

Decision No. R20-0268-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19F-0620E

LA PLATA ELECTRIC ASSOCIATION, INC.,

COMPLAINANT,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

PROCEEDING NO. 19F-0621E

UNITED POWER, INC.,

COMPLAINANT,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
DENYING REQUEST FOR
SHORTENED RESPONSE TIME**

Mailed Date: April 17, 2020

I. SUMMARY

1. La Plata Electric Association, Inc. (La Plata) and United Power, Inc. (United Power) (collectively, Complainants), filed these formal complaints against Tri-State Generation

and Transmission Association, Inc. (Tri-State) on November 5 and 6, 2019, respectively, requesting that this Commission determine a just, reasonable, and non-discriminatory exit charge for Complainants. On November 25, 2019, by Decision No. C19-0955-I, the Commission consolidated the complaints in Proceeding Nos. 19F-0620E and 19F-0621E and designated Commissioner Frances Koncilja as the Hearing Commissioner.

2. The procedural history of this proceeding is set out in previous Decisions and is repeated here as necessary to put this Decision in context.

3. Commissioner Koncilja's term expired in January 2020. She was asked and agreed to continue to serve until a new commissioner was appointed and confirmed in her stead. A new Commissioner was sworn in on March 13, 2020.

4. On March 13, 2020, by Decision No. R20-0175-I, the evidentiary hearing in this proceeding, scheduled for March 23 to March 27, 2020, was suspended and the proceeding returned to the Commission *en banc*.

5. On March 23, 2020, United Power filed its Notice of After-Decided Authority and Request for Video or Telephonic Status Conference.

6. On March 25, 2020, by Decision No. C20-0201-I, the Commission referred the matter to an Administrative Law Judge.

7. On April 3, 2020, by Decision No. R20-0218-I, a status conference was scheduled for April 14, 2020.

8. At the status conference, the parties agreed to a procedural schedule that called for the evidentiary hearing to commence on May 18, 2020.

9. On April 16, 2020, Tri-State filed its Motion *in Limine* to Exclude the Rebuttal Testimony of Herrick K. Lidstone, Jr. and Jason R. Wiener and to Shorten Response Time (Motion *in Limine*). Tri-State also filed its Motion to Supplement Answer Testimony and Shorten Response Time (Motion to Supplement).

10. This Decision does not address the merits of the Motion *in Limine* or the Motion to Supplement. Both motions will be addressed in a later decision. This Decision only addresses the request to shorten response time for both motions.

11. Tri-State requests that response time to both the Motion *in Limine* and the Motion to Supplement be shortened to five days from the date of the filing of each motion or until April 21, 2020. Tri-State requests this “in light of the new procedural schedule.” No other reason is given by Tri-State.

12. If response time is not shortened, responses will be due on April 30, 2020. This is a full 18 days before the scheduled start of the hearing. In addition, the Motion *in limine* concerns the admissibility of pre-filed testimony, the resolution of this motion, if necessary, can be made at the time of the evidentiary hearing. Requesting that the response to two separate motions¹ be made by April 21, 2020 would allow only three full business days to respond to both motions. That short of a timeframe is unreasonable.

13. The request to shorten response time is denied.

¹ This does not even factor in a motion made by a non-party on April 15, 2020. The motion is opposed by La Plata and United Power but supported by Tri-State.

II. ORDER

A. It Is Ordered That:

1. The Request to Shorten Response Time to the Motion *in Limine* to Exclude the Rebuttal Testimony of Herrick K. Lidstone, Jr. and Jason R. Wiener filed on April 16, 2020, by Tri-State Generation and Transmission Association, Inc. (Tri-State) is denied.

2. The Request to Shorten Response Time to the Motion to Supplement Answer Testimony filed on April 16, 2020, by Tri-State is denied.

3. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean,
Director