

Decision No. R14-0098-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13F-0145E

LA PLATA ELECTRIC ASSOCIATION, INC.; EMPIRE ELECTRIC ASSOCIATION, INC.;
WHITE RIVER ELECTRIC ASSOCIATION, INC.; BP AMERICA PRODUCTION
COMPANY, ENCAN OIL & GAS (USA), INC., ENTERPRISE PRODUCTS OPERATING
LLC, AND EXXONMOBIL PRODUCTION COMPANY AS MEMBERS OF THE RURAL
ELECTRIC CONSUMER ALLIANCE; AND KINDER MORGAN CO₂ COMPANY, LP,

COMPLAINANTS,

V.

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
VACATING PRE-HEARING CONFERENCE**

Mailed Date: January 24, 2014

I. STATEMENT

1. In response to a Remand Order by the Commission pursuant to Interim Decision No. C14-0006-I issued on January 3, 2014, the undersigned Administrative Law Judge (ALJ) set a pre-hearing conference for January 29, 2014 in order to determine how the underlying complaint proceeding would go forward given the directives of the Commission's Remand Order.

2. On January 13, 2014, Respondent, Tri-State Generation and Transmission Association, Inc. (Tri-State or Respondent) filed a Motion to Vacate Pre-Hearing Conference Regarding Commission's Remand Order (Tri-State Motion). According to Tri-State's Motion,

it is scheduled to present oral arguments before the New Mexico Public Regulatory Commission on January 29, 2014 regarding matters substantively similar to the allegations of the underlying complaint in this proceeding. Due to the conflicting hearing dates, Tri-State seeks to vacate the pre-hearing conference. Tri-State does not propose an alternate date.

3. On January 23, 2014, Complainants, La Plata Electric Association, Inc.; Empire Electric Association, Inc.; White River Electric Association, Inc.; BP America Production Company, Encana Oil & Gas (USA), Inc., Enterprise Products Operating, LLC, and ExxonMobil Power and Gas Services, Inc., on behalf of ExxonMobil Production Company, as members of the Rural Electric Consumer Alliance; and Kinder Morgan CO₂ Company, LP (Complainants) filed a Motion for Reconsideration, Modification, or Clarification of Decision No. C14-0006-I (Motion for Reconsideration). The Complainants take issue with several of the Commission's determinations and seek review, clarification, or reconsideration of Interim Decision No. C14-0006-I in several ways. Specifically, Complainants request that the Commission affirm that the ALJ should review whether Tri-State's cost allocation and rate design methodology is unlawful without limiting the ALJ's discretion to merely answering the questions of whether Tri-State's A-37 Rate includes a demand charge, or whether the rate itself is unlawful.

4. Complainants further request that the Commission affirm that if it is found by the ALJ that Tri-State's cost allocation and rate design methodology is unlawful, then a lawful cost allocation and rate design methodology or range of lawful cost allocation and rate design methodologies should be established. Complainants also seek affirmation from the Commission that the ALJ should consider whether the Commission has the authority to grant the relief sought in the First and Second Claims in the Complaint, and if such legal authority exists, for the ALJ

to take evidence and issue a Recommended Decision on all the allegations contained in the Complaint, including the First and Second Claims.

5. Finally, Complainants request that the finding that the parties known as the Industrial Intervenors (BP America Production Company, Encana Oil & Gas (USA), Inc., Enterprise Products Operating, LLC, and ExxonMobil Power and Gas Services, Inc., on behalf of ExxonMobil Production Company, as members of the Rural Electric Consumer Alliance, and Kinder Morgan CO₂ Company, LP) do not have standing in this Complaint proceeding be reversed, regardless of the scope of the Complaint going forward.

6. Given the conflicting dates which exist for Tri-State's legal counsel and the uncertainty as to the Commission's findings regarding Complainants' Motion for Reconsideration, good cause is found to grant the Tri-State Motion and vacate the January 29, 2014 pre-hearing conference. The pre-hearing conference will not be re-scheduled until the Commission has issued its Decision on the Motion for Reconsideration.

II. ORDER

A. It Is Ordered That:

1. The Motion of Tri-State Generation and Transmission Association, Inc. to Vacate Pre-Hearing Conference Regarding Commission's Remand Order is granted.

2. The pre-hearing conference scheduled for January 29, 2014 is vacated.

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