BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

LA PLATA ELECTRIC ASSOCIATION, INC.; EMPIRE ELECTRIC ASSOCIATION, INC.; WHITE RIVER ELECTRIC ASSOCIATION, INC.; BP AMERICA PRODUCTION COMPANY, ENCANA OIL & GAS (USA), INC., ENTERPRISE PRODUCTS OPERATING LLC, and EXXONMOBIL POWER AND GAS SERVICES INC. on behalf of ExxonMobil Production Company, a division of Exxon Mobil Corporation, as members of the RURAL ELECTRIC CONSUMER ALLIANCE; and KINDER MORGAN CO_2 COMPANY, LP, Complainants v. TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., Respondent	Docket No._____
FORMAL COMPLAINT	

Complainants La Plata Electric Association, Inc. ("La Plata") and Empire Electric Association, Inc. ("Empire"), acting on behalf of themselves and their members, by and through their undersigned counsel, William H. McEwan, P.C. and Maynes Bradford Shipps & Sheftel LLP; White River Electric Association, Inc. ("White River"), acting on behalf of itself and its members, by and through its undersigned counsel, Ireland Stapleton Pryor & Pascoe, P.C.; the Rural Electric Consumer Alliance ("Alliance"), which consists of BP America Production Company ("BP"), Encana Oil & Gas (USA), Inc. ("Encana"), Enterprise Products Operating LLC ("Enterprise"), and ExxonMobil Power and Gas Services Inc., on behalf of ExxonMobil Production Company, a division of Exxon Mobil Corporation ("Exxon"), by and through its undersigned counsel, Holland & Hart LLP; and Kinder Morgan CO_2 Company, L.P. ("KM CO_2"), by and through its undersigned counsel, Beatty & Wozniak P.C. (collectively, "Complainants"), pursuant to 4 C.C.R. 723-1-1302 hereby file their Formal Complaint with the

Colorado Public Utilities Commission (the "Commission"). In support thereof, Complainants state as follows:

PARTIES AND JURISDICTION

1. La Plata, Empire, and White River are Colorado nonprofit rural electric distribution cooperatives serving approximately 46,000 member-customers located throughout ten counties in Colorado. Each cooperative has an obligation to serve its member-customers with electric service within its Colorado certified service territory. Each cooperative is a public utility under C.R.S. § 40-1-103(2)(a) and each has opted, through a vote of its members, to exempt itself from Commission regulation under Articles 1-7 of Title 40; accordingly, each cooperative is regulated under C.R.S. § 40-9.5-101, *et seq.* These cooperatives are each governed by their respective, democratically elected Boards of Directors. Each cooperative purchases generation and transmission services from Tri-State Generation and Transmission Association, Inc. ("Tri-State") under a Wholesale Electric Service Contract, which requires the cooperative to purchase at least 95% of its electricity from Tri-State at the rates set by Tri-State. Each cooperative, in turn, passes on the costs of those generation and transmission services to its respective member-customers through retail rates. The current contracts between Tri-State and the cooperatives expire on December 31, 2050. The cooperatives have a utility obligation to respond to wholesale rates that they believe do not track cost incurrence and are discriminatory, preferential, unjust, and unreasonable.

2. BP, Encana, Enterprise, Exxon, and KM CO_2 are retail customers receiving electric service from Colorado distribution cooperatives that are Tri-State member-systems. Under Colorado law, all member-customers of Colorado distribution cooperatives are prohibited

from purchasing electricity from anyone other than the distribution cooperative in whose territory the customer resides.

3. Tri-State is a generation and transmission electric cooperative corporation headquartered in Westminster, Colorado, and organized under the laws of the State of Colorado. Tri-State provides generation and transmission services to 44 member-systems in Colorado, Wyoming, Nebraska, and New Mexico. Each of Tri-State's 44 member-systems elects a person from its Board of Directors to serve on the Tri-State Board of Directors, which governs Tri-State.

4. Tri-State is a public utility because it is a "cooperative electric association, or nonprofit electric corporation or association . . . declared to be affected with a public interest and to be a public utility and to be subject to the jurisdiction, control, and regulation of the Commission and to the provisions of articles 1 to 7 of [title 40]." C.R.S. § 40-1-103(2)(a); *W. Colo. Power Co. v. Pub. Utils. Comm'n*, 411 P.2d 785, 794-96 (Colo. 1966).

5. Unlike La Plata, Empire, and White River, Tri-State is not authorized to exempt itself from public utility regulation under Articles 1-7 of Title 40 because it is a "nonprofit generation and transmission electric corporation[] or association[]," not a distribution cooperative association. C.R.S. §§ 40-9.5-102, 103.

6. Tri-State owns and operates, in whole or in part, and/or contracts to purchase electricity on behalf of its member-systems from numerous generation facilities in Colorado, including, but not limited to, the Frank R. Knutson Generating Station (140 MW), the Brush Generation Facility (307 MW), the Craig Station (655 MW), the Nucla Station (100 MW), the J.M. Shafer Generating Station (272 MW), the Rifle Generating Station (85 MW), the Burlington Station (100 MW), the Limon Station (140 MW), the Jackson Gulch Hydro facility (254 kW),

the Vallecito Hydro facility (5,224 kW), and the Williams Fork Hydro facility (3,600 kW). Tri-State also owns and operates thousands of miles of transmission lines across Colorado.

7. The Commission retains jurisdiction over Tri-State notwithstanding the fact that Tri-State is a not-for-profit cooperative electric generation and transmission corporation operating in interstate commerce. Commission jurisdiction for the relief requested herein is not preempted by any federal authority. Therefore, the relief requested by Complainants does not offend either the Supremacy Clause or the Commerce Clause of the U.S. Constitution. *See, e.g., Ark. Elec. Coop. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 396 (1983) (holding that the Arkansas Public Service Commission's assertion of jurisdiction over the wholesale rates charged by the Arkansas Electric Cooperative Corporation did not offend the Supremacy Clause or the Commerce Clause); *W. Colo. Power Co.*, 411 P.2d at 794 (holding that the wholesale sale of electric power is a business affected with a public interest and is subject to regulation under the police power of the State of Colorado and such regulation does not violate either the Constitution of the State of Colorado or the Constitution of the United States); *In re Tri-State Generation and Transmission Ass'n*, Docket No. 07D-014E, Order No. C07-0588 at ¶19, 2007 WL 2284315, at *4 (Colo. P.U.C., July 11, 2007) (holding that the Commission's certificate of public convenience and necessity authority over the proposed transmission project was not preempted by Congress, federal law, or the actions or rules of the Federal Energy Regulatory Commission). A copy of each of these decisions is attached as **Exhibit 1** to this Complaint.

8. The Commission has the power, authority, and duty to govern and regulate all rates, charges, and tariffs of every public utility (except in some circumstances those cooperative electric associations that are allowed by law to exempt themselves from public utilities law as provided in C.R.S. §§ 40-9.5-101, *et seq.*); correct abuses; prevent unjust discriminations and

extortions in the rates, charges and tariffs; generally supervise and regulate every public utility; and do all things necessary or convenient in the exercise of such powers. C.R.S. § 40-3-102.

9. The Commission has jurisdiction to act on the allegations and claims asserted in this Complaint pursuant to Article XXV of the Constitution of the State of Colorado and C.R.S. Title 40, Articles 1-7.

10. While Complainants fully embrace the cooperative business model of Tri-State, Colorado law provides that a Commission complaint may be brought against Tri-State. For example, C.R.S § 40-3-111(1) and § 40-3-111(2)(a) provide the Commission with broad authority and discretion to investigate and establish new rates. With the filing of this Formal Complaint, the Commission is obligated under C.R.S. § 40-6-111(4)(a) to engage in an investigation of Tri-State's new rate design. If the cost allocation and rate design methodology is found to violate Colorado law, then the Commission should determine a new rate design that is just and reasonable and establish the same by order.

GENERAL ALLEGATIONS

11. All charges made by any regulated public utility for any rate, commodity, or service must be just and reasonable. Charging, demanding, or receiving an unjust or unreasonable charge for a rate, commodity, or service is unlawful. C.R.S. § 40-3-101.

12. Except as expressly authorized by statute, no regulated public utility shall make or grant any preference or advantage or establish or maintain any unreasonable difference as to rates, charges, services, or facilities, or in any other respect. No public utility shall establish or maintain any "unreasonable difference as to rates, charges, service, facilities, or in any respect, either between localities or as between any class of service." C.R.S. § 40-3-106(1)(a).

13. "[N]o cooperative electric association shall establish, charge, or collect a discriminatory or preferential rate, charge, rule, or regulation" in violation of section 40-3-106(1) or section 40-3-111 of the Colorado Revised Statutes. C.R.S. § 40-6-111(4)(a).

14. Every public utility regulated by the Commission shall file with the Commission schedules showing all rates and charges and classifications "together with all rules, regulations, contracts, privileges, and facilities that affect or relate to" such rates and charges. C.R.S. § 40-3-103.

15. No regulated public utility, other than a rail carrier, shall change any rate, charge, classification, or regulation affecting any rate, charge, or classification except after 30 days' notice to the Commission and the public. C.R.S. § 40-3-104.

16. Upon information and belief, on or about December 6-7, 2011, at the regular meeting of the Tri-State Board of Directors, the Directors approved by majority vote a new methodology to allocate or shift costs among the member-systems and a new rate design. The new cost allocation and rate design methodology includes two main components. First, demand charges are no longer collected based on peak demands. Rather, demand charges are assessed based exclusively on calculated average demands. Notwithstanding the fact that Tri-State's new allocation and rate design methodology continues to use the term "demand charges," an allocation and rate based on a customer's calculated average demand is mathematically equivalent to an allocation and rate based on a customer's energy consumption. Therefore, the new methodology is the functional equivalent of an all-energy allocation and rate – a methodology specifically rejected by the Commission in *Colorado-Ute Electric Ass'n v. Public Utilities Commission*, 760 P.2d 627, 649 (Colo. 1988). Second, Tri-State has adopted an arbitrary on-peak/off-peak differential for its wholesale energy rates at a ratio of 4 to 1, which,

when coupled with the calculated average demand, collapses to an all-energy rate and results in an on-peak/off-peak differential of only 1.4 to 1, a ratio that is grossly insufficient to provide the proper price signals to retail customers to encourage them to shift load to off-peak periods.

17. Upon information and belief, on or about September 5-6, 2012, Tri-State's Board of Directors approved Tri-State's 2013 budget. That budget required a general rate increase to meet the 2013 revenue requirement. Taken together with the new methodology for cost allocation and rate design, a new rate called "A-37" was implemented on January 1, 2013, to replace the previously-effective "A-36" rate. The votes to approve the new methodology and approve the final rates were votes of the Tri-State Board of Directors. The votes were not votes of the Tri-State member-systems.

18. The cumulative effect of the methodology approved by Tri-State is a dramatic increase in rates for high-load factor distribution cooperatives and high-load factor member-customers and a simultaneous lowering of rates for low-load factor distribution cooperatives and low-load factor customers without regard to the cost of providing service. A high-load factor customer is a customer whose peak usage and average usage are close to the same because the customer typically uses electricity 24 hours a day, 7 days a week with little change in consumption on an hourly basis. A low-load factor customer is a customer whose peak usage is much higher than the customer's average usage because the customer uses electricity only in certain hours of the day or at certain times of the year. Upon information and belief, a high-load factor customer, or a cooperative that serves primarily high-load factor customers, currently experiences a 10-18% rate increase based solely on Tri-State's new allocation and rate design methodology.

19. The methodology approved by Tri-State in the new rate design has an added deleterious impact on residential time-of-use customers. Induced and encouraged by historical programs and incentives offered by Tri-State to flatten system load, La Plata aggressively embarked on a residential time-of-use ("TOU") program for its residential customers. Up to the advent of the new rate design, this residential TOU offering was very popular in La Plata's service area, and the participation penetration was quite encouraging (approximately 5,000 customers were on this rate before Tri-State's adoption of the new rate design). Many customers participating in the residential TOU program made significant personal capital investments to install equipment that monitored peak load periods and shifted energy use to off-peak periods. Under the new rate design, as tracked by La Plata, these residential TOU customers have no incentive to shift load to off-peak periods, and their investment in the capital equipment to do so has been stranded. La Plata has seen a significant migration of residential TOU customers out of the TOU rate since the new rate design was officially announced by Tri-State. The new rate design unfairly and unjustly discriminates against this class of customer as well.

20. As a consequence of the new rate structure, Empire eliminated all of its peak and time-based tariffs, including all of its residential and commercial time-of-use tariffs and its large power coincident demand tariff.

21. The undersigned member-systems strongly support the cooperative form of governance of Tri-State and its member-systems. These member-systems went to great lengths to resolve their objections to the new rate design methodology. Complainants highlight these efforts not to undermine the cooperative model, but instead to explain how this matter ended up before the Commission, a forum of last resort for Tri-State's member-systems. White River's efforts serve as a relevant example:

- On June 1, 2011, White River sent a letter to Tri-State expressing its concerns with the rate design and requesting consideration of alternatives to the rate design.
- In a letter dated October 27, 2011, White River sent Tri-State management a copy of a Resolution adopted by the White River Board of Directors on October 27, 2011, which was subsequently provided to the Tri-State Board of Directors. That Resolution stated, in part, that White River "believes it is important to clearly and formally document its opposition to the proposed Tri-State 'A-3x' rate" (now known as the A-37 rate). A copy of that Resolution is attached hereto as **Exhibit 2**. Tri-State never responded in any way to this Resolution.
- Tri-State sent no response to White River's June 1, 2011 letter until May 10, 2012, nearly six months after the Tri-State Board of Directors voted to approve the new rate design.
- In August 2012, representatives of certain Alliance members contacted member-systems to express their concerns with the new methodology and the new rate.
- In a letter dated September 20, 2012, White River provided written notification to Tri-State that its member-customers had raised formal concerns regarding the new rate methodology to be implemented on January 1, 2013. Tri-State did not respond to White River's September 20, 2012 letter.
- On or about September 28, 2012, Tri-State provided notice to its member-customers of the new rates. A copy of its notice, describing the changes in its "Rate Schedule A-37," is attached hereto as **Exhibit 3**.

- On November 28, 2012, White River notified Tri-State that it had formalized its relationship with certain Alliance members to explore resolutions to the parties' objections to the new rate design.
- On December 12, 2012, Alliance representatives and representatives from White River met with Tri-State to discuss cost shift mitigation and other products and services. White River and the Alliance then took Tri-State's proposed products and service offerings under consideration.
- On January 29, 2013, Alliance representatives and representatives from White River met with Tri-State to discuss their continued objections to the rate methodology implemented on January 1, 2013, without satisfactory resolution. The Alliance representatives and White River representatives also notified Tri-State of the intent to file this Complaint.

22. La Plata and Empire registered similar objections with Tri-State concerning the new cost allocation and rate design methodology and experienced similar results.

23. In addition, La Plata and Empire filed a protest with the Rural Utilities Service ("RUS") objecting to the Tri-State rate and requesting that RUS refuse approval of the rate. RUS has declined to review the rate design. Upon information and belief, RUS lacks the resources necessary to engage in a meaningful review of the A-37 rate. A copy of the RUS protest is attached hereto as **Exhibit 4**.

24. Complainants have no recourse other than to seek this Commission's review to remedy the unjust, unreasonable, discriminatory, and preferential rate that results from the new cost allocation and rate design methodology that Tri-State has imposed.

25. After protests were filed by three of Tri-State's member-systems in New Mexico, the New Mexico Public Regulation Commission issued an order suspending the proposed rate schedules (based on the new rate design) for Tri-State's New Mexico member-systems and appointing a Hearing Examiner to preside over the case. Tri-State subsequently issued a notice of suspension to its New Mexico member-systems. The order and notice of suspension are attached hereto as **Exhibit 5** and **Exhibit 6**, respectively.

26. Complainants are not seeking a Commission review of Tri-State's total revenue requirement. Therefore, to ensure Tri-State maintains a reasonable ability to repay its debt, cover its costs, and maintain a reasonable reserve, Complainants have no objection to a lawfully established across-the-board increase to the A-36 rate to collect the total revenues approved by the Tri-State Board of Directors.

27. Complainants seek (i) the Commission's review of the new cost allocation and rate design methodology as applied to Tri-State's tariff rates to its Colorado member-systems and their retail customers, (ii) a determination that the cost allocation and rate design methodology violates Colorado law, (iii) an order establishing a just, reasonable, non-discriminatory, and non-preferential cost allocation and rate design methodology, and (iv) an order requiring Tri-State to make an appropriate refund to any cooperative that was billed more under the A-37 rate than it would have been billed under the A-36 rate.

FIRST CLAIM

28. Complainants hereby incorporate by reference the allegations contained in all the paragraphs above.

29. C.R.S. § 40-3-103 requires all public utilities to file with the Commission schedules showing all rates collected together with all rules, regulations, and contracts that in any manner affect or relate to their rates.

30. C.R.S. § 40-3-103 is applicable to Tri-State. Upon information and belief, there is no statute, rule, or Commission decision that provides an exemption from this requirement for Tri-State.

31. Tri-State does not have on file with the Commission schedules showing all rates collected together with all rules, regulations, and contracts that in any manner affect or relate to its rates.

32. From January 1, 2013 (the date the A-37 rate was put into effect) until such time as Tri-State complies with C.R.S. § 40-3-103 and puts its rates on file with the Commission, under Colorado law Tri-State is prohibited from implementing any change to the A-36 rate. However, to ensure Tri-State maintains a reasonable ability to repay its debt, cover its costs, and maintain a reasonable reserve, Complainants have no objection to a lawfully established across-the-board increase to the A-36 rate so that Tri-State has a reasonable opportunity to collect the total revenues approved by the Tri-State Board of Directors.

33. Complainants have standing to bring this claim based upon, without limitation, C.R.S. § 40-6-108(1)(a).

SECOND CLAIM

34. Complainants hereby incorporate by reference the allegations contained in all the paragraphs above.

35. C.R.S. § 40-3-104 requires all public utilities to provide the Commission and the public with 30 days' notice before putting into effect any change to any rate.

36. C.R.S. § 40-3-104 is applicable to Tri-State. Upon information and belief, there is no statute, rule, or Commission decision that provides an exemption from this requirement for Tri-State.

37. Tri-State has not provided the Commission with any notice of its new rates, nor has Tri-State sought a waiver of the statutory requirement to provide such notice. Tri-State also has not provided the public with notice of the new rates in the manner required by Colorado law.

38. From January 1, 2013 (the date the A-37 rate was put into effect) until such time as Tri-State complies with C.R.S. § 40-3-104 and provides a minimum of 30 days' notice to the Commission and the public of its new rates, under Colorado law Tri-State is prohibited from implementing any change to the A-36 rate. However, to ensure Tri-State maintains a reasonable ability to repay its debt, cover its costs, and maintain a reasonable reserve, Complainants have no objection to a lawfully established across-the-board increase to the A-36 rate so that Tri-State has a reasonable opportunity to collect the total revenues approved by the Tri-State Board of Directors.

39. Complainants have standing to bring this claim based upon, without limitation, C.R.S. § 40-6-108(1)(a).

THIRD CLAIM

40. Complainants hereby incorporate by reference the allegations contained in all the paragraphs above.

41. C.R.S. § 40-3-101 requires that all charges made, demanded, or received by any public utility for any rate, product, or commodity shall be just and reasonable and declares every unjust, unreasonable charge so made, demanded, or received to be unlawful.

42. C.R.S. § 40-3-111(1) provides that the Commission, if it determines that a rate is unjust and unreasonable or in any way unlawful, shall determine the just, reasonable, or sufficient rate.

43. C.R.S. § 40-3-101 and § 40-3-111(1) are applicable to Tri-State. Upon information and belief, there is no statute, rule, or Commission decision that provides an exemption from this requirement for Tri-State.

44. Tri-State's new methodology for cost allocation and rate design is not just and reasonable. Today, just as in the 1980s, an all-energy rate does not and cannot reasonably track costs for a generation and transmission provider whose cost of service includes a substantial amount of fixed capital costs that were incurred in large part to serve demands in peak periods. As described by the Colorado Supreme Court, the Commission has ruled on this very issue:

> The PUC then found that since Colo-Ute's total cost of generating a kilowatt hour is not uniform over time "it follows that a flat or uniform energy rate is not cost tracking," and the all-energy rate provides a distorted price signal to member systems.
>
> In support of its adoption of the demand-energy rate, the PUC found that a demand-energy rate is appropriate for a utility whose members exhibit a high coincidence of peak demand with the system peak; that as much as two-thirds of Colo-Ute's costs are capital related; that the demand-energy rate, premised as it is upon the separate and distinct recognition of the two major cost components of producing electricity, capital and fuel, provides a more accurate price signal than the all-energy rate, and more directly tracks costs than an all-energy rate, as it "assigns costs more directly to the cost causer"; that the wholesale customers of Colo-Ute are capable of comprehending a demand and energy rate with a fixed customer charge; and that the demand-energy rate is the most cost tracking rate for the wholesale power charges of Colo-Ute.
>
> One of the fundamental principles of electric power rate design is that rates charged should accurately reflect the utility's actual cost of providing service, including both capital costs and operating expenses. We have held that the "PUC must therefore set rates which protect both: (1) the right of a public utility company and its investors to earn a rate of return reasonably sufficient to maintain the utility's financial integrity; and

> (2) the right of customers to pay a rate which accurately reflects the cost of service rendered."

Colo.-Ute Elec. Ass'n, 760 P.2d at 641-42 (Colo. 1988) (citation omitted).

45. Upon information and belief, in every single cost allocation decision since the *Colorado-Ute* case, the Commission has consistently approved cost allocation methodologies based on allocating a portion of fixed generation and transmission costs on peak demand and a portion of costs on energy consumption. For these reasons, Tri-State's new methodology for cost allocation and rate design results in rates that violate C.R.S. § 40-3-101.

46. Complainants have standing to bring this claim based upon, without limitation, C.R.S. § 40-6-108(1)(b), as Complainants, collectively, represent more than 25 end use customers of Tri-State.

FOURTH CLAIM

47. Complainants hereby incorporate by reference the allegations contained in all the paragraphs above.

48. C.R.S. § 40-3-106(1) and § 40-3-111(1) prohibit public utilities from charging rates that are preferential or discriminatory.

49. C.R.S. § 40-3-106(1) and § 40-3-111(1) are applicable to Tri-State. Upon information and belief, there is no statute, rule, or Commission decision that provides an exemption from this requirement for Tri-State.

50. Tri-State's new rate is preferential or discriminatory because it is not reasonably based on its cost of service. As stated by the Colorado Supreme Court, "When the PUC ordered the utility companies to provide a lower rate to selected customers unrelated to the cost or type of service provided, it violated section 40-3-106(1)'s prohibition against preferential rates."

Mountain States Legal Found. v. Pub. Utils. Comm'n, 590 P.2d 495, 498 (Colo. 1979) (emphasis added).

51. Because Tri-State's new cost allocation and rate design methodology is not reasonably cost-based, the new methodology causes a disproportionate and discriminatory cost shift to certain cooperatives and customers. Furthermore, because the new cost allocation and rate design methodology is not reasonably cost-based, the new methodology will lead to customers making inefficient choices about their energy consumption and usage patterns. For all of these reasons, the new rate is preferential and discriminatory and in violation of C.R.S. § 40-3-106(1) and § 40-3-111(1).

52. Complainants have standing to bring this claim based upon, without limitation, C.R.S. § 40-6-108(1)(b), as Complainants, collectively, represent more than 25 end use customers of Tri-State.

FIFTH CLAIM

53. Complainants hereby incorporate by reference the allegations contained in all the paragraphs above.

54. C.R.S. § 40-6-111(4)(a) prohibits electric cooperatives, notwithstanding any other provision of law, from establishing, charging, or collecting a discriminatory rate or preferential rate contrary to C.R.S. § 40-3-106(1) or § 40-3-111.

55. C.R.S. § 40-6-111(4)(a) is applicable to Tri-State. Upon information and belief, there is no statute, rule, or Commission decision that provides an exemption from this requirement for Tri-State.

56. Because Tri-State's new cost allocation and rate design methodology is not reasonably cost-based, the new methodology causes a disproportionate and discriminatory cost

shift to certain cooperatives and customers. Furthermore, because the new cost allocation and rate design methodology is not reasonably cost-based, the new methodology will lead to customers making inefficient choices about their energy consumption and usage patterns. For all of these reasons, the new rate is preferential and discriminatory and in violation of C.R.S. § 40-6-111(4)(a).

57. Complainants have standing to bring this claim based upon, without limitation, C.R.S. § 40-6-111(4)(a), as Complainants are either members of Tri-State, retail customers of electric cooperatives that are served by Tri-State, or public utilities.

SERVICE OF DOCUMENTS

Complainants request that all testimony, discovery, pleadings, and other documents in this docket be served on the following:

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RELIEF REQUESTED

Complainants request that the Commission provide the following relief:

(i) From January 1, 2013, (the date the A-37 rate was put into effect) until such time as Tri-State complies with C.R.S. § 40-3-103 and puts its rates on file with the Commission, prohibit Tri-State from charging the A-37 rate. However, to ensure Tri-State maintains a reasonable ability to repay its debt, cover its costs, and maintain a reasonable reserve, Complainants have no objection to a lawfully established across-the-board increase to the A-36 rate so that Tri-State has a reasonable opportunity to collect the total revenues approved by the Tri-State Board of Directors.

(ii) From January 1, 2013, (the date the A-37 rate was put into effect) until such time as Tri-State complies with C.R.S. § 40-3-104 and provides a minimum of 30 days' notice to the Commission and the public of its new rates, prohibit Tri-State from charging the A-37 rate. However, to ensure Tri-State maintains a reasonable ability to repay its debt, cover its costs, and maintain a reasonable reserve, Complainants have no objection to a lawfully established across-

the-board increase to the A-36 rate so that Tri-State has a reasonable opportunity to collect the total revenues approved by the Tri-State Board of Directors.

(iii) Issue an Order pursuant to the Commission's authority under C.R.S. §§ 40-3-101 and 102, finding that Tri-State's cost allocation and rate design methodology implemented on January 1, 2013 is unjust, unreasonable, preferential, and discriminatory;

(iv) Issue an Order pursuant to the Commission's authority in C.R.S. §§ 40-3-101 and 102 and C.R.S. §§ 40-3-111(1) and (2)(a) establishing a cost allocation and rate design methodology for Tri-State that is just, reasonable, not preferential, and not discriminatory;

(v) Issue an Order requiring Tri-State to pay an appropriate refund to any cooperative that was billed more under the A-37 rate than it would have been billed under the A-36 rate; and

(vi) Award Complainants such additional or other relief as the Commission deems proper.

Respectfully submitted this 4th day of March, 2013.

WILLIAM H. MCEWAN, P.C.

By: *s/ William H. McEwan*
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CERTIFICATE OF SERVICE
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I hereby certify that on this 4th of March 2013, a copy of the foregoing **FORMAL COMPLAINT** was e-filed with the Colorado Public Utilities Commission, and a copy was electronically served to the following:

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