

Decision No. R14-1318-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
WAIVING PROCEDURAL REQUIREMENTS;
VACATING EVIDENTIARY HEARING;
SETTING TELEPHONE STATUS CONFERENCE;
AND, REQUIRING FILING FROM COMPLAINANTS
REGARDING 210-DAY STATUTORY DEADLINE**

Mailed Date: October 30, 2014

I. STATEMENT

1. The procedural schedule in this proceeding was established by Interim Decision No. R14-0423-I, issued April 23, 2014, as amended by Interim Decision No. R14-0682-I, issued June 23, 2014, which set an evidentiary hearing for November 3 through 7, 2014.

2. By Interim Decision No. R14-1237-I, issued October 10, 2014, because no further pre-hearing conferences were scheduled prior to the start of the hearings, several procedural requirements were established regarding the evidentiary hearing. Complainants and Respondent were required to confer to develop a witness list with an order of cross-examination and

estimated cross-examination times for each witness. The witness list was to be filed no later than October 29, 2014.

3. In addition, the parties were directed to mark the hearing exhibits corresponding to their witnesses' pre-filed testimony prior to the commencement of the hearing on Monday, November 3, 2014. The parties were to confer and file an initial hearing exhibit list no later than October 29, 2014.

4. At the start of the hearing on November 3, 2014, the parties were to stipulate into the evidentiary record all of the marked pre-filed testimony and exhibits. Consequently, the parties were directed to confer regarding the admission of pre-filed testimony and exhibits prior to the commencement of hearings on November 3, 2014. The pre-filed testimony and exhibits marked as hearing exhibits were to include all necessary corrections. The parties were also permitted to make opening statements at the commencement of the hearing if they chose to do so.

5. On October 29, 2014, legal counsel for Complainants and Respondent held a conference call with the undersigned Administrative Law Judge. The parties indicated that they were conducting settlement negotiations and it appeared that a final settlement was possible. Consequently, the parties requested that the procedural requirements pursuant to Interim Decision No. R14-1237-I be waived and the evidentiary hearing scheduled for November 3 through 7, 2014 be vacated.

6. The parties discussed several scenarios regarding the settlement process but seemed to agree that a two-step process was most viable. Under that process, the procedural schedule would be waived and the evidentiary hearing vacated. The parties would continue settlement negotiations and would attempt to reach some sort of an interim agreement whereby

the parties would concur that sufficient progress had been made to move towards a final settlement agreement.

7. A status conference was proposed at a later time in order to receive an update from the parties regarding progress in settlement negotiations. Should sufficient progress have been made at that time, an interim agreement is proposed to be filed with the Commission with an indication as to when a final settlement agreement would be executed and filed. However, if it appears that consensus among the parties cannot be reached, the evidentiary hearing would be re-scheduled and the Formal Complaint proceeding would go forward. The parties proposed, and it is agreed, that the status conference will be held on Thursday, November 13, 2014 by telephone conference.

8. During the telephone conference held on October 29, 2014, the parties were apprised as to concerns regarding the pressing 210-day timeline in this proceeding pursuant to § 40-6-108(4), C.R.S. (February 10, 2015). As part of the agreed to settlement negotiation process, Complainants are urged to consider waiving the 210-day deadline in accordance with § 40-6-108(4); or, propose another reasonable procedural method of extending the 210-day deadline in order to provide sufficient time for the parties to comfortably continue settlement negotiations, and for the Commission to issue a final decision in this matter, whether that is a final decision on the terms of a settlement agreement or on the merits of the Formal Complaint after a hearing. As a last resort, § 40-6-108(4) does provide that the Commission may extend the time for a decision an additional 90 days. However, that can only be accomplished following a hearing which establishes extraordinary circumstances. In the ALJ's estimation, this is the least palatable means to extend the deadline for a final decision.

9. As a result, Complainants will be required to make a filing no later than November 7, 2014 stating their intentions regarding the 210-day time limit.

II. ORDER

A. It Is Ordered That:

1. The hearing procedures as set out in Interim Decision No. R14-1237-I, issued October 10, 2014 shall be waived.

2. The evidentiary hearing scheduled for November 3 through 7, 2014 shall be vacated.

3. A telephone status conference shall be held on Thursday November 13, 2014 commencing at 9:00 a.m.

4. Complainants and Respondent shall provide an update on settlement negotiations during the November 13, 2014 telephone status conference, as well as an assessment as to whether a final settlement agreement is feasible.

5. Complainants shall file a pleading no later than November 7, 2014 regarding their intentions regarding the 210-day statutory deadline in which the Commission must issue a final decision in this matter.

6. The parties shall be held to the advisements in this Decision.

7. 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