

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20D-0262E

IN THE MATTER OF THE VERIFIED PETITION OF SUNSHARE, LLC FOR A
DECLARATORY ORDER APPROVING A RENEWABLE ENERGY CREDIT ADDER.

**COMMISSION DECISION DENYING
APPLICATION FOR REHEARING, REARGUMENT, OR
RECONSIDERATION OF DECISION NO. C21-0102**

Mailed Date: April 15, 2021
Adopted Date: April 7, 2021

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. Through this Decision, the Commission addresses the Application for Rehearing, Reargument, or Reconsideration (RRR) of Decision No. C21-0102 filed on March 16, 2021, pursuant to § 40-6-114, C.R.S., by the Office of Consumer Counsel (OCC).

2. Through Decision No. C21-0102, issued February 25, 2021, the Commission granted the request of SunShare, LLC (SunShare), to allow Public Service Company of Colorado (Public Service or Company) to increase the Renewable Energy Credit (REC) price per kWh generated (a REC Adder) under five of SunShare's six executed Producer Agreements with Public Service resulting from the Company's 2018 Solar*Rewards Community Solar Garden (CSG) Request for Proposals (RFP) process. Upon consideration of SunShare's Petition for Declaratory Order and the pleadings filed by parties and commentors in this proceeding, we determined that the specific circumstances of SunShare's bids to Public Service's 2018 RFP for CSGs, including significant delays experienced by the projects, warrant the approval of a

REC Adder to maintain the potential viability of the projects and preserve their benefits for potential subscribers and the State. Additionally, we determined it is in the public interest to grant SunShare's request for a REC Adder.

3. The OCC's Application for RRR states that our approval of a REC Adder "means that ratepayers are ultimately responsible to pay higher rates for the contractual challenges between SunShare and Public Service through the Renewable Energy Standard Adjustment (RESA)."¹ It argues that because ratepayers are not responsible for the delay experienced by the projects, ratepayers should be held harmless and the costs of the REC Adder should not be assigned to them. The OCC asserts that the Commission should, in a separate show cause proceeding against Public Service, undertake an investigation to determine fault for the interconnection delays and explore the assignment of cost to responsible parties.

4. The OCC includes in its Application for RRR that recovery of costs through the RESA or any other mechanism normally entails investigation, discovery, and findings of fact beyond the facts presented by SunShare and Public Service. It states that ratepayers were provided no notice that a rate increase could result from Commission authorization of a REC Adder, and that the actual amount of the rate increase was not identified by SunShare or included in Decision No. C21-0102. The OCC also includes that the approval of a REC Adder without holding Public Service responsible for alleged deficiencies in its interconnection practices does not provide Public Service with the incentive to correct such deficiencies. Finally, the OCC states that modifying the REC Adder is detrimental to the competitive market for CSG facilities.

¹ OCC's RRR at pp. 1-2.

5. Pursuant to § 40-6-114, C.R.S., the party requesting RRR of a Commission decision must specify why the decision was “unlawful.” § 40-6-114(1), C.R.S. The Commission may reverse a decision if, after reconsideration, it appears the original decision was “unjust or unwarranted.” § 40-6-114(3), C.R.S.

6. Upon review of the OCC’s Application for RRR, we find that the OCC’s filing provides no significant new information or argument that would give the Commission cause to reconsider the prior decision. Section 40-2-124(1)(f)(V), C.R.S., states that if the Commission approves the terms and conditions of an eligible energy resource contract, the contract and its terms and conditions shall be deemed a prudent investment. The producer agreements at issue qualify as eligible contracts, and we find that this statutory provision applies to the cost recovery of the REC Adder. We find that the other arguments, factual assertions, and policy considerations raised in the RRR filing are either substantially the same as those we previously considered when we made our determinations in Decision No. C21-0102 or are not sufficiently developed in this Proceeding’s record to consider. Therefore, the Commission declines to reconsider its original decision and denies the OCC’s Application for RRR.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C21-0102, filed by the Office of Consumer Counsel on March 16, 2021, is denied.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 7, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners