

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

IN THE MATTER OF THE VERIFIED)
APPLICATION OF TRI-STATE GENERATION)
AND TRANSMISSION ASSOCIATION, INC. FOR) PROCEEDING NO. 20A-____E
APPROVAL OF THE RETIREMENT OF THE)
NUCLA STATION, AND REQUEST FOR WAIVER)
OF RULE 3103(d))

VERIFIED APPLICATION AND REQUEST FOR WAIVER

Tri-State Generation and Transmission Association, Inc. (“Tri-State”), by and through its undersigned legal counsel, in accordance with the Colorado Public Utilities Law (Colorado Revised Statute § 40-5-101, *et seq.*), and pursuant to Colorado Public Utilities Commission (the “Commission”) Rules 3002(IV) and 3103, requests that the Commission approve the retirement of the Nucla Station. Tri-State also requests a waiver of the notice requirements of Commission Rule 3103(d). As grounds for its Application and Request for Waiver, Tri-State states:

I. **Introduction**

The Nucla Station is a 100 MW (net capacity rating) coal-fired generation plant located in Nucla, Colorado. The plant was originally constructed in 1959 as an experimental facility testing the feasibility of an atmospheric fluidized-bed combustion technology. The plant was originally owned by Colorado-Ute Electric Association (“CUEA”) and was granted a conditional Certificate of Public Convenience and Necessity (“CPCN”) in 1983 (See Decision No. C83-426, Application No. 35403). Tri-State acquired the Nucla Station and its associated CPCN in 1992 as a result of the CUEA bankruptcy proceeding. (See Commission

Decision Granting Application, Decision No. C91-1729, Docket No. 91A-589E, at 13).

Tri-State has operated the Nucla Station for the purpose of providing wholesale electric power to its Member Systems which, in turn, provide retail service to member-customers within their respective certificated service territories.

In September, 2016, Tri-State announced that the Nucla Station would be retired by December 31, 2022 as part of an agreement with the Colorado Department of Public Health and Environment, the U.S. Environmental Protection Agency, WildEarth Guardians, and the National Parks Conservation Association to propose revisions to the Colorado Visibility and Regional Haze State Implementation Plan.

In July, 2019, Tri-State announced that the Nucla Plant would cease operations when it exhausted its remaining on-site fuel supply which occurred on September 9, 2019. On September 19, 2019, Tri-State officially announced the termination of Nucla Plant operations. Decommissioning and dismantling of the plant is presently scheduled to begin during the first half of 2020.

II. Description of the Facility to be Retired

In general, the Nucla Station consists of certain boilers, turbine generator equipment, cooling towers, environmental control facilities, fuel storage and handling facilities, ponds associated with plant operations, the Nucla plant substation, and various administrative and support buildings. The specific plant facilities to be retired are described in greater detail in the testimony and attachments of Tri-State's witnesses.

III. Requirement for Certificate Amendment for Changes in Facilities

Commission Rule 3103(a) provides, in pertinent part, “A utility seeking authority to do the following shall file an application pursuant to this rule: amend a certificate of public convenience and necessity in order to . . . abandon or discontinue without equivalent replacement any . . . facility.”

IV. Testimony and Attachments Supporting This Application

Tri-State is submitting the testimony and attachments of the following witnesses in support of this Application:

a. Barry W. Ingold. Mr. Ingold is Tri-State’s Senior Vice President, Generation. Mr. Ingold will describe the Nucla Station, and its history, CPCN, and operations. Mr. Ingold will also discuss Tri-State’s reasons for retiring the plant and Tri-State’s plans related to workforce transition and support for the affected community. Mr. Ingold will also introduce Tri-State’s other witnesses whose testimony supports this Application.

b. Robert W. Wolaver. Mr. Wolaver is Tri-State’s Senior Manager, Energy Resources. Mr. Wolaver will discuss the Nucla Station’s retirement from a resource planning perspective. He will discuss why Tri-State does not need to replace the Nucla Station with another generating facility, how the load previously served by the Nucla Station will continue to be served, why Tri-State’s Members and their customers will not be affected by the retirement of the Nucla Station, and how retirement of the Nucla Station affects Tri-State’s resource adequacy.

c. Christopher E. Pink. Mr. Pink is Tri-State’s Manager, Technical Services/Bulk System Planning. Mr. Pink will discuss how the Nucla Station was

interconnected to the Colorado transmission system and the effect of the plant's retirement on transmission system operations and reliability.

d. Terry L. Nelson. Mr. Nelson is Tri-State's Senior Manager, Generation Construction. Mr. Nelson will provide additional technical information concerning the Nucla Station, and will describe Tri-State's decommissioning plans.

V. Information Required by Rule 3002(b)

a. Name and Address of Applicant. The Applicant is Tri-State Generation and Transmission Association, Inc. Tri-State's principal office is located at 1100 W. 116th Avenue, Westminster, CO 80234-2814. Tri-State's mailing address is: Tri-State Generation and Transmission Association, Inc., P.O. Box 33695, Denver, CO 80233-0695.

b. Name Under Which Applicant Provides Service in Colorado. Tri-State conducts operations under its corporate name. Tri-State is incorporated under the laws of the state of Colorado.

c. Representatives to Whom Inquiries Concerning the Application Should Be Made. Copies of all notices, other correspondence, and all inquiries concerning this Application should be sent to:

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d. Agreement to Comply with 4 CCR 723-3002(b)(IV)-(VI). Tri-State has read and agrees to abide by the provisions of subparagraphs (b)(IV) through (b)(VI) of Rule 3002 of the Electric Rules, consistent with the Commission's jurisdiction.

e. Description of Existing Operations and General Colorado Service Area. Tri-State is engaged in the generation, transmission, and sale of wholesale electric energy and capacity to its Member Systems within the states of Colorado, Nebraska, New Mexico, and Wyoming. Tri-State owns interests in electric generating facilities in the states of Arizona, Colorado, New Mexico, and Wyoming, and it owns transmission facilities in the states of Colorado, Nebraska, New Mexico, and Wyoming. As a provider of wholesale generation and transmission services, Tri-State does not have certificated service territory in Colorado.

f. Balance Sheet and Income Statement. A copy of Tri-State's 2018 Annual Report (which includes a balance sheet and cash flow and operations statements) is attached hereto and incorporated herein as **Attachment A**.

g. Location of Hearing. If this Application is set for hearing, Tri-State requests that the hearing be held in Denver, Colorado; however, if no substantive interventions are filed, Tri-State requests that this Application be decided by the Commission without a hearing and processed as expeditiously as possible.

h. Acknowledgment. Tri-State has read and agrees to abide by the provisions of subparagraphs (b)(XI)(A) through (C) of Rule 3002 of the Electric Rules, consistent with the Commission's jurisdiction.

i. Statement Under Oath. This Application is verified by Tri-State's General Counsel, as evidenced by the Attestation attached hereto as **Attachment B**.

VI. Information Required by Rule 3002(c)

a. A copy of Tri-State's Articles of Incorporation, with all amendments to date, is attached hereto and incorporated herein as **Attachment C**.

b. The names of Tri-State's directors, officers, and Colorado agent for service are set forth on the list attached hereto and incorporated herein as **Attachment D**.

c. The names and addresses of Tri-State's members are shown on the list attached hereto and incorporated herein as **Attachment E**. The service territories of Tri-State's Member Systems are shown on the map attached hereto and incorporated herein as **Attachment F**.

VII. Information Required by Rule 3103 and Request for Waiver of Notice Requirement

a. Rule 3103(b)(II) requires an application to amend a CPCN to abandon or discontinue any facility without equivalent replacement to include the information required in Rule 3102, which rule pertains to new CPCN applications. Because this Application is for approval of the retirement of a facility without equivalent replacement, as opposed to a new or modified facility, the provisions of Rule 3102 do not directly apply. Tri-State is, nevertheless, providing technical information consistent with Rule 3102 regarding the facility's retirement and decommissioning to assist the Commission in its evaluation of this Application. These issues are addressed in the testimony of Tri-State's witnesses.

b. Request for Waiver.

(i) Rule 3103(d) specifies that, "If no customers will be affected by the grant of the application, the notice must meet the requirements of subparagraphs

3002(d)(I) – (XII) and shall be mailed to the Board of County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.”

(ii) As discussed in the testimony of Tri-State witness Robert Wolaver filed in support of this Application, neither Tri-State’s Members nor their respective member-customers will be affected by the grant of this Application. While Tri-State is discontinuing operation of Nucla Station, reliable service to Tri-State’s Members and their respective end-use member-customers will continue unchanged. Tri-State requests a waiver of the Rule 3103(d) notice requirement for the reasons discussed below.

(iii) As discussed in the testimony of Tri-State witness Barry Ingold, Tri-State previously conducted an extensive outreach program with affected counties and municipalities. This program included telephone call notifications and meetings with Montrose and San Miguel County commissioners, Town of Nucla officials, as well as applicable federal, state, and local legislators on the same day as any public announcements were made. Additional follow-up meetings with county commissioners, town officials, and applicable federal, state, and local legislators have occurred as requested or as needed to coordinate with county and town activities, or to address continuing concerns.

Given the fact that service to Tri-State’s Members and their end-use member-customers will not be affected by the retirement of Nucla Station, an in light of the status of Nucla Station operations at this time and Tri-State’s continuing efforts to coordinate with affected counties and municipalities, Tri-State requests a waiver of Rule 3103(d)’s requirement of notice to the Board of County

Commissioners of each affected county and to the mayor of each affected city, town, or municipality.

(iv) Tri-State requests a permanent waiver of the notice requirement as it relates to the retirement of the Nucla Station.

(v) Tri-State requests a full waiver of the notice requirement.

VIII. Costs of Pollution in Utility Planning

Section 40-3.2-106(1)(a), Colorado Revised Statutes, specifies that the Commission “shall require an electric public utility subject to commission jurisdiction¹ to consider the cost of carbon dioxide emissions, as set forth in subsection (4) of this section, when determining the cost, benefit, or net present value of any plan or proposal [including] . . . any utility plan or application that considers or proposes . . . the retirement of existing utility generation.” Section 40-3.2-106(4), Colorado Revised Statutes, requires the Commission to use a social cost of carbon dioxide of not less than \$46/short ton. The Commission has not yet promulgated rules implementing these statutory provisions and which are applicable to wholesale electric cooperatives such as Tri-State. Nevertheless, issues relevant to the consideration of the social cost of carbon dioxide in the context of the retirement of Nucla Station are addressed in the direct testimony of Tri-State witness Robert Wolaver.

IX. Conclusion

The direct testimony and attachments submitted with this Application satisfy the requirements of the applicable statutes and the Commission’s Rules and support

¹ For purposes of this Application, Tri-State assumes that “subject to commission jurisdiction” refers to the Commission’s facilities jurisdiction.

the issuance of a Commission decision approving the retirement of the Nucla Station.

WHEREFORE, Tri-State respectfully requests that:

(a) the Commission approve the retirement of the Nucla Station and the abandonment or discontinuation of such facilities without equivalent replacement;

(b) if no substantive interventions are filed and granted in connection with this Application, this Application be decided by the Commission without a hearing and processed as expeditiously as possible;

(c) pursuant to § 40-6-109.5, C.R.S., and Commission Rule of Practice and Procedure 1303, the Commission issue its decision on this Application no later than 120 days after the Application is deemed complete;

(d) the Commission grant a waiver of the local government notice requirements set forth in Commission Rule 3103(d); and

(e) for such other and further relief as the Commission deems appropriate.

Submitted this 14th day of February, 2020.

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