

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-192E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., P.O. BOX 33695, DENVER, COLORADO FOR A DETERMINATION UNDER 29-20-108(5), C.R.S., THAT THE CONDITIONS IMPOSED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO, ON TRI-STATE'S PROPOSED NUCLA-TELLURIDE 115 KV TRANSMISSION LINE PROJECT WILL UNREASONABLY IMPAIR TRI-STATE'S ABILITY TO PROVIDE SAFE, RELIABLE, AND ECONOMICAL SERVICE TO THE PUBLIC.

**ORDER GRANTING, IN PART, APPLICATIONS FOR
REHEARING, REARGUMENT, OR RECONSIDERATION**

Mailed Date: March 11, 2004
Adopted Date: February 25, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the Applications for Rehearing, Reargument, or Reconsideration (RRR) to Decision No. C04-0093 filed by the Board of County Commissioners of San Miguel County Colorado (San Miguel County Commissioners or County) and Tri-State Generation and Transmission Association, Inc. (Tri-State), on February 13, 2004. In Decision No. C04-0093, we approved, with conditions, Tri-State's Application for a determination, under § 29-20-108(5), C.R.S., that the conditions imposed by the San Miguel County Commissioners on the Nucla-Telluride 115 kV transmission line project (project) will unreasonably impair Tri-State's ability to provide safe, reliable, and economical service to the public.

B. Application for RRR by the San Miguel County Commissioners

2. In its Application for RRR, the San Miguel County Commissioners request modification to the condition listed in the last sentence of Paragraph 69, Decision No. C04-0093. This condition requires the County to approve Tri-State's construction plan within five business days of when the Bureau of Land Management (BLM) and the United States Forest Service (Forest Service) approve Tri-State's construction, operation, and maintenance plans; otherwise Tri-State's construction plan for San Miguel County would be deemed approved. The County argues that the wording in the order might allow Tri-State to submit a construction plan to the County that was inconsistent with the plans submitted to the BLM and Forest Service, and that default approval for such an inconsistent construction plan would be granted if the County failed to approve the construction plan as submitted. The County suggests language that would require Tri-State to submit a construction plan that is the same as, or consistent with, the plans submitted to the BLM and Forest Service.

3. We expect that Tri-State's construction plan for San Miguel County would contain similar information as the plans submitted to the BLM and Forest Service. Therefore, we agree with the County that the construction plan should be "consistent with" the BLM and Forest Service plans. We do not agree with any suggestion by the County that the construction plan should be "the same as" the plans for the BLM and Forest Service, because the plans may not be identical. We grant the County's request for clarification and modify Decision No. C04-0093 as follows (additions shown by underline):

Provided that Tri-State's Construction Plan submitted to the County is consistent with the construction, operation, and maintenance plans submitted by Tri-State to the BLM and Forest Service, if the County fails to approve the Construction Plan within five business days of when the BLM and Forest Service issue approval of

their construction, operation, and maintenance plans, then Tri-State's Construction Plan for San Miguel County shall be deemed approved.

C. Application for RRR by Tri-State

4. Tri-State requests correction of the conclusion in paragraph 39, Decision No. C04-0093 that "the record does not indicate if a rebuilt 69 kV transmission line would have adequate capacity to provide backup service for an outage of the Hesperus transmission line or to serve load growth in the area." Tri-State refers to written and oral testimony by Bobby Blair and oral testimony by Stephen Fausett indicating that a rebuilt 69 kV transmission line would not provide adequate capacity.

5. Upon reviewing the record, we agree with Tri-State. We grant the requested correction and modify paragraph 39 as suggested by Tri-State (deletions shown by strikeout and additions shown by underline):

The record ~~does not indicate if~~ also indicates that a rebuilt 69 kV transmission line would not have adequate capacity to provide backup service for an outage of the Hesperus transmission line or to serve additional load growth in the area.

6. Tri-State also requests clarification that the decision does not order Tri-State to proceed with the project, particularly if Tri-State ultimately determines that the project is not economically feasible. Tri-State asserts that paragraphs 60 and 61, Decision No. C04-0093 might be interpreted to require Tri-State, under certain conditions, to proceed with the project even if the total costs indicate that the project is not a feasible option. Tri-State interprets the decision as premised on an understanding that Tri-State has the ultimate and exclusive right to determine whether the project is economically feasible, and that all conditions related to overhead or underground construction follow from that determination. Tri-State points out that its testimony consistently stated that it would consider other options if the costs of this project prove to be

prohibitively high and that it may not proceed with this project. Tri-State requests that specific language be added to the ordering section of Decision No. C04-0093 to eliminate any ambiguity with respect to this issue.

7. We clarify that Decision No. C04-0093 does not require Tri-State to proceed with this project regardless of the total cost. Our decision (paragraphs 60 and 61) was addressing the issue of when underground construction would be required (as opposed to overhead construction). Implicit in the discussion is that Tri-State would already have decided to go forward with the project; the decision was not addressing whether Tri-State would have to build a new transmission line regardless of costs. With this clarification of paragraphs 60 and 61, Tri-State's proposed addition to the ordering section of Decision No. C04-0093 is unnecessary.¹ Therefore, we grant, in part, Tri-State's request by clarifying the discussion in paragraphs 60 and 61, but we do not amend the ordering section of the decision as proposed by Tri-State.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration filed by the Board of County Commissioners of San Miguel County Colorado on February 13, 2004 is granted, in part, consistent with the above discussion.

2. The Application for Rehearing, Reargument, or Reconsideration filed by Tri-State Generation and Transmission Association, Inc., on February 13, 2004 is granted, in part, consistent with the above discussion.

¹ We do not address Tri-State's assertion that it has the ultimate and exclusive right to determine what, if any, facilities will be constructed in the Telluride area.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file further applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

4. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 25, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners