

Decision No. C22-0503-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22F-0365E

SUNSHARE, LLC,

COMPLAINANT,

V.

PUBLIC SERVICE COMPANY OF COLORADO,

RESPONDENT.

**INTERIM COMMISSION DECISION DENYING MOTION
IN PART AND REFERRING MATTER TO AN
ADMINISTRATIVE LAW JUDGE**

Mailed Date: August 24, 2022

Adopted Date: August 24, 2022

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission denies certain requests by SunShare, LLC (SunShare) relating to its Verified Formal Complaint against Public Service Company of Colorado (Public Service or Company), filed on August 17, 2022, and refers the matter to an Administrative Law Judge (ALJ) for disposition.

B. Background

2. Through its Complaint, SunShare requests the Commission direct Public Service to reform its bid prices for Renewable Energy Credits (RECs) for SunShare's two bid awards in the 2020 Solar*Rewards Community (S*RC) Community Solar Garden (CSG) Request for Proposals (RFP). SunShare requests an adjustment of the REC bid price per kWh generated (a REC

adjustment) to \$0.00/kWh in order, it asserts, to maintain the viability of its CSG projects in light of its increased costs due to alleged utility-caused unreasonable delays in interconnection and in allowing site moves, for 16 months. In addition, SunShare requests resolution of the uncertainty surrounding incremental costs for network upgrades at its new sites by approving a cap on its interconnection costs with the difference to be paid by Public Service's distribution system investments or by its shareholders. Finally, SunShare requests a one-time extension of the Target Completion Date in its 2021 Producer Agreements for its two projects to be in-service 30 months from the date of this Complaint to accommodate the delays allegedly caused by Public Service.

3. Concurrent with the Complaint, SunShare filed an omnibus motion (Motion) requesting the Commission adjudicate this Proceeding as an accelerated complaint under Rule 1302(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, and assign a hearing commissioner. The motion also requests extraordinary protection of certain claimed highly confidential information.

C. Discussion, Findings and Conclusions

1. Request for Expedited Complaint Procedures Under Rule 1302

4. Pursuant to Commission Rule 1302(c), 4 CCR 723-1, the "Commission may expedite a formal complaint proceeding on its own motion or upon the motion of a party if such motion shows good cause." If the Commission acts to expedite a formal complaint, it must establish the expedited procedural schedule, including hearing dates, and may impose appropriate limits on discovery.

5. SunShare states in its Motion the scope of the Complaint is narrow as it relates solely to the two CSG Projects that were awarded Producer Agreements stemming from the 2020 CSG RFP, and the unreasonable delays those projects experienced due to Public Service's actions.

SunShare states timely adjudication is needed to limit its cost increases. SunShare also states good cause exists for the expedited procedures in light of the unstable global economy and supply chain disruptions affecting solar projects. SunShare states expedited procedures are necessary in order for it to lock in pricing for equipment for its projects and to expeditiously move forward with construction.

6. We do not find good cause to grant this request and adjudicate the Complaint under Rule 1302(c)'s accelerated timeframe. These expedited procedures are extraordinary relief granted only when the demonstrated need to accelerate the proceeding justifies the abbreviated timelines imposed on the parties and the Commission. Considering the arguments set forth in the Motion, although we recognize the urgency raised by SunShare, we do not find good cause to grant this relief in this circumstance.

2. Request for Hearing Commissioner

7. SunShare requests the Commission refer this Proceeding to an individual hearing commissioner. SunShare states although it that the Commission has a full schedule in the coming months, it believes a hearing commissioner will be more expeditious and administratively efficient, due to the Commission's close involvement with the issues raised in this Complaint.

8. We do not find good cause to grant this request and refer the matter to an individual hearing commissioner. As SunShare acknowledges, the Commissioners have an extremely busy schedule in the coming months—which includes multiple hearings, deliberations, and written orders it must issue. Considering the arguments set forth in the Motion, we do not find good cause to grant this relief in this circumstance.

D. Conclusion

9. As discussed above, due to the press of business and the issues presented, we find it appropriate to refer the Complaint to an ALJ for disposition, including establishment of a procedural schedule. We decline to impose on the ALJ accelerated procedures; however, we note that parties retain opportunity to make arguments to the ALJ requesting expedited timelines.

10. We refer to the ALJ the outstanding request in the Motion seeking extraordinary protection of claimed highly confidential information.

II. ORDER**A. It Is Ordered That:**

1. The Omnibus Motion of SunShare, LLC Requesting Accelerated Complaint Procedures, Assignment of a Hearing Commissioner, and Requesting Extraordinary Protection of Highly Confidential Information (Omnibus Motion) is denied, in part, consistent with the discussion above.

2. This matter is referred to an Administrative Law Judge (ALJ) for disposition including the establishment of a procedural schedule.

3. The outstanding requests in the Omnibus Motion not addressed in this Decision are referred to the ALJ.

4. The Director of the Commission shall serve the respondent, Public Service, with the formal complaint and issue a notice of hearing pursuant to Rule 4 *Code of Colorado Regulations* 723-1-1302(f).

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 24, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners