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## Tri-State exit fees to be decided in Denver, not D.C.

by Allen Best

The dispute that threatens to break apart Colorado's second biggest electrical supplier will likely be resolved in Colorado, not Washington D.C.

The Federal Energy Regulatory Commission said in a March 20 order that it does not have exclusive jurisdiction over determining what constitutes "just, reasonable and non-discriminatory" exit charges for those cooperatives that want to leave Tri-State Generation and Transmission.

For it to accept jurisdiction, the FERC ruling said, Tri-State would have to file a methodology with FERC for determining exit charges. FERC would also have to accept that methodology before accepting jurisdiction in the two parallel cases involving Durango-based La Plata Electric and Brighton-based United Power.

All this would have to be done rapidly as the dispute is already before the Colorado Public Utilities Commission. One of the

three PUC commissioners was scheduled to hear the dispute for several days during the week of March 16, but the hearing was vacated because that commissioner, Frances Koncilja, has been replaced on the bench by a new appointee of Gov. Jared Polis. The three PUC commissioners on Wednesday referred the consolidated complaints to an administrative law judge, with direction to expedite a pre-hearing conference in order to set a procedural schedule.

At least on the surface, the dispute revolves around cost of electricity and whether carbon-heavy Tri-State had pivoted too slowly to take advantage of the

### Dispute with two member electrical cooperatives

plummeting prices of lower-cost and carbon-free renewable energy. Despite little government oversight, it moved slowly to take advantage of rapidly changing market conditions. It supplies electricity to 18 electrical cooperatives in Colorado.

But the dispute between the Westminster, Colo.-based wholesaler and two of its three largest members as defined by electrical sales also reflects the turbulence within the shifting world of electrical utilities. Even 15 years ago, power was generated in Rocky Mountain states primarily by large coal-burning power plants. Large wind and solar farms are now



Pagosa Springs is among the communities served by Durango-based La Plata Electric. *Photo/Allen Best*

rapidly replacing coal generation, but also smaller, more distributed resources.

The two dissident cooperatives were responsible for 22% of all electrical sales among Tri-State's 43 members in 2019. Another 3% went to a third co-op that will exit in May. That means a full-quarter of Tri-State's electrical sales go to members who are leaving or who may want to leave. That poses a question about Tri-State's business model going forward.

**Success for all?**

Responding to the FERC order last week, La Plata proclaimed success. "We are thrilled our complaint against Tri-State can proceed to a formal hearing, so we can obtain a just, fair and reasonable exit charge," said Jessica Matlock, the chief executive of La Plata, in a press release issued on Monday. With an exit charge from Tri-State determined by a third party, she said, La Plata can make informed choices about how to go forward.

United also emphasized the need to have a figure in hand that it can trust before making decisions.

"Simply put, United Power wants to lower costs to our members and integrate more local renewable resources into our power mix," said Bryant Robbins, the chief executive, in a statement. "One option to achieve this goal is through exiting our contract with Tri-State. We hope a ruling by the PUC will help us clarify the cost and provide an exit pricing methodology that is both clear and fair to our membership and the membership of Tri-State."

Tri-State also proclaimed the FERC order a success. But it was referring to only one part of the order, that in which it did accept jurisdiction over setting of rate cases by Tri-State.

What will change by having FERC review wholesale rates to its members in the four states? Very little—except in Colorado.

Nebraska and Wyoming, two of the four states in which it has members, do not

exercise rate regulation. New Mexico has exercised rate regulation since 2000, and it's not clear that will change that.

Colorado also has not exercised rate review over Tri-State, but a law passed in 2019 gives the state stronger oversight over Tri-State, treating it more like—but not quite the same as—an investor-owned utility. How FERC will review rates as compared to the Colorado PUC is not clear. What is clear is that representatives of member co-ops as well as Tri-State will be traveling the 1,700 miles to Washington D.C. instead of Denver for these matters.

Just the same, Tri-State proclaimed victory. "This is a significant moment for our members, whose goals for cleaner energy and increased contract flexibility are greatly advanced by having FERC as Tri-State's wholesale rate regulator," said Rick Gordon, the chairman of the board of directors for Tri-State. He's also a director for the Limon, Colo.-based Mountain View Electric Association.

Gordon went on to say that FERC regulation "ensures greater certainty in our contracts and rate-setting, as we increase members' self-supply and local renewable energy opportunities."

Tri-State, however, did not say how FERC jurisdiction will ensure that greater certainty or create greater contract flexibility.

### **Origins of the disputes**

The disputes go back to early in the 21st century when Tri-State was set on building a coal plant in Kansas. It asked its members to agree to extension of all-requirements contracts by a decade to 2050. The



**A transmission tower near Firestone, north of Denver, an area served by United Power and its wholesale supplier, Tri-State Generation and Transmission. Photo/Allen Best**

contracts require that all but 5% of the electricity distributed to member co-ops come from Tri-State.

All but two agreed: Kit Carson Electrical Cooperative of Taos, N.M., and Delta-Montrose Electric of Montrose, Colorado. Kit Carson left Tri-State in 2016 after paying a \$37 million exit fee. Delta-Montrose Electric of Montrose, Colo., will cease being a Tri-State member in May. The exit fee it is paying will not be divulged until after that. Kit Carson is already supplied by Denver-based Guzman Energy and has been rapidly building solar capacity in northern



**Craig Station's three units are expected to be closed between 2025 and 2030. Photo/Allen Best**

New Mexico. Delta-Montrose also has contracted with Guzman for its power.

Both La Plata and United asked for exit numbers last year. The fees recognize that there is a cost to remaining members even if the departing member gets its electricity elsewhere.

Plans for the coal plant in Kansas have been scrapped, although Tri-State spent nearly \$100 million on the ambition.

Tri-State has begun decarbonizing its electrical sources. Last September it closed one small coal-burning unit at Nucla, in western Colorado, and it was previously scheduled to close one of the three coal units at Craig Station, also in western Colorado, by the end of 2025. Both closings were due to air quality emissions concerns.

In January, Tri-State announced the two remaining units at Craig will close no later than 2030. However, former Gov. Bill Ritter, who has worked with Tri-State, told a Congressional committee in late February that the second unit will close in 2026. It has no immediate plans to get out of a coal

plant in Wyoming, the Laramie River Station at Wheatland, which produces electricity more cheaply than other units in the Tri-State coal fleet, or out of natural gas.

Duane Highley, the chief executive since April 1, 2019, said in January the lost coal generation will be replaced with more than a gigawatt, or 1,000 megawatts, of new wind and solar generating capacity. By 2024, half of the energy distributed by Tri-State's member coops will come from emission-free renewable energy. This will be done while maintaining or even reducing rates, he said in January.

### **Friction remains**

But friction remains. One source is the pushing by the two co-operatives to get the PUC to determine what is just and reasonable. A committee among the Tri-State directors on March 12 sent a letter to both United and La Plata that asked them to suspend their request of the PUC to determine the exit fees. The letter said the contract committee had met 10 times and

made specific recommendations regarding partial requirement contracts.

The dispute has two overlapping issues. One is how much it will cost La Plata and United to get out of Tri-State. The second is how much electricity they can generate themselves, what you might call home-brew electrons.

La Plata has several over-arching goals. Meeting in Durango, directors have adopted a goal of reducing the carbon from its power supply 50% by 2030 as compared to 2018 levels while keeping members' rates lower than 70% of its Colorado cooperative peers.

But La Plata also embraces a shop-local or farm-to-table philosophy. And that philosophy, says Matlock, the chief executive, has been reinforced by the covid-19 pandemic.

"This pandemic has highlighted that we would like to have more local generation, and it's not only resiliency in the face of a pandemic. It's also resiliency in the face of a cyberattack," she said. La Plata also sees local generation as a form of economic development—again even more important during a time that resort communities are absent tourists.

Tri-State had been moving to give members more flexibility to self-generate. In February, Tri-State announced that members seeking additional self-supply and local renewable energy development beyond the 5% provision will be able to notify Tri-State during an upcoming "open season" of their intent to enter into partial-requirements contracts and the amount of capacity they want to self-supply. Up to 300 megawatts of system-wide local generation will be available.

In November, Tri-State also announced a widening door for community solar gardens.

### **Noodles to satellites**

But wait—there's more. Directors of Tri-State last year approved a change in bylaws that was described as intending to offer

more flexibility. That change resulted in Tri-State seeking a new member, Meico, a natural gas supplier to Tri-State that is a subsidiary of Delaware-based Marubeni America Corporation, which [describes itself](#) as being involved in everything from noodles to satellites. It also supplies natural gas to Tri-State. The American corporation is a subsidiary of Japan's Marubeni Corporation.

In its filing with FERC, United Power called this a "sham transition for the express and sole purpose of escaping Colorado PUC regulation." The Sierra Club made the same claim, if not quite so colorfully. The Colorado PUC also had arguments.

FERC rejected all the arguments, ruling that it does have jurisdiction to set Tri-State's rates. It did acknowledge, however, that it's an open question whether Meico's membership in Tri-State requires state regulatory approval or otherwise violated Colorado law. Notably, the decision is subject to reconsideration by FERC, and potentially judicial appeal.

To read the 51-page FERC order, [go here](#).

For Tri-State's statement, [see this](#).

And here is La Plata's [statement](#).

And also the [release](#) by United Power.

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## **New solar system portable, exactly what was needed by Holy Cross**

**by Allen Best**

In just under two days this winter, 554 solar panels were installed in a field next to the headquarters for Holy Cross Energy near Glenwood Springs, Colo.

In the future, they can be moved, if need be, and perhaps quickly. No concrete was poured in the ground. Panels were latched down, not screwed.

The solar farm comes from Powerhouse, a new company with the simple mission to simplify solar technology.

“What we have done is simplified the hardware and installation process, and one of the outcomes we hope for is some simplified contracts and some simplified permitting,” explains Drew Bond, the co-

**This solar array adjacent to the Holy Cross Energy office near Glenwood Springs was assembled in a weekend by mostly volunteers with only a licensed electrician having higher training.**

founder and chief executive of Powerhouse. The process of installation, he adds, can take hours and days, as opposed to weeks and months.

The solar field at Holy Cross is the largest of Powerfield’s projects so far.

However, Bond sees great potential for land adjacent to businesses where owners don’t want to commit to permanent infrastructure.

“Portability is definitely an important aspect to (land owners), and the (Powerhouse) technology overcomes real barriers but also perceived barriers in the customers’ minds,” says Bond. “You may not want to put a bunch of steel and concrete in the ground, thinking you might later want to use it for other purposes. With our system, you don’t need to do so. It could be there for a year, or it could be there for 30 years.”

Bond reports discussions with a landfill operator in western Colorado who is currently precluded from using the site for a traditional solar farm. With the Powerhouse technology, there's no need to break through the layer that seals the landfill. However, he reports, regulations of the Bureau of Land Management that govern this particular landfill but also others prohibit even semi-permanent installations. He hopes that will change.

Yet another potential is on ranches and farms, such as in the corners of center-pivot parcels.

**B**ond has a jaw-dropping resume. He was a senior advisor for President George W. Bush at the U.S. Department of Energy and chief of staff at the Heritage Foundation, a think tank devoted to free enterprise, limited government, and individual freedom. He was also chief of staff at the Oklahoma Corporation Committee for Denise Bode and a legislative assistant to U.S. Sen. Don Nickles, a Republican senator from Oklahoma who served from 1988 to 2005.

He has also been a serial entrepreneur who has been involved in multiple startups: a data-analytics company that provides software and services to electric utilities; a company that converts wood waste to energy productions; and an online media company dedicated to free-market ideas.



Drew Bond

There's more. He's been around several blocks.

As for the installation at Holy Cross, the "barn-raising" required a trained electrician for installation but was otherwise done during one weekend by employees of the

electrical cooperative and some community members.

Lisa Reed, the power supply supervisor for Holy Cross, said she became a convert to Powerfield's system when she saw it being installed two years ago for testing at the National Renewable Energy Wind Testing Facility along Highway 93 between Arvada, Boulder, and Golden.

"The uniqueness of it really stuck with me and made it the perfect option for our campus," she says. "It met the needs of a quality array, while leaving the ground open to changes in the future. And while they currently have only a few other installations, we are their largest."

Within the service territory for Holy Cross, says Reed, she can see it being used on agricultural and other rural lands but even ski resort snowmaking operations, construction sites and other places where it's important to maintain the future flexibility of land use.

"Need a power source quickly?" she explains. "This could work. I was actually discussing the Powerfield simple racks with a member recently as a temporary resource to maintain a remote water source."

**T**he Powerfield project was funded in part from a grant from the Community Office for Resource Efficiency (CORE), a Roaring Fork Valley nonprofit dedicated to energy efficiency. The Randy Udall Energy Pioneer Grant is among CORE's most competitive, provided to innovative energy efficiency projects.

This solar installation along with an array using traditional rooftop design will offset 44% of current electricity consumption at the Holy Cross headquarters near Glenwood Springs.

A third solar array scheduled for later in 2020, will allow Holy Cross to offset more than 75% of its annual electric use in Glenwood Springs.



## Pearl Harbor altered Colorado's path in years after 1941. Covid-19 will also

by Allen Best

This pandemic has started feeling like something more than an extended snow day or having the mumps when you're a child. Perhaps it's now more like 1941, after Pearl Harbor.

The potential for a pandemic has been amply reported over the years. People in the early 1940s knew we would inevitably go to war. When abstraction became reality on that December day, so much changed in the context of Colorado.

In the late 1930s, ski areas were about to blossom. The Union Pacific's Averell Harriman in 1936 opened Sun Valley in Idaho, and resorts were taking off in New England. Colorado had a few smaller ski

**Vail probably would have happened, and it might have even been called Vail. But its visionary may have been somebody other than Pete Seibert and it might not have had a Bridge Street. Photo/Allen Best**

areas, including Berthoud and Winter Park, plus town ski areas at Steamboat Springs and Gunnison.

Others were thinking bigger. In Aspen, a boat-tow had been installed, primitive but effective in transporting people uphill. One of them was Elizabeth Paepcke

, the wife of a wealthy Chicago industrialist. She wanted her husband to see Aspen, to see the potential she saw. Others saw a different resort, one on Mount Hayden, in the Castle Creek Valley southwest of Aspen. Colorado legislators gave the venture \$650,000, which was backed by a federal fund.

Closer to Denver, tunnel crews had begun boring an exploratory tunnel under Loveland Pass, with the idea of creating a highway under the Continental Divide. To the west, the state government had used



federal New Deal funding to upgrade the horse trail across the Gore Range to a two-lane gravel road. They called it Vail, to honor Charlie Vail, then the boss of the Colorado Highway Department.

In Washington, D.C., President Franklin Roosevelt had had engineers develop plans for a national system of highways with separated lanes.

In Colorado, work had begun on Green Mountain Reservoir. The intent was to provide a service to the Western Slope as a result of the giant trans-mountain diversion planned at Grand Lake to benefit farmers in northeastern Colorado.

And in northeastern Colorado, my father was working on a dryland farm near Fort Morgan and lopping off the tops of sugar beets in that quiet before the distant clouds of war arrived.

**P**earl Harbor changed everything. The war brought the 10th Mountain Division to Colorado, to a high valley along the Continental Divide between Leadville and Red Cliff called Eagle Park. The Army named it Camp Hale, and at the height of the training it was among the largest cities in Colorado, with 14,000 people, mostly men.

After the war, in 1946, Elizabeth Paepcke's husband, Walter, finally visited Aspen and saw what had so impressed her. But he put a new touch on it, the idea of invigorating the body and challenging the mind, a DNA that lingers to this day. 10th Mountain Division veterans returned in droves to Colorado to convert Aspen from a derelict mining town into an international resort. A resident, for a time, was Pete Seibert, who had grown up in New England dreaming of creating a ski resort. But he wanted his own resort. That dream in 1962 became Vail.

In time, my father was inducted into the Army, leaving behind the dryland farm where he was reared and its house, which had neither indoor plumbing nor electricity,

and took the train to California for basic training, then a posting at the Presidio, near the Golden Gate Bridge in San Francisco. Eventually he was shipped to India at the foot of the Himalaya Mountains.

The bore under Loveland Pass was completed in 1943, but it revealed too much difficult geology for a highway tunnel. Later, a different alignment was chosen, and that tunneling work resulted in the first of two tunnels in 1973.

The idea of superhighways that many people want to attribute with singularity to Dwight Eisenhower finally was given a federal sponsorship in 1956. Among the Senate sponsors was Albert Gore, father of the future vice president. But if not for the war, it might have happened sooner.

As for that big New Deal-era water project, the Colorado-Big Thompson, it was finally completed in 1957.

And my father returned to northeastern Colorado, married the girl he had met at a gathering of young Baptists in the 1930s and took up work as a carpenter. He never flew again, never traveled abroad, but he did have a taste for curry that was never satisfied. He died before the spread of Indian restaurants in Colorado.

Vail probably would have happened eventually. The mountain itself and the proximity to Denver made it a natural. But World War II put Pete Seibert into Colorado. Aspen would have flourished, but perhaps in a different way. As for Mount Hayden, it came to nothing, in its own way perhaps a casualty of World War II.

**T**his pandemic is different than World War II, and we have to go back further to see precedent. In 1918, Gunnison quarantined itself and survived with little loss of life, while Silverton, as remote a town as there may be in Colorado, isolated in the icy fastness of the San Juan Mountains, lost 10% of its population.

In this COVID-19 pandemic, the first case in Colorado was a visitor to Summit

County who had recently been in Italy, then Australian visitors to Aspen-Snowmass. But then Eagle County flared, and as of early this week had 22 cases from the Vail area compared to 24 in Denver County, which has a population about 12 times as large. County officials on Thursday said they suspected hundreds, if not thousands, had contracted COVID-19.

A century ago the influenza spread globally, but by rail instead of by air. The world has shrunk, with consequences both good and bad.

We will survive this pandemic, but there will be changes. I sincerely doubt we'll see the [significant expansion at DIA](#) that had been announced just a few months ago. That may actually be good.

Can other good also result? Many of us hope that it will result in greater acceptance of facts, more acceptance of science. Ideology played a powerful role in the sluggish, or worse, acceptance of the virus by powerful people, most notably the [president](#). That same ideology, the same denial, has shrugged off or rejected the power of accumulating greenhouse gases to produce costly changes in our climate.

I hope we develop a greater sense of a global community. It could easily take us the other way, one exemplified by the run on guns and ammunition. What we see early on, the sniping between President Trump and his counterparts in China, is not encouraging.

## A question for you

The first issue of Big Pivots went out on Jan. 28 with a note that said I was looking for partners or funders, and ultimately both.

In the best of times, something like this will takes months to get legs. These are not the best of times.

But the big pivots in energy and water will continue once we emerge from the pandemic. Will Big Pivots also?

I'm open to suggestions.

But I also want to know whether the name Big Pivots works for you? Is this intuitive? Or obscure?

Love to hear from people.

– *Allen Best*

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