BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Proceeding No. 16A-0436E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP FOR (1) APPROVAL OF ITS 2016 ELECTRIC RESOURCE PLAN, AND (2) APPROVAL OF ITS 2018-2021 RES COMPLIANCE PLAN.

SETTLEMENT AGREEMENT

Pursuant to Rule 1408, Black Hills/Colorado Electric Utility Company, LP ("Black Hills" or the "Company"), Staff of the Colorado Public Utilities Commission ("Staff"), the Colorado Office of Consumer Counsel ("OCC"), the Colorado Energy Office ("CEO"), the Colorado Independent Energy Association ("CIEA"), Western Resource Advocates ("WRA"), and the Interwest Energy Alliance ("Interwest") (collectively, "Settling Parties"), by their undersigned counsel, and for good and valuable consideration, enter into this Settlement Agreement ("Settlement Agreement") to resolve all concerns that have arisen between them related to the Company's Verified Application filed in Proceeding No. 16A-0436E. The Settling Parties specifically request that the Commission approve this Settlement Agreement as consistent with the public interest.

CERTIFICATE OF CONFERRAL

The undersigned counsel certifies that counsel for Black Hills has conferred with counsel for all parties to this proceeding about this Settlement Agreement and is authorized to state that Black Hills, Staff, OCC, CEO, CIEA, WRA, and Interwest join in this Settlement Agreement. Two additional parties, the City of Pueblo ("City") and Pueblo County ("County"), take no position on the Settlement Agreement. No party to the proceeding opposes the Settlement Agreement.

I. PROCEDURAL HISTORY

1. On June 3, 2016, Black Hills filed a Verified Application seeking Commission approval of its 2016 Electric Resource Plan ("2016 ERP") and its 2018-2021 Renewable Energy Standard ("RES") Compliance Plan ("RES Plan") pursuant to Colorado Public Utility Commission Rules and the Colorado Renewable Energy Standard, § 40-24-101 *et seq.*, C.R.S. The Company also filed certain motions accompanying its Verified Application, as well as direct testimonies and attachments.[1]

2. On June 6, 2016, the Commission issued its Notice of Application Filed ("Notice"). That Notice established an intervention period and contained a *pro forma* procedural schedule.

3. The following parties filed either permissive interventions or interventions by right in this proceeding: Staff, OCC, CEO, CIEA, WRA, Interwest, the City, and the County.

4. On July 13, 2016, the Commission deemed the Application complete and referred it to an Administrative Law Judge ("ALJ") by Minute Entry.

5. Pursuant to Decision No. R16-0684-I in this proceeding, the Company submitted a proposed procedural schedule, which also included discovery procedures and confidentiality procedures, on July 29, 2016. In addition, on August 2, 2016, Black Hills filed its Notice of Waiver of Statutory Deadline.

6. By Decision No. R16-0714-I, the ALJ adopted the following procedural schedule:

- October 10, 2016: Answer testimony due

[1] A Corrected Attachment LS-1 to Lisa Seaman's Direct Testimony, which is entitled "Corrected 2016 Electric Resource Plan," was filed on November 10, 2016. As detailed in that filing, the corrections fixed automatic numbering issues and inserted data into a table that was removed by the software program when it was converted to pdf. However, to the extent any of the Attachment LS-1 Appendices are changed as a result of this Settlement Agreement, they are attached hereto.

- November 14, 2016: Rebuttal and cross-answer testimony due
- November 23, 2016: Corrected testimony due
- November 23, 2016: Stipulation of Settlement due
- December 5-7, 2016: Evidentiary hearing
- December 20, 2016: Statements of Position due

7. Moreover, by Decision No. R16-0714-I, the ALJ adopted discovery and confidentiality procedures and acknowledged the Company's waiver of the statutory deadline for a Commission decision contained in § 40-6-109.5, C.R.S.

8. In late September, the parties to the proceeding commenced settlement negotiations. Based on the progress of the negotiations, the Company filed two motions to amend the procedural schedule and delay the answer testimony and rebuttal testimony deadlines, respectively. By Decision No. R16-0937-I on October 11, 2016, and Decision No. R16-0955-I on October 18, 2016, the ALJ granted these respective motions to allow additional time for settlement negotiations prior to the filing of answer testimony.

9. The Settling Parties reached an agreement in principle on October 27, 2016 and filed a Notice of Settlement with the Commission.

10. On November 10, 2016, the Settling Parties filed the Settlement Agreement with the Commission, along with associated attachments.

11. This Settlement Agreement memorializes the negotiated settlement among and between the Settling Parties on all the issues raised in Proceeding No. 16A-0436E. As a result of these negotiations and this Settlement Agreement, the Settling Parties agree as set forth herein that the issues in dispute between them in this proceeding related to Black Hills' 2016 ERP and the RES Plan have been resolved to the satisfaction of the Settling Parties. The Settling Parties

agree that this Settlement Agreement is a fair, just, and reasonable resolution of these issues. The Settlement Agreement is in the public interest.

12. The Settling Parties agree that the Commission should grant Black Hills' Verified Application filed in Proceeding No. 16A-0436E consistent with this Settlement Agreement.

13. The Settling Parties stipulate that all testimonies and attachments filed by Black Hills in Proceeding No. 16A-0436E should be admitted into evidence and made part of the record in this proceeding. The Settling Parties agree to support and defend the terms and principles of the Settlement Agreement before the Commission.

II. SETTLEMENT AGREEMENT

This section sets forth the negotiated resolution of the issues between the Settling Parties.

2016 Electric Resource Plan

A. Approval of the Company's Preferred Plan (Base-with-RES Plan) and Associated Phase II Solicitation

14. Black Hills set forth its Preferred Plan, known as the Base-with-RES Plan, in the 2016 ERP and supporting testimony and attachments.[2] Company witness Mr. Stoffel explained the Base-with-RES Plan is modeled to incorporate "into the future resource portfolio all of the additional Eligible energy resources that would be required to achieve the RES requirements during the [Resource Acquisition Period ("RAP")] and the Planning Period."[3] To meet the RES requirements, "[t]he Base-with-RES Plan contemplates the addition of a new 60 MW renewable resource in 2019."[4] The Company's Action Plan to implement the Base-with-RES Plan through the RAP therefore involved conducting "a Phase II competitive solicitation to acquire up to 60

[2] Direct Testimony of Fredric C. Stoffel, at 17:20.
[3] Direct Testimony of Fredric C. Stoffel, at 17:21 – 18:1.
[4] Direct Testimony of Fredric C. Stoffel, at 18:1-2.

MW of Eligible energy resources by 2019."[5] Any Eligible energy resources acquired through a Phase II solicitation need to provide approximately 189,000 RECs annually to meet the applicable RES requirements.[6]

15. Black Hills further provided that the purpose of the proposed Phase II solicitation is to "allow the Company to determine if Eligible energy resources can be acquired at a cost that will provide savings for customers and generate sufficient RECs such that Black Hills will comply with the 30 percent RES requirement from 2020 through 2025."[7] The Company's analysis in this proceeding shows that this 60 MW Eligible energy resource, used to comply with the RES requirements, may "be added without exceeding the 2 percent retail rate impact cap codified at § 40-2-124."[8] Moreover, the Company provided in its 2016 ERP that based on its forecasts "the RESA will have a positive balance by 2020 if the Company meets all of its existing and authorized REC obligations and the Commission approves the Company's proposed 2018-2021 solar programs and the acquisition of up to 60 MW of Eligible energy resources in 2019 through a solicitation process."[9] The Company forecasts that, after accounting for the modifications to the 2018-2021 solar programs proposed in this Settlement Agreement and agreed upon by the Settling Parties, 60 MW of Eligible energy resources may be added in 2019

[5] Direct Testimony of Fredric C. Stoffel, at 19:9-10.
[6] *See* Attachment LS-2, at Appendix A, Table 2.
[7] Direct Testimony of Fredric C. Stoffel, at 19:11-14.
[8] Direct Testimony of Fredric C. Stoffel, at 20:1-2; *see* Corrected Attachment LS-1, at 77 ("Over the 25-year 2016 ERP Planning Period, the retail rate impact of the addition of the 60 MW wind resource in 2019, 30 MW wind resource in 2026, and the 60 MW wind resource in 2038 is shown in Schedule A-4 in Appendix A. The Company forecasts that the RESA will have a positive balance by 2020 if the Company meets all of its existing and authorized REC obligations and the Commission approves the Company's proposed 2018-2021 solar programs and the acquisition of up to 60 MW of Eligible energy resources in 2019 through a solicitation process.")
[9] Corrected Attachment LS-1, at 77.

and the RESA will still have a positive balance by 2020.[10] The RESA impacts of the Settlement Agreement as a whole are discussed later in this Settlement Agreement.

16. Given the Company's analysis of the potential savings to customers from the addition of up to 60 MW of Eligible energy resources in 2019, the Settling Parties agree that the Commission should approve a Phase II competitive solicitation to acquire up to 60 MW nameplate capacity of Eligible energy resources by 2019. This will allow Black Hills to determine if Eligible energy resources can be acquired (1) at a cost that achieves savings for customers and (2) that generate sufficient RECs to allow the Company to comply with the 30 percent RES requirement.

17. The Settling Parties also discussed and reached agreement on the specific parameters and requirements for the Phase II solicitation proposed for approval in this Settlement Agreement. These parameters and requirements are set forth below and are also contained in the revised Eligible Energy Resources Request for Proposals ("Eligible Energy Resources RFP"), which is Attachment 1 to this Settlement Agreement.

- ***60 MW Nameplate Capacity Cap.*** All bids are subject to a 60 MW nameplate capacity cap;
- ***Eligible Energy Resources Only.*** Bids may only include Eligible energy resources (including Section 123 resources);[11]
- ***Technology Combinations.*** Bidders may combine multiple technologies into a single bid, subject to the 60 MW nameplate capacity cap on bids. In the evaluation process, Black Hills may also combine bids, subject to the 60 MW nameplate capacity cap, to bring forward cost-effective resource portfolios for Commission evaluation;

[10] Attachment 9 to this Settlement Agreement is an updated version of Attachment LS-2 Appendix A Table 5 that was included in the filed RES Plan.
[11] Standalone RECs may be used as a filler to meet the Company's compliance needs – as discussed below.

- ***Standalone RECs as Filler.*** If a bid for a single project or bid with multiple technologies does not include sufficient RECs to provide 189,000 RECs annually, the bidder may, at the time of submittal, supplement its Eligible energy resource bid with standalone RECs sufficient to meet the Company's compliance requirement. The separate stand-alone REC RFP ("Standalone REC RFP"), which was initially filed as Appendix O to Attachment LS-1, has been revised so it can be utilized for this purpose only, and is Attachment 2 to this Settlement Agreement. If standalone RECs are proposed as a filler, they must be offered only through the RES Plan period (2018-2021). The vintage of each year's standalone RECs must be no older than two years (i.e., standalone RECs for use in 2018 must have been produced in either 2016 or 2017, standalone RECs for use in 2019 must have been produced in 2017 or 2018, etc.);
- ***No bids for standalone RECs only.*** Bids for standalone RECs only (i.e., non-filler bids) will not be accepted in the Phase II solicitation. The Settling Parties agree this is appropriate because, as explained by Company witness Mr. Stoffel, "[a]cquiring actual Eligible energy resources allows long-term compliance as compared to the purchase of stand-alone REC[s], which might be beneficial in the short term";[12]
- ***Evaluation of bids for utility self-build or build-transfer projects.*** Any Phase II bid for utility-ownership proposals (*i.e.* utility self-build or build-transfer) shall include all project costs, including estimated operations and maintenance ("O&M"). If a utility ownership proposal received from a bidder does not include estimated O&M costs, then the Company shall seek an estimate of O&M costs from the bidder or

[12] Direct Testimony of Fredric C. Stoffel, at 23:8-10.

impute generic estimated O&M costs to the bid in the evaluation process. Estimated or imputed O&M costs for utility-ownership proposals shall be included in the 120-Day Report and designated as highly confidential. This estimate will be included in the evaluation of any utility-ownership proposal to allow for appropriate comparisons with any PPA proposals. These costs will be evaluated for purposes of bid evaluation only and not for purposes of rate recovery;[13] and

- ***Timing.*** In order to help bidders to take advantage of the federal Production Tax Credits ("PTCs"), and in turn to obtain the benefit of the PTCs for customers, the Company will commence its Phase II solicitation no later than 45 days following the issuance of a final order approving this Settlement Agreement.

18. As discussed, the Company prepared revised versions of the Eligible Energy Resources RFP and Standalone REC RFP to reflect the agreements of the Settling Parties with regard to the Phase II solicitation. The revised Eligible Energy Resources RFP is Attachment 1 to this Settlement Agreement and the revised Standalone REC RFP is Attachment 2 to this Settlement Agreement.[14] The Settling Parties agree that these RFP documents, as revised, should be approved by the Commission.

19. In addition, Black Hills filed a model power purchase agreement ("Model PPA") with its 2016 ERP as Appendix N. The Settling Parties agree that the Model PPA is subject to changes during negotiation with any selected bidder(s). The Settling Parties further agree that after the Company has entered into an agreement with the successful bidder(s), Black Hills shall

[13] The inclusion of all estimated O&M costs, including taxes, for utility self-build or build-transfer projects shall not fix O&M costs for purposes of cost recovery for any bid ultimately approved by the Commission. This provision shall not limit the ability of any party to take any position or propose O&M cost recovery mechanisms for any approved bid in Phase II of this proceeding or any subsequent proceeding.

[14] As reflected in the revised Eligible Energy Resources RFP, no bids will be advanced to modeling without comparison of their relative LEC analysis.

file the executed PPA(s) with the Commission reflecting any modifications made during negotiations.

20. Finally, the Settling Parties agree that the Company will designate an independent evaluator ("IE") within 30 days after the Commission issues a final order approving this Settlement Agreement. The designated IE shall serve pursuant to Rule 3612.[15] To allow the Phase II solicitation to commence as expeditiously as possible, the Settling Parties further agree to recommend that the Commission should, to the extent practicable, approve the designated IE within 10 days after designation as opposed to the 30 days provided for in Rule 3612(a).[16]

B. Approval of the Requested ERP Rules Waivers

21. On June 3, 2016, in conjunction with the Verified Application, the Company filed a Motion for Waivers that included requests to waive certain ERP Rules and RES Rules. The Company sought waivers of the following ERP Rules (and incorporates the discussion of these waivers in the Motion for Waivers by reference):

- Rule 3606(a)(II) (regarding forecast requirements);
- Rule 3606(a)(V) (also regarding forecast requirements);
- Rule 3606(c)(I) (regarding econometric analysis);
- Rule 3608(e) (regarding new transmission facilities);
- Rule 3609(c) (regarding contingency plans);
- Rule 3610(c) (regarding greenhouse gas emission costs);
- Rule 3611(d) (regarding RFPs and model contracts); and
- Rule 3612(a) (regarding the IE).

[15] As discussed in the following section, the Company sought a waiver of the requirements of Rule 3612(a) in this proceeding, which provides in part that "[p]rior to the filing of the plan under rule 3603, the utility shall file for Commission approval the name of the independent evaluator who the utility, the Staff of the Commission, and the OCC jointly propose."
[16] Rule 3612(a).

22. In the course of settlement discussions, the Settling Parties discussed these waivers. With the exception of the waiver requested for Rule 3610(c), the Settling Parties agree that, for this proceeding only, the requested waivers of the ERP Rules above should be granted by the Commission.

23. Rule 3610(c) provides that "[t]he Commission may give consideration of the likelihood of new environmental regulations and the risk of higher future costs associated with the emission of greenhouse gases such as carbon dioxide when it considers utility proposals to acquire additional resources during the resource acquisition period."[17] Black Hills is only seeking to acquire Eligible energy resources through the Phase II solicitation. However, the Settling Parties agree that the potential for future greenhouse gas regulation, including the Clean Power Plan rule for existing power plants finalized by the Environmental Protection Agency and currently stayed by the U.S. Supreme Court, may be an appropriate factor for the Commission to consider in its evaluation of any Eligible energy resources brought forward for approval following the Phase II solicitation.[18] The Settling Parties therefore agree that a waiver of Rule 3610(c) is not appropriate, and through this Settlement Agreement the Company withdraws its request for a waiver of Rule 3610(c).

C. Approval of the ERP

24. As discussed above, Black Hills filed its ERP consistent with the ERP Rules. Rule 3604 details the required contents of any ERP filed by a utility subject to the ERP Rules. The Settling Parties agree that the Company's ERP, as modified by this Settlement Agreement,

[17] Rule 3610(c).
[18] *See* Direct Testimony of Tim Mordhorst, PE, at 4:10-12 ("The 2016 ERP proposes inclusion of a new 60 MW wind generating resource. Such a resource could have a positive impact under the Clean Power Plan. Of course, much depends on the final State Plan implemented by Colorado").

contains all of the information required by Rule 3604 (and other ERP Rules referenced within Rule 3604) and should be approved by the Commission.

25. These approvals include:

- ***2016 ERP Assumptions and General Planning Assumptions.*** In the direct testimony of Company witness Ms. Seaman, she addresses the general categories of assumptions used in the 2016 ERP: "Assumptions for this 2016 ERP include the following categories: (1) planning period and RAP; (2) reserve margin; (3) load forecast; (4) the operating parameters for the Company's existing and committed resources; (5) the operating parameters and capital costs of potential future conventional, renewable, and Section 123 resources; (6) fuel prices; (7) the cost and amount of seasonal firm market power and economy energy purchases; and (8) financial parameters such as capital structure and discount rate."[19] In addition, Appendix H of the 2016 ERP sets forth the general planning assumptions proposed by the Company for use in the evaluation of proposals received through the Phase II solicitation.[20] Certain assumptions as designated in Appendix H will be updated prior to the Phase II solicitation. These include, without limitation, natural gas price assumptions and the interconnection cost assumptions applied to bids based on resource type. The Settling Parties agree that the 2016 ERP assumptions and the general planning assumptions are reasonable and should be approved by the Commission. The Settling Parties further agree that these key inputs, assumptions,

[19] Direct Testimony of Lisa Seaman, at 3:15-21.
[20] Corrected Attachment LS-1, Appendix H at page 145; *see id.* at 87 ("The planning assumptions used in this 2016 ERP will underlie the evaluation of proposals received in response to a Company solicitation in a Phase II of this 2016 ERP Proceeding. The Company has included a list of General Planning Assumptions in Appendix H that were used in the 2016 ERP modeling and will be used in a solicitation process. These assumptions represent "base case" assumptions. Sensitivity analysis will be performed in which certain of these assumptions are altered in accordance with any Commission directives. The Company has indicated in the General Planning Assumptions table those assumptions that will be updated for the evaluation of proposals").

and updates will be used to evaluate bids in a Phase II solicitation, and that the assumptions designated in Appendix H shall be updated prior to the initiation of the Phase II solicitation.

- ***Resource Acquisition Period and the Planning Period.*** The 2016 ERP employs a seven-year RAP covering January 2016 through December 2022.[21] It also uses a 25-year Planning Period covering January 2016 through December 2040.[22] The Settling Parties agree that the RAP and Planning Period are appropriate and should be approved by the Commission.
- ***Load forecast for the 2016 ERP.*** As discussed in the 2016 ERP, "[t]he Company used an econometric forecasting methodology to forecast peak demand and energy for the 2016 ERP. Black Hills gathered and refined a variety of different types of datasets including historical load, revenue, economic, and weather data. This data was used to develop regression models for the monthly system-level peak demand forecast and the major customer class energy forecasts. The final system-level monthly peak demand was then computed by adding large customer loads, including their anticipated future load growth and accounting for the effects of DSM, to the load forecast produced from the econometric methods. The final system-level major customer class energy forecasts were computed by adding large customer loads, including their anticipated future load growth, losses and accounting for the effects of

[21] *See* Corrected Attachment LS-1, at 13 ; Direct Testimony of Lisa Seaman, at 4:7-10 ("The Company chose a seven-year RAP because it complies with Rule 3602(n) and includes the years when Black Hills has identified a need for additional Eligible energy resources to comply with the RES").
[22] *See* Corrected Attachment LS-1, at 13 ; Direct Testimony of Lisa Seaman, at 4:3-5 ("Black Hills selected a twenty-five year planning period to provide a sufficiently long period to evaluate conventional and renewable resources relative to the lives of those resources").

DSM to the energy forecasts calculated through the regression analysis."[23] The Settling Parties have reviewed the Company's methodology to develop the load forecasts for the 2016 ERP and believe the Commission should approve these load forecasts as consistent with Rule 3606.[24]

- ***Use of the carbon cost assumption in the Environmental Scenario only.*** In conducting the analyses for its 2016 ERP, the Company used a carbon price for the Environmental Scenario. Company witness Ms. Lisa Seaman provides that "[f]or the Environmental Scenario, the Company used the carbon price assumptions from ABB's 2015 WECC Fall Reference Case's CO_2 Tax Scenario, which are included in Confidential Schedule K-3, Appendix K."[25] The Settling Parties believe this approach is appropriate and should be approved by the Commission.
- ***Reserve margin.*** Company witness Mr. Eric Egge explained in his direct testimony that "[a] planning reserve margin is a percentage applied to the expected peak load to determine the minimum additional capacity that an electric utility should plan for to ensure that it will meet its peak load obligations in the event of an unforeseen loss of

[23] Corrected Attachment LS-1, at 22; *see generally* Direct Testimony of Daniel G. Hansen, Ph.D. (describing six models prepared for Black Hills: use per customer for residential customers; the number of residential customers served; use per customer for commercial (Small General Service (SGS) and Large General Service (LGS)) customers; the number of commercial (SGS + LGS) customers served; sales to the Large Power Service customers; and system monthly peak demands). The Base Load Forecast is provided in Table 4-4 in the Corrected Attachment LS-1, at 29. In addition, Table 4-5 contains the Low, Base and High Load Forecasts. *Id.* at 31. The Company has sought a partial waiver of Rule 3606(a)(II) for the system peak demand forecast. Black Hills prepared a system-level peak demand forecast rather than a major customer class level demand forecast because historical demand data for all customer classes has only been maintained by the Company since 2013. This is explained in more detail in the Motion for Waivers filed on June 3, 2016.

[24] Rule 3606 (addressing requirements for electric energy and demand forecasts). The Company achieved a new system peak of 412 MW on July 20, 2016. The forecast does not need to be updated because the new system peak does not materially change the Company's load and resource balance.

[25] Direct Testimony of Lisa Seaman, at 25:13-15; *see* Corrected Attachment LS-1, at Appendix K, Confidential Schedule K-3; *see also id.* at 18 ("[B]ecause no national greenhouse gas regulation bill has passed the U.S. Congress and the Supreme Court issued a stay of EPA's CPP, no CO_2 emission costs were considered in any of the plans or scenarios, with exception to the Environmental scenario, of the 2016 ERP or in the development of the stochastic prices").

generating resources, extreme weather, or other unexpected conditions."[26] In the 2016 ERP, Black Hills uses a 15% reserve margin, which is the same reserve margin used and approved in its 2013 ERP. The Company provided in the 2016 ERP that it "believes a 15 percent reserve margin is appropriate. The Company's peak requirement is expected to be approximately 400 MW in 2016 and its largest single hazard is 100 MW."[27] Black Hills is also a member of the Rocky Mountain Reserve Group ("RMRG") and may rely on the RMRG for up to two hours after a forced outage of any of its generating units.[28] Furthermore, the WECC 2014 Power Supply Assessment projects that the Rocky Mountain area will have a surplus of capacity available in the market through 2021.[29] For these reasons, the Settling Parties agree that a 15% reserve margin is appropriate and should be approved by the Commission.

- ***Resource Need.*** Consistent with the requirements of Rule 3604(f) and Rule 3610, the Company developed an assessment of the need for additional resources over the RAP.[30] Black Hills developed a load and resource balance, which is set forth in Table 8-1 of the 2016 ERP.[31] A summary table, provided in both the direct testimony of Company witness Mr. Stoffel (Table FCS-2) and Ms. Seaman (Table LS-2), is duplicated below.[32]

[26] Direct Testimony of Eric M. Egge, at 2:13-17.
[27] Corrected Attachment LS-1, at 14.
[28] Corrected Attachment LS-1, at 14.
[29] Corrected Attachment LS-1, at 14.
[30] Corrected Attachment LS-1, at 66-67.
[31] Corrected Attachment LS-1, at 67.
[32] Direct Testimony of Fredric C. Stoffel, at 15:1-6; Direct Testimony of Lisa Seaman, at 13:13-15.

Load and Resource Balance (2016-2022)

	2016	2017	2018	2019	2020	2021	2022
Peak plus 15% planning reserve (MW):	**454.6**	**454.0**	**452.9**	**456.0**	**461.0**	**460.7**	**456.6**
Total Resources and Purchases (MW):	**481.2**	**485.0**	**480.5**	**480.5**	**480.5**	**480.5**	**480.5**
Resource Need (MW):	**26.5**	**31.0**	**27.6**	**24.5**	**19.5**	**19.8**	**23.9**
Resource Need (%):	**6.7**	**7.9**	**7.0**	**6.2**	**4.9**	**4.9**	**6.0**

The load and resource balance reflects that in each year over the 2016 to 2022 RAP, the Company projects to have excess capacity. Accordingly, Company witness Ms. Seaman testified that "[t]he load and resource balance shows that the Company has sufficient capacity resources to meet customer electricity demand through the RAP" and "[b]eyond the RAP, Black Hills' load and resource balance shows a small capacity deficit in 2029."[33] The Company therefore does not have a capacity need during the RAP.[34] Nevertheless, it does have a need to acquire additional RECs to meet the applicable standards under the RES, as discussed earlier in this Settlement Agreement.[35] The Settling Parties agree that the Company's assessment of the resource need should be approved by the Commission as consistent with the requirements set forth in Rule 3604(f) and Rule 3610.

- ***Variable Energy Integration Cost Study.*** The Company provided the Variable Energy Integration Cost Study as Appendix F to the 2016 ERP. The 2016 ERP explains the underlying purpose for the study: "The objectives of the study were two-

[33] Direct Testimony of Lisa Seaman, at 13:10-17.
[34] Direct Testimony of Fredric C. Stoffel, at 15:7-11.
[35] Direct Testimony of Fredric C. Stoffel, at 15:11-16 ("After the addition of the Peak View Wind Project and the Company's purchase of stand-alone RECs in 2015, Black Hills will be in compliance with the RES through 2019. However, in 2020, when the RES requirement increases to 30 percent of retail sales under the RES Statute and the RES Rules, Black Hills' then-existing Eligible energy resources will not be sufficient to generate enough RECs to meet this standard").

fold; first, to determine the incremental costs of providing regulation and ancillary services for the integration of future wind and solar resources [ ] at various penetration levels; and second, to determine the accreditable capacity of wind and solar resources for reliability planning purposes."[36] Black Hills derived "the expected costs for varying penetrations of new wind and solar projects on the Black Hills system" and reflected these costs in the 2016 ERP.[37] These expected costs are shown in Table 6-3 of the 2016 ERP (as well as Table LS-7 included in the direct testimony of Ms. Seaman). In addition, the accreditable capacity of wind and solar resources (i.e., Effective Load Carrying Capability ("ELCC") values) were calculated as part of this study.[38] The ELCC values for incremental wind and solar additions to the Black Hills system in excess of Black Hills' existing Busch Ranch Wind Project are shown in Table 6-4 in the 2016 ERP (as well as Table LS-8 included in the direct testimony of Ms. Seaman). The summary table showing the results of these respective analyses from the 2016 ERP (Table 6-5)[39] is replicated below.

[36] Corrected Attachment LS-1, at 49; *see* Direct Testimony of Lisa Seaman, at 25:21 – 26:20 (explaining the study process and key assumptions).
[37] Corrected Attachment LS-1, at 52 (showing the expected costs in Table 6-3); Direct Testimony of Lisa Seaman, at 27:8 (replicating Table 6-3 in the 2016 ERP in Table LS-7).
[38] Corrected Attachment LS-1, at 52-53 (showing the values in Table 6-4); Direct Testimony of Lisa Seaman, at 28:1-2 (replicating Table 6-3 in the 2016 ERP in Table LS-8).
[39] Corrected Attachment LS-1, at 54.

Cost for Integration and ELCC Summary

Case	Energy Cost ($/MWh)	Capacity Cost* ($/MWh)	Total Cost ($/MWh)	ELCC (%)
Wind Cases				
60 MW	**$1.23**	**$4.25**	**$5.48**	**23%**
90 MW	**$0.95**	**$4.07**	**$5.02**	**20%**
120 MW	**$0.97**	**$4.11**	**$5.08**	**19%**
Solar Cases				
30 MW	**$0.96**	**--**	**$0.96**	**45%**
60 MW	**$1.22**	**--**	**$1.22**	**37%**
* Uses PSCo Schedule 16 for wind cases, assumes zero cost for self -regu cases due to excess of flexible capacity.				

The Settling Parties agree that the Variable Energy Integration Cost Study is consistent with Rule 3604(l) and should be approved by the Commission.[40]

2018-2021 Renewable Energy Standard Compliance Plan

D. Approval of the On-Site Solar Program

1. Background

26. Black Hills began its on-site solar program in 2006 and through March 2016, it has resulted in 11.09 MW of on-site solar installations and paid out $31.1 million in incentives.[41] The current on-site solar program is summarized in Table KP-1 in the direct testimony of Company witness Mr. Kevin Pratt.[42] This program as currently authorized contains a small system category and a Medium system category with three tiers (Medium Tier 1, Medium Tier 2, and Medium Tier 3) and offers a total of 1,150 kW per year through 2017.[43] Moreover, the Company currently has the ability to reallocate available capacity among system categories,

[40] Rule 3604(l) (providing that an ERP shall include "[a]n assessment of the costs and benefits of the integration of intermittent renewable energy resources on the utility's system, including peer-reviewed studies, consistent with the amounts of renewable energy resources the utility proposes to acquire").
[41] Direct Testimony of Kevin Pratt, at 2:10-12.
[42] Direct Testimony of Kevin Pratt, at 3:1-4.
[43] Direct Testimony of Kevin Pratt, at 3:1-4.

based on demand, during a calendar year, which is also consistent with prior Commission decisions.[44]

27. With regard to RES compliance, the Company is in compliance with the small DG category from a REC perspective; however, Black Hills believes there is merit in continuing to support distributed generation resources in Black Hills' service territory.[45] Accordingly, the Company proposed an on-site solar program in the RES Plan to continue to offer these options to customers. The program proposed in the RES Plan featured select structural changes from the program currently in effect. Specifically, Black Hills proposed to "resize the on-site solar categories by combining the current Small and Medium Tier 1 categories, creating a single Medium Category, and creating a new Large Category; increase the annual amount of available capacity from the current 1,150 kW to 1,500 kW; and maintain the current incentive levels, including use of the current maximum PBI of $0.075/kWh for the new Large Category."[46] The Company increased the annual amount of available capacity in part due to feedback received from stakeholder meetings and separate meetings with solar installers, as well as based on current demand in the Company's service territory.[47]

[44] Direct Testimony of Kevin Pratt, at 3:6-9 ("[P]ursuant to the settlement agreement attached to Decision No. C15-1279 at ¶ 38, Black Hills has the ability to reallocate available capacity during a calendar year among system categories based on demand"). The Settlement Agreement in Proceeding No. 14A-0535E provides that "consistent with previous Commission decisions, the Settling Parties acknowledge and agree that Black Hills shall have the ability to reallocate available capacity from tiers with lower demand to tiers with higher demand." Decision No. C15-1279, Attachment A, at ¶ 38 (mailed Dec. 3, 2015) (citing Decision No. C14-0527, Proceeding No. 14A-0365E (mailed May 16, 2014)) (approving the Company's request to "re-allocate some capacity still available to be acquired from customer-sited solar facilities in certain system size categories to other categories"); Decision No. C14-1383, Proceeding No. 14A-0923E (mailed Nov. 18, 2014) (approving the Company's interim solar program as set forth in its Verified Application, which incorporated the ability to re-allocate approved capacity, when appropriate, into categories where customer demand is the greatest in order to maximize the use of allocated funds).
[45] Attachment LS-2, at 10.
[46] Direct Testimony of Kevin Pratt, at 4:7 – 5:2.
[47] *See* Direct Testimony of Kevin Pratt, at 8:19 – 9:2 ("Through stakeholder meeting feedback and separate meetings with solar installers, the Company has been advised that new solar installation financing and leasing options provided by solar installers for the Pueblo market are helping to increase demand for on-site solar installations. As of May 2016, the total amount of reserved solar incentive capacity is roughly equivalent to the total amount of solar incentive capacity reserved during the entirety of 2015.")

2. The Modified On-Site Solar Program

28. Following discussion among the Settling Parties, the Settling Parties have agreed upon an on-site solar program with select modifications from the Company's proposal. First, the total amount of capacity allocated to the on-site solar program for compliance years 2018 – 2021 will be 1,500 kW per year, consistent with the Company's initial proposal. Second, there will be two tiers *(i.e.*, system categories): Tier 1 (0.5 kW up to and including 30 kW) and Tier 2 (30.001 kW up to and including 500 kW). Third, for Tier 1 capacity, the Company will release 150 kW per quarter and will have the ability to roll-over any unused Tier 1 capacity to the next quarter. Fourth, Tier 1 incentives will start at $0.045/kWh in 2018, and reduce annually by $0.005 on the beginning of calendar years 2019, 2020 and 2021. Tier 2 incentives will start at $0.075/kWh in 2018 and reduce annually by $0.005 on the beginning of calendar years 2019, 2020 and 2021. These incentive reductions over each year of the RES Plan represent a change from the Company's initial proposal. The on-site solar program with these modifications is summarized in the table below. In addition, Attachment 3 to this Settlement Agreement shows the projected costs of the revised on-site solar program through 2027, assuming all programs are fully subscribed.[48]

[48] Attachment 3 is a revised version of Attachment LS-2, Appendix A Table 6 that was included in the filed RES Plan.

2018 – 2021 On-Site Solar Program

System Category	Annual On-Site Solar Program Maximum kW:	Quarterly Allotment kW (roll-over of excess from prior quarter permitted)	2018 On-Site Solar Program Incentives (per-kWh production over a 10-year period)	2019 On-Site Solar Program Incentives (per kWh production over a 10-year period)	2020 On-Site Solar Program Incentives (per kWh production over a 10-year period)	2021 On-Site Solar Program Incentives (per kWh production over a 10-year period)
Tier 1: 0.5 kW up to and including 30 kW	600 (released in quarterly 150 kW tranches)	150	$0.045	$0.040	$0.035	$0.030
Tier 2: 30.001 kW up to and including 500 kW	900 (all released at beginning of calendar year)	n/a	$0.075	$0.070	$0.065	$0.060
Annual Total kW:	1,500 kW					

29. The Settling Parties agree that the on-site solar program, as modified by this Settlement Agreement, is reasonable and should be approved by the Commission. The Settling Parties acknowledge, however, that Black Hills reserves the right to file an advice letter or application, as applicable, should it believe changes in the on-site solar program are necessary, including, without limitation, addressing Tier 2 program incentives if there continues to be limited demand for the reserved capacity. The Company will consult with the intervening parties in advance of any filing to make changes in the on-site solar program.

30. The Settling Parties also agree that, consistent with prior Commission decisions,[49] Black Hills will retain its ability to reallocate available capacity, without further application, between the on-site solar program Tiers. The Settling Parties, however, also agree that more structure regarding the reallocation process is appropriate. As a result, such reallocations will

[49] *See supra* Note 44.

occur once per year, on July 31, subject to the exception discussed further below. The Company may, but is not required to: (1) reallocate available capacity from Tier 1 to Tier 2 if as of July 31 less than 300 kW has been reserved in Tier 1 and (2) reallocate available capacity from Tier 2 to Tier 1 if as of July 31 less than 450 kW has been reserved in Tier 2. Notwithstanding the foregoing, if any Tier is projected to run out of capacity, the Company shall be able to immediately reallocate capacity between Tiers without further application. Further, if any Tier has unreserved capacity available at the end of each calendar year 2018, 2019 and 2020, that unreserved capacity can be rolled forward to the next calendar year into the same Tier. This will also include capacity reserved prior to the end of the calendar year for projects that ultimately do not come online in the next calendar year. In that event, the capacity would be considered unused and included in the amount rolled forward.

3. On-Site Solar Program Contracts

31. The modifications to the 2018-2021 on-site solar program agreed upon by the Settling Parties require modifications to the on-site solar contracts originally filed by the Company as Appendix B to Attachment LS-2 and allow the Company to have two on-site solar contracts rather than four. The new on-site solar contracts are found in Attachment 4 to this Settlement Agreement. The Settling Parties agree that these on-site solar contracts reflect the revisions made to the on-site solar program through this Settlement Agreement and should be approved by the Commission.

4. RES Rules Waivers for the On-Site Solar Program

32. As discussed above, the Motion for Waivers filed by the Company on June 3, 2016 included requests to waive both ERP Rules and RES Rules. The following RES Rule

waivers were requested to allow for implementation of the on-site solar program as initially proposed:

- Rule 3658(f)(II)(effective start date for offering incentives is from the date the solar application is submitted and not from the date of contract execution);
- Rule 3658(f)(III)(certain systems to be completed in 6 months rather than 12 months); and
- Rule 3658(f)(VIII)(up-front rebate not required).

33. Black Hills agrees to withdraw its request for a waiver of Rule 3658(f)(III) due to the agreed upon modifications to the on-site solar program.[50] The Company currently has a waiver of Rule 3658(f)(III) in effect through 2017.[51] Thus, beginning in 2018, Black Hills will implement changes to administration of the on-site solar program such that applicants for all systems must demonstrate substantial completion within 12 months instead of six months.

34. Finally, given the proposed structure of the on-site solar program as modified by this Settlement Agreement, the Settling Parties agree that the requested waivers of Rule 3658(f)(II) and Rule 3658(f)(VIII) are necessary and should be granted by the Commission.

F. Approval of the Community Solar Gardens Program

1. Background

35. The first Community Solar Garden ("CSG") in Black Hills' service territory was installed in the fall of 2015. The 120 kW CSG is 50 percent subscribed with all residential customers, and 10 kW of the subscriptions are low-income subscriptions.[52] In Proceeding No.

[50] Rule 3658(f)(III) (stating in pertinent part that "[a]pplicants who are accepted for the SRO rebates shall have one year from the date of contract execution to demonstrate substantial completion of their proposed on-site solar system").
[51] Decision No. C15-1279, at ¶ 20, Proceeding No. 14A-0535E (mailed Dec. 3, 2015) ("Finally, given the proposed structure of the on-site solar program to be implemented under the terms of the settlement, we find good cause to grant the Motion for Waivers regarding Rules 3658(f)(II), 3658(f)(III), and 3658(f)(VIII)").
[52] Direct Testimony of Kevin Pratt, at 10:8-9.

14A-0535E, the parties reached a settlement agreement on the 2015-2017 RES Plan that allowed for two offerings: (1) a standard offer CSG program and (2) capacity reserved for competitive solicitations through RFPs.[53] The standard offer included 500 kW of capacity, and a maximum of 2 MW of CSG capacity was made available to bid out through competitive solicitations.[54] The parties agreed that no CSGs would be acquired in 2015, and the settlement agreement approved by the Commission ultimately allows for the installation of up to 2,500 kW in each of the 2016 and 2017 compliance plan years.[55]

36. The parties to the settlement agreement in Proceeding No. 14A-0535E further agreed upon "the minimum and maximum purchases of renewable energy from newly installed CSG generation (new CSGs) for each compliance year under the RES," which the Commission must establish pursuant to Rule 3665(d)(I).[56] The Commission adopted the proposed minimum and maximum for each compliance year under the 2015 – 2017 RES Plan in Decision No. C15-1279.[57]

37. The Company awarded a 500 kW CSG in 2016 through the standard offer program, and a CSG RFP was offered for 2 MW on May 20, 2016.[58] Bids were submitted on July 1, 2016, and the Company received 10 total bids. On August 12, 2016, the Company awarded a bid received from Clean Energy Collective.

38. Seeking to build on the CSG program already in place, the Company proposed in this proceeding to have a standard offer of up to 1 MW in each of 2018, 2019, 2020, and 2021, as

[53] Direct Testimony of Kevin Pratt, at 10:13-15.
[54] Direct Testimony of Kevin Pratt, at 10:15-16.
[55] Direct Testimony of Kevin Pratt, at 10:16-18.
[56] Rule 3665(d)(I); *see* Direct Testimony of Kevin Pratt, at 11:5-8 (Table KP-4 setting forth the minimums and maximums).
[57] Direct Testimony of Kevin Pratt, at 11:5-8 (Table KP-4 setting forth the minimums and maximums); *see* Decision No. C15-1279, at ¶ 18, Proceeding No. 14A-0535E (mailed Dec. 3, 2015) ("We also find that the proposed acquisition of CSG resources is reasonable and in the public interest").
[58] Direct Testimony of Kevin Pratt, at 11:11-14.

well as up to 1.5 MW of CSGs each year through a competitive acquisition process.[59] The cost of the proposed program was estimated at approximately $615,250 annually. The estimated cumulative annual cost of the CSG program after four years was approximately $2,461,000 annually.[60]

2. The Modified CSG Program - Summary

39. The Commission,[61] as well as Black Hills and other Settling Parties, is concerned with rate impacts to the Company's customers. At the same time, the General Assembly has declared that "[i]t is in the public interest that broader participation in solar electric generation by Colorado residents and commercial entities be encouraged by the development and deployment of distributed solar electric generating facilities known as community solar gardens …."[62] Stakeholders, including some of the Settling Parties, have informed the Company that there is demand for CSG offerings in the Company's service territory.

40. Following discussion among the Settling Parties, the Settling Parties have agreed upon a CSG program, with select modifications from the Company's proposal that balances these interests, directives and concerns in a manner that is consistent with Colorado law. This section of the Settlement Agreement sets forth two general agreements reached by the Settling Parties relating to the definition of low-income customers and an additional RES Rule waiver to

[59] Direct Testimony of Kevin Pratt, at 12:3-6 (Table KP-5 summarizing the proposal in the RES Plan).
[60] Direct Testimony of Kevin Pratt, at 12:7-10. The payment structures proposed for the standard offer and RFP offerings, as reflected in Table KP-7 and Table KP-8, respectively.
[61] *See, e.g.*, Decision No. C15-0373, at ¶ 31, Consolidated Proceeding No. 13A-0445E (mailed Apr. 24, 2015) ("In deciding whether a new electric resource is cost-effective, the Commission evaluates: the likely costs and rate impacts associated with the proposed resource in the context of the expected benefits of that resource (*e.g.*, whether it satisfies the utility's identified resource need or helps it meet the requirements of the RES under § 40-2-124, C.R.S.); the costs and rate impacts associated with other new utility resources acquired under the plan (*i.e.*, the LM6000 addressed in Phase I of this proceeding); and the costs and rate impacts associated with the continued operation of the utility's existing resources and the acquisition of other resources to be acquired in the future (as represented in the 25-year NPVRR values presented in the Company's 120-Day Report)").
[62] C.R.S. § 40-2-127(b).

allow for implementation of the CSG program. It also summarizes the structure of the CSG program and the modifications agreed to in this Settlement Agreement.

41. First, the Settling Parties have agreed upon a clarification to the low-income customer definition for use in the CSG program. Section 40-3-106, C.R.S., specifies that a "reasonable preference" may be provided for low-income customers and further defines a low-income customer to be at or below 185% of the Federal Poverty Line. [63] For purposes of this Settlement Agreement, nonprofit affordable housing buildings or public housing authority buildings (including homes and multi-family residential buildings) will be considered "low-income subscribers" so long as: (1) the building's residents meet the "low-income" definition set forth in § 40-3-106, C.R.S.; and (2) the housing authority provides verifiable information that these residents are the beneficiaries of the CSG subscription(s). This includes low-income organizations that provide temporary housing for low-income individuals in the Black Hills service territory, and whose facilities receive the associated usage bills from Black Hills directly. Additional organizations that can provide low-income verification for CSG subscriptions will be addressed by the Company on a case-by-case basis.

42. Second, the Settling Parties agree that a waiver of Rule 3665(c)(I)(B) is appropriate to allow for implementation of the modified CSG program, and the Settling Parties have included an additional request for waiver of this rule in the motion to approve this Settlement Agreement. This rule waiver was not previously requested by the Company in this proceeding. Rule 3665(c)(I)(B) provides in part that "[f]or the purpose of calculating the billing credit for a commercial or industrial customer on a demand tariff, the total aggregate retail rate

[63] § 40-3-106, C.R.S. ("(II) As used in this paragraph (d), a "low-income utility customer" means a utility customer who: (A) Has a household income at or below one hundred eighty-five percent of the current federal poverty line; and (B) Otherwise meets the eligibility criteria set forth in rules of the department of human services adopted pursuant to section 40-8.5-105").

(including all billed components) shall be determined by dividing the total electric charges to be paid by the customer to the investor owned QRU for the most recent calendar year (including demand charges) by the customers' total electricity consumption for that year."[64] The Settling Parties agree that a waiver of this rule is necessary and appropriate to allow for the use of the class average methodology to derive billing credits for commercial or industrial customers. This waiver request was granted by the Commission in a prior proceeding, Proceeding No. 13A-0836E, involving the CSG program of Public Service Company of Colorado ("Public Service").[65] As described in more detail in the request for waiver of Rule 3665(c)(I)(B), and consistent with Decision No. C16-0747, the Settling Parties request a waiver of this rule to permit the application of the class-average bill credit to customers subscribing to any CSGs awarded through the RFPs conducted pursuant to this Settlement Agreement. The Settling Parties agree that the Company should file compliance tariffs to implement this waiver, to become effective on January 1, 2018, if granted by the Commission.

43. The modifications to the CSG program agreed to by the Settling Parties have resulted in a CSG program that consists of two offerings through (1) 100% Low-Income CSG RFPs and (2) "Open" CSG RFPs. There will not be a "Standard Offer" CSG under the RES Plan, as agreed by the Settling Parties. A 500 kW 100% Low-Income CSG RFP will be offered in each of the compliance years of the RES Plan (2018, 2019, 2020, and 2021). In addition to

[64] Rule 3665(c)(I)(B).
[65] Decision No. C16-0747, at ¶¶ 42, 47-48, Proceeding No. 13A-0836E (mailed Aug. 12, 2016) ("Because the statutory language appears to be ambiguous, the Commission may look at the statute's legislative history, the consequences of a given construction, and the overall goal of the statutory scheme to determine the proper interpretation of the statute. Here, the practical effect of Rule 3665(c)(I)(B) is to potentially provide disproportionate payments to large demand customers, while providing a disincentive to market CSGs to residential, agricultural, and low-income customers …. [I]t is within the confines of statutory construction principles for the Commission to reconsider the calculation requirements of Rule 3665(c)(I)(B) by waiving those requirements pursuant to Rule 4 CCR 723-1-1003(a) of the Rules of Practice and Procedure, which in turn permits the Commission to grant waivers or variances from Commission rules and substantive requirements contained in Commission decisions. Upon waiver of Rule 3665(c)(I)(B), the Commission may adopt the class-average bill credit approach as prescribed in the Settlement Agreement").

the 100% Low-Income CSG RFP in each compliance year, there will also be an "Open" CSG RFP offering in 2018, 2019, 2020, and 2021 for 2,000 kW in each year. The capacity available for each year of the RES Plan period is summarized in the table below.

RES Plan CSG Offerings - Summary

2018-2021 RES Compliance Plan CSG Offerings			
Year	**100% Low-Income RFP**	**"Open" CSG RFP**	**Total**
2018	500 kW	2,000 kW	2,500 kW
2019	500 kW	2,000 kW	2,500 kW
2020	500 kW	2,000 kW	2,500 kW
2021	500 kW	2,000 kW	2,500 kW

44. As discussed, Rule 3665(d)(I) also requires the Commission to "establish the minimum and maximum purchases of renewable energy from newly installed CSG generation (new CSGs) by the investor owned QRU for each compliance year under the RES."[66] While the Settling Parties agree that two CSG RFP offerings (i.e., 100% Low-Income and "Open") will occur in each compliance year under the RES Plan, the Settling Parties further agree that only cost-effective bids should be awarded through the competitive solicitation process. Accordingly, the Settling Parties agree that the Commission should establish the following minimum and maximum purchases of renewable energy and RECs from new CSGs in each compliance year:

[66] Rule 3665(d)(I).

Rule 3665(d)(I) Minimum and Maximum Purchases

Compliance Year	Minimum Purchase	Maximum Purchase
2018	0 kW	2,500 kW
2019	0 kW	2,500 kW
2020	0 kW	2,500 kW
2021	0 kW	2,500 kW

45. Because there will not be a "Standard Offer" CSG program offered under the RES Plan, the Company is withdrawing Appendix C to the RES Plan (Attachment LS-2). Appendix C contained the redlined standard offer CSG program process document and contracts.

46. The sections that follow describe each of the CSG offerings included in this Settlement Agreement.

3. Modified CSG Program – 100% Low-Income CSG RFP Offering

47. As discussed, 500 kW will be set aside in each of 2018, 2019, 2020, and 2021 for a 100% Low-Income CSG RFP process. The Settling Parties agree that, given this is the first 100% low-income CSG offering in the Company's territory, it is appropriate to use a competitive solicitation process to establish the scope and depth of the market for 100% low-income CSGs in the area. The responses to the 100% Low-Income CSG RFP processes will help the Company, the other Settling Parties, and other interested stakeholders determine if cost-effective 100% low-income CSGs can be developed in the Black Hills service territory and whether there is adequate demand for 100% low-income CSG offerings among the Company's customers. Moreover, a provision of the codified legislative declaration in the Colorado law authorizing CSGs states that one of the purposes of CSGs is to "allow renters, low-income utility customers, and agricultural

producers to own interests on solar generation facilities ….”[67] Additionally, under § 40-3-106(1)(d), C.R.S. utilities are permitted to give preference to low income customers and the Commission shall implement policies that encourage low-income participation.[68] The 100% Low-Income CSG RFP process agreed upon by the Settling Parties is consistent with these general legislative mandates.

48. The table below includes minimum bid amounts for a 100% Low-Income CSG bids, as well as the payment structure for customer bill credits, subscribed RECs, and unsubscribed energy and RECs.

2018-2021 CSG RFP Program – 100% Low-Income

Compliance Year	Low-Income CSG RFP Minimum Bid	Low-Income CSG RFP Maximum Available Capacity	Low-Income Subscribed Energy – Customer Bill Credit	Low-Income Subscribed RECs	Low-Income Unsubscribed Energy and RECs
2018	50 kW	500 kW	Credit paid to CSG subscribers pursuant to Community Solar Garden Service Tariff*	$/MWh successful bid by a CSG Owner for subscribed RECs, as accepted by the Company	Successful CSG owner is paid for unsubscribed energy and RECs at a rate equal to the Company’s average hourly incremental cost of electricity supply over the immediately preceding calendar year pursuant to Rule 3665(c)(V)
2019	50 kW	500 kW			
2020	50 kW	500 kW			
2021	50 kW	500 kW			

*Note: As modified pursuant to the requested waiver of Rule 3665(c)(I)(B), if such waiver is granted.

[67] § 40-2-127(1)(b)(II), C.R.S.
[68] *See also* § 40-8.7-101, *et. seq*, C.R.S. (Low-income Energy Act) and specifically, § 40-8.7-102, C.R.S., Legislative Declaration.

49. The Settling Parties agree that eligible CSGs shall commit 100% of their output to qualified low-income customers. As reflected in the table above, any successful bidder will be paid per MWh for unsubscribed RECs pursuant to Rule 3665(c)(V),[69] and the successful CSG owner will be paid its $/MWh bid price for subscribed RECs. The Settling Parties further agree that bid prices may not be less than $0.00 for subscribed RECs (*i.e.*, negative REC bids will not be accepted by the Company). The Settling Parties recognize that REC prices offered in the 100% Low-Income CSG RFP process may be higher than the REC prices offered in the "Open" CSG RFP process. Both subscribed and unsubscribed REC payments for 100% Low-Income CSGs will be made to the CSG owner over 20 years, consistent with the Company's current CSG offerings.

50. The Settling Parties agree that the Company, in conducting its evaluation of bids received in response to 100% Low-Income CSG RFPs, shall take the following factors into account in the bid evaluation process (if included in a 100% low-income CSG bid and the entity submitting the bid provides a viable method for verification of same): (1) the percentage of expected electric utility bill reduction for low-income customers; and (2) the percentage of subscriptions allowed by type of low-income customer (*i.e.*, subscriptions for occupants of low-income multi-family housing versus occupants of single family homes). The entity providing these additional commitments in a 100% low-income CSG bid, if awarded, must include proof on an annual basis of compliance with the additional bid commitments in either (1) the CSG's public annual report contemplated in Rule 3665(e)(II) or (2) via a Company established

[69] Rule 3665(c)(V) ("The investor owned QRU shall purchase from the CSG owner the unsubscribed renewable energy and RECs at a rate equal to the QRU's average hourly incremental cost of electricity supply over the immediately preceding calendar year").

methodology, at the Company's discretion.[70] In the event the entity providing the additional bid commitments does not provide adequate proof of compliance with the commitments or does not produce the amount of energy represented in the awarded bid, the Company, at its election, may seek a cure from the developer or take that factor into consideration in future offerings from that same entity up to and including rejection of that entity's bid for past non-compliance.

51. Finally, the Settling Parties agree that because bidding information by vendors is considered highly confidential and Black Hills and other parties desire additional review of this expansion of the CSG program prior to bids being awarded, Black Hills and Staff[71] will confer regarding: (1) the reasonableness of the bids received, (2) Black Hills' evaluation of the bids, and (3) Black Hills' recommendation for awards (including a decision not to award any bid based on price considerations or other factors) prior to awards being issued.

52. The Company plans to develop 100% Low-Income CSG RFP documentation and contracts following the approval of this Settlement Agreement. The Settling Parties agree that the Company shall file the 100% Low-Income CSG RFP document as a compliance filing with the Commission within 60 days following the final approval of this Settlement Agreement by the Commission.

4. Modified CSG Program – "Open" CSG RFP Offering

53. As discussed, an additional 2,000 kW will be set aside in each of 2018, 2019, 2020, and 2021 for an "Open" CSG RFP process. Unlike with the 100% Low-Income CSG RFP offering, the minimum low-income requirements set forth by Rule 3665(d)(IV) shall apply to any

[70] Rule 3665(e)(II) (providing in pertinent part that "CSG subscriber organizations shall issue public annual reports as of the end of the calendar or other fiscal year containing, at a minimum, the energy produced by the CSG; audited financial statements including a balance sheet, income statement, and sources and uses of funds statement; and the management and ownership of the CSG and the CSG subscriber organization, if different").
[71] "Staff" refers to Commission Trial Staff.

bid submitted in response to the CSG.[72] The Settling Parties agree that these offerings will build upon the CSG offerings brought forward in the Company's 2015-2017 RES Plan and approved in Proceeding No. 14A-0535E. It will allow the market for "Open" CSGs (*i.e.,* CSG bids without any additional low-income requirements) to continue to develop over the period covered by this RES Plan. It will further allow the Company, other Settling Parties, and stakeholders to evaluate whether cost-effective CSGs can be developed in the Company's service territory and whether there is demand for these "Open" CSG offerings among Black Hills customers.

54. The table below includes minimum bid amounts for any "Open" CSG RFP bids, as well as the payment structure for customer bill credits, subscribed RECs, and unsubscribed energy and RECs.

[72] Rule 3665(d)(IV) ("In each plan to acquire renewable energy and RECs from CSGs, the investor owned QRU shall reserve, to the extent there is demand for such ownership, at least five percent of its renewable energy purchases from new CSGs for eligible low-income CSG subscribers"). Additionally, as described in paragraph 56 below, bidders in the "Open" CSG RFP may bid to commit to subscribing a greater share of low income customers to a CSG.

2018-2021 CSG RFP Program - "Open"

Compliance Year	Open CSG RFP Minimum Bid	Open CSG RFP Maximum Available Capacity*	Open Subscribed Energy – Customer Bill Credit	Open Subscribed RECs	Open Unsubscribed Energy and RECs
2018	50 kW	2,000 kW	Credit paid to CSG subscribers pursuant to Community Solar Garden Service Tariff**	$/MWh successful bid by a CSG Owner for subscribed RECs, as accepted by the Company [up to the avoided cost amount in effect at the time the CSG RFP is opened, as reflected in the Company's Tariff No. 8 at Sheet No. R36] per MWh*** for subscribed RECs****	CSG owner is paid for unsubscribed energy and RECs at a rate equal to the Company's average hourly incremental cost of electricity supply over the immediately preceding calendar year pursuant to Rule 3665(c)(V)
2019	50 kW	2,000 kW			
2020	50 kW	2,000 kW			
2021	50 kW	2,000 kW			

* Note: No single CSG under this RFP program can exceed 2 MW.
** Note: As modified pursuant to the requested waiver of Rule 3665(c)(I)(B), if such waiver is granted.
***Note: This is a cap (currently $29.47/MWh) and CSG owners can propose less than this amount to make an application submitted during the solicitation process more competitive.
****Note: As described below, the Company may accept project bids with differing prices based on whether the subscribed REC involves a low-income subscriber or not, so long as the average aggregate REC price for the project bid is at or below the avoided cost amount in effect at the time the CSG RFP is opened. Black Hills will accept REC prices anywhere from zero dollars up to the avoided cost cap.

55. As reflected in the table above, for CSGs acquired through these "Open" RFP solicitations, the Company will consider bids for subscribed RECs that are between the avoided cost amount in effect at the time the RFP for the CSG is opened and $0.00 (*i.e.*, negative REC bids will not be accepted by the Company). Unsubscribed RECs will be paid at a rate equal to

the Company's average hourly incremental cost of electricity supply over the immediately preceding calendar year pursuant to Rule 3665(c)(V).[73]

56. The Settling Parties agree that the Company will allow bidders to structure proposals so that CSG producers may propose higher subscribed REC prices for low-income subscribers and lower subscribed REC prices for other subscribers, so long as the average aggregate of all subscribed REC prices for the project meets the avoided cost cap for subscribed REC prices indicated in the RFP solicitation. The Settling Parties further agree that this approach with regard to both expressly considering the number of low-income subscribers in the evaluation process and allowing different subscribed REC pricing for low-income and other subscribers is consistent with Colorado law.[74] This approach is consistent with the settlement agreement approved by the Commission in Proceeding No. 14A-0535E, which implemented a similar process for the Company's CSG RFP process conducted pursuant to the 2015-2017 RES Plan.[75]

57. Attachment 3 to this Settlement Agreement shows the projected costs of the CSG programs assuming all programs are fully subscribed.[76] The projected cost of the CSG offerings (*i.e.*, both the 100% Low-Income CSG RFP and the "Open" CSG RFP) through 2022 is $5,068,008, which is shown in more detail in the table below.[77] This modeling includes an

[73] Rule 3665(c)(V) ("The investor owned QRU shall purchase from the CSG owner the unsubscribed renewable energy and RECs at a rate equal to the QRU's average hourly incremental cost of electricity supply over the immediately preceding calendar year").
[74] *See* § 40-2-127(1)(b)(II), C.R.S. (providing that a purpose of CSGs is to allow low-income utility customers, among others, to own interests in solar generation facilities); § 40-3-106(1)(d), C.R.S. ("[T]he commission may approve any rate, charge, service, classification, or facility of a gas or electric utility that makes or grants a reasonable preference or advantage to low-income customers, and the implementation of such commission-approved rate, charge, service, classification, or facility by a public utility shall not be deemed to subject any person or corporation to any prejudice, disadvantage, or undue discrimination").
[75] Decision No. C15-1279, Attachment A, at ¶¶ 55-57, Proceeding No. 14A-0535E (mailed Dec. 3, 2016).
[76] Attachment 3 is an updated version of Attachment LS-2, Appendix A Table 6 that was included in the filed RES Plan.
[77] This table is an updated version of Table 4-04, which appears in the RES Plan. *See* Attachment LS-2, at 13.

assumption for subscribed RECs bid into the 100% Low-Income CSG RFPs at $0.09/subscribed REC, based on discussions among the Settling Parties.

Proposed 2018 – 2021 CSG Programs Cost

	2018	2019	2020	2021
Total Capacity Installed (kW)*	2,500	5,000	7,500	10,000
	2019	**2020**	**2021**	**2022**
Total Annual Cost ($)	$506,801	$1,013,602	$1,520,402	$2,027,203

*Assumes all available capacity is awarded each year and that the CSG is installed the year following the available capacity year (*i.e.*, capacity available in 2018 will be installed and producing energy in 2019).

58. The Redlined CSG RFP, including its appendices, were provided in Appendix D to Attachment LS-2. These documents require additional changes to accommodate the modifications contemplated in this Settlement Agreement for the "Open" CSG RFP program. Revised versions of the "Open" CSG RFP and its appendices are contained in Attachment 5 to this Settlement Agreement. The Settling Parties agree that these revised "Open" CSG RFP documents should be approved.

G. Approval of Revised Solar Tariffs

59. The Company filed redlined on-site solar and CSG tariffs in Appendix E to Attachment LS-2. The modifications to the on-site solar program and CSG program set forth in this Settlement Agreement require additional revisions to the respective tariffs. The redlined tariffs are attached to this Settlement Agreement as Attachment 6. The Settling Parties agree that the revised on-site solar and CSG tariffs should be approved, and that the Company should file compliance tariffs to become effective no later than January 1, 2018.[78] Except for the changes highlighted in yellow on Attachment 6, all other redlined changes are clarifying or cosmetic in nature, and the Settling Parties agree that the Company should not wait until January 1, 2018 to

[78] As discussed earlier in the Settlement Agreement, the compliance tariffs would reflect, among other things, the waiver of Rule 3665(c)(I)(B) if granted by the Commission.

implement these clarifying or cosmetic changes.[79] As a result, the Settling Parties recognize that the Company may choose to make a separate compliance advice letter filing to implement these clarifying or cosmetic changes after the issuance of the final order approving this Settlement Agreement.

H. Approval of a proposed partial waiver of Rule 3660(e)

60. The Motion for Waivers filed by the Company on June 3, 2016 included a request for a waiver of Rule 3660(e). This is consistent with the waiver request sought by the Company and granted by the Commission in Proceeding No. 14A-0535E.[80]

61. Company witness Mr. Stoffel explained that if the RES Plan as proposed were approved, "the Company's modeling indicates that the RESA balance will turn positive in 2020 and continues to grow year-to-year."[81] This modeled information was provided in the Company's RES Plan in accordance with Commission rules.

62. In acknowledgement of the fact that the modeling indicates that the RESA balance will turn positive in 2020 and will continue to grow regardless of whether the RESA surcharge is reduced, the parties agree that a continued partial waiver of Rule 3660(e) is appropriate.[82] Specifically, the parties seek a continued limited partial waiver of the requirement that the Company pay interest at its most recently authorized WACC. Instead, Black Hills would

[79] On Attachment 6, changes in red were initially proposed by the Company on June 3, 2016. Changes in blue are additional cosmetic changes being proposed by the Company. Changes that are highlighted in yellow will not be made until a filing is made for changes to be effective January 1, 2018.
[80] Decision No. C15-1279, at ¶ 19, Proceeding No. 14A-0535E (mailed Dec. 3, 2015) ("The request for a partial waiver of Rule 3660(e) is granted. In the event the deferred balance of Black Hills's RESA deferred account turns from negative to positive before a final decision issues on the Company's next RES compliance plan including the 2018 compliance year, Black Hills shall pay interest on the positive balance at the Commission-approved customer deposit rate").
[81] Direct Testimony of Fredric C. Stoffel, at 23:17-18.
[82] Rule 3660(e) ("Interest shall accrue on the deferred balance (positive or negative) of the RESA account at the investor owned QRU's most recent authorized after-tax weighted average cost of capital, so long as the RESA does not exceed two percent of the total annual electric bill for each customer").

pay interest on a positive RESA balance at the Commission-approved customer deposit rate.[83] The Settling Parties agree that it is appropriate for Black Hills to obtain the partial waiver in this Settlement Agreement in case it is needed during the 2018-2021 RES compliance period. This partial waiver would be in effect until the approval of the Company's next RES Plan, which will be filed on or before October 31, 2019.[84] The partial waiver would remain in effect for the 2022 compliance year given the likely timing of the Company's next RES Plan.

63. The Settling Parties agree that a partial waiver of this rule is legally permissible, and § 40-2-124(1)(g)(I)(B), C.R.S. states as follows:

> If the retail rate impact does not exceed the maximum impact permitted by this paragraph (g), the qualifying utility may acquire more than the minimum amount of eligible energy resources and renewable energy credits required by this section. At the request of the qualifying retail utility and upon the commission's approval, *the qualifying retail utility may advance funds from year to year to augment the amounts collected from retail customers under this paragraph (g) for the acquisition of more eligible energy resources.* Such funds shall be repaid from future retail rate collections, *with interest calculated at the qualifying retail utility's after-tax weighted average cost of capital,* so long as the retail rate impact does not exceed two percent of the total annual electric bill for each customer.[85]

The statute specifies that the WACC applies to *negative* RESA balances. The statute is silent as to the interest treatment of *positive* RESA balances. This statutory provision provides the statutory basis for both Rule 3660(c) (which allows investor-owned utilities to bank or advance RESA funds) and Rule 3660(e) (which states that interest on positive or negative balances should be paid at the most recently-approved WACC). Though not mandated by the statutory language, Rules 3660(c) and Rule 3660(e) construct a symmetrical interest scheme such that funds may be advanced or banked with the same interest rate applicable in both instances. The interest rate applicable to advanced funds cannot be waived, because the Commission does not have the

[83] The customer deposit rate for 2015 approved by the Commission is 0.34%.
[84] Rule 3603(a); Rule 3657(a).
[85] C.R.S. § 40-2-124(1)(g)(I)(B) (emphasis added).

power to waive a statute.[86] In contrast, the interest rate on banked funds is not a creature of statute and therefore may be waived by the Commission pursuant to Rule 1003.[87] Accordingly, the Commission may legally grant a partial waiver of the Rule to reduce the interest rate on banked funds from the most recently-approved WACC to the Commission-approved customer deposit rate. This partial waiver would be limited in use because it will only be necessary if and when the Company's RESA balance turns positive, and would only be in effect until the approval of the Company's next RES Plan.

64. Finally, Rule 1003 further provides that "[i]n making its determination [whether to grant a waiver] the Commission may take into account, but is not limited to, considerations of … more effective implementation of overall policy on an individual basis."[88] The Settlement Agreement approved by the Commission in Proceeding No. 14A-0535E stated as follows:

> Public policy considerations … counsel in favor of the grant of a partial waiver of Rule 3660(e). Requiring the Company to pay the WACC rate on positive RESA balances effectively dissuades the Company from "saving up" money in the RESA to use for future renewable resource acquisitions. The lumpy nature of these investments practically requires the Company to lend money to the RESA in order to acquire a large eligible energy resource. Lending money to the RESA, and incurring interest at the WACC essentially increases the costs associated with eligible energy acquisitions. This outcome discourages investment in renewable energy.[89]

65. For the legal and policy reasons set forth above, the Settling Parties acknowledge and agree that a continued partial waiver of Rule 3660(e) is appropriate to reduce the interest rate applicable to any positive RESA balance, if one occurs, from the most recently-authorized WACC to the Commission-approved customer deposit rate.

[86] *See, e.g.*, Decision No. C12-1223, at ¶ 31, Proceeding No. 12A-851E (mailed Oct. 25, 2012) ("The Commission can grant a waiver of a rule, but it cannot waive a statute").
[87] Rule 1003 (stating in part that "[t]he Commission may, for good cause shown, grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions").
[88] Rule 1003.
[89] Decision No. C15-1279, Attachment A, at ¶ 67, Proceeding No. 14A-0535E (mailed Dec. 3, 2015).

I. Approval of the RES Plan

66. The Settling Parties agree that the RES Plan, as modified by this Settlement Agreement, should be approved by the Commission as consistent with Rule 3657.

67. In addition to the approvals discussed herein, this includes the following approvals:

- ***Continued Busch Ranch Wind Project Lock-down.*** The Company proposed to continue use of the calculation of the net incremental cost of the Busch Ranch Wind Project that was locked down through 2024 in Decision No. C15-1279 with an adjustment that accounts for the cost of PSCo's Schedule 3 VER Generation and Frequency Response Ancillary Services Charge and Schedule 16 Flex Reserve Service and Ancillary Services charge. The Busch Ranch Wind Project is subject to these tariffs effective January 1, 2015.[90] The Settling Parties agree that this continued lock-down with the adjustment should be approved by the Commission.
- ***Continued Solar Program Lock-down.*** The Company proposed to continue use of the calculation of the net incremental cost of the 2006 through 2017 solar programs, which were locked down through 2024 in Decision No. C15-1279.[91] The Settling Parties agree that this continued lock-down should be approved by the Commission.
- ***Continued Peak View Wind Project Lock-down.*** The Company proposed to continue use of the calculation of the net incremental cost of the Peak View Wind Project that was locked down through 2026 by Decision No. C15-1182.[92] The Settling Parties agree that this continued lock-down should be approved by the Commission.

[90] Attachment LS-2, at 17-20.
[91] Attachment LS-2, at 17-20.
[92] Attachment LS-2, at 17-20.

- ***2018-2021 On-Site Solar and CSG Program Lock-downs.*** The Company sought approval of the net incremental cost calculation for the proposed 2018 – 2021 on-site solar program and CSG programs through 2024 (and lock-down of these net incremental costs for the time period 2018 through 2024).[93] This lock-down has been revised given the modifications to the on-site solar and CSG programs through this Settlement Agreement. The revised net incremental cost calculations for the on-site solar and CSG programs are set forth in Attachment 7 and Attachment 8 to this Settlement Agreement[94] and the two tables below, which are revised versions of Table 4-12 and Table 4-13 in the RES Plan. The Settling Parties agree that these updated on-going annual net incremental costs should be approved by the Commission.

2018 – 2027 On-going Annual Net Incremental Costs/(Savings) of the Proposed 2018-2021 On-Site Solar Program

Year	Annual Avoided Cost ($/MWh)	Resource Cost ($/MWh)	Net Incremental Cost ($/MWh)
2018	$(13.70)	$63.00	$49.30
2019	$(20.46)	$61.33	$40.85
2020	$(26.80)	$59.00	$32.20
2021	$(31.24)	$56.57	$25.33
2022	$(39.06)	$55.50	$16.44
2023	$(41.30)	$55.50	$14.20
2024	$(42.68)	$55.50	$12.82
2025	$(44.48)	$55.50	$11.02
2026	$(47.15)	$55.50	$8.35
2027	$(49.10)	$55.50	$6.40

[93] Attachment LS-2, at 20-22.
[94] Attachment 7 and Attachment 8 consist of revised versions of Attachment LS-2, Appendix A, Table 7 and Table 8, respectively, which were included in the filed RES Plan.

2018 – 2027 On-going Annual Net Incremental Costs/(Savings) of Proposed 2018-2021 CSG Programs

Year	Annual Avoided Cost ($/MWh)	Resource Cost ($/MWh)	Net Incremental Cost ($/MWh)
2018	-	-	-
2019	$(30.68)	$125.14	$94.45
2020	$(33.49)	$125.14	$91.65
2021	$(36.43)	$125.14	$88.71
2022	$(39.07)	$125.14	$86.07
2023	$(41.31)	$125.14	$83.83
2024	$(42.69)	$125.14	$82.44
2025	$(44.49)	$125.14	$80.64
2026	$(47.16)	$125.14	$77.97
2027	$(49.20)	$125.14	$75.94

- ***2018-2024 Vestas 1.8 MW Wind Lock-down.*** The Company sought approval of the net incremental costs and lock-down of these net incremental costs for the time period 2018 through 2024, for the Vestas 1.8 MW Wind facility.[95] The Settling Parties agree that this lock-down should be approved by the Commission.
- ***Program costs.*** The Company sought approval of program costs in 2018, 2019, 2020 and 2021 up to $400,000 per year to provide adequate funds for increased program marketing and administration.[96] These proposed program expenses are within the 10 percent limit set forth in Rule 3661(d).[97] The Settling Parties agree that these program costs should be approved by the Commission.

J. RESA impacts of the Settlement Agreement

68. The Company has modeled the RESA impacts of the agreements between the Settling Parties set forth in the Settlement Agreement. The revised RESA impacts are set forth

[95] Attachment LS-2, at 20-23.
[96] Attachment LS-2, at 25.
[97] Rule 3661(d) ("The administrative costs of a QRU to implement these rules are capped at ten percent per year of the total annual collection. A QRU may include in its compliance plan a waiver request of this rule during the initial ramp-up stage of the QRU's program.")

in Attachment 9.[98] The RESA, based on the Company's modeling, is still expected to turn positive in 2020 and the modifications to the 2016 ERP and RES Plan contained in this Settlement Agreement do not result in any significant change to that projection. The Company's testimony explained that it was requesting the ability to reduce the RESA surcharge to zero percent beginning in 2021 as part of its RES Plan.[99]

69. As part of this settlement, the Company has agreed to not reduce its RESA surcharge in this proceeding. However, the Company has the right to seek to reduce its RESA surcharge in the future. If it seeks to do so, the Company will make an appropriate separate filing for the request. All intervening parties in this proceeding will receive a copy of any filing contemporaneously with its submittal to the Commission.

K. Testimony and Settlement Hearing

70. The motion seeking approval of this Settlement Agreement includes a request that the ALJ hold any hearing on this Settlement Agreement on the first day of hearing that is currently scheduled, December 5, 2016. To the extent that the ALJ requires a hearing on the Settlement Agreement, all Settling Parties agree to sponsor a witness to testify in support of the Settlement Agreement.

71. Any issue not directly addressed herein should be determined consistent with the Verified Application, 2016 ERP, RES Plan, associated testimonies and attachments, and this Settlement Agreement.

III. GENERAL TERMS AND CONDITIONS

72. Through active prehearing investigation and negotiations, the Settling Parties have negotiated agreements set forth in this Settlement Agreement, resolving the enumerated

[98] Attachment 9 is a revised version of Attachment LS-2, Appendix A Table 5 that was included in the filed RES Plan.
[99] Direct Testimony of Fredric C. Stoffel, at 23:15 – 24:2.

contested and disputed issues in this proceeding in a manner which the Settling Parties agree is just and reasonable and in the public interest. This Settlement Agreement reflects the compromise and settlement of those issues between the Settling Parties in this proceeding. The Settling Parties further agree that reaching agreement by means of negotiations, rather than through litigation, is encouraged by Rule 1408 and is in the public interest.

73. The Settling Parties agree to present, to support, and to defend this Settlement Agreement before the Commission and in the courts. They further agree to present testimony and exhibits in any hearing set, in whole or in part, for the purpose of obtaining the Commission's approval of this Settlement Agreement. This Settlement Agreement shall not become effective until the issuance of a final Commission decision approving the Settlement Agreement which Commission decision does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Settling Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any of the Settling Parties, that Party shall have the right to withdraw from this Agreement and proceed to hearing on the issues that may be appropriately raised by that Party in this proceeding. The withdrawing Party shall notify the Commission and the other Party to the Settlement Agreement by e-filing within three business days of the Commission-ordered modification that the Party is withdrawing from the Settlement Agreement and that the Party is ready to proceed to hearing; the e-filing shall designate the precise issue or issues upon which the Party desires to proceed to hearing.

74. Approval by the Commission of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable, and reasonable resolution of the disputed issues resolved herein.

75. The Settling Parties specifically agree and understand that this Settlement Agreement represents a negotiated settlement that is in the public interest with respect to the various matters and issues enumerated herein. The Settling Parties shall not be deemed to have approved, accepted, agreed to, or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for in this Settlement Agreement, other than as specifically provided for herein. Notwithstanding the resolution of the issues set forth in this Settlement Agreement, none of the methods or principles herein contained shall be deemed by the Settling Parties to constitute a settled practice or precedent in any future proceeding.

76. This Settlement Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The parties are not relying on any statement or representation not contained herein.

77. This Settlement Agreement may be executed in counterparts and by facsimile or electronic copies of signatures, all of which when taken together shall constitute the entire Settlement Agreement with respect to the matters addressed herein.

IV. CONCLUSION

78. For the reasons stated above, the Settling Parties respectfully request that the Commission enter a decision approving this Settlement Agreement, with the finding that the Commission's approval of this Settlement Agreement represents a fair, just, and reasonable resolution of any and all disputes in this proceeding as to those issues.

Date: November 10, 2016

Approved as to form:

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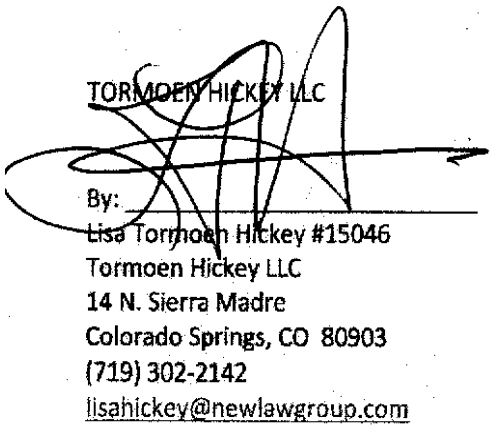
INTERWEST ENERGY ALLIANCE



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