

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0585E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. FOR APPROVAL OF ITS 2023 ELECTRIC RESOURCE PLAN.

**INTERIM COMMISSION DECISION DEEMING
APPLICATION COMPLETE, SETTING MATTER FOR
HEARING, GRANTING MOTION FOR LEAVE TO REPLY,
AND REFERRING MATTER TO AN ADMINISTRATIVE
LAW JUDGE**

Mailed Date: January 11, 2024

Adopted Date: January 10, 2024

I. BY THE COMMISSION

A. Statement

1. On December 1, 2023, Tri-State Generation and Transmission Association, Inc. (Tri-State) filed an Application for Approval of its 2023 Electric Resource Plan (Application). By this Decision, we deem the Application complete, set the matter for hearing, grant Tri-State's motion for leave to reply, and refer the matter to an Administrative Law Judge (ALJ).

B. Discussion

2. Tri-State filed its 2023 Electric Resource Plan (ERP), including the direct testimony and attachments of eight witnesses, a Stipulation between entities that includes potential intervenors in this Proceeding, and a Motion for Extraordinary Protection of Highly Confidential Information in its Application. Tri-State sets forth a Phase I ERP which includes the acquisition of renewable energy, dispatchable gas generation, an earlier retirement date for Craig Unit 3 based

on economic modeling, and a potential earlier retirement date for Springerville Unit 3 depending on federal funding. With its Application, Tri-State also filed a Motion to Approve Procedural Schedule, Discovery Procedures, Treatment of Confidential Information, Shortened Notice Period, and Request for Expedited Treatment (Motion).

3. Through Decision No. C23-0813-I, issued December 7, 2023, the Commission denied Tri-State's request for a shortened notice and intervention period and set a date for intervention for January 5, 2024, directing potential parties both to address whether their interventions were unopposed and to respond to the Motion.

4. Notices of Intervention by Right were timely filed by the Colorado Energy Office (CEO), the Colorado Office of the Utility Consumer Advocate (UCA), and Trial Staff of the Commission (Staff). Motions seeking permissive or other intervention were filed by the Colorado Independent Energy Association (CIEA), Conservation Coalition (comprised of the Natural Resources Defense Council and the Sierra Club), the Colorado Solar and Storage Association and Solar Energy Industries Association (COSSA/SEIA), Interwest Energy Alliance (Interwest), Joint Colorado Members (comprised of La Plata Electric Association and Mountain Parks Electric), Joint Cooperative Movants (comprised of Poudre Valley Rural Electric Association, Inc., Highline Electric Association, K.C. Electric Association, San Isabel Electric Association, Inc., Southeast Colorado Power Association, Y-W Electric Association, Inc.), the Office of Just Transition (OJT), Tier One Coal Transition Communities (comprised of Moffat County and the City of Craig), the White River Electric Association (WREA), Western Resource Advocates (WRA), and the Joint Movants (comprised of Big Horn Rural Electric Company, Carbon Power & Light, Inc., High West Energy Inc., Wheatland Rural Electric Association, Wyrulec Company, Inc., Niobrara Electric Association, High Plains Power, Inc., and Garland Light & Power Co.). The Colorado Department

of Public Health and Environment also submitted a motion for limited participation for purposes of submitting greenhouse gas verification reports.

5. UCA, Staff, and the Joint Colorado Members request a hearing in this matter.

6. Conservation Coalition stated support for Tri-State's Motion; COSSA/SEIA, Joint Colorado Members, Staff, and WREA did not oppose it; and the OJT and Joint Movants did not take a position. The Motion was opposed by the Tier One Coal Transition Communities, which state that Tri-State's Application lacks a robust community assistance plan, which requires focused stakeholder participation, and therefore express concern that the timeline proposed will not sufficiently accommodate discovery and hearing preparation.

7. On January 9, 2024, Tri-State filed a Motion for Leave to Reply and Reply in Support of Tri-State's Proposed Procedural Schedule pursuant to Rules 4 CCR 723-1-1308(b) and 1400(e) of the Commission's Rules of Practice and Procedure. Tri-State notes that its Motion for Leave to Reply is opposed by Moffat County and the City of Craig, not opposed by the OJT, and the following entities take no position: UCA, COSSA/SEIA, Interwest, CEO, Staff, CIEA, WRA, Conservation Coalition, Poudre Valley Rural Electric Association, Highline Electric Association, Y-W Electric Association, La Plata Electric Association, Mountain Parks Electric, Inc., the Wyoming Rural Electric Cooperatives, and San Isabel Electric Association.

8. Tri-State asserts that the Tier One Coal Transition Communities made an incorrect conclusion of law by stating that a community assistance plan must be filed in this ERP, stating that the informational community assistance plan under development is pursuant to Phase I of Proceeding No. 20A-0528E, Tri-State's 2020 ERP. Tri-State also argues that Tier One Coal Transition Communities have materially misrepresented facts and law in stating that they were not previously parties to the 2020 ERP and only recently obtained counsel; Tri-State asserts that the

Tier One Coal Transition Communities have been actively participating in the ICAP process and should have been generally aware of this process and the filing date for the 2023 ERP. Finally, Tri-State states that its proposed procedural schedule is within the full 120 days allowed by statute for a Commission decision and its request for a proceeding is prompt but not expedited.

C. Findings and Conclusions

9. We find good cause to deem the Application complete for purposes of § 40-6-109.5, C.R.S., and to set it for hearing.

10. Under Rule 1400(e) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, a motion for leave to file a reply must demonstrate either a material representation of fact, a surprise, newly discovered facts or issues, or an incorrect statement or error of law. We find good cause to grant Tri-State's Motion for Leave to Reply as asserting factual and legal issues and therefore consider its response in our discussion of case disposition.

11. While acknowledging Tri-State's Motion and the desire for efficiency, given the Commission's aggressive caseload and prior proceedings, we refer this proceeding to an ALJ. We trust that the ALJ will act with all due haste in addressing interventions and in adopting an appropriate procedural schedule and will conduct the hearing and issue a Recommended Decision within a reasonable timeframe.

II. ORDER

A. It Is Ordered That:

1. The Application for Approval of its 2023 Electric Resource Plan, filed on December 1, 2023, is deemed complete for purposes of § 40-6-109.5, C.R.S., consistent with the discussion above. We further set the matter for hearing.

2. This matter is referred to an Administrative Law Judge for expeditious resolution of all other outstanding issues.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 10, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Rebecca E. White'.

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners