

Decision No. R14-0682-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
ADOPTING AMENDED PROCEDURAL
SCHEDULE AND, AMENDED DISCOVERY SCHEDULE**

Mailed Date: June 23, 2014

I. STATEMENT

1. By Interim Decision No. R14-0423-I, issued April 23, 2014, a procedural schedule was adopted in this matter as follows:¹

¹ In addition, a discovery schedule was adopted which allowed La Plata Electric Association, Inc.; Empire Electric Association, Inc.; White River Electric Association, Inc.; and, 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, LP (collectively, the Complaining Parties) to begin to propound discovery on May 9, 2014. Interim Decision No. R14-0423-I also provided that discovery would generally be conducted pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405. The deadline to propound discovery related to direct testimony and exhibits was to be the deadline for filing answer testimony or July 31, 2014. Responses or objections to discovery related to direct testimony were to be due within 10 days of the date discovery was propounded. The deadline to propound discovery related to answer testimony and exhibits was to be the deadline for filing rebuttal testimony or August 28, 2014. Responses or objections to discovery related to answer testimony were to be due within 7 days of the date discovery is propounded. The deadline to propound discovery related to rebuttal testimony was to be 5 business days prior to the first day of the evidentiary hearing. Responses or objections to discovery related to rebuttal testimony were to be due within 5 days of the date discovery was propounded.

Complainants' Direct Testimony Due June 10, 2014
 Tri-State's Answer Testimony Due July 31, 2014
 Complainants' Rebuttal Testimony Due August 28, 2014
 Evidentiary Hearing September 29 through October 2, 2014
 Statements of Position Due October 17, 2014

2. The procedural schedule was suspended by Interim Decision No. R14-0590-I, issued June 2, 2014, pending an order regarding Tri-State Generation and Transmission Association, Inc.'s (Tri-State) motion for protective order pertaining to discovery and deposition requests sought by the Complaining Parties. In the event Tri-State's motion was denied, it was determined that the procedural schedule would need to be reset in order to allow sufficient time for Tri-State to respond to the discovery and deposition requests prior to the filing of direct testimony.

3. Pursuant to Interim Decision No. R14-0646-I, issued on June 12, 2014, in addition to denying Tri-State's motion for protective order, a pre-hearing conference was scheduled for June 19, 2014 in order to establish new procedural dates.

4. At the scheduled date and time the pre-hearing conference was convened. Appearances were entered by the Complaining Parties and by Tri-State. The parties had previously conferred and were prepared with a proposed schedule. The parties proposed rescheduling the date to for the Complaining Parties to file direct testimony to July 15, 2014; the date for Tri-State to file its answer testimony to September 4, 2014; and the date for the Complaining Parties to file rebuttal testimony to October 2, 2014. In addition, it was proposed that an evidentiary hearing be scheduled for November 3 through 6, 2014. Closing Statements of Position were proposed to be filed two weeks after the last hearing day. The discovery schedule was also proposed to be amended to conform to that procedural schedule.

5. The ALJ indicated that the proposed procedural schedule was appropriate and conformed to the Commission's internal scheduling requirements in order to meet the 210-day statutory deadline to issue a final decision in this matter pursuant to § 40-6-108(4), C.R.S. Therefore, good cause is found to adopt the proposed procedural schedule with a slight modification. Prudence dictates that the evidentiary hearing be scheduled for the entire business week of November 3rd in the event some unforeseen delay requires five days of hearing. Consequently, the dates for an evidentiary hearing will be November 3 through 7, 2014.

6. As for a discovery schedule, discovery will continue to be conducted pursuant to Rule 4 CCR 723-1-1405 of the Commission's Rules of Practice and Procedure. The deadline to propound discovery related to direct testimony and exhibits will be the deadline for filing answer testimony or September 4, 2014. Responses or objections to discovery related to direct testimony will be due within 10 days of the date discovery is propounded. The deadline to propound discovery related to answer testimony and exhibits will be the deadline for filing rebuttal testimony or October 2, 2014. Responses or objections to discovery related to answer testimony will be due within 7 days of the date discovery is propounded. The deadline to propound discovery related to rebuttal testimony will be 5 business days prior to the first day of the evidentiary hearing. Responses or objections to discovery related to rebuttal testimony will be due within 5 days of the date discovery is propounded.

II. ORDER

A. It Is Ordered That:

1. The procedural schedule set forth above in Paragraph Nos. 4 and 5 shall be adopted.
2. The discovery schedule set forth above in Paragraph No. 6 shall be adopted.

An evidentiary hearing in this matter is scheduled as follows:

DATES: November 3 through 7, 2014
TIME: 9:00 a.m. each day
PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

3. 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