.**

Tri-State will file with the Commission the first plan developed under this document by November 30, 2010.

2. **Appearance before the Commission.**

Tri-State will appear before the Commission in an open meeting to fully explain the planning process, including the public participation process, and its resource plan.

3. **Commission consideration.**

Tri-State understands that the Commission's current procedures permit the Commission to solicit public comments on the plan and the public participation process, to request additional information, to ask follow-up questions and to express any opinion it may have with regard to the Resource Plan.

4. **Annual Progress Reports.**

Tri-State will file with the Commission, and will provide copies to members of the public who participated in the most recent public participation process described in Section 2, annual progress reports after submission of its plan. The annual progress report will inform the Commission of Tri-State's actions under the plan. Annual progress reports shall contain the following information:

- a. An updated annual electric demand and energy forecast
- b. An updated evaluation of existing resources
- c. An updated evaluation of planning reserve margins and contingency plans
- d. An updated assessment of need for additional resources
- e. An updated report of the utility's action plan
- f. An updated report on resource scenario modeling.
- g. An updated report on the utility's efforts to give the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies (as defined in Section 1, subsection 8) in its consideration of generation acquisitions, and
- h. Any material changes to its resource plan or action plan.