

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0414E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR APPROVAL OF THE STIPULATION AND AGREEMENT WITH THE
SOLAR ENERGY INDUSTRIES ASSOCIATION AND THE COLORADO SOLAR
ENERGIES INDUSTRIES ASSOCIATION.

DECISION APPROVING SETTLEMENT

Mailed Date: June 25, 2014
Adopted Date: June 18, 2014

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I. BY THE COMMISSION

A. Procedural Background

1. This matter comes before the Commission in consideration of the Application of Public Service Company of Colorado (Public Service or Company) for Approval of the Stipulation and Agreement with the Solar Energy Industries Association and Colorado Solar Energy Industries Association (Application) filed on May 5, 2014.¹ The settlement concerns the

¹ Public Service, the Colorado Solar Energy Industries Association, and the Solar Energy Industries Association are collectively the Settling Parties.

reopening of the Medium Solar*Rewards Program and the extension of the Small Solar*Rewards Program pending issuance of a final Commission decision on Public Service's 2014 Renewable Energy Standard Compliance Plan (RES Plan) in Proceeding No. 13A-0836E.

2. The Solar Energy Industries Association (SEIA); Western Resource Advocates (WRA); Wal-Mart Stores, Inc. and Sam's West, Inc.; and Colorado Solar Energy Industries Association (CoSIEA) filed requests for permissive intervention, but did not request a hearing. The Colorado Office of Consumer Counsel (OCC) filed an intervention by right and requested a hearing. The OCC raised concerns regarding the amounts of available capacity contemplated in the settlement and the Renewable Energy Credit (REC) incentive payments for the small onsite solar program. The Commission granted all requests for permissive intervention and noted the OCC's intervention by right.²

3. The Commission found it should rule on the merits of the Application as soon as possible to avoid rendering the settlement moot and to consider continuity of onsite solar programs.³ To balance the OCC's ability to present its objections to the settlement with the policy reasons to rule on the settlement, the Commission determined it will conduct limited proceedings rather than a full evidentiary hearing process. The Commission noted the medium program has been closed since October 2013, and acknowledged the concern that the small program likely will close before the 2014 RES Compliance Plan is approved.⁴

² Decision No. C14-0617-I, mailed June 6, 2014, ¶ 6.

³ *Id.*, ¶ 9.

⁴ *Id.*, ¶ 8. The Small Solar*Rewards program closed shortly after the Commission deliberated on Decision No. C14-0617-I.

Finally, the Commission noted this settlement will be in effect for only a few months, until there is a final decision on the merits of the 2014 RES Plan in Proceeding No. 13A-0836E.⁵ Therefore, the Commission ordered the parties to file briefs on the reasonableness and merits of the settlement on or before June 12, 2014.⁶ SEIA, CoSEIA, Public Service, and the OCC timely filed briefs.

B. Settlement

4. The settlement proposes the acquisition of a maximum 4 MW per month (or a total of 20 MW) in the Small Solar*Rewards program and 7 MW total in the Medium Solar*Rewards program. Public Service would acquire this capacity from the date the Commission approves the settlement until the Commission issues a final decision on the 2014 RES Plan. The settlement contemplates all of the capacity acquired under the settlement will be subtracted from capacity approved in the 2014 RES Plan proceeding. The settlement proposes REC incentive payments for each program equal to the most recent incentives available under the previously-approved schedule of declining incentives. Finally, the settlement proposes to change the maximum size of photovoltaic (PV) systems in the Small Solar*Rewards program from 10 kW to 25 kW. Correspondingly, the smallest PV system in the medium program is 25.1 kW.

5. Public Service explains the settlement is temporary in nature and the Commission will determine the final amounts of onsite solar acquisitions and incentive levels for 2014 based on the fully litigated record in Proceeding No. 13A-0836E. In addition, Public Service states the

⁵ Proceeding No. 13A-0836E is presently pending before an administrative law judge (ALJ), who has held a hearing and received statements of position. The ALJ is due to issue a recommended decision in July 2014, which would enable the Commission to issue a final decision in early fall.

⁶ *Id.*, ¶ 9.

costs of the solar acquired under the settlement should not exceed \$284,000 above what the Company has proposed to spend on solar acquisitions in the 2014 RES Plan. Finally, Public Service argues that approval of the settlement will have no binding effect on Proceeding No. 13A-0836E. The Company states that if the final decision in Proceeding No. 13A-0836E establishes lower capacity levels than are approved in the settlement, the affected program in the 2014 RES Plan will close and no more capacity will be available until the Commission approves the 2015 RES Plan.

6. The Settling Parties argue it is important to bridge the gap between the closure of the 2013 programs and the start of the 2014 programs. SEIA and CoSEIA also argue prolonged closures of the solar programs will result in financial hardship for onsite solar companies, loss of competition, and higher prices for onsite solar installations over time. SEIA notes that all of the parties proposing solar acquisition targets in the 2014 RES Plan proceeding, except the OCC, recommended acquisition levels higher than the 27 MW of total capacity proposed in the settlement.

C. The OCC

7. The OCC agrees continuity of onsite solar programs is beneficial to Colorado. It recommends the Commission authorize a maximum of 6 MW of interim capacity for both small and medium programs (4.3 MW for the small and 1.7 MW for the medium). Alternatively, the OCC recommends the Commission approve interim capacity equal to the historic installation levels for the small and medium programs, noting the capacity contemplated in the settlement exceeds these historic levels. The OCC argues this moderate alternative acquisition proposal would result in about one-half the cost of the settlement.

8. The OCC also opposes the proposed REC payments for the small program. The OCC argues these incentives diverge from the “glide path to zero” that the Commission adopted in prior proceedings. The OCC argues the interim REC incentive payments should be reduced from those available when the programs closed to continue on this “glide path to zero.”

D. Discussion

9. We find the acquisition amounts contemplated in the settlement to be reasonable as a short-term “bridge” pending a final Commission decision in the 2014 RES Plan Proceeding. The approval of the settlement will allow immediate restoration of the Small and Medium Solar*Rewards programs and will result in continuity to customers, Public Service, and the solar industry. No party disputes continuity of the solar programs is in the public interest.⁷ This continuity is especially important given the current summer construction season.⁸

10. We acknowledge the OCC’s concern that the acquisition of 4 MW per month in the Small Solar*Rewards program is higher than the average monthly acquisitions in the last three years. Yet, these historical acquisition levels, if continued after the solar programs resume under the Settlement, will minimize any prejudice to the OCC in Proceeding No. 13A-0836E⁹ because: (1) the settlement will be in effect for only a few months; and (2) all of the capacity acquired pursuant to the settlement will be subtracted from the capacity approved in the 2014 RES Plan proceeding. Given these aspects of the Settlement, we find the proposed capacity to be a reasonable short term bridge to the 2014 RES Plan.

⁷ The brief regarding the 2014 Solar Stipulation filed by the OCC on June 12, 2014, p. 2.

⁸ The brief filed by CoSEIA, p. 3.

⁹ In that proceeding, the OCC argues Public Service should acquire up to 6 MW of onsite solar resources in its 2014 RES Plan (both small and medium programs).

11. We also approve the REC incentives proposed in the settlement. We find any changes to the REC incentives should be made in the context of a fully litigated proceeding. We therefore defer this issue to Proceeding No. 13A-0836E.

12. We approve the proposal to change the maximum size of PV systems in the Small Solar*Rewards program from 10 kW to 25 kW. Public Service has presented the same proposal in its 2014 RES Plan. This proposal is unopposed in either proceeding. We find good cause to approve this unopposed proposal.

13. We find the \$284,000 estimated cost of the solar to be acquired under settlement to be reasonable. This cost is in addition to what Public Service modeled and presented in Proceeding No. 13A-0836E and assumes all 20 MW of the small program will be acquired.¹⁰ However, these costs will be lower if the acquisitions continue at their historical levels. In addition, the OCC does not argue and there is no evidence the cost of the solar to be acquired under the settlement will exceed funds available from the Renewable Energy Standard Adjustment.

14. The Commission encourages settlement of contested matters, especially where the parties provide comprehensive reasoning regarding the terms of a settlement.¹¹ Here, the Settling Parties provided comprehensive reasoning in their briefs, the settlement, and testimony supporting it. We find the settlement is just and reasonable and approve it without modifications. Finally, under the terms of the settlement and due to its temporary nature, nothing in the settlement or this Decision will serve as precedent in the 2014 RES Plan or any other proceeding.

¹⁰ Direct Testimony of Robin L. Kittel, p. 12, lines 16-19.

¹¹ Rule 1408 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

II. ORDER**A. The Commission Orders That:**

1. Consistent with the discussion above, the Application of Public Service Company of Colorado for Approval of the Stipulation and Agreement with the Solar Energy Industries Association and Colorado Solar Energy Industries Association filed on May 5, 2014 is granted.

2. The 20-day period provided 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 Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 18, 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