

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DELIVERED
TO PUBLIC UTILITIES

2009 JAN 27 PM 2:45

IN THE MATTER OF THE APPLICATION OF)
PUBLIC SERVICE COMPANY OF COLORADO)
FOR APPROVAL OF ITS 2009 RENEWABLE)
ENERGY STANDARD COMPLIANCE PLAN.)

DOCKET NO. 08A-532E

Hear
C. Baker

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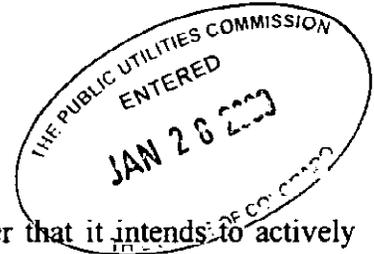
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**NOTICE OF COMMENTS ADDRESSING SCOPE
OF THE COLORADO OFFICE OF CONSUMER COUNSEL**

Pursuant to Decision No. R09-0050-I, Interim Order of Hearing Commissioner Matt Baker Vacating Procedural Schedule, Setting Prehearing Conference and Related Filing Deadlines, And Identifying Issues For Discussion At The Prehearing Conference, issued by the Hearing Commissioner Matt Baker ("Hearing Commissioner") on January 16, 2009 ("Order"), the Colorado Office of Consumer Counsel ("OCC") submits the following Notice of Comments Addressing Scope ("Notice").

INTRODUCTION



By this Notice, the OCC informs the Hearing Commissioner that it intends to actively participate in the above-captioned proceeding on behalf of residential, small commercial and agricultural ratepayers of Public Service Company of Colorado ("PSCo").

The Hearing Commissioner's Order stated "it will likely be necessary to establish a scope of this docket at a prehearing conference by discussing the possible range of issues and determining whether any limits on this range should be ordered. To accomplish this item, each intervenor shall file with the Colorado Public Utilities Commission ("Commission") on or before January 27, 2009, a notice specifying the issues it believes should be addressed in this matter that if necessary includes a brief summary of the issues." It is with this request in mind that the OCC now presents its Notice.

COMMENTS ADDRESSING SCOPE

As to the question of the appropriate scope of this inquiry, the OCC respectfully submits that it agrees with the recommendations presented by Commission Advisors at the January 7, 2009 Commissioners' Weekly Meeting ("CWM") with one exception which will be discussed further below. At that meeting, the Commission's Advisors suggested the following:

Issues that are Within the Scope of This Docket would include:

- Limit review to 2009 RESA expenditures
- Review of Forecasted Costs¹
- REC acquisition and retirement
- Wind Predictor program

Issues that are Outside the Scope of This Docket would include:

- Mechanics of the Retail Rate Impact
- Time Fence issues/Externalities
- Specifics of WindSource (likely due to the pending settlement)
- AC Disconnect Switch issue
- Solar Rebate and Growth of Solar Industry

Additionally, at the same CWM, the Hearing Commissioner expressed his desire to move the Solar Acquisition Strategy discussion to the list of issues to be considered within this docket; the OCC does not oppose putting this within the scope of this docket.

¹ This would specifically include the Company's proposal that for purposes of this 2009 RES Compliance Plan it has included a cost of \$1,465,425 of utility rate-based investment (Mr. Ahrens Direct Testimony, page 8, lines 8 to 10).

The OCC is of the understanding that PSCo's Notice filing will request issues relating to the Mechanics of the Retail Rate Impact² ("RRI") and Time Fence³ issues ("Time Fence") be included within the scope of this docket. The OCC opposes inclusion of such issues in this proceeding and believes it would be preferable to establish a rule of general applicability for these issues and that the pending Renewable Energy Standard ("RES") Rulemaking, Docket 08R-424E, is the proper venue.

The Hearing Commissioner is conducting this discussion of "scope" in order to proceed "efficiently and minimize overlap with other dockets currently before the Commission."⁴ This desire to "minimize overlap" was expressed by the Commission as well in Decision No. C09-0049.⁵ The RRI and Time Fence issues along with many other aspects of the RES Rules are currently being debated and discussed in the pending rulemaking, Docket No. 08R-424E. New Staff proposed RES Rules have been promulgated; four rounds of comments have been solicited; and a two day hearing has been conducted and another two day hearing is to commence on these issues on January 29 and January 30, 2009. Including the RRI and Time Fence issues in this docket would create the exact "overlap" the Hearing Commissioner and the Commission collectively has stated they seek to minimize.

The OCC additionally is of the understanding PSCo desires to exclude these issues from the rulemaking in Docket No. 08R-424E entirely and have those issues debated in this docket

² This addresses whether the ECA or RESA should be used as the "true-up" between actual and projected costs by adjusting the deferred account of either the ECA or the RESA.

³ This addresses whether a "lock down" of either Net Costs or Net Benefits of each Eligible Energy Resource occurs and when it should be calculated.

⁴ Decision No. R09-0050-I, page 3, paragraph 11.

⁵ "Finally, we note that there is a possibility that the issues in this matter might overlap with other dockets currently before the Commission. We, therefore, encourage the Hearing Commissioner to establish a scope of this docket at a prehearing conference." Decision No. C09-0049, page 2, paragraph 10.

only. The OCC believes this is inappropriate. The RRI and Time Fence issues are ones which will affect not only Public Service, but Black Hills' Colorado Electric operations. The OCC advocates that the Commission should establish rules of general applicability for its utilities, then if circumstances warrant, a temporary waiver to a rule can be granted.

DATED this 27th day of January, 2009.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of January, 2009, the original and 7 copies of the foregoing NOTICE OF COMMENTS ADDRESSING SCOPE OF THE COLORADO OFFICE OF CONSUMER COUNSEL was hand-delivered to:

Doug Dean, Director
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and a copy was e-mailed (if so indicated below), hand-delivered to Staff and placed in the United States mail, postage prepaid, and addressed to:

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