

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

2009 JUN 11 PM 4:06

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

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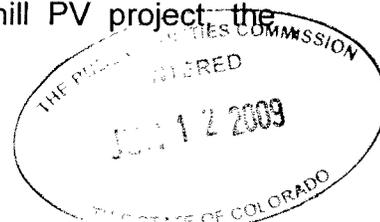
BRIEF ON EXCEPTIONS OF PUBLIC SERVICE COMPANY OF COLORADO

Public Service Company of Colorado hereby files exceptions to certain recommendations made by Hearing Commissioner Baker in his Recommended Decision No. R09-0549 (May 22, 2009).

I. On-Site Solar Acquisitions.

Commissioner Baker required Public Service “to propose much more substantial levels of on-site solar acquisitions in its 2010 Compliance Plan filing.” Decision No. R09-0549 at p.9. To allow for more on-site solar acquisitions within the statutory retail rate impact limit of two percent on customer bills annually, Commissioner Baker directed Public Service to delay until 2012 the banking of RESA funds for future resource acquisitions from the 2009 All Source RFP and to instead use the RESA funds collected in 2010 and 2011 to support more immediate on-site solar acquisitions. Public Service does not object to this policy directive, but we do seek clarification of this order through this Brief on Exceptions.

First, Public Service respectfully requests that the Commission clarify that Public Service may continue to bank (if necessary) sufficient RESA funds to pay the incremental costs for renewable resources already under contract. These resources include the Sun Edison Alamosa PV project, the Greater Sandhill PV project, the



Microgy biogas project, the Northern Colorado Wind projects,¹ numerous Solar*Rewards contracts, any new renewable resources selected from the All Source RFP that come on line prior to the end of 2011, and the Windsource projects.² To the extent that banking is required to meet these contractual obligations, Public Service needs the flexibility to bank funds in 2010 and 2011 to pay for them.

We interpreted Commissioner Baker's recommended decision to be addressed to the *new* contracts that will likely result from the 2009 All Source RFP *that will have in-service dates after 2011*. We have no objection to deferring our banking of RESA funds for these resources until 2012, so long as the Commission provides the clarifications that we set forth in this Brief.

The second regulatory clarification we need is certainty of the costs that are to be included in the retail rate impact calculation. Our ability to defer banking of RESA funds, and instead spend them on additional on-site solar resources in 2010 and 2011, is dependent upon the full Commission agreeing with Commissioner Baker's recommended decision on the issues of the time fence and the lock down, as outlined in ¶¶ 73-76 of Decision No. R09-0549, *and* with the time fence proposal recommended by Administrative Law Judge Kirkpatrick in Recommended Decision No. R09-0413 (April 20, 2009) in Docket No. 08R-424E (the pending RES Rulemaking docket). If both of these decisions are upheld, then Public Service currently believes that we can spend the 2010 and 2011 RESA dollars that remain after the current locked down contracts are paid, for more on-site solar facilities in 2010 and 2011 without seriously jeopardizing

¹ Public Service includes in this list the 22.5 MW expansion of the Northern Colorado Wind project for which we applied to the Commission for contract approval on June 5, 2009.

² In some years, some of these renewable projects will create *credits* to the RESA because they result in net cost savings. Windsorce premiums will also be credited to the RESA to offset Windsorce costs.

our ability to contract for more renewable resources under our 2009 All Source RFP. This is because the combination of the time fence recommended by ALJ Kirkpatrick and the lock down methodology recommended by Commissioner Baker provide planning certainty to Public Service as to the dollars that must be funded under the two percent retail rate impact limit in C.R.S. §40-2-124(1)(g) for our existing contract obligations. Any change to these rulings that creates uncertainty as to the level of contractual costs that must be funded by RESA dollars would require Public Service to hold additional RESA dollars in reserve to fund existing contractual obligations, thereby decreasing the immediate funds available for more on-site solar acquisitions.

Public Service is concerned about the status of regulation on the time fence and lock down issues because: 1) Commissioner Baker's ruling on the lock down in this Docket is still subject to exceptions; 2) ALJ Kirkpatrick's ruling in Docket No. 08R-424E is still pending before the full Commission on exceptions; and most importantly 3) the Commission, by Decision No. C09-0557 (May 28, 2009), has reopened the rulemaking docket record and will hold additional hearings on the time fence and lock down issues. Changes to either of these recommended decisions by Commissioner Baker and ALJ Kirkpatrick could affect Public Service's ability to honor Commissioner Baker's directive that banking for the renewable resources to be acquired under the 2009 All Source RFP be deferred until 2012. Consequently, because of the uncertain status of the time fence and lock down rulings, Public Service must take exception to Commissioner Baker's order to defer banking, pending the final Commission rulings on the time fence and lock down issues in both of these dockets.

II. Audit Requirements

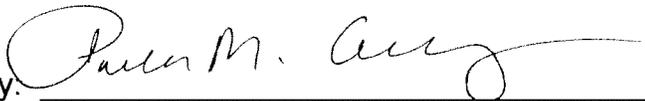
In ¶¶ 96-98 of the Recommended Decision, Commissioner Baker directed Public Service to comply with Commission Rule 3659(I)(IV) by hiring an independent auditor to verify the accuracy of our internal REC tracking system and to provide the audit with our 2010 RES Compliance Plan or our 2008 RES Compliance Report. Public Service respectfully requests clarification as to whether this rule would allow Public Service to use the Xcel Energy internal auditors to perform this function. Xcel Energy's internal auditors are independent of the Company personnel engaged in tracking RECs and report directly to the Audit Committee of the Xcel Energy Board and to the Chief Executive Officer of Xcel Energy. The independent internal audit group can perform the audit requested by Commissioner Baker more quickly and for less cost than an external independent auditing firm. In addition, external audit costs would be charged against the RESA account, where internal audit costs would not. Public Service's Audit Services department is structured according to the International Standards for the Professional Practice of Internal Auditing, which sets forth specific guidelines regarding independence and objectivity for internal audit practices. Regulatory agencies in Minnesota and Texas have previously accepted audits performed by the Company's internal audit function as meeting their requirements for independent audits in several instances. Public Service believes that the Company's internal auditors can provide the assurance needed by the Commission that we are properly accounting for and tracking the RECs generated by the renewable energy owned and purchased by Public Service. Therefore, we respectfully request that the Commission clarify that Rule 3659(I)(IV)

requirements for an independent audit can be met through audits by our internal auditors.

Wherefore Public Service Company of Colorado respectfully requests that the Commission grant the exceptions that we have presented in this Brief and provide the clarifications that we have outlined above.

Dated this 11th day of June 2009.

Respectfully submitted,

By: 

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CERTIFICATE OF SERVICE
08A-532E

I hereby certify that on this, the 11th day of June 2009, an original and seven (7) copies of the foregoing **“BRIEF ON EXCEPTIONS OF PUBLIC SERVICE COMPANY OF COLORADO”** were served via hand delivery on:

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and a copy was served electronically addressed to all Parties on this service list.

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