

Decision No. R19-0934

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19F-0315E

ANNE PACE, ET AL.,

COMPLAINANTS,

V.

SAN LUIS VALLEY RURAL ELECTRIC COOPERATIVE, INC.,

RESPONDENT.

PROCEEDING NO. 19F-0351E

TOWN OF CRESTONE,

COMPLAINANT,

V.

SAN LUIS VALLEY RURAL ELECTRIC COOPERATIVE, INC.,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
DISMISSING COMPLAINTS WITHOUT PREJUDICE**

Mailed Date: November 18, 2019

I. STATEMENT, FINDINGS, AND CONCLUSIONS.

A. Background.

1. This consolidated proceeding was initiated on June 4, 2019, when Complainants Anne Pace *et al.* filed a Complaint against San Luis Valley Rural Electric Cooperative, Inc.

(San Luis Valley), with the Public Utilities Commission. That Complaint was assigned Proceeding No. 19F-0315E. On June 20, 2019, the Town of Crestone (Town) filed a Complaint against San Luis Valley, initiating Proceeding No. 19F-0351E.

2. The undersigned Administrative Law Judge (ALJ) consolidated these proceedings on July 24, 2019. Decision No. R19-0624-I. The individual Complainants in Proceeding No. 19F-0315E filed an Amended Formal Complaint (Complaint) on September 3, 2019. *See* Amended Formal Complaint and Decision Nos. R19-0722-I and R19-0751-I.

3. After a prehearing conference setting deadlines and a hearing, the parties engaged in mediation. *See* Decision No. R19-0722-I and Joint Motion to Extend Deadline to File Dispositive Motions.

4. On November 1, 2019, the individual Complainants in Proceeding No. 19F-0315E filed a Motion to Withdraw Complaint (Motion to Withdraw). On November 12, 2019, the Town filed an Unopposed Motion to Withdraw Complaint (Town's Motion to Withdraw). Both Motions state that Complainants have reached a joint settlement with San Luis Valley in the above-captioned proceedings; that the other parties to the proceeding do not oppose the Motions' requested relief; and that Complainants wish to withdraw their respective Complaints without prejudice and reserve all claims that have been or could have been raised in the Amended Formal Complaint. The Motions also recognize that San Luis Valley has not waived and expressly reserves all defenses that have been or could have been raised in San Luis Valley's Answers to their Complaints.

B. Findings and Conclusions.

5. The response time to the individual Complainants' Motion to Withdraw has expired. *See* Rule 1400(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. Because the Town's Motion to Withdraw is unopposed, the ALJ will waive the remaining response time to it. Rule 1400(b), 4 CCR 723-1.

6. Given that the parties have reached a settlement resolving the disputes in this consolidated proceeding, there is no need for the Commission to adjudicate and decide the Complaints. As a result, the ALJ will grant both Motions to Withdraw, and will dismiss the Complaints without prejudice.

7. Pursuant to § 40-6-109, C.R.S., the ALJ transmits the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order to the Commission.

II. ORDER**A. The Commission Orders That:**

1. The Town of Crestone's Formal Complaint against San Luis Valley Rural Electric Cooperative, Inc. (San Luis Valley), filed on June 20, 2019, (Proceeding No. 19F-0351E), is dismissed without prejudice. The Amended Formal Complaint against San Luis Valley filed on September 3, 2019 (Proceeding No. 19F-0315E), is dismissed without prejudice.

2. Consolidated Proceeding Nos. 19F-0315E and 19F-0351E are closed.

3. This Recommended Decision will be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision will be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended *decision will become the decision of the Commission* and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Decision are filed, they may not exceed 30 pages in length, unless the Commission finds good cause and permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director