

Decision No. C14-0616-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0302E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR APPROVAL OF ITS SOLAR*CONNECT PROGRAM.

PROCEEDING NO. 14A-0301E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR APPROVAL TO ISSUE TARGETED REQUEST FOR PROPOSALS
TO ACQUIRE GENERATION RESOURCES TO SUPPORT THE SOLAR*CONNECT
PROGRAM.

**INTERIM DECISION: (1) SETTING THE APPLICATIONS
FOR HEARING BEFORE THE COMMISSION *EN BANC*;
(2) GRANTING INTERVENTIONS; (3) GRANTING
MOTIONS TO APPEAR *PRO HAC VICE*;
(4) CONSOLIDATING PROCEEDINGS; (5) DENYING
MOTION FOR EXPEDITED CONSIDERATION OF
BIDDING PROCEDURES; (6) REQUIRING
SUPPLEMENTAL DIRECT TESTIMONY; AND
(7) SCHEDULING A PREHEARING CONFERENCE**

Mailed Date: June 9, 2014
Adopted Date: May 28, 2014

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I. BY THE COMMISSION**A. Statement**

1. On April 3, 2014, Public Service Company of Colorado (Public Service or Company) filed an Application for Approval of Its Solar*Connect Program (Program Application) in Proceeding No. 14A-0302E.¹ Public Service seeks approval of a new voluntary program where customers can purchase photovoltaic (PV) solar energy generated by utility-scale PV generation resources.

2. Public Service also filed on April 3 2014, an Application for Approval to Issue Targeted Request for Proposals to Acquire Generation Resources to Support the Solar*Connect Program (RFP Application) in Proceeding No. 14A-0301E.² Public Service seeks approval to issue a Request for Proposals (RFP) for up to 50 MW of PV solar resources to be used to support the proposed Solar*Connect program.

3. By Decision No. C14-0384-I, issued on April 11, 2014 in Proceeding No. 14A-0301E, the Commission denied Public Service's request for a shortened notice and intervention period in that proceeding.

4. On May 6, 2014, Public Service filed a Motion for Expedited Bidding Procedures Schedule (Motion to Expedite) in Proceeding No. 14A-0301E, requesting a decision approving the RFP Application by July 9, 2014. By Decision No. C14-0487-I, issued on May 9, 2014, the Commission denied Public Service's request for shortened response time to the Motion to Expedite.

¹ The Program Application was deemed complete for purposes of § 40-6-109.5, C.R.S., on May 22, 2014 by operation of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

² The RFP Application was deemed complete for purposes of § 40-6-109.5, C.R.S., on May 20, 2014 by operation of Rule 1303(c)(III) of the Rules of Practice and Procedure, 4 CCR 723-1.

5. By this Decision, we set the Program Application and the RFP Application for a hearing before the Commission *en banc*, grant the requests for intervention, deny the Motion to Expedite, consolidate the proceedings, require Public Service to file Supplemental Direct Testimony, and schedule a prehearing conference.

B. Setting Applications for Hearing

6. Upon review of the Program Application and the RFP Application, and in consideration of the requests for hearings in these matters and the opposition to the application set forth in certain requests for intervention, we find good cause to set both applications for hearing before the Commission *en banc*.

C. Interventions

7. The following parties timely filed requests to intervene in Proceeding No. 14A-0301E: The Alliance for Solar Choice (TASC); City of Boulder (Boulder); Colorado Solar Energy Industries Association (CoSEIA); Colorado Independent Energy Association (CIEA); NextEra Energy Resources, LLC (NextEra); Solar Energy Industries Association (SEIA); Sunshare, LLC (Sunshare); and Western Resource Advocates (WRA).

8. We find good cause to grant these requests for interventions.

9. The Staff of the Colorado Public Utilities Commission (Staff) and the Colorado Office of Consumer Counsel (OCC) each timely filed notices of intervention by right in Proceeding No. 14A-0301E.

10. Interwest Energy Alliance (Interwest) filed a petition for late intervention in Proceeding No. 14A-0301E. As no response was filed to this motion, we grant the petition for late intervention as unopposed.

11. The following parties timely filed requests to intervene in Proceeding No. 14A-0302E: TASC; Interwest; Boulder; Clean Energy Collective, LLC; CoSEIA; Colorado Energy Consumers (CEC); NextEra; SEIA; Sunshare; the Vote Solar Initiative; and WRA.

12. We find good cause to grant these requests for interventions.

13. Staff, the OCC, and the Colorado Energy Office each timely filed notices of intervention by right in Proceeding No. 14A-0302E.

D. Motion to Expedite and Consolidation of Proceedings

14. In the Motion to Expedite, Public Service states that accelerated Commission consideration of the RFP is necessary to accommodate the construction and the commencement of commercial operations of the selected PV resources before December 31, 2016, so that the projects can qualify for the 30 percent federal Investment Tax Credit (ITC).³

15. Staff opposes the Motion to Expedite and recommends that the Commission consolidate the proceedings. Staff raises several concerns with the proposed RFP and argues that a procedural schedule culminating in a decision by July 9, 2014 will not provide sufficient time to address the merits of the RFP Application.

16. In contrast, the OCC and NextEra recommend granting the Motion to Expedite. They generally agree with Public Service that it is necessary to accelerate the approval of the RFP Application so that facilities can be constructed and in service to qualify for the 30 percent ITC.

³ The ITC drops to 10 percent beginning January 1, 2017.

17. We agree with Staff that a July 9, 2014 decision will not allow sufficient time to address the RFP Application. Further, we find that Public Service has not met its burden to demonstrate that its proposed expedited schedule is necessary to meet the deadline for qualification for a 30 percent ITC, which is approximately 30 months in the future. We therefore deny the Motion to Expedite.

18. Given our denial of the Motion to Expedite, we find good cause to grant Staff's request to consolidate Proceeding Nos. 14A-0301E and 14A-0302E. Rule 1402 states the Commission may consolidate proceedings where the issues are substantially similar and the rights of the parties will not be prejudiced. Proceeding No. 14A-0302E shall be the primary proceeding.

19. Parties granted interventions in Proceeding Nos. 14A-0301E and 14A-0302E shall be parties in the consolidated proceeding. The parties therefore include: Public Service, Staff, OCC, TASC, Boulder, CoSEIA, CIEA, NextEra,⁴ SEIA, Sunshare, WRA, Interwest, CEC, and the Clean Energy Collective.

E. Supplemental Direct Testimony

20. Public Service takes the position that the Commission can consider the Company's proposed Solar*Connect program in a separate proceeding prior to addressing the net metering issues under consideration in Proceeding No. 14M-0235E (Jackson Direct at 16). However, the Company presents its proposed program as an alternative to net metering and argues that elements of the Solar*Connect program design are influenced by the Commission's treatment of net metering (Program Application, at 2). The Company further states that it has

⁴ On May 13, 2014, counsel for NextEra filed motions to appear *pro hac vice* in Proceeding Nos. 14A-0301E and 14A-0302E. We find that counsel complied with the requirements of Colorado Rule of Civil Procedure 221.1 and find good cause to grant both unopposed motions.

concerns with inequities in net metering and that the proposed Solar*Connect program is a “step in the right direction” (Jackson Direct, at 29).

21. For example, according to Public Service, the proposed Solar*Connect program is closer to cost causation cost-of-service principles and therefore requires less of a subsidy and less support from collections through the Renewable Energy Standard Adjustment (RESA) than net metering and community solar gardens (CSGs) (Program Application, at 1). Public Service argues that the proposed RESA-funded subsidy proposed for Solar*Connect will be more transparent and will be less than the subsidies inherent in net metering and in CSGs (Jackson Direct, at 18-19). Public Service also argues that its proposed bill credits for Solar*Connect will, in contrast to net metering and CSGs, charge participants for costs of service they should still bear even with their purchase of solar production (Jackson Direct, at 22-23).

22. Public Service states that customers participating in its Solar*Rewards on-site solar program receive incentives in the form of both Renewable Energy Credit payments and a net metering subsidy (Jackson Direct, at 14). Although the Company alleges that its proposed program will have fewer subsidies than existing rooftop solar programs because of net metering, the Company does not state what level of subsidy is caused by current net metering policies.

23. Because the proposed Solar*Connect program appears to be a competing alternative to net metering and CSGs, we require Public Service to file Supplemental Direct Testimony addressing the claimed level of subsidies afforded to net metering customers under the current net metering policies and to CSG customers under the current billing credit policies. Public Service shall present a full analysis and discussion in support of its contention that the RESA-funded subsidy proposed for Solar*Connect will be more transparent and will be less than the subsidies inherent in net metering and in CSGs.

24. In addition, Public Service is directed to explain more thoroughly in Supplemental Direct Testimony the subsidies requested to support the Solar*Connect program. For purposes of comparison to each of the subsidies the Company identifies for net metering and CSGs, Public Service shall identify whether, for the proposed Solar*Connect program, Public Service proposes: a direct assignment of costs (no subsidy); an averaging, estimation, or other cost determination that could lead to a potential subsidy; or an explicit subsidy drawn from RESA collections or other sources. Public Service is also directed to quantify the level of subsidies in total dollars (annual revenue requirements) and as costs to average ratepayers.

25. Public Service shall file the Supplemental Direct Testimony no later than **July 11, 2014**.

F. Prehearing Conference

26. We schedule a pre-hearing conference in this matter for **June 19, 2014 at 10:00 a.m.** for the purpose of establishing a procedural schedule.

27. Public Service is directed to confer with the intervening parties and attempt to develop a proposed procedural schedule with associated discovery procedures. The proposed schedule shall be filed no later than **June 16, 2014**. If parties cannot reach consensus on a schedule, Public Service and the parties offering alternative schedules must file their proposals no later than **June 16, 2014**.

II. ORDER

A. It Is Ordered That:

1. The Application for Approval of Its Solar*Connect Program filed on April 3, 2014 by Public Service Company of Colorado (Public Service) in Proceeding No. 14A-0302E is set for hearing before the Commission *en banc*.

2. The Application for Approval to Issue Targeted Request for Proposals to Acquire Generation Resources to Support the Solar*Connect Program filed on April 3, 2014 by Public Service in Proceeding No. 14A-0301E is set for hearing before the Commission *en banc*.

3. The Motion for Expedited Bidding Procedures Schedule filed by Public Service on May 6, 2014 in Proceeding No 14A-0301E is denied, consistent with the discussion above.

4. The Motions for Intervention filed by Sunshare, LLC on April 7, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

5. The Petition for Leave to Intervene filed by the City of Boulder (Boulder) on April 21, 2014 in Proceeding No. 14A-0301E and the Petition for Leave to Intervene filed by Boulder on April 24, 2014 in Proceeding No. 14A-0302E are granted.

6. The Petitions for Leave to Intervene filed by the Colorado Solar Energy Industries Association on May 1, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

7. The Motion to Intervene filed by the Colorado Independent Energy Association on May 1, 2014 in Proceeding No. 14A-0301E is granted.

8. The Motions to Intervene filed by The Alliance for Solar Choice on May 5, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

9. The Motions to Intervene filed by NextEra Energy Resources, LLC on May 5, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

10. The Motions for Leave to Intervene filed by the Solar Energy Industries Association on May 5, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

11. The Petitions for Leave to Intervene filed by Western Resource Advocates on May 5, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

12. The Motion to Intervene filed by the Colorado Energy Consumers Group on May 5, 2014 in Proceeding No. 14A-0302E is granted.

13. The Motion for Leave to File Late filed by Interwest Energy Alliance (Interwest) on May 6, 2014 in Proceeding No. 14A-0301E is granted. The Petitions to Intervene filed by Interwest on May 6, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted.

14. The Petition to Intervene filed by the Clean Energy Collective, LLC on May 6, 2014 in Proceeding No. 14A-0302E is granted.

15. The Motion to Intervene filed by the Vote Solar Initiative on May 7, 2014 in Proceeding No. 14A-0302E is granted.

28. The Motions to Appear *Pro Hac Vice* filed by counsel for NextEra on May 13, 2014 in Proceeding Nos. 14A-0301E and 14A-0302E are granted. Counsel granted permission to participate *pro hac vice* shall appear in person at prehearing conferences and hearings.

16. Proceeding Nos. 14A-0301E and 14A-0302E shall be consolidated. Proceeding No. 14A-0302E shall serve as the primary proceeding. Parties granted intervention in either proceeding shall be granted intervention in the consolidated proceedings.

17. Consistent with the discussion above, Public Service shall file Supplemental Direct Testimony no later than July 11, 2014.

18. A prehearing conference shall be held as follows:

DATE: June 19, 2014

TIME: 10:00 a.m. until 12:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

19. Consistent with the discussion above, any proposed procedural schedule shall be filed no later than June 16, 2014.

20. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 28, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners