

Decision No. C23-0357-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22F-0365E

SUNSHARE, LLC,

COMPLAINANT,

V.

PUBLIC SERVICE COMPANY OF COLORADO,

RESPONDENT.

**INTERIM COMMISSION DECISION GRANTING
MOTION FOR A STANDARD FOURTEEN DAY WINDOW
TO FILE RESPONSES TO SUNSHARE’S EXCEPTIONS
AND REQUEST FOR WAIVER OF RESPONSE TIME**

Mailed Date: May 26, 2023
Adopted Date: May 24, 2023

I. BY THE COMMISSION

A. Statement

1. On May 17, 2023, SunShare, LLC (SunShare) filed Exceptions to Recommended Decision No. R23-0292 (Recommended Decision). On May 18, 2023, Staff of the Colorado Public Utilities Commission (Staff) filed a Motion for a Standard Fourteen Day Window to File Responses to SunShare’s Exceptions and Waiver of Response Time (Motion for Extension).

2. Through this Decision, the Commission grants the Motion for Extension and extends the deadline for responses to SunShare’s Exceptions by seven days to May 31, 2023. The Commission also waives response time to the Motion for Extension.

B. Discussion

3. On August 17, 2022, SunShare filed a Formal Complaint (Complaint) against Public Service Company of Colorado (Public Service). The Complaint alleges that Public Service's actions regarding SunShare's two bid awards in the 2020 Solar*Rewards Community Solar Garden (CSG) Request for Proposals violated Colorado's CSG statute, § 40-2-127, C.R.S.; Decision No. R20-0099 in Proceeding No. 19A-0369E; and Commission Rules 3853(d) and 3853(d)(VIII).¹

4. Staff and Public Service intervened in this Proceeding, and the Colorado Office of the Utility Consumer Advocate (UCA) participated as *amicus curiae*.

5. On May 3, 2023, the Administrative Law Judge issued the Recommended Decision denying SunShare's Complaint. The Recommended Decision shortens the time for filing responses to any exceptions from 14 days to seven days.²

6. SunShare filed Exceptions to the Recommended Decision on May 17, 2023, and Staff filed the Motion for Extension on May 18, 2023.

7. Staff represents that Public Service and UCA support the Motion for Extension. SunShare opposes extending the deadline for responses to its Exceptions but supports waiving response time to the Motion for Extension.³

8. In the Motion for Extension, Staff explains that on May 12, 2023—11 days prior to the deadline for exceptions—Staff asked whether SunShare would agree to an extension of the time for filing responses to exceptions out to the standard fourteen-day window given that Staff's

¹ Recommended Decision, p. 22.

² *Id.* at 36-37.

³ Motion for Extension, p. 3.

counsel will be on previously scheduled annual leave from May 22, 2023 through May 29, 2023. Staff states that SunShare responded at 1:00 p.m. on May 17, 2023, objecting to Staff's request for an extension "because time is of the essence."⁴ SunShare filed its Exceptions later that day.

9. Staff argues that its requested extension aligns with the timeline set in the Commission's own rules and is necessary to provide Staff with a reasonable amount of time to respond to SunShare's Exceptions. Staff asserts that this Proceeding has a large record, and that SunShare's Exceptions are complex.⁵ Moreover, Staff explains that its key witness, Gene Camp, is preoccupied testifying in a hearing May 18 and May 19, 2023, and Staff's counsel will be on previously scheduled annual leave the week of May 22, 2023.⁶

10. In addition, Staff notes that the Recommended Decision does not cite a reason for shortening the fourteen-day window to seven days, and SunShare never requested a shortened response time.⁷ Staff argues that although SunShare opposes the Motion for Extension because "time is of the essence," SunShare presents no evidence that the Commission would rule any sooner on its Exceptions if the matter were fully briefed on May 24, 2023, instead of May 31, 2023. Staff further notes that SunShare provides no financial or other type of information demonstrating that Staff's requested seven-day extension will prejudice SunShare in any way.⁸

11. The Commission grants the Motion for Extension, extends the deadline for responses to SunShare's Exceptions by seven days to May 31, 2023, and waives response time to

⁴ *Id.*

⁵ *Id.* at 4.

⁶ *Id.* at 1-2.

⁷ *Id.* at 3.

⁸ *Id.* at 5.

the Motion for Extension. We find Staff's arguments in the Motion for Extension to be persuasive. Given the complexity of SunShare's Exceptions and the scheduling issues that Staff's key witness and counsel face, Staff has established good cause for extending the deadline for responses to May 31, 2023. Moreover, the seven-day extension for responses is unlikely to prejudice SunShare in any way. SunShare did not request a shortened period for responses, and Staff's Motion for Extension does not alter the statutory deadline for the Commission to issue a decision in this Proceeding.

II. ORDER

A. The Commission Orders That:

1. The Motion for a Standard Fourteen Day Window to File Responses to the Exceptions filed by SunShare, LLC (SunShare) and Waiver of Response Time that Staff of the Colorado Public Utilities Commission (Staff) filed on May 18, 2023, is granted.
2. The deadline to file responses to SunShare's Exceptions shall be May 31, 2023.

3. Staff's request to waive response time to the Unopposed Motion is granted.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 24, 2023.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners