

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

Proceeding No. 23A-0585E

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

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**UNOPPOSED MOTION TO APPROVE UNOPPOSED COMPREHENSIVE SETTLEMENT AGREEMENT, AMEND THE PROCEDURAL SCHEDULE, AND WAIVE RESPONSE TIME**

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Pursuant to Commission Rules 1400 and 1408, Tri-State Generation and Transmission Association, Inc. (“Tri-State”), Highline Electric Association (“Highline”), Poudre Valley Rural Electric Association, Inc. (“PVREA”), Y-W Electric Association, Inc. (“Y-W”), Interwest Energy Alliance (“Interwest”), Trial Staff of the Colorado Public Utilities Commission (“Staff”), The Office of the Utility Consumer Advocate (“UCA”), The Colorado Energy Office (“CEO”), Moffat County and the City of Craig, Colorado (together, the “Tier One Coal Transition Communities” or “Communities”), the Office of Just Transition (“OJT”), the Colorado Independent Energy Association (“CIEA”), the Colorado Solar and Storage Association (“COSSA”) and Solar Energy Industries Association (“SEIA”), Sierra Club and the Natural Resources Defense Council (together, the “Conservation Coalition”), and Western Resource Advocates (“WRA”) (each a “Settling Party” and collectively the “Settling Parties”) hereby move for Commission approval of the Unopposed Comprehensive Settlement Agreement (“Settlement Agreement”) attached to this Motion as **Attachment A**.

## **RULE 1400 CONFERRAL**

Counsel for Tri-State conferred with counsel for the non-settling parties and is authorized to state that 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. (collectively, the “Wyoming Cooperatives”); La Plata Electric Association (“LPEA”); Mountain Parks Electric, Inc. (“MPEI”); White River Electric Association (“WREA”); K.C. Electric Association (“K.C.”); San Isabel Electric Association, Inc. (“SIEA”); and Southeast Colorado Power Association (“SECPA”) do not oppose this Motion or the Settlement Agreement.<sup>1</sup>

## **MOTION**

Pursuant to Rule 1408(a), “[t]he Commission encourages settlement of contested proceedings.” This Settlement Agreement is joined by many parties to this proceeding and is not opposed by any party, and is a comprehensive resolution of the issues presented with respect to Phase I of Tri-State’s Electric Resource Plan. The Settling Parties therefore agree that the compromises reflected in the Settlement Agreement represent a just and reasonable resolution of Phase I of this Proceeding, and that reaching this Settlement Agreement by means of a negotiated settlement is in the public interest and will promote administrative efficiency. Each of the Settling Parties has pledged to support all aspects of the Settlement Agreement. The Settling Parties therefore request that the Commission approve the Settlement Agreement

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<sup>1</sup> LPEA specifically notes that the issues raised in Mr. Smith’s Answer Testimony have been resolved following further discussions between Tri-State and La Plata.

without modification. As explained below, Tri-State and certain Settling Parties intend to submit testimony in support of the Settlement Agreement on July 11, 2024, pursuant to Decision No. R24-0080-I, further setting forth the reasons the settlement is in the public interest. For the Commission's benefit, and in an effort to streamline the Phase I process, Tri-State intends to attach a draft Recommended Decision to its settlement testimony approving the Settlement Agreement,<sup>2</sup> with the aim of facilitating prompt initiation of the Phase II process. In particular, Tri-State hopes to begin resource procurement as soon as possible, including (but not limited to) resources with near-term commercial operation dates in 2026, as these bids may be especially time-sensitive. Tri-State will share the draft Recommended Decision with Commission Staff for review prior to filing.

### **SUMMARY OF THE SETTLEMENT AGREEMENT**

The Settlement Agreement includes numerous and complex provisions resolving Phase I of Tri-State's 2023 ERP, the details of which were the result of extensive negotiations between the Settling Parties. The Settling Parties are providing a high-level summary of some of the key settlement terms here:<sup>3</sup>

- The Settling Parties agree that the Commission should grant Tri-State's Application for Approval of Its 2023 ERP, subject to the terms and modifications detailed in the Settlement Agreement.

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<sup>2</sup> This approach was utilized by the Administrative Law Judge in Proceeding No. 22A-0157E, for administrative efficiency.

<sup>3</sup> This summary should not be treated as either a comprehensive description of, or a replacement for, any of the provisions in the Settlement Agreement itself.

- The Settling Parties agree that Tri-State will modify Phase II Bid Security and refundability requirements, expand the scope of the Phase II Requests for Proposals (“RFPs”), and update certain non-price factor bid evaluation criteria.
- The Settling Parties have agreed upon eight portfolios to be modeled in Phase II, including for selection of back-up bids, with the potential for two additional portfolios to be modeled; and have agreed upon the contents of the Phase II Implementation Report.
- The Settling Parties have agreed to modify certain elements of the approach to Extreme Weather Event (“EWE”) modeling and reporting; will make certain gas plant modeling assumption updates; and will seek to achieve certain performance levels for its resource plan software modeling outputs.
- Tri-State has agreed to set a 2030 target for demand response related to control of Colorado peak load.
- Tri-State and CTC have agreed to community assistance that includes, among other community assistance items, a \$22 million direct benefit to the community between 2026 and 2029, and additional Minimum Backstop Payments of up to \$48 million between 2028 and 2038 with specified reduction offsets.

### **REQUEST TO MODIFY THE PROCEDURAL SCHEDULE**

Given that the Settlement Agreement is unopposed and comprehensive, the Settling Parties request the Commission vacate the deadlines for filing cross-examination matrices and hearing procedures, the evidentiary hearing dates, as well

as the deadline for Statements of Position, as these deadlines have now become moot. The Settling Parties request that the current July 11, 2024 deadline for Settlement Testimony be retained. These schedule modifications will provide administrative efficiency and further reduce the time and resource burden on the Commission, its staff, and parties in light of the comprehensive settlement reached.

#### **REQUEST FOR WAIVER OF RESPONSE TIME**

Because this Motion and the Settlement Agreement are unopposed, the Settling Parties additionally request that the Commission waive response time to this Motion, pursuant to Rule 1308(c).

#### **REQUEST FOR RELIEF**

WHEREFORE, the Settling Parties respectfully request that the Commission: (1) approve the Unopposed Comprehensive Settlement Agreement provided as Attachment A hereto without modification; (2) modify the procedural schedule as requested herein; and (3) waive response time, pursuant to Rule 1308(c).

Respectfully submitted this 27th day of June, 2024.

**LEWIS ROCA ROTHGERBER CHRISTIE LLP**

*s/ Dietrich C. Hoefner*

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