

Decision No. R14-0590-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13F-0145E

LA PLATA ELECTRIC ASSOCIATION, INC.; EMPIRE ELECTRIC ASSOCIATION, INC.;
AND, WHITE RIVER ELECTRIC ASSOCIATION, INC.,

COMPLAINANTS,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
DENYING MOTION TO MODIFY
PROCEDURAL SCHEDULE AND
SUSPENDING PROCEDURAL SCHEDULE**

Mailed Date: June 2, 2014

I. STATEMENT

1. On May 23, 2014, La Plata Electric Association, Inc., Empire Electric Association, Inc., and White River Electric Association, Inc. as Complainants, and Intervenors identified as the Rural Electric Consumer Alliance, consisting of BP America Production Company, Encana Oil & Gas (USA), Inc., Enterprise Products Operating LLC, and ExxonMobil Production Company as members of the Rural Electric Consumer Alliance; Kinder Morgan CO₂ Company (collectively, Complaining Parties), filed a Motion to Modify Procedural Schedule and Shorten Response Time (Motion). The Complaining Parties represent that due to an ongoing discovery dispute based on Tri-State Generation and Transmission Association, Inc.'s (Tri-State)

Motion for Protective Order regarding certain discovery propounded by the Complaining Parties, the Complaining Parties have been unable to obtain sufficient information regarding Tri-State's cost of service to complete the direct testimony due on June 10, 2014 under the existing procedural schedule.

2. Due to this delay, the Complaining Parties request that the procedural schedule be modified so that should Tri-State's Motion for Protective Order be denied, the Complaining Parties will have an extension of time ~~of~~ three weeks after the responses to the discovery requests to file direct testimony, or one week after the completion of the last 30(b)(6) deposition. In addition, the Complaining Parties request, in the event Tri-State's motion is denied and the requested extension is granted, a scheduling conference be scheduled to adjust other procedural dates as deemed appropriate by the Administrative Law Judge.

3. On May 27, 2014, Tri-State filed a response to the Complaining Parties' Motion. Tri-State indicates that while it does not oppose modifying the procedural schedule which allows the parties adequate time to prepare their respective testimony, it believes that it is premature to agree to a particular schedule modification until such time as a decision is issued regarding its Motion for Protective Order. Tri-State also agrees that a scheduling conference be set following a decision on Tri-State's Motion for Protective Order to properly modify the procedural schedule.

4. It is agreed that modifying the procedural schedule prior to a determination on Tri-State's Motion for Protective Order is premature. Any decision made regarding Tri-State's motion will require modifications to the procedural schedule and it is more suitable to address those modifications at a scheduling conference subsequent to the issuance of a decision on the Motion for Protective Order. Therefore, the Complaining Parties' Motion will be denied.

5. It is apparent that the Complaining Parties' Motion was made out of apprehension on their part regarding the June 10, 2014 deadline to file direct testimony without the information they believe is necessary to file direct testimony. While it is anticipated that a decision on Tri-State's Motion for Protective Order will be issued soon, in order to assuage the Complaining Parties' concerns, the procedural schedule adopted pursuant to Interim Decision No. R14-0423-I will be suspended until a scheduling conference is held following a decision on Tri-State's motion.

6. Since Tri-State filed its response within four days of the filing of the Motion, the request of the Complaining Parties to waive response time is moot.

II. ORDER

A. It Is Ordered That:

1. The Motion to Modify Procedural Schedule filed by La Plata Electric Association, Inc., Empire Electric Association, Inc., and White River Electric Association, Inc. as Complainants, and Intervenors identified as the Rural Electric Consumer Alliance, consisting of BP America Production Company, Encana Oil & Gas (USA), Inc., Enterprise Products Operating LLC, and ExxonMobil Production Company as members of the Rural Electric Consumer Alliance; Kinder Morgan CO₂ Company is denied consistent with the discussion above.

2. Response time to the Motion to Modify Procedural Schedule is denied as moot.

3. The procedural schedule adopted in this proceeding by Interim Decision No. R14-0423-I is suspended pending a scheduling conference to be set subsequent to a decision on the Motion for Protective Order filed by Tri-State Generation and Transmission Association, Inc.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director