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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO  
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IN THE MATTER OF THE APPLICATION OF )  
PUBLIC SERVICE COMPANY OF ) DOCKET NO. 08A-532E  
COLORADO FOR APPROVAL OF ITS 2009 )  
RENEWABLE ENERGY STANDARD )  
COMPLIANCE PLAN )

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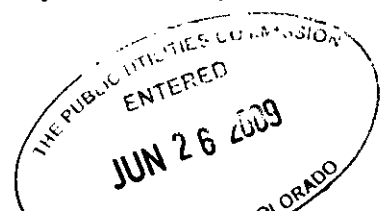
**RESPONSE OF PUBLIC SERVICE COMPANY OF COLORADO  
TO EXCEPTIONS**

Public Service Company of Colorado was served with Briefs on Exceptions from the Trial Staff, the Office of Consumer Counsel and the Interwest Energy Alliance ("Interwest"). In this Response Brief, we respond to exceptions raised by the Trial Staff and by Interwest.

**Response to Trial Staff**

**Staff's proposed limit on eligible energy resource acquisition.** Trial Staff argues that Public Service may not acquire any eligible energy resources that would result in the Company spending more than the two percent retail rate impact in the first year of any RES Compliance Plan. Hearing Commissioner Baker wisely recommended rejecting this limitation urged by Staff because it would interfere with the acquisition of large eligible energy resources.

In their Brief on Exceptions, Trial Staff argues that they are only restricting what can be spent in the first year of any RES Compliance Plan, not what can be spent in *subsequent* years. But what Staff does not address is how their restriction on first year spending can be practically implemented when the utility is required to file annual Compliance Plans so that each year always becomes the "first year" of the plan under



review. There are never “subsequent years” where the greater spending can take place, because each plan creates a new “first year.” The 2009 Plan might contemplate acquiring a large resource in 2010 (which Staff would say is OK so long as the large resource is not acquired in the first year of the 2009 Plan, i.e. 2009). But next year, 2010 becomes the first year of the 2010 plan and the Staff restriction would prevent acquisition of this resource. Staff’s restriction is not workable.

The better reading of the retail rate impact limitation is the one that Hearing Commissioner Baker adopted, namely, that the statute and Commission Rule 3661(h) limit how much money can be *collected* from customers each year, but do not limit the time period in which the money can be spent by the utility on resource acquisition. The retail *rate* impact limit is just that – a limit on how the *rates* can be increased to pay for eligible energy resources. Neither the statute nor the Commission’s rules specify that the utility may only *spend* a certain amount in each calendar year. The utility presents a ten year plan (each year) projecting how the RESA collections are to be spent. Economies are achieved by allowing the plan to consider spending the RESA funds over the course of that ten year period either before or after they are collected. Public Service presented a ten year plan that shows “overspending” in 2009 (compared with 2009 collections), but then “overcollection” beginning in 2010 to bank funds for the acquisition of larger eligible energy resources in later years. This flexibility is permitted by the statute and the Commission’s Rules, and Hearing Commissioner Baker wisely rejected Staff’s proposed limits on annual spending.

**Staff’s argument on the lock down.** Hearing Commissioner Baker recommended that the Commission approve Public Service’s “lock down” proposal.

Staff takes exception and argues against any lock down. We agree with Commissioner Baker and urge the Commission to deny Staff's exception. For the benefit of the full Commission, Public Service repeats here our summary discussion of the lock down issue that we presented to Commissioner Baker in our Statement of Position.

The difference between the RES Plan and the No RES Plan provides the estimate of the *incremental* costs of the renewable resources that are capped by the retail rate impact limit set by statute. The lock-down issue involves *which* renewable resources in the utility's RES Plan are displaced by non-renewable resources in the utility's No RES Plan. This issue has been debated in each of Public Service's three compliance plans (2007 – 2009) because of the ambiguity and/or unintentional consequence of the interplay between Commission Rules 3661(h)(I) and (h)(II). Last year, in Docket No. 07A-462E addressing Public Service's 2008 RES Plan, we pointed out that there was a disconnect between these two rule subsections, such that the costs of certain resources factored into the determination of incremental cost but that the benefits of these resources did not. All parties and the Commission agreed that both the costs and the benefits of the renewable resources that impact the retail rate impact calculation need to be taken into account. The resources that were affected by this "cost-but-not-benefit" problem were the resources that were commercially operational at the time that the RES-No-RES Plans were run. The Commission granted a waiver of the rule to allow both the costs and the benefits of the renewable resources to be taken into account in the RES-No RES modeling.

Last year, Public Service raised another concern with respect to resources already acquired and we asked for a second waiver. That concern involved the

application of Rule 3662((a)(XI), which required a recalculation of the RES Plan – No RES Plan with the filing of the annual compliance report, using the “actual compliance year values.” We were concerned that rerunning the RES Plan—No RES Plan with actual gas prices could impact resources already purchased and further limit RESA funds if actual gas prices turned out lower than estimated gas prices. This situation adversely impacts the RESA balance because lower gas prices translate into higher *incremental* costs for renewable resources that must be paid from the RESA. The Commission (and the Staff) agreed that the utility should not be required to rerun the RES Plan—No RES Plan analyses and apply the results retrospectively to the RESA, unless the utility had failed to meet the Renewable Energy Standard due to the retail rate impact limit *and* unless rerunning the RES Plan-No RES Plan analysis would create more “headroom” in the RESA, i.e., gas prices turned out to be higher than estimated. See Decision No. C08-0559 (June 4, 2008) at pp. 43-45.

This year, Public Service developed a solution to address both of these problems that were identified in the 2008 RES Plan – a solution that protects the RESA funds and that meets the requirements of Rule 3661(h). That solution is the Company’s “lock down” proposal. The lock down proposal works as follows. As Public Service acquires resources, the projected net costs or net benefits of that resource (or if small – the resource is aggregated once a year with other small resources for purposes of this determination) are determined for the life of that resource through a RES Plan – NO RES Plan modeling and then “locked down” and not reconsidered in subsequent RES compliance plan proceedings. In this way, the dollars that will be charged against the

RESA balance from that resource (or those resources) become known and fixed. They are not retrospectively changed as gas prices fluctuate.

The Company's lock down proposal was applied this year to the existing Eligible Energy Resources that impact the RESA at the time the RES – No RES modeling was conducted for the filing of the 2009 RES Plan. Those resources are the SunE Alamosa<sup>1</sup> central solar facility and all of the on-site Solar\*Rewards contracts as of December 31, 2008. Public Service estimated what the incremental costs for these resources will be, given all of the assumptions that the Commission ordered be used for resource acquisition in Docket No. 07A-447E (our most recent Resource Planning docket). The projected incremental costs of these resources are set forth in Column J of Table 6-3 as the "ongoing incremental costs." Once these ongoing incremental costs are determined, these resources are modeled as part of both the RES Plan and the NO-RES Plan and, therefore, no longer factor into the determination of the incremental costs for *new* eligible energy resources. The incremental costs for *new* eligible energy resources are shown in Column H of Table 6-3. The costs that hit the RESA account in each year will include *both* the Modeled Incremental Costs for the *new* resources in Column H *and* the Ongoing Incremental Costs for the *already acquired* resources in Column J.

Public Service views the costs in Column H – the modeled incremental costs of new eligible energy resources – to be the costs discussed in Commission Rule 3661(h)(I). We view the costs in Column J – the ongoing incremental costs – to be the costs discussed in Commission Rule 3661(h)(II). This new modeling approach takes into account both the costs and the benefits of the resources that are in each column,

thereby solving the mismatch problem for which we sought a waiver last year. This modeling approach also solves the problem caused by actual gas prices being lower than estimated. Once a resource is acquired and its net costs or benefits are locked down (these locked down values will be adjusted based on production quantities, but not based upon changes to the underlying avoided cost assumptions), then future changes in gas price forecasts do not impact that resource. The future changes in gas prices affect only the acquisition of *new* renewable resources, not the *existing* renewable resources.

The lock down proposal does not result in Public Service recovering costs that we do not incur. Public Service will only recover from our customers the actual costs that we incur in acquiring eligible energy resources. The lock down issue only affects how many of those costs are “charged” against the RESA.

Staff argues that the lock down proposal “hides” costs from customers. It does not. In each annual compliance plan and report, the costs that the Company will pay or have paid for eligible energy resources are disclosed and reviewed. Staff then claims that if Public Service incorrectly projects gas prices, then the locked down charges against the RESA will not be correct. They posit a situation where Public Service under-projects gas prices by \$1 per MMBtu and they claim that this would cause \$140 million to be “hidden” in the ECA. Actually, if Public Service under-projects gas prices, then Public Service is over-projecting the incremental costs that are charged against the RESA (the opposite of what the Staff claims.)

The point here is that no one can accurately project natural gas prices and, therefore, no one can accurately project the incremental costs of eligible energy

resources. If gas prices turn out lower than projected, we will have undercharged the RESA by assuming too low an incremental cost for eligible energy resources. If gas prices turn out higher than projected, we will have overcharged the RESA, by assuming too high an incremental cost. What we need is an approach that allows the utility to plan for resource acquisition without requiring the constant recalculation of incremental costs as gas prices rise and fall. If we constantly have to look backwards to recalculate the incremental costs for resources that we have already acquired, Public Service will need to hold RESA funds in reserve in order to have assurances that we have sufficient funds to pay for any newly recalculated increased incremental costs for the already acquired resources. As we acquire more and more renewable resources, this contingency fund will also have to grow to cover any drop in gas prices from the level predicted at the time of resource acquisition.

The General Assembly has created a limited fund for eligible energy resources based upon incremental costs. The statute defers to the Commission to establish an appropriate way for calculating the incremental costs and still meet the legislative objectives. We believe our lock down proposal is the best approach.

Public Service urges the Commission to agree with Commissioner Baker's recommendation to accept our lock-down proposal for determining the retail rate impact of Public Service's RES Plans. This approach provides better budgeting certainty to our Company and to the market as a whole. This approach gives us the ability to continually update our plans based upon known and established charges against the RESA for resources already acquired. All other approaches create uncertainty as to how many RESA dollars must be "reserved" to pay for already acquired resources. When

uncertainty is created, and reserves must be established, then the Company has fewer dollars that can be spent on new renewable resources and fewer resource acquisitions will be planned. The lock down proposal best serves the statutory mandate to develop and utilize renewable energy resources to the maximum practicable extent.

Finally we see no benefit to the Staff's new proposal, set forth in the Brief on Exceptions, to require an annual identification of the "actual incremental costs recovered through the RESA and the actual incremental costs recovered through the ECA." As gas price projections change each year, a look back at already acquired resources will change the incremental costs calculated for already acquired resources. Some years those incremental costs for already acquired resources will look higher and some years they will look lower. We question what use this information will provide if it is not going to be used to govern future resource acquisitions. We believe this retrospective calculation will only lead to confusion.

Resource acquisition decisions must be made based upon the best information available at the time of acquisition. Public Service may propose this year to acquire a wind resource and we would project the incremental costs or incremental savings provided by that resource based upon the best information available to us at the time. Our projections are subject to regulatory review at the time of acquisition. But once we acquire this resource, we cannot easily "unwind" that deal – nor do we intend to do so. We need to move forward to make new resource acquisitions based upon the best information available to us at this new juncture. In making these new resource decisions, we need certainty as to how much of the RESA fund has already been committed to the sunk resource decisions and how much of the RESA fund is available



for new acquisitions. Public Service's lock down proposal provides the best method for making these new decisions.

### **Response to Interwest**

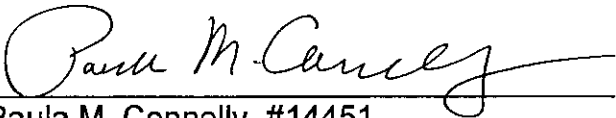
**Market Segmentation.** Interwest introduced in this Docket the concept of segmenting the RESA funds and allocating the segments to different on-site solar markets (small, medium and large). Commissioner Baker agreed with Interwest's suggested sector-specific budgeting approach, but recommended that this segmentation should be deferred to Public Service's 2010 Compliance Plan. We agree with Commissioner Baker's recommendation and request that the Commission deny Interwest's exceptions on this issue.

Public Service agrees that Interwest's RESA budget segmentation approach has merit but we need more time to consider which allocation method appears to us to create the best efficiencies and equities. We also do not want to adopt the market segmentation in 2009, because as Ms. Newell testified, we are still working through the application "bubble" that occurred in 2008 when Public Service announced that we intended to reduce our SO-REC payment. Any segmentation applied to 2009 could require us to reject applications that we have already accepted. We support Commissioner Baker's recommendation to wait until 2010 to introduce Interwest's ideas on sector segmentation.

Wherefore, Public Service Company of Colorado respectfully requests that the Commission deny the Exceptions raised by the Trial Staff and by the Interwest Energy Alliance.

Dated this 25th day of June, 2009.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

**08A-532E**

I hereby certify that on this, the 25th day of June 2009, an original and seven (7) copies of the foregoing **“RESPONSE OF PUBLIC SERVICE COMPANY OF COLORADO TO EXCEPTIONS”** were served via hand delivery on:

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