

Decision No. C20-0841-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20D-0262E

IN THE MATTER OF VERIFIED PETITION OF SUNSHARE, LLC FOR A DECLARATORY ORDER APPROVING A RENEWABLE ENERGY CREDIT ADDER.

**INTERIM DECISION SETTING RESPONSE TIME TO
SUNSHARE AMENDMENT TO PETITION AND
SETTING MATTER FOR DETERMINATION ON
DECEMBER 16, 2020**

Mailed Date: December 4, 2020

Adopted Date: December 2, 2020

I. BY THE COMMISSION

A. Statement

1. In response to a Joint Status Report filed by SunShare, LLC (SunShare) and Public Service Company of Colorado (Public Service) on October 29, 2020, the Commission issued Interim Decision No. C20-0809-I on November 16, 2020. The Commission required SunShare to either: 1) file an amendment to its Petition for Declaratory Order Approving a Renewable Energy Credit Adder (Petition) indicating how the activities listed in the Joint Status Report affect the relief requested in the Petition; or, 2) if the issues for which it seeks a declaration from this Commission have not been altered as a result of the listed activities in the Joint Status Report, SunShare was to file a pleading indicating this was the case.

2. On November 23, 2020, SunShare filed a pleading captioned as *Amendment to Correct Petition of SunShare, LLC for a Declaratory Order Approving a Renewable Energy Credit Adder to Five of SunShare's Six Solar*Rewards Community Solar Garden Producer Agreements with Public Service Company of Colorado* (Amendment). In that filing, SunShare

states that it amends the Petition solely to update the Commission as to how the activities listed in the Joint Status Report affect the request for relief set out in the Petition. According to the Amendment, the issues for which SunShare seeks the declaration have not been altered as a result of the listed activities in the Joint Status Report. Therefore, despite captioning the pleading as an “amendment,” SunShare nonetheless emphasizes that its original issues for resolution remain: 1) whether the Renewable Energy Credit (REC) Adder is in the public interest based on the unique circumstances presented for 10 MW of the 12 MW of the 2018 Community Solar Garden (CSG) projects and the amount, and 2) the waiver of Public Service’s Minnesota creditworthiness policy. SunShare states it amends the Petition solely to update the Commission as to how the activities listed in the Joint Status Report affect the request for relief set out in the Petition.

3. SunShare reports the activities listed in the Joint Status Report affect its first request for relief in terms of the updated project milestones – whether projects can achieve 2021 or 2020 in-service dates. The Petition contemplates both 2020 and 2021 in service dates, and SunShare still seeks waiver of Public Service’s creditworthiness policy. However, SunShare states the waiver only applies to 7 MW of the 12 MW of 2018 CSG Projects that have not yet executed an interconnect agreement with Public Service.

4. The bulk of SunShare’s filing is comprised of the three tables it provided in its Petition, all listed as highly confidential. Table 3 sets out the Settlement Agreement Effect on 2018 CSG Projects. Table 3 shows the delays in the interconnection study process continue to affect the 2018 CSG Projects’ expected in service dates. According to SunShare, Table 3 reflects that the 2018 CSG projects have successfully made site moves in compliance with Decision No. C20-0406 and the Settlement Agreement.

5. Table 4 sets forth Increased Costs, REC Adders, and Cost Impact, while Table 5 provides the Summary of the REC Relief Requested. SunShare states Table 4 reflects the cost increase drivers to the 2018 CSG Projects in light of the site moves, delays in interconnection and calculated the applicable REC Adder for the five relevant Producer Agreements. According to SunShare, the revised REC prices in the Producer Agreements for five out of its six 2018 CSG Projects would equal only the amount of the REC Adder greater than \$0. Only REC prices greater than \$0 are considered as costs to ratepayers since negative values for RECs would not materialize if a project was not built.

6. SunShare states its Petition requests two different REC Adder values based on ITC qualification, one for 2018 CSG Project capacity that achieves a 2020 in service date and one for the capacity that achieves a 2021 in service date. SunShare indicates the cost drivers associated with the REC Adder (Highly Confidential Table 4) have not changes. SunShare notes that interconnection facility costs were not presented to the Commission as part of the REC Adder cost increases because those costs were included in the 2018 CSG Projects' budgets as-bid.

7. Regarding the waiver of the creditworthiness policy, SunShare states it continues to support waiver of that requirement. According to SunShare, it had to execute an interconnection agreement for 5 MW of the 12 MW of 2018 CSG Project capacity. This is the same 5 MW identified as possible to be placed into service in 2020. SunShare represents the waiver no longer can apply to that capacity. Consequently, the waiver will assist in the resolution of the controversy stemming from the Settlement Agreement for the remaining 7 MW of 2018 CSG Project capacity.

8. While SunShare captions its filing as an amendment, it nonetheless indicates it has made no changes to its Petition for Declaratory Order. It still requests a determination as to whether a REC Adder is in the public interest based on the unique circumstances presented for 10 MW of the 12 MW of the 2018 CSG Projects and the amount; and, a waiver of Public Service's Minnesota creditworthiness policy.

9. SunShare advocates for a decision *en banc* arguing there is an absence of any factual dispute. Further, SunShare notes it continues to work cooperatively with Public Service to move the 2018 CSG Projects forward and there is still a narrow window to achieve significant cost savings that would be passed onto ratepayers in achieving a 2020 in service date for 5MW of the 12 MW of 2018 CSG Projects if the REC Adder is granted.

10. We agree with SunShare that there appears to be an absence of factual dispute evidenced by the "joint" characterization of its previous report filed mutually with Public Service. That there is no factual dispute surrounding SunShare's request is further evidenced by the lack of response by any of the other parties to the proceeding to SunShare's filings.

11. We therefore determine the matter is ripe to move forward with a declaration regarding the matters to which SunShare seeks. Should any party to this proceeding wish to respond to SunShare's pleading captioned as an amendment to its Petition, it should do so no later than the close of business on December 7, 2020.

12. Additionally, we intend to bring this matter back on December 16, 2020 for a decision by the Commission on the requests sought by SunShare in its Petition.

II. ORDER

A. It Is Ordered That:

1. Any party to this proceeding wishing to file a response to SunShare, LLC’s pleading captioned as an Amendment to Correct Petition of SunShare, LLC for a Declaratory Order Approving a Renewable Energy Credit Adder to Five of SunShare’s Six Solar*Rewards Community Solar Garden Producer Agreements with Public Service Company of Colorado shall file such response no later than the close of business on December 7, 2020.

2. The Commission will bring this matter to the December 16, 2020 Weekly Meeting for disposition.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
December 2, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners