

Decision No. C13-0323

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 11A-869E

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2011 ELECTRIC RESOURCE PLAN.

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DOCKET NO. 12A-782E

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF THE ACQUISITION OF THE BRUSH 1, 3, AND 4 GENERATION FACILITIES AND IN CONNECTION THEREWITH THE GRANT OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY IF REQUIRED AND THE APPROVAL OF COST RECOVERY THROUGH A GENERAL RATE SCHEDULE ADJUSTMENT.

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DOCKET NO. 12A-785E

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IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF THE POWER PURCHASE AGREEMENT FOR 118.8 MW OF NATURAL GAS GENERATION, EARLY RETIREMENT OF ARAPAHOE UNIT 4, AND A GAS SALES AGREEMENT.

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**ORDER APPROVING INDEPENDENT EVALUATOR;  
APPROVING NONDISCLOSURE AGREEMENT;  
DENYING MOTION TO RESPOND; AND  
GRANTING, IN PART, AND DENYING, IN PART,  
APPLICATIONS FOR REHEARING, REARGUMENT, OR  
RECONSIDERATION, WITH CLARIFICATION**

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Mailed Date: March 15, 2013  
Adopted Date: March 12, 2013

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**I. BY THE COMMISSION**

**A. Statement**

1. Decision No. C13-0094 (Phase I Decision), issued on January 24, 2013, approved with modifications the 2011 Electric Resource Plan (ERP) filed as an application by Public Service Company of Colorado (Public Service or the Company) on October 31, 2011.<sup>1</sup>

2. As required by the Phase I Decision, on February 7, 2013, Public Service filed a notice with the Commission stating that the Company and Staff of the Colorado Public Utilities Commission (Staff) agree that Accion Group, Inc. (Accion) should be retained as the Independent Evaluator (IE) for Phase II of the ERP. In that same filing, Public Service submitted a bidder nondisclosure agreement for the purposes of complying with paragraph 3613(b) of the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3 (Bidder Nondisclosure Agreement).

3. On February 13, 2013, Applications for Rehearing, Reargument, or Reconsideration (RRR) were timely filed by Public Service; Staff; the Colorado Independent Energy Association (CIEA); C12 Energy, Inc. (C12 Energy); Southwest Generation Operating Company, LLC (SW Generation); Interwest Energy Alliance (Interwest); Western Resource Advocates (WRA); EnCana Oil & Gas (USA) and Noble Energy, Inc. (collectively, the Gas Producers); and Ms. Leslie Glustrom.

4. On February 22, 2013, WRA filed a Motion for Leave to File a Response to the Applications for RRR filed by Staff, Gas Producers, and Public Service (Motion).

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<sup>1</sup> The Phase I Decision addresses the 2011 ERP filed by Public Service, as consolidated by Decision No. C12-0882-I with Docket Nos. 12A-782E and 12A-785E issued August 1, 2012.

5. As discussed below, we approve retaining Accion as the IE in Phase II; approve the use of the Bidder Nondisclosure Agreement; deny the WRA Motion; and grant, in part, and deny, in part, the RRR, with clarification.

**B. Public Service Compliance Filings**

6. We approve Accion as the IE in Phase II to fulfill the scope of work set forth in the Phase I Decision. We note that both Public Service and Staff agree that Accion should be retained as the IE for Phase II. Further, Public Service's February 7, 2013 compliance filing indicates that the Office of Consumer Counsel (OCC) does not oppose retaining Accion as the IE for Phase II.

7. We further find that the Bidder Nondisclosure Agreement is appropriate for confidential information provided to bidders for the purposes set forth in the ERP Rules. We therefore approve the use of the Bidder Nondisclosure Agreement.

**C. WRA Motion to Respond to RRR**

8. In its Motion, WRA states that a response to RRR is necessary to correct mischaracterizations of the record.<sup>2</sup> WRA contends that its response does not contain any new advocacy but instead demonstrates that WRA's testimony addresses certain issues, contrary to the statements of parties in their RRR regarding the surplus capacity credit, gas price volatility mitigation, and demand-side management (DSM). WRA further states that its response contains no new advocacy and only corrects record errors in certain RRR filings.

9. We deny the Motion. The Commission is aware of WRA's testimony and other filings in the record and therefore consideration of WRA's response is unnecessary.

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<sup>2</sup> WRA requests that response time to the Motion be waived. Concurrent with the Motion, WRA filed its response to the RRR filed by Staff, the Gas Producers, and Public Service.

## **II. APPLICATIONS FOR RRR**

### **A. Utility Point Cost**

10. By the Phase I Decision, the Commission adopted an estimated “point cost” requirement for the capital costs of Public Service’s self-build projects that are bid into the all-source solicitation. The Commission rejected Public Service’s proposal to bid an “expected cost” that would be within +/- 20 percent of the actual cost and instead required the Company to present a specific firm price for the bid project’s capital costs.

11. In its RRR, Public Service requests that the Commission approve the “symmetrical cost cap” discussion contained in paragraphs 188 and 190 of Decision No. C08-0929 from the Company’s 2007 ERP in Docket No. 07A-447E issued September 19, 2008. Public Service asserts that because the Phase I Decision in this proceeding adopted the same point cost methodology established in Docket No. 07A-447E, it is essential for the Commission also to acknowledge, as it did before, that the Company may explore sharing mechanisms when bid projects are completed under budget.

12. We agree with Public Service that the concept of a symmetrical cost cap was addressed in the Phase I decision in Docket No. 07A-447E. However, there is no discussion about a sharing mechanism in the record in the instant docket. Therefore, we deny the adoption of paragraphs 188 and 190 of Decision No. C08-0929. We clarify, however, that such mechanisms cannot be adequately vetted in the highly expedited Phase II, but there is no prohibition from Public Service proposing a sharing mechanism in a cost recovery proceeding for a constructed project that is properly bid with a point cost as required by the Phase I Decision.

13. In response to CIEA's request in its RRR concerning the utility point cost, we clarify that Public Service's bid price will serve as a cost recovery ceiling, absent extraordinary circumstances, as was required in Docket No. 07A-447E.

**B. Optimization of Annuity Backfilling in Modeling**

14. In the Phase I Decision, we agreed with Staff and CIEA that the Company's proposal to use utility self-build estimates to "backfill" the years of Strategist modeling after purchase power agreement (PPA) contracts expire could result, under certain circumstances, in independent power producer (IPP) project costs being unfairly inflated in comparison to utility bids. We therefore required the Company to present in its 120-day report "bookends" with a range of costs to represent the boundaries of future prices for the replacing of expiring PPAs.

15. In its RRR, Staff requests that the Commission require Public Service to perform a full Strategist optimization to evaluate the end effects of PPA contracts under the annuity modeling approach, the alternative "bookend" to the Company's self-build approach. Staff requests a *full* modeling of the annuity backfilling instead of the *sensitivity* analysis specified by the Phase I Decision. According to Staff, a sensitivity analysis would consider only the six portfolios chosen by the Company, while a full modeling could produce a larger number of alternative portfolios that may warrant Commission consideration in Phase II. Staff further contends that a full optimization could produce significantly different results from a sensitivity analysis.

16. CIEA similarly recommends a full optimization using the annuity approach, asserting that the small efficiencies potentially gained by allowing a sensitivity analysis for the annuity method do not outweigh the need for transparency and fairness in the modeling process. CIEA further argues that portfolio re-optimization would provide more meaningful results by

providing not only the total costs of the re-priced portfolios, but also the internal composition of the re-optimized portfolios.

17. We grant the requests of Staff and CIEA to require a full optimization of the annuity tail instead of the sensitivity analysis as required in the Phase I Decision. We therefore direct Public Service to perform two separate modeling runs: one modeling run shall use the utility-build resources to backfill bid resources after contract expiration, and the second modeling run shall use the annuity method. We direct Public Service to use the utility-build model run as the basis for the other required sensitivity and Section 123 analyses required by the Phase I Decision.

18. We agree with Staff and CIEA that a sensitivity analysis may not provide adequate information about the annuity backfilling of expiring PPAs. We are also concerned that the record in this proceeding does not directly address the level and accuracy of information that would be generated by a sensitivity analysis of the annuity approach as compared with full optimization. We further find that by implementing separate optimizations of both the utility-build and annuity backfilling methodologies, the Commission will receive the additional information necessary to evaluate the differences between proposed IPP and utility-build resources as well as between the competing IPP bids.

### **C. Arapahoe 4 Retirement**

19. SW Generation and Interwest argue that the record in this proceeding supports Public Service's proposal to retire the coal-fired unit 4 at Arapahoe Station (Arapahoe 4) by the end of 2013 and that the Commission should thus approve this proposal. SW Generation and Interwest also discuss the inflexibility and inefficiency of Arapahoe 4 as grounds for retiring the unit instead of operating it on natural gas as required under the Company's emission reduction

plan approved pursuant to the Clean Air-Clean Jobs Act. Alternately, SW Generation requests clarification that the inflexibility of the Arapahoe 4 unit will be considered as a factor during the comparison of bids in Phase II.

20. We deny SW Generation's and Interwest's requests that the Commission order the retirement of Arapahoe 4. Their positions were fully considered, and we see no need to change the findings regarding the retirement of Arapahoe 4 in the Phase I Decision. However, we agree with SW Generation that the operational characteristics of Arapahoe 4 could be a factor in considering the potential retirement of the unit in Phase II and clarify that parties may highlight such characteristics in their comments regarding the Company's 120-day report.

**D. Carbon Cost Escalator**

21. WRA requests in its RRR that the Commission reconsider the determination that the general rate of inflation is the appropriate escalation rate for the carbon costs used in Phase II bid evaluation and modeling. WRA suggests that the Commission instead adopt an annual escalation rate of 7 percent on a price of carbon that starts at \$20 per ton in 2017. WRA argues that the escalation rate adopted by the Commission is not supported by the evidence in the record and does not correspond with future carbon policies. WRA also argues that the application of the general annual inflation rate as the carbon price escalator, which would hold carbon costs at \$20 in real terms, is inconsistent with projected impacts from global climate change and greenhouse gas reduction policies that will become increasingly restrictive.

22. Interwest similarly argues that the escalation factor adopted by the Commission will render the carbon pricing meaningless with respect to bid evaluation and modeling. According to Interwest, it is realistic to assume that actual costs of emissions, pollution controls,

and other externalities will increase at a far greater rate. Interwest supports WRA's proposal for a 7 percent annual escalation rate for carbon costs.

23. We rejected proposals to use a 7 percent annual rate of escalation for carbon costs in bid evaluation and modeling in our Phase I Decision. We fully considered those proposals and concluded that the application of a 7 percent escalator is too speculative and unnecessary for this ERP. We therefore deny the RRR requested by WRA and Interwest.

**E. Transmission**

24. Interwest argues in its RRR that, by approving Public Service's proposal to assign the costs of new transmission to the bids requiring such investments, the Commission has rendered the transmission-related provisions of its ERP Rules ineffective. Interwest specifically suggests that the Commission reconsider its rejection of the relief sought by TradeWind Energy, LLC (TradeWind) with respect to the Lamar-Front Range transmission project.

25. In contrast, Public Service states in its RRR that the Commission properly rejected TradeWind's proposal. However, according to Public Service, the Phase I Decision lacks sufficient precision concerning the Commission's approval of the Company's proposal for assigning transmission costs to bids. Public Service seeks clarification that the Commission approves the Company's entire proposal as set forth at pages 2-321 and 2-322 of Volume 2 of its ERP. Furthermore, in its RRR, Public Service clarifies that the phrase "[t]he Company will assign incremental transmission interconnection costs and/or network upgrade costs to each bid, as appropriate" means that the Company wants to add to a bid "the project's proportionate MW share of the cost of new network transmission facilities needed to deliver the full output of the proposed generation to load." Transmission will not be considered "new" if the Company has

received a certificate of public convenience and necessity (CPCN) for the transmission line necessary to accommodate the full electric output of the bid.

26. The Commission fully considered TradeWind's proposals concerning transmission costs and determined that it was not appropriate to instruct Public Service to consider, for bid evaluation purposes, certain not-yet-constructed transmission facilities as if they were existing lines with available capacity. We therefore deny Interwest's RRR on this matter.

27. We also clarify that, by the Phase I Decision, we approve in full Public Service's proposal regarding transmission cost assignment as set forth on pages 2-321 and 2-322 of Volume 2 of the ERP and as clarified by the Company's RRR filing. We find the Company's proposal to be reasonable and consistent with past practices.

#### **F. Recovery of Independent Evaluator Costs**

28. In its RRR, Public Service requests clarification that it may recover the costs of the IE through its Electric Commodity Adjustment (ECA). Public Service contends that this is the same cost recovery that was allowed by Decision No. C07-0829.

29. Paragraph 48 of Decision No. C07-0829 states:

We recognize that the IE will come at a cost to the utility and ultimately ratepayers. However, we believe that these costs are worthwhile expenditures. Because the IE will help minimize the time required to complete our Phase II review, we can likewise keep to a minimum the time that the bids offered in a utility's competitive solicitation must remain binding. Typically, the longer bids must stay open, the higher the bid price to the utility and ratepayers. The IE will also help to improve the accuracy of the bid evaluation modeling, therefore reducing the possibility for poor investment decisions that involve substantial investments and subsequent costs to ratepayers. Because we find the expected benefits of the IE will outweigh the expected costs, we will allow for the utility to recover the costs of the IE on a timely basis. For Public Service, the IE costs can be recovered through either its Electric Commodity Adjustment (ECA) or its Purchased Capacity Cost Adjustment (PCCA).

30. We find that the benefits and efficiencies described in Decision No. C07-0829 apply to the IE's engagement in this docket. Recovery through the ECA, as requested by Public Service, is therefore appropriate.<sup>3</sup>

#### **G. Independent Evaluator Contract**

31. In its RRR, Public Service requests that its sourcing and procurement personnel be permitted to negotiate and execute a contract with Accion and then submit that contract to the Commission for approval. The Company contends that this approach follows the procedures followed in the last ERP. Specifically, it notes that Staff would have an opportunity to review the contract once it is submitted. According to Public Service, removing the requirement to include Staff in the initial contract negotiations will expedite the process to engage the IE.

32. While we agree with Public Service that time is of the essence, we find that including Staff during the initial process of contract procurement with the IE promotes efficiencies and fulfillment of the needs set forth in the Phase I Decision. Further, given the limited scope of work for the IE, we anticipate that contract negotiations will likewise be limited. Additionally, Public Service does not make clear why it would be faster to have Staff review and provide comment *after* filing with the Commission as opposed to contributing to the contract terms *prior* to filing. We therefore deny Public Service's request.

#### **H. IE Early Reporting of Bid Evaluation and Modeling Issues**

33. Staff and CIEA suggest the Commission establish a process by which the IE can inform the Commission in a timely manner of issues or deficiencies the IE believes may impact

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<sup>3</sup> We note, however, that if costs are recovered through the ECA, an updated ECA tariff filing may be appropriate. In response to concerns raised by OCC that the current tariff does not include IE cost recovery, Public Service represented that it is agreeable to providing a compliance filing to update the ECA tariff to account for the cost of the IE, and it represented that OCC would find this update acceptable. *See* Public Service Reply Comments Concerning IE, at 12 (filed Sept. 7, 2012).

the ultimate fairness of the bid solicitation process. Staff and CIEA want the Commission to have the time to consider and rectify such situations prior to the Company finalizing its 120-day report.

34. We agree with Staff and CIEA that the Commission should be able to review issues timely. We conclude, however, that an additional process is not appropriate, as it has the potential to slow the time-sensitive bidding process. We therefore deny Staff and CIEA's request for additional process, such as interim filings or status reports from the IE.

35. We further note that paragraph 3612(e) of the ERP Rules requires the IE to notify Public Service if the IE identifies a problem or a deficiency in the bid evaluation process. This requirement was established to alert Public Service of the IE's concerns in a timely manner and to provide the Company an opportunity to respond to those concerns while still meeting the Phase II deadlines. Therefore, in the event Public Service and the IE reach an impasse that may ultimately jeopardize the timing and deadlines in Phase II, Public Service shall make a filing indicating the issues or concerns. Attached and submitted concurrently with that filing, Public Service shall include a statement from the IE. The Commission may then determine at that time if additional action is necessary.

#### **I. Combined Heat and Power**

36. Public Service argues in its RRR that, contrary to the Phase I Decision, combined heat and power (CHP) resources must be evaluated as a supply side resource rather than a demand side resource. We agree that bids for CHP resources should be considered supply side as opposed to demand side resources. We therefore grant Public Service's RRR on this point and affirm that bids for CHP must meet the 10 MW threshold for consideration in the all-source solicitation.

37. Additionally, Public Service argues that the Commission's directive to Public Service to prepare a market potential study of CHP is premature. We grant Public Service's RRR on this point as well, since CHP would be misplaced in a market potential study used primarily to inform the Commission's consideration of potential demand reductions.

**J. Competitive Bidding for Energy Efficiency and Demand Response**

38. Public Service objects to soliciting bids for energy efficiency and demand response resources in its all-source Request for Proposals (RFP). Public Service instead recommends that the Commission take up the issue of whether to require demand side resources to be bid competitively as part of the Company's DSM strategic issues docket that will commence in June 2013.

39. Public Service also argues that the evidentiary record in the instant docket is insufficient to establish that it is in the public interest to acquire energy efficiency and demand response resources as part of the all-source solicitation. Public Service takes the position that requiring the Company to solicit energy efficiency as part of the all-source RFP is also internally inconsistent with the Commission's directive that it should reduce its resource need based on the assumption that it will achieve 100 percent of the energy efficiency goals established in Docket No. 10A-554EG. In addition, Public Service states that, upon further consideration of the complexity involved in comparing supply side and demand side resources, the Company now concludes that there is insufficient evidence in this proceeding regarding how to compare and evaluate demand- and supply-side resources given the significant differences in their operational characteristics.

40. With respect to the acquisition of demand response resources, Public Service states that no party disputed that the Company's need for additional resources does not

materialize until 2017 at the earliest. The Company also argues that, due to a 53 MW placeholder for demand response resources in the Company's determination of its need during the resource acquisition period, demand response resources can be excluded from the all-source solicitation and the matter can be taken up in the 2013 DSM strategic issues docket with no disadvantage to third-party providers of demand response.

41. We find that it is more practical to address the acquisition of energy efficiency and demand response resources pursuant to a process separate from this ERP. We conclude that separate proceedings, including the Company's upcoming DSM strategic issues docket, will allow for the Commission to reexamine those energy savings goals, to establish demand reduction goals, and to approve acquisition processes that best address the complexities surrounding energy efficiency and demand response.

**K. Flexible Generation**

42. Public Service states that it defines "flexible resources" as capable of coming on line and generating electricity in 10 to 30 minutes. Given that definition, the Company requests the following clarifications regarding flexible generation and resources. First, Brush units 1 and 4 do not meet the Company's definition of flexible resources, but Brush 3 does meet the definition. Second, Arapahoe 4 provides "system benefits" due to its location within the transmission system; however, Arapahoe 4 cannot start in 10 to 30 minutes from cold and therefore does not meet the Company's definition of "flexibility." Third, regarding the use of the word "flexible" in the section of the Phase I Decision dealing with coal cycling, Public Service recommends clarifying that the language means that as the Company's system becomes comprised of less coal-fired resources, the Company will incur less coal cycling costs. We grant Public Service's requested clarifications on these points.

**L. ERP Approval**

43. Public Service requests clarification that the Commission has approved its entire 2011 ERP, as modified by the Phase I Decision. Specifically, the Company requests modification to paragraph 246 of the Phase I Decision to clarify that all of the Company's ERP is granted except as explicitly modified by the Commission.

44. We deny Public Service's request. The Commission addressed the requests for approvals set forth by Public Service in its ERP and its filings in this proceeding. Public Service must identify specific areas where further approval is necessary in the event that the Phase I Decision does not provide adequate direction from the Commission to implement the ERP.

**M. Arapahoe PPA**

45. Public Service requests clarification that the introductory section of the Phase I Decision on page 4 does not imply that the Arapahoe PPA alone accounts for the majority of savings for customers associated with the approved transaction with SW Generation. We agree that these savings flow largely from the Fountain Valley gas sales agreement and grant Public Service's requested clarification on this point.

**N. Surplus Capacity Credit**

46. In its RRR, Staff asserts that Public Service changed its position on the surplus capacity credit in response to Staff's Answer Testimony and that the Company no longer supports the initial position regarding the surplus capacity credit. Staff also states that, because Public Service does not need capacity until 2017, there is no justification for any surplus capacity credit before that date. Staff notes that Public Service agreed at hearing that the capacity credit

should be zero through 2016. As shown in Hearing Exhibit 173,<sup>4</sup> Staff and Public Service also took similar positions for the years 2017 and beyond, generally proposing a surplus capacity credit value (\$/kW-month) that is similar to that initially proposed by Public Service, but with reduced levels of the maximum surplus capacity credit (MW).

47. At the conclusion of hearings, however, SW Generation supported the Company's originally filed position, and in hearing, CIEA proposed a surplus capacity credit that was similar to the Company's initial position, but with slightly higher values in the early years and slightly lower values for 2019 and beyond. In its Statement of Position, WRA listed guidelines for a capacity credit, which generally support the Company's hearing position but allowing 100 MW even in the early years of the resource acquisition period.

48. The Commission finds it appropriate, in this instance, to maintain the Company's initial proposal, as adopted in the Phase I Decision. It is reasonable to account for some value of surplus capacity throughout the bid evaluation modeling. However, we are also concerned that the presentation of the alternative proposals for surplus capacity values at hearing did not allow for the full vetting of these proposals and that each of them falls short of a comprehensive solution. We note that the bid evaluation modeling results will be reviewed by the parties, the IE, and the Commission. We anticipate that this review will make apparent portfolios that would disproportionately benefit from an excessive surplus capacity credit, particularly before 2017 when no additional capacity is needed.

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<sup>4</sup> Hearing Exhibit 173 is a summary of the four party positions on the Surplus Capacity issue, presented near the end of hearings.

**O. Bidder Information**

49. CIEA requests in its RRR that the Commission require Public Service to notify bidders of assumptions and inputs associated with their bids in sufficient time to allow for comment and correction prior to modeling. CIEA recognizes that the Phase I Decision requires the Company to notify bidders about the inputs and assumptions associated with their bids and explain the reasons a bid is not advanced to modeling. However, such information must be provided to bidders in time to make any necessary corrections, as Public Service committed to do at hearing.

50. We grant CIEA's request on this issue. Public Service shall notify bidders about inputs and assumptions in sufficient time to make any needed corrections prior to a final Company decision not to advance the bid to modeling.

**P. Cherokee 4 and Arapahoe 4 Modeling**

51. CIEA requests reconsideration of the decision not to require Public Service to use a "point cost" for operations and maintenance (O&M) costs in the Phase II modeling Cherokee 4 and Arapahoe 4. CIEA also argues that such point costs for O&M should also be used as a ceiling for recovery of such costs.

52. In addition, CIEA recommends that the Commission require the modeling of Arapahoe 4 and Cherokee 4 to include all capital and O&M costs, as well as any additional costs associated with their advanced age and lack of flexibility. CIEA contends that without a point cost requirement for O&M, Public Service will not face any penalty or accountability for proposing unrealistically low costs to operate Arapahoe 4 or Cherokee 4. CIEA also argues that Public Service could dilute the costs of Cherokee 4 and Arapahoe 4 by spreading them to other units at their sites. Further, CIEA states that operating Cherokee 4 and Arapahoe 4 for

peaking service and using gas fuel instead of coal may impose additional maintenance and capital costs. Alternately, CIEA recommends requiring the IE to certify Public Service's cost estimates for Arapahoe 4 and Cherokee 4.

53. We deny CIEA's request. Capital construction cost estimates for new utility facilities are the primary driver for the point cost requirement discussed above, whereas Arapahoe 4 and Cherokee 4 are existing plants that are not required to bid into the all-source solicitation consistent with the Phase I Decision. Although the future operation of the units as gas peaking facilities rather than base load coal facilities may require significant adjustments to cost estimates derived from the units' past operations, we find that such adjustments do not warrant the point cost restrictions and rate recovery limitations as proposed by CIEA.

54. In consideration of CIEA's concerns, however, we direct the IE to examine the Company's expected capital and O&M costs for Arapahoe 4 and Cherokee 4 in light of these facilities' advanced age and lack of operational flexibility. Specifically, the IE shall address in its report whether Public Service took reasonable steps to forecast and account for the O&M and capital costs associated with the continued operation of the Arapahoe 4 and Cherokee 4 facilities and whether these costs are properly represented in the modeling. Consistent with the IE's role as established in the Phase I Decision, the IE shall not develop its own cost estimates for operation of the facilities and shall not establish engineering or other studies regarding the additional costs associated with running the base load coal units on natural gas for peaking service.

**Q. Production Tax Credit Extension**

55. Interwest suggests that the Commission order Public Service to issue immediately an RFP to acquire additional wind resources in response to the extension of the

federal production tax credit (PTC). Interwest argues that it would be imprudent not to take advantage of low cost wind energy while it continues to be available to Colorado consumers.

56. We deny Interwest's request. On February 19, 2013, Public Service filed a motion in this proceeding seeking Commission approval of an expedited process to solicit and to review bids for wind resources in light of the recent extension of the federal PTC. At the Commissioners' Weekly Meeting held on March 7, 2013, the Commission approved an expedited process proposed by Public Service.<sup>5</sup> We therefore conclude that Interwest's request has been fully addressed by our approval of Public Service's motion, as amended.

57. In addition, Interwest requests that the Commission direct Public Service to accept, evaluate, and model wind bids assuming that the PTC will be extended beyond 2013. Interwest argues that waiting to respond to a future extension of the PTC with a new RFP will harm ratepayers.

58. We disagree with Interwest and find that it is speculative and unsupported by the record in this proceeding to assume the PTC will be extended again for a meaningful duration in the resource planning period. We therefore deny Interwest's request.

#### **R. Coal Cycling Costs**

59. Interwest requests that the Commission reconsider the application of coal cycling costs in bid evaluation and modeling, because, according to Interwest, such costs should instead be attributed to the existing base load coal resources rather than to any new resources. Interwest further argues that there is insufficient time to modify and review an updated coal cycling analysis prior to Phase II bid evaluation and modeling.

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<sup>5</sup> The decision approving Public Service's motion is by a separate written order.

60. If the Commission nevertheless permits Public Service to apply coal cycling costs in Phase II, Interwest recommends that the Commission allow the parties to review and to analyze any updated inputs and methods in order to inform the Commission whether all resources contributing to coal cycling are actually assessed in accordance with the extent they contribute to coal cycling. Along these lines, Interwest suggests that the Commission require Public Service to identify which resources were chosen or eliminated as a result of the application of coal cycling costs.

61. As explained in the Phase I Decision, we disagree with Interwest that it is appropriate at this time to attribute coal cycling costs to the coal plants themselves. We therefore deny Interwest's RRR. However, in light of the proposed timeline presented by Public Service in its February 19, 2013 motion, as amended, it may not be possible to complete a review of the updated inputs and assumptions to the coal cycling study prior to its use in Phase II. Therefore, we instruct Public Service to explain thoroughly the cost impacts resulting from the application of the updated coal cycling study in its Phase II reports on bid evaluation and modeling. The Commission may then weigh this information in the context of support and criticism of the updated coal cycling study in reaching its Phase II decisions.

**S. Section 123 Criteria**

62. C12 Energy requests in its RRR clarification regarding the scope of benefits considered by the Commission in its cost-effectiveness analysis of Section 123 resources, given the language in § 40-2-123, C.R.S. Specifically, C12 Energy requests the Commission consider § 40-2-123(1)(b), C.R.S., which, among other considerations, states that: “[w]here utilities eliminate or reduce carbon dioxide (CO<sub>2</sub>) emissions through the use of capture and sequestration, the commission may consider the benefits of using CO<sub>2</sub> for enhanced oil recovery or other uses.”

63. We deny C12 Energy's request as no clarification is necessary. As in any matter, the Commission will review its decisions in light of all applicable statutory directives.

**T. Economic Dispatch Factor for Modeling**

64. C12 Energy states in its RRR that a significant portion of the benefits of its proposed project are generated from revenues associated with the sale of the sequestered CO<sub>2</sub> product. The amount of CO<sub>2</sub> generated is based on the dispatch or operating hours of the resource. C12 Energy thus seeks clarification as to whether the Commission expects this dispatch-related benefit to be analyzed and quantified by Public Service in modeling. If modeling is not applicable, C12 Energy requests clarification as to whether such dispatch-related benefits will be analyzed and quantified by Public Service outside of the modeling. In either case, C12 Energy requests that Public Service present such information to the Commission as a part of its 120-day report.

65. We find that the record does not contain enough evidence to answer the questions posed in C12 Energy's RRR, as they would require detailed information associated with C12 Energy's bid, which is not in the record, in order to understand how the dispatch-related parameters should be calculated. (For example, it is not clear how the CO<sub>2</sub> sales revenues will offset electricity costs through the bid price for electric demand or energy.) We therefore deny C12 Energy's RRR on this matter.

**U. Gas Price Volatility Mitigation Adder**

66. The Gas Producers request reconsideration of the Commission's approval of Public Service's proposal to include a Gas Price Volatility Mitigation (GPVM) adder in bid evaluation and modeling. We find that this issue was adequately addressed in the Phase I

Decision, and the Gas Producers do not provide any new arguments. Therefore we deny Gas Producers' request.

67. The Gas Producers also argue that the GPVM adder should be applied only to spot market purchases, excluding contract-capped, hedged, or stored purchases. We deny this request as well. Public Service adequately rebutted Gas Producers' arguments on this issue, explaining that the Company does not apply the adder to long-term contract costs but only to gas purchases not already subject to some form of long-term hedging. Public Service's proposed GPVM adder is based on the overall purchases on its system and takes into consideration the components as discussed by the Gas Producers.

#### **V. Gas Transportation Adder**

68. In its RRR, SW Generation describes Public Service's proposed gas transportation cost adder as a modeling assumption that "stacks the deck" against certain IPP facilities. SW Generation therefore requests that the Commission reconsider its approval of the gas transportation adder as proposed by Public Service in order to prevent unjust discrimination in bid evaluation and modeling in Phase II.

69. SW Generation faults the Phase I Decision for inaccurately and incompletely describing the Company's proposed gas transportation adder, for failing to discuss SW Generation's position on this issue, for missing an opportunity to minimize fact-based disputes in Phase II, and for ignoring the possibility that Public Service's plan could lead to IPP bids "subsidizing" the Company's existing and future fleets of self-build generation facilities. SW Generation suggests that the Commission should instead adopt an approach where all natural gas-fired facility bids are assigned the same adder for purposes of the basic gas transportation charge.

70. We deny SW Generation's request to reconsider the approval of Public Service's proposal to apply a gas transportation adder to certain bids. The Phase I Decision makes it clear that the exclusion of a party's filing or comments from the decision does not indicate that the party's presented information was not considered by the Commission. The Commission comprehended Public Service's proposal, fully considered SW Generation's opposition to it, and determined that the Company's proposal was reasonable for the purpose of the Phase II bid evaluation in this ERP.

71. Public Service made a convincing case that costs to ratepayers to supply natural gas to plants outside of the Core Area may be different due to a variety of factors related to the plant's location such as the availability of service and the effective rates charged by the interstate pipeline. We therefore reject SW Generation's alternative proposal that all natural gas-fired facility bids are assigned the same adder for purposes of the basic gas transportation charge. Furthermore, we disagree with SW Generation that the "Core Area" is fatally nebulous with respect to existing IPP plants. We also disagree with SW Generation that the implementation of the gas transportation adders in Phase II as described by Public Service witnesses is too vague and too arbitrary to implement during the Phase II bid evaluation and modeling. Under the ERP Rules and the terms of the Phase I Decision, SW Generation has the opportunity to gain access to the adders applied to its bid. SW Generation retains the right to raise concerns about bid evaluation and modeling in Phase II.

**W. Coal Prices**

72. Ms. Glustrom requests that the Commission recognize several factors she presented in testimony related to coal cost escalation, the financial condition of the coal industry, coal cost reporting, and pass-through of coal costs. We deny Ms. Glustrom's request.

The arguments raised by Ms. Glustrom were considered fully in the Phase I Decision, and we find that adoption of these specific factors in the Phase I Decision is not necessary.

**III. ORDER**

**A. The Commission Orders That:**

1. Accion Group, Inc., is approved as the Independent Evaluator to fulfill the scope of work set forth in Decision No. C13-0094.

2. The bidder nondisclosure agreement filed by Public Service Company of Colorado (Public Service) on February 7, 2013, as ordered by Decision No. C13-0094, and in order to comply with paragraph 3613(b) of the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations*, 723-3, is approved.

3. The Motion for Leave to File a Response to the Applications for Rehearing, Reargument, or Reconsideration filed by Western Resource Advocates (WRA) on February 22, 2013, is denied, consistent with the discussion above.

4. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by Public Service is granted, in part, and denied, in part, consistent with the discussion above.

5. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by the Staff of the Colorado Public Utilities Commission is granted, in part, and denied, in part, consistent with the discussion above.

6. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by Colorado Independent Energy Association is granted, in part, and denied, in part, consistent with the discussion above.

7. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by C12 Energy, Inc. is denied.

8. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by Southwest Generation Operating Company, LLC, is denied.

9. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by Interwest Energy Alliance is denied.

10. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by WRA is denied.

11. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by EnCana Oil & Gas (USA) and Noble Energy, Inc. is denied.

12. The Application for Rehearing, Reargument, or Reconsideration filed on February 13, 2013 by Ms. Leslie Glustrom is denied.

13. Requests not addressed in this Order are denied.

14. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Order.

15. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING  
March 12, 2013.**

(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

JOSHUA B. EPEL

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JAMES K. TARPEY

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PAMELA J. PATTON

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Commissioners