

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE: IN THE MATTER OF THE)
APPLICATION OF PUBLIC SERVICE)
COMPANY OF COLORADO TO) Docket No. 08L-056E
INCREASE THE RENEWABLE ENERGY)
STANDARD ADJUSTMENT ON LESS)
THAN STATUTORY NOTICE)

**PETITION TO INTERVENE OF CF&I STEEL, L.P.
AND CLIMAX MOLYBDENUM COMPANY
AND OBJECTIONS TO GRANTING LSN APPLICATION WITHOUT A HEARING**

CF&I Steel, LP, d/b/a Rocky Mountain Steel Mills (RMSM) and Climax Molybdenum Company (Climax), by their attorneys, Dufford & Brown, P.C., hereby petition to intervene as parties in this proceeding pursuant to Rule 1401 and 1206(f)(II)(H)¹ of the Commission's Rules of Practice and Procedure. The explanation and support for intervention follow in Section II hereof below.

I. OBJECTIONS TO GRANTING LSN APPLICATION WITHOUT A HEARING

1. RMSM and Climax object to granting Public Service Company of Colorado's (PSCo) Verified Application on Less than Statutory Notice to Increase the Renewable Energy Standard Adjustment (RESA) (LSN Application) filed on or about February 14, 2008, without a hearing. The LSN Application seeks to increase the RESA by 243% from its current level of 0.6% to 1.46% of each customer's total bill. If granted, PSCo's would withdraw suspended Advice Letter No. 1496 – Electric, which proposes to increase the RESA by 333% from 0.6% to 2.0% in Docket No. 07A-522E, with a hearing set seven weeks from now on April 16-18, 2008.

¹ The Notice attached to the LSN Application as Attachment D erroneously states that interventions are due seven days before the proposed effective date, March 1, 2008

2. The LSN Application should not be granted without a hearing because of substantial, unexplained discrepancies between the data submitted to support the LSN Application in mid-February and the corresponding data submitted in late November 2007 that supported Advice Letter No. 1496E. The conflicting data of RESA costs and revenues for 2006-09 is found in Table 6-3 in Volume 2 of PSCo's Renewable Energy Standard (RES) Compliance Plan in Docket No. 07A-462E (attached hereto as Exhibit 1), and in revised Table 6-3 filed as Attachment C to the LSN Application (attached hereto as Exhibit 2).

3. The format of both Tables 6-3 is the same. Columns B-E itemize Renewable Energy Costs and total them for each year in Column F. The Modeled Incremental Energy Costs to be recovered annually through the RESA are set forth in Column G (after subtracting Derived ECA Costs to be recovered through the ECA in Column H). Column G is added to the cost of Purchased RECS and Program/Admin Costs in Columns I and J, and then any Wholesale Revenue Credit in Column L is subtracted from the total to arrive at the annual costs to be recovered through the RESA. That amount is subtracted from the RESA Revenue in Column K to determine the annual Excess or Deficiency in Column M. Positive or negative interest is included in Column N and the cumulative Excess or Deficiency is shown in Column P.

4. The RES cost data presented in Table 6-3 in the RES Compliance Plan (Exhibit 1 hereto) is actual through October 2007, and PSCo's forecast for November-December 2007 and 2008-2009. RES Compliance Plan, Testimony of Kennan Walsh, p. 4, ll. 18-23 and p. 5, ll. 1-2. The RESA cost data presented in Table 6-3 to the LSN Application (Exhibit 2 hereto) is actual through 2007. LSN Application, p. 6, fn. 3.²

² The RESA revenue likewise is actual through October 2007 and forecast thereafter in the RES Compliance Plan and actual through December 2007 in the LSN Application. RESA Revenue is forecasted at 2% effective 1/1/08 in the RES Plan and at 1.46% effective 3/1/08 in the LSN Application.

5. There are two major discrepancies between the two Tables 6-3, both of which are detrimental to retail ratepayers. The first concerns Wholesale Revenue Credits. These are “credits against retail revenue requirements the projected revenue [sic] for this Eligible Energy that the Company expects to collect from its wholesale customers under its existing wholesale rates and [separately] the load ratio share agreements discussed earlier.” RES Compliance Plan, Vol. 1, § 6, p. 12; *see also* Testimony of Phillipa Narog, p. 7, ll. 1-6 (regarding load ratio share agreements). In late November 2007, Table 6-3 in the RES Compliance Plan presented the actual Wholesale Revenue Credits through October 2007 and projected for November and December 2007 as \$3,482,454.³ In stark contrast, Table 6-3 in Attachment C to the LSN Application prepared ten weeks later shows zero Wholesale Revenue Credits for 2007. Likewise, Table 6-3 in the RES Plan projects Wholesale Revenue Credits of \$5,570,834 and \$4,503,850 for 2008 and 2009, respectively, while Table 6-3 in the LSN application shows zero credits for those years. Thus, in ten weeks, approximately \$13.5 million in Wholesale Credits for the benefit of retail ratepayers disappeared from the RESA calculation for just the years 2007-2009. Had those credits been secured and included, the Rolling Balance column (Column P) on Table 6-3 (Attachment C to the LSN Application) would have shown a lower deficit of about \$1.8 million in 2007 (not \$5.3 million), break even or a small surplus in 2008 and an excess of about \$13.5 million in 2009, all with the 1.46% RESA starting March 1, 2008 and running through 2009.

6. PSCo’s cursory explanation for the disappearing Wholesale Credits appears in footnote 3 on page 7 of the LSN Application.

³ This Table 6-3 presents PSCo’s Preferred Case. Table 6-4 presents the “Rule Case,” which may or may not be more comparable to Table 6-3 in the LSN Application, which is labeled the “CRP Low 123 Case.” This is one of the questions that is not addressed by the LSN Application. In any event, Table 6-4 shows \$882,083 in Wholesale Credits (10 months actual and 2 months projected) for 2007.

... Attachments B and C also now reflect *no* wholesale revenue contribution to the RESA because Public Service's wholesale customers have elected, under Commission Rule 3660(i), not to pay the full costs for the solar resources.

This begs several factual questions that need to be explored and resolved in a hearing. Who were the wholesale customers that paid wholesale credits for the first ten months of 2007 and how much did they pay? Who were the wholesale customers that PSCo projected would pay more than \$10 million in wholesale credits in 2008-09? Did any of them agree to pay less than the full costs of solar resources, and if so, how were those funds accounted for in the RESA calculation? What were PSCo's negotiations with the wholesale customers and what efforts did PSCo make to convince or induce them to pay the full or partial costs of PSCo's solar resources? How will PSCo prevent the wholesale customers who declined to pay from receiving any of the energy generated by the solar resources?

7. The second significant discrepancy concerns the Modeled Incremental Energy Costs to be Recovered in Column G of both Tables 6-3 for 2007. In late November 2007 in the RES Plan, PSCo projected \$16,775,000 of such costs, including ten months of actual expenditures. Ten weeks later, Attachment C to the LSN application showed \$17,507,492—about \$730,000 more. Because only two months of the difference reflects actual vs. projected expenditures, this calls PSCo's forecasting or modeling methods for RESA expenditures into question. It also raises the question of whether some of the excess solar expenditures in 2008 PSCo discusses in the LSN application actually occurred in late 2007. That in turn raises the question of whether the 2008 projected expenditures should be reduced for purposes of setting the RESA charge.⁴

⁴ There are a few other provisions of Attachment C to the LSN Application that are worth investigation and at least one arithmetical error. In calculating the Annual Excess/Deficiency in Column M for 2007, PSCo included the Total Renewable Energy Costs from Column F instead of the Modeled Incremental Energy Costs to be Recovered

8. PSCo asks the Commission to accept these discrepancies based on the Verified LSN Application standing alone, without an opportunity to conduct discovery or cross examination, or to submit opposing testimony addressing the logical questions identified above and others that discovery might uncover.

9. To the contrary, the Commission should consolidate the LSN Application with Docket No. 07S-522E and hold the hearing on both, or which of the two RESA proposals PSCo decides to pursue, on April 16-18, 2007. The subject matter of the two proceedings is identical and little if any additional preparation or hearing time will be required of the parties or the Commission. In addition, the parties to Docket No. 07S-522E are likely all of the parties interested in both cases. They can be made parties to the LSN Application by a Minute Order. Nevertheless, sufficient time remains to give anyone not already a party to Docket No. 07S-522E notice and an opportunity to intervene in the consolidated cases if they wish. Most importantly, the April 16-18 hearing will provide a prompt opportunity to inquire into and attempt to resolve the substantial discrepancies between the corresponding sets of data prepared about ten weeks apart that supported Advice Letter No. 1496E in November and Attachment C to the LSN Application filed in February.

10. If the Commission grants the LSN Application at the Weekly Meeting on February 27, 2008, however, that approval should extend no farther than to approve the 1.46% RESA. All questions regarding the appropriate level of solar resources expenditures in 2008 and 2009, PSCo's dealings with wholesale customers regarding Wholesale Revenue Credits, the proper calculation of expenditures recoverable through the RESA and the amount, should be left for the other appropriate pending proceedings.

from Column G. This error overstated the Deficiency in Column M for 2007 by \$371,000, the amount shown for the Derived ECA costs in Column H. That error carried through to the Rolling Balance for 2007, 2008 and 2009.

II. PETITION TO INTERVENE

11. RMSM operates its steel manufacturing and fabrication plant and related facilities in Pueblo, Colorado. The address of RMSM is P.O. Box 316, Pueblo, Colorado 81002.

12. RMSM receives electric service from PSCo at its facilities and is PSCo's largest retail electric customer. The 243% RESA increase proposed in PSCo's LSN Application will directly and adversely affect RMSM's electric costs and possibly raise reliability concerns. As such, RMSM has a significant pecuniary interest in this proceeding. Accordingly, RMSM petitions to intervene pursuant to Rule 1401 of the Commission's Rules of Practice and Procedure.

13. Climax operates the Climax and Henderson molybdenum mines and related facilities near Leadville and Empire, Colorado, respectively. Climax's address is P.O. Box 68, Empire, Colorado, 80438.

14. Climax receives electric service from PSCo at its respective facilities and is among PSCo's largest retail electric customers. The 243% RESA increase proposed in PSCo's LSN Application also will directly and adversely affect Climax's electric costs and possibly raise reliability concerns. As such, Climax has a significant pecuniary interest in this proceeding. Thus, Climax also petitions to intervene pursuant to Rule 1401 of the Commission's Rules of Practice and Procedure.

15. As two of the largest retail customers on PSCo's electric system, absent RMSM's and Climax's intervention, their interests would not be adequately represented in this proceeding.

16. Intervention by RMSM and Climax will not unduly broaden the issues in this proceeding because the matters which RMSM and Climax may choose to address will pertain to issues which are inherent in this proceeding.

17. The nature and quantity of evidence to be presented by RMSM and Climax in this proceeding is not yet known. However, RMSM and Climax reserve the right to participate as their interests may appear.

18. Intervention by RMSM and Climax is timely under Rule 1206(f)(II)(H) and conforms to the Commission's Rules of Practice and Procedure.

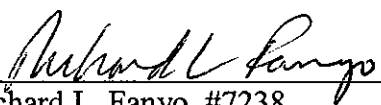
19. RMSM and Climax request that notice of matters relating to this proceeding and copies of orders, testimony, exhibits and all pleadings, discovery and other communications be served upon the following:

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WHEREFORE, CF&I Steel, L.P., d/b/a Rocky Mountain Steel Mills and Climax Molybdenum Company respectfully request that the Commission issue an order granting RMSM and Climax leave to intervene in the above-captioned proceeding. They also respectfully request that the Commission not approve PSCo's LSN Application, or defer a decision and consolidate it with Docket No. 07S-522E for hearing on April 16-18, 2008.

Respectfully submitted this 26th day of February, 2008.

DUFFORD & BROWN, P.C.

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Attorneys for CF&I Steel, L.P. and
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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **PETITION TO INTERVENE OF CF&I STEEL, L.P. AND CLIMAX MOLYBDENUM COMPANY AND OBJECTIONS TO GRANTING LSN APPLICATION WITHOUT A HEARING** by electronic mail on this 26th day of February, 2008, addressed to the following:

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Richard L. Rango

Table 6-3
Public Service Company of Colorado
Renewable Energy Standard Budget
For the Years 2006-2017

Renewable Energy Standard Adjustment Budget 2006-2017 (0.600% - 2d07-2000% - 2008 and 0.00% 2017) Preferred Case

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
	On-Site Solar Costs ²	Central Solar Costs ³	Wind Energy Costs	Other Renewables Costs ⁴	Total Renewable Energy Costs (B+C+D+E)	Modeled Incremental Costs ⁵	Derived ECA Costs (F-G)	Purchased RECs ⁶	Program & Admin Costs	RESA Rider Revenue	WHLs Revenue Credit	Annual Excess/ (Deficiency) (K-G-I-J+L)	Interest	Annual Excess/ (Deficiency) w/ Interest (M+N)	Rolling Balance (Deferred)
2007	16,158,564	-	-	-	16,158,564	16,775,000	(616,436)	114,622	941,902	12,215,626	3,482,454	(2,133,444)	(46,402)	(2,179,846)	(1,021,225)
2008	28,253,396	3,688,049	-	-	31,941,446	30,234,000	1,707,446	189,378	953,639	43,134,392	5,570,834	17,328,208	776,212	18,104,421	17,083,195
2009	22,697,697	3,660,467	-	2,523,305	28,881,469	24,075,000	4,806,469	-	1,152,025	45,883,636	4,503,850	25,160,461	2,010,798	27,171,259	44,254,455
2010	12,774,200	3,642,123	38,229,153	2,523,305	57,168,781	32,069,450	25,099,331	-	948,283	48,914,789	4,522,655	20,419,712	3,078,490	23,498,202	67,752,656
2011	14,925,800	12,218,483	60,730,367	2,523,305	90,397,955	38,681,350	51,716,605	-	982,166	51,529,998	5,515,101	17,381,583	4,052,390	21,433,972	89,186,629
2012	13,131,100	12,349,016	99,521,733	2,530,217	127,532,066	58,931,660	68,600,406	-	1,198,819	52,363,279	5,162,655	(2,604,545)	4,121,307	1,516,763	90,703,391
2013	13,194,698	12,452,330	121,627,309	2,523,305	149,797,642	61,870,720	87,926,922	-	980,884	54,492,701	5,615,741	(2,743,162)	4,186,907	1,443,745	92,147,136
2014	11,096,000	12,574,473	183,214,124	2,523,305	209,407,902	61,557,996	147,849,906	-	982,123	58,282,894	5,730,936	1,473,712	4,456,352	5,930,064	98,077,200
2015	13,163,999	119,525,046	245,109,747	2,523,305	380,322,097	132,188,522	248,133,575	-	1,254,163	61,295,987	12,571,957	(59,574,741)	1,832,717	(57,742,024)	40,335,176
2016	11,069,700	187,210,207	291,282,833	15,008,563	504,571,304	126,166,350	378,404,954	-	1,019,768	65,256,765	12,258,357	(49,670,996)	(444,385)	(50,115,381)	(9,780,205)
2017	12,956,001	179,184,736	342,024,465	15,151,848	549,317,050	122,888,290	426,428,760	-	1,023,944	67,974,752	12,112,825	(43,824,657)	(2,551,591)	(46,376,248)	(56,156,453)

Budget							
	Modeled Incremental Costs ⁵	Purchased RECs ⁶	Program & Admin Costs	Less WHLS Revenue Credit	Total RESA	Derived ECA Costs	Total Budget
2007	16,775,000	114,622	941,902	3,482,454	14,349,070	(616,436)	13,732,634
2008	30,234,000	189,378	953,639	5,570,834	25,806,183	1,707,446	27,513,629
2009	24,075,000	-	1,152,025	4,503,850	20,723,175	4,806,469	25,529,644
2010	32,069,450	-	948,283	4,522,655	28,495,078	25,099,331	53,594,409
2011	38,681,350	-	982,166	5,515,101	34,148,415	51,716,605	85,865,020
2012	58,931,660	-	1,198,819	5,162,655	54,967,824	68,600,406	123,568,230
2013	61,870,720	-	980,884	5,615,741	57,235,864	87,926,922	145,162,786
2014	61,557,996	-	982,123	5,730,936	56,809,183	147,849,906	204,659,088
2015	132,188,522	-	1,254,163	12,571,957	120,870,728	248,133,575	369,004,303
2016	126,166,350	-	1,019,768	12,258,357	114,927,761	378,404,954	493,332,714
2017	122,888,290	-	1,023,944	12,112,825	111,799,409	426,428,760	538,228,168

¹ Imputed carbon tax on tonnage above 80% of 2005 levels starting in 2010 and beyond.

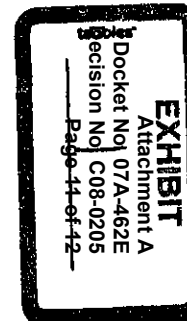
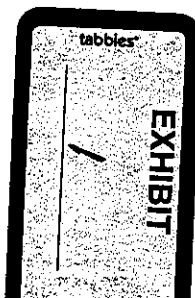
² On-site solar costs include upfront rebate and REC payments as well as amortized REC payments.

³ Central solar costs include the Alamosa purchased power agreement and projected future central solar facilities.

⁴ Includes the costs of new 4 MW Biomass and 20 MW Geothermal facilities proposed under Colorado Resource Plan in Docket No. 07A-447E

⁵ The incremental costs are derived from the difference between the RES and No RES scenarios.

⁶ Purchased Solar Recs



Attachment C - Table 6-3 2007-2009

Public Service Company of Colorado
Renewable Energy Standard Budget
For the Years 2006-2009

Assumes 2 months at 0.6% and 10 months at 1.46% for 2008

2008
Annual Average RESA Rider
1.317%

Renewable Energy Standard Adjustment Budget - CRP Low 123 Plan															
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
	On-Site Solar Costs ¹	Central Solar Costs ¹	Wind Energy Costs	Other Renewables Costs ¹	Total Renewable Energy Costs (B+C+D+E)	Modeled Incremental Energy Costs to be Recovered ²	Derived ECA Costs (F-G)	Purchased RECs ³	Program & Admin Costs	RESA Rider Revenue	WHLs Revenue Credit	Annual Excess/ (Deficiency) (K-G-I-J+L)	Interest	Annual Excess/ (Deficiency) w/ Interest (M+N)	Rolling Balance (Deferred)
2006	7,700,690	-	-	-	7,700,690	7,677,690	23,000	-	581,384	9,435,158	-	1,153,084	54,361	1,207,445	1,207,445
2007	17,978,492	-	-	-	17,978,492	17,607,492	371,000	114,522	921,964	12,583,855	-	(6,451,223)	(48,769)	(6,499,992)	(5,286,547)
2008	28,253,396	3,688,049	-	-	31,941,445	30,234,000	1,707,445	189,378	953,639	33,211,514	-	(3,055,046)	(397,060)	(3,452,106)	(8,738,653)
2009	22,697,697	3,660,467	-	-	26,358,164	23,308,000	3,050,164	-	1,152,025	-	-	8,751,488	611	8,752,099	13,447

YEAR	RESA Revenue %
2008	1.460%
2009	1.460%

