Decision No. R20-0099

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0369E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2020-2021 RENEWABLE ENERGY COMPLIANCE PLAN.

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
APPROVING RENEWABLE ENERGY
COMPLIANCE PLAN WITH MODIFICATIONS

Mailed Date: February 14, 2020

TABLE OF CONTENTS

I. STATEMENT 2
- A. Summary 2
- B. Background 4

II. RELEVANT LAW 7
- A. Jurisdiction and Burden of Proof. 7
- B. The Renewable Energy Standard 8
- C. Compliance with the Renewable Energy Standard 9
- D. Renewable Energy Standard Adjustment and the Retail Rate Impact Rule 12

III. EVIDENCE, ARGUMENTS, FINDINGS, ANALYSIS, AND CONCLUSIONS 14
- A. Commission Jurisdiction 14
- B. Bridge Plan Concept 14
- C. Plan's Proposed Electricity from Eligible Energy Resources. 16
- D. Estimated Retail Rate and RESA Impact. 17
- E. Proposed Community Solar Gardens Programs 22
  - 1. Proposed CSG Capacity 22
  - 2. RFP Process and Bid Evaluation. 29

3. Company-Offered Low-Income Community Solar Garden's Incentives, PLA, and Related Issues. 37
F. Proposed On-Site Solar Programs 44
1. On-Site Small Program 44
2. On-Site Medium 47
3. On-Site Large 51
4. Timing Suggestions Relating to the Investment Tax Credit. 54
5. CEO Low-Income Rooftop Solar Program 57
G. Other Issues. 69
1. Solar + Storage Proposal 69
2. Third-Party Audit Proposal 74
3. Holistic Review of Low-Income Programs. 75
4. Weather Normalization Forecast Issue 76
5. Rate Design Issues 77
6. Community Solar Garden Subscribers' REC Ownership 77
7. Proposed Changes to Standard Contracts 77
8. On-Bill Financing 78
9. Demand Side Management and RESA Charges to Customers. 79
H. Other Findings and Conclusions 80
IV. ORDER 82
A. The Commission Orders That: 82

I. STATEMENT

A. Summary

1. This Decision approves Public Service Company of Colorado's (Public Service or the Company) 2020-21 Renewable Energy Compliance Plan (the Plan or 2020-21 Plan) with

modifications.[1] The most significant disputes in this proceeding relate to whether the Commission should require the Company to significantly expand multiple renewable energy programs; modify incentives for various programs; and authorize new programs which encourage energy storage system installation paired with solar systems.

2. The Decision largely approves the Company's proposed Plan, as amended through various filings in this proceeding. The approved Plan exceeds the renewable energy standard's minimum required electricity requirements, expands the Company's renewable energy offerings, and results in broader opportunities for customers to participate in renewable energy programs. For the reasons discussed, the Decision does not approve significant Plan changes, instead opting to take a measured approach that results in a reasonable and prudent Plan that simultaneously exceeds statutory and regulatory requirements while safeguarding the Company's ability to provide safe, efficient, and adequate service at just and reasonable rates. The public interest is the guiding force behind this Decision.

3. The parties raise numerous broad policy issues which are or may be addressed through several significant ongoing Commission rulemaking proceedings on changes to the Commission's Rules Regulating Electric Utilities in Proceeding Nos. 19R-0096E, 19R-0608E, and 19R-0654E.[2] The ALJ declines to address issues that are more appropriately resolved through those rulemaking proceedings, and instead addresses only the issues that are necessary to

[1] The parties raise a large number of issues in this proceeding. Many of those are: more appropriately resolved through ongoing rulemaking proceedings or other proceedings; outside the scope of this proceeding; or otherwise extraneous to whether the Company's Plan should be approved. Given this and the pure volume of issues raised, the Administrative Law Judge (ALJ) does not discuss every issue raised. For the same reason, this Decision provides limited discussion on undisputed issues. In reaching this Decision, the ALJ has considered and weighed all aspects of the Company's proposed Plan, including Plan elements that are not disputed or discussed, and all evidence and arguments presented, including those discussed briefly or not at all. Any requested relief not granted in this Decision has been considered and is denied.

[2] References to ongoing rulemaking proceedings are to one or more of these proceedings.

decide whether the Company's proposed Plan complies with the relevant statutory and regulatory requirements as they exist today.

4. This proceeding requires the decision-maker to assess various and intricate facets of the Company's proposed compliance Plan. This is a complex process that requires a delicate balancing that can "never be a precise exercise because, in order to reach some semblance of symmetry, it becomes impossible to fully assuage each and every divergent concern and interest." Decision No. R12-0261, ⁋ 71, Proceeding No. 11A-418E issued March 8, 2012. Given the volume and variety of issues presented, and the many on-going relevant rulemaking proceedings, this balance is particularly difficult. This Decision attempts to strike this balance by remaining true to the Commission's constitutional and statutory obligations and related legislative intent to sculpt a fair, equitable, and cost-effective compliance Plan that benefits Colorado overall. *See e.g.,* Decision No. R12-0261, ⁋ 71, Proceeding No. 11A-418E.

B. Background

5. Public Service initiated this matter on June 28, 2019 by filing its Verified Application for Approval of its 2020-21 Renewable Energy Compliance Plan with testimony and exhibits. At the same time the Company filed its Application, it also filed a "Verified Motion to Extend 2017-19 Renewable Energy Compliance Plan through First Quarter 2020 and Motion for Waiver of Rule 3657" (Motion). The Administrative Law Judge (ALJ) granted the Motion. Decision No. R19-0807-I. Thus, the Company's 2017-19 Renewable Energy Compliance Plan (2017-19 Plan or last plan) is operational, as outlined in the Company's Motion through March 31, 2020, and the Company is excused from complying with Rule 3657(a)'s requirement to file its compliance plan every four years with its electric resource plan for purposes of this Plan. *See* Rule 3657(a), Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado*

Regulations (CCR) 723-3.[3] The ALJ also extended the deadline for a final Commission decision by 130 days to April 13, 2020. Decision Nos. R19-0694-I and R19-0694-I-E.

6. The following parties either intervened of right, or were granted authority to permissively intervene in this matter: the Office of Consumer Counsel (the OCC); the Colorado Energy Office (CEO); the Colorado Public Utilities Trial Staff (Staff); the Colorado Solar and Storage Association and the Solar Energy Industries Association (collectively COSSA);[4] Grid Alternatives Colorado, Inc. (Grid); the City of Boulder (Boulder); the City and County of Denver (Denver); Vote Solar; Energy Outreach Colorado (Energy Outreach); the Rocky Mountain Environmental Labor Coalition (Rocky Mountain) and the Colorado Building and Construction Trades Council, AFL-CIO (collectively Rocky Mountain/Trades Council);[5] Western Resource Advocates (WRA); the Colorado Energy Consumers; and Climax Molybdenum Company (Climax). Decision No. R19-0649-I.

7. After holding a prehearing conference, the ALJ scheduled an evidentiary hearing for December 10, 11, and 12, 2019. Decision No. R19-0749-I. At the date, time, and location noticed, the ALJ called the matter for the three-day evidentiary hearing. Except for Climax and Denver, all parties appeared at all three days of the evidentiary hearing.[6]

[3] All references to Rules 3000 through 3977 are to rules found at 4 CCR 723-3 of the Commission's Rules Regulating Electric Utilities.

[4] COSSA and the Solar Energy Industries Association jointly sponsored filings and evidence throughout the proceeding. *See* Hearing Exhibits 200-203, Joint Motion to Intervene, and Statement of Position. For convenience, this Decision references them jointly as COSSA.

[5] Rocky Mountain and the Labor Coalition jointly sponsored filings and evidence throughout the proceeding. *See e.g.,* Hearing Exhibits 1000-1001, Motion to Intervene, and Statement of Position.

[6] During the December 10, 2019 hearing, the ALJ granted Climax and Denver's requests to be excused from appearing for all days of the hearing. Climax did not appear for any day of the hearing while Denver appeared at the first day of Hearing. The December 10, 11, and 12, 2019 Hearing Transcripts are cited as: Vol. I Hearing Transcript, Vol. II Hearing Transcript, and Vol. III Hearing Transcript, respectively.

8. During the hearing, the parties largely presented evidence electronically, and stipulated to the admission of most hearing exhibits. The following pre-filed electronic hearing exhibits (with attachments) were admitted into evidence by administrative notice: 1-10; 200-203; 300-301; 400-406; 500-501; 600-601; 700-721; 800-801; 900-901; 1000-1001; and 1500-1501. Hearing Exhibit 1600 identifies the pre-filed electronic hearing exhibits in the administrative record that were admitted by administrative notice.[7] The following Hearing Exhibits were admitted in paper form during the hearing: 1600-1601; 1603-1618; 1620-1635; and 1637-1640.[8] In addition, as no party objected, the ALJ granted the Company's request to take administrative notice of Decision No. C18-0149 in Proceeding No. 17D-0082E issued March 1, 2018.[9] Per the OCC's request, to which no party objected, the ALJ also took administrative notice of Attachments D and E to Hearing Exhibit 1608, the "Non-Unanimous Comprehensive Settlement Agreement" filed on August 15, 2016 in consolidated Proceeding Nos. 16AL-0048E, 16A-0055E, and 16A-139E (Three-Case Settlement).[10]

9. During the course of the three-day evidentiary hearing, the following witnesses testified: Messrs. Jack W. Ihle, Alexander G. Trowbridge, and Chad S. Nickell, and Mses. Kerry R. Klemm, Tara Fowler, and Jannell E. Marks for Public Service; Messrs. Kevin Lucas and Jeff Cramer for COSSA; Mr. Tom Figel for Grid; Mr. Chris Neil for the

[7] The fact noticed is that the pre-filed electronic hearing exhibits admitted into evidence are the pre-filed electronic hearing exhibits in the administrative record for this proceeding as reflected in the Commission's E-Filing System. Hearing Exhibit 1600 identifies the electronic pre-filed exhibits admitted into evidence by identifying the hearing exhibit number and the corresponding filing party, filing date, and document title in the Commission's E-filing system for each pre-filed electronic exhibit admitted into evidence by administrative notice.

[8] Hearing Exhibits 1619 and 1636 were not admitted into evidence, but are included in the record. There is no Hearing Exhibit 1602.

[9] For the Commission's and parties' convenience, an electronic copy of these documents are added to the administrative record.

[10] The Attachments are Public Service's tariff sheets for Colo. PUC No. 8 and are voluminous, totaling 756 pages. The first page of Attachments D and E are included in Hearing Exhibit 1608. For the Commission's and parties' convenience, an electronic copy of these documents are added to the administrative record.

OCC; Messrs. Keith Hay and Ryan P. Harry for CEO; Mr. Rick Gilliam for Vote Solar; Mr. Gary Arnold for Rocky Mountain/Trades Council; and Mr. Bill Dalton for Staff. These, and other witnesses also sponsored written testimony admitted into evidence as hearing exhibits.

II. RELEVANT LAW

A. Jurisdiction and Burden of Proof.

10. The Commission has authority to regulate public utilities, and jurisdiction to enforce statutes affecting public utilities. Colo. Const. art. XXV; and §§ 40-3-102, 40-7-101, C.R.S. (2019). And, the Commission has specific authority to decide an application seeking approval of a qualified retail utility's renewable energy standard compliance plan under § 40-2-124(1), C.R.S., and Rule 3657(c).

11. Public Service, as the proponent of an order, bears the burden of proof by a preponderance of the evidence. Rule 1500 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1. The preponderance standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party. *Schocke v. State, Dep't of Revenue,* 719 P.2d 361, 363 (Colo. App. 1986).

12. Although the preponderance standard applies, the evidence must be substantial. Substantial evidence is such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion; it must be enough evidence to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury. *City of Boulder v. Colorado Public Utilities Commission*, 996 P.2d 1270, 1278 (Colo. 2000) (internal citation omitted).

B. The Renewable Energy Standard

13. In 2004, Colorado voters approved the first version of the renewable energy standard, as an amendment to Title 40, Article 2, Colorado Revised Statutes. *Analysis of the 2004 Ballot Proposals,* Legislative Council of the Colorado General Assembly, Research Publication No. 527-1 at 38-44; *see* Senate Bill (SB) 05-143. The General Assembly amended the standard almost immediately after voters first approved it, and has amended it repeatedly over the years, most recently during the 2019 legislative session. SB 05-143; SB 19-236; *see e.g.,* House Bill 07-1281; SB 13-252; SB 15-046.

14. The renewable energy standard, also called the electric resource standard, applies to qualifying retail utilities, defined as certain providers of retail electric service in Colorado.[11] § 40-2-124(1), C.R.S. Starting in 2020, the standard requires investor-owned electric utilities such as Public Service to generate or cause to be generated at least 30 percent of their retail electricity sales in Colorado from eligible energy resources, with distributed generation equaling at least 3 percent of retail electricity sales. § 40-2-124(1)(c)(I)(E), C.R.S.; Rule 3654(a)(II); Rule 3655(a)(III). In the context of the renewable energy standard, distributed generation is retail and wholesale distributed generation. *See* § 40-2-124(1)(a)(III), C.R.S. At least one-half of the renewable distributed generation required under § 40-2-124(1)(c)(I)(E), C.R.S., must come from retail distributed generation (also referred to as RDG). § 40-2-124(1)(c)(II)(A), C.R.S.; Rule 3655(a) and (b). On-site solar systems and community solar gardens (CSGs) are examples of retail distributed generation for purposes of complying with the standard. § 40-2-127(2)(b)(I)(B), C.R.S.; Rule 3652(q) and (ff); *see* § 40-2-124(1)(a)(VIII), C.R.S.

[11] References in this Decision to the renewable energy standard, the standard, or the electric resource standard are to the electric resource standard codified in §40-2-124, C.R.S.

15. Section 40-2-124(1)(a), C.R.S., defines eligible energy resources as renewable energy resources and recycled energy.[12] Renewable energy resources "means solar, wind, geothermal, biomass, new hydroelectricity with a nameplate rating of ten megawatts or less, and hydroelectricity in existence on January 1, 2005, with a nameplate rating of thirty megawatts or less."[13] § 40-2-124(1)(a)(VII), C.R.S. And, recycled energy is energy produced by a generation unit with a nameplate capacity of not more than 15 megawatts that converts the otherwise lost energy from the heat from exhaust stacks or pipes to electricity and that does not combust additional fossil fuel. § 40-2-124(1)(a)(VI), C.R.S.; Rule 3652(v).

C. Compliance with the Renewable Energy Standard

16. A utility may demonstrate compliance with the standard by using renewable energy credits (RECs) for renewable energy an individual or entity has generated; those RECs count toward the utility's total renewable energy generated or caused to be generated.[14] Rule and 3659(a); *see* § 40-2-124(1)(c)(IV), C.R.S.; Rules 3654(k) and (l).

17. As it relates to on-site solar systems, qualifying retail utilities must have a "standard rebate offer" program which may offer a rebate for a specified amount per watt for installing eligible solar electric generation on a retail electricity customer's premises, up to 100 kilowatts per installation. § 40-2-124(1)(e)(I)(A), C.R.S.; *see* Rule 3652(jj). Generally, an on-site solar system is a solar renewable energy resource located on an end-use electric consumer's premises that is interconnected on the end-use electric consumer's side of the meter.

---

[12] The statute also states that "resources using coal mine methane and synthetic gas produced by pyrolysis of municipal solid waste are eligible energy resources if the commission determines that the electricity generated by those resources is greenhouse gas neutral." § 40-2-124(1)(a), C.R.S. This type of resource is not at issue here.

[13] Rule 3652(aa) similarly defines renewable energy resources, but clarifies that renewable energy resources "generate electricity" and clarifies that fuel cells using hydrogen from eligible energy resources are renewable energy resources.

[14] One megawatt hour of electric energy generated from a renewable energy resource is equal to one REC. Rule 3652(y).

Rule 3652(q) and (ff). The Commission may establish standard rebate amount that is less than $2.00 per watt based on the utility's application or plan when it finds the market supports this. § 40-2-124(1)(e)(I.5), C.R.S.

18. Utilities also may extend one or more standard rebate offers to purchase RECs; the purchase price for RECs should be set at levels sufficient to encourage increased customer-sited solar generation, and must allow the customer's retail electricity consumption to be offset by the electricity generated by the customer's system. § 40-2-124(1)(e)(I) and (III), C.R.S. When deciding to approve a standard offer to purchase RECs, the Commission must encourage qualifying retail utilities to design solar programs that "allow consumers of all income levels to obtain the benefits offered by solar electricity generation," and programs "that are designed to extend participation to customers in market segments that have not been responding to the standard offer program." § 40-2-124(1)(e)(III), C.R.S.

19. A qualifying retail utility's compliance plan must include a proposal to purchase electricity and RECs generated from one or more CSG. § 40-2-127(5)(a)(I), C.R.S.; Rules 3657(b) and 3665(d). And, the Commission must set the minimum and maximum required utility purchases from newly installed CSGs. § 40-2-127(5)(a)(IV), C.R.S.

20. CSGs are solar electric generation facilities with a nameplate rating of five megawatts or less located in a community served by a qualifying retail utility, with at least ten subscribers who are retail electric customers of a qualifying retail utility and have a subscription physical location within the service territory of the same qualifying retail utility as the CSG.[15]

[15] While § 40-2-127(2)(b)(I)(A), C.R.S., says the CSG must be located "in or near a community served by a qualifying retail utility," because § 40-2-127(2)(b)(I)(D)(II), C.R.S., requires CSG subscribers to be located in the CSG's qualifying retail utility's service territory, as a practical matter, the CSG must be located in a community served by a qualifying retail utility.

§ 40-2-127(2)(b)(I)(A) and (D), C.R.S.; Rule 3652(e). Qualifying retail utilities use RECs purchased from CSGs and their subscribers to comply with the renewable energy standard. Rule 3665(c) and (d). Qualifying retail utilities must reserve at least 5 percent of their renewable energy purchases from new community solar gardens for low-income subscribers, if there is a demand for this. Rule 3665(d)(IV).

21. Utilities' renewable energy standard compliance plans must include the information required by Commission Rule 3657, which essentially factors in many of the requirements already discussed. Section 40-3.2-106(1)(b), C.R.S., requires utilities to consider the costs of carbon dioxide emissions in applications under § 40-2-124, C.R.S.

22. The Commission's final decision on a qualifying retail utility's compliance plan must direct the utility to allocate its spending for retail renewable distributed generation in proportion to the revenues in the Renewable Energy Standard Adjustment (RESA) account that is derived from residential and nonresidential retail electric customers. § 40-2-124(1)(g)(I)(C), C.R.S.; Rule 3655(f). When reviewing a qualified retail utility's resource acquisitions to comply with the renewable energy standard, the Commission must consider factors that impact employment and long-term economic viability of Colorado communities, including best value employment metrics. § 40-2-129(1), C.R.S.; Rule 3656(b).

23. The Commission must also continue to be mindful of its obligations under basic tenants of utility regulation to ensure that utilities: provide adequate, just, and reasonable service; promote the public health and safety; and charge just and reasonable rates. §§ 40-3-101(1) and (2), C.R.S. Likewise, the Commission must give the public interest "first and paramount consideration" when exercising any power granted to it. *Public Serv. Co. of Colo. v Public Utilities Commission,* 350 P.2d 543, 549 (Colo. 1960) *cert. denied*, 364 U.S. 820 (1960). Thus,

the Commission must continue to give the public interest first and paramount consideration when considering the Company's Plan.

D. Renewable Energy Standard Adjustment and the Retail Rate Impact Rule

24. A utility's compliance with the renewable energy standard may not result in a retail rate impact higher than 2 percent of the total electric bill annually for each customer. § 40-2-124(1)(g)(I)(A); Rule 3661. This is known as the retail rate impact rule. *Id.* Qualifying retail utilities calculate the 2 percent cap "net of new alternative sources of electricity supply from noneligible energy resources that are reasonably available at the time of the determination." § 40-2-124(1)(g)(I)(A), C.R.S.; *see* Rule 3661(h). This limits the financial impact on ratepayers when renewable energy resources cost more than non-eligible energy resources. *See id.*

25. The retail rate impact rule is enforced in several ways. To start, a utility's renewable energy standard compliance plan must estimate the retail rate impact of its plan to comply with the standard at the beginning of the compliance period and for a minimum of ten years thereafter using the methodology described in Rule 3661. Rule 3661(f) and (h). The methodology outlined in Rule 3661(h) implements the statutory requirement that the retail rate impact be calculated net of new alternative sources of electricity supply from non-eligible resources that are reasonably available at the time of the determination. *See* § 40-2-124(1)(g)(I)(A), C.R.S. This requires a comparison of the estimated cost of providing electricity from non-eligible energy resources with the estimated costs of providing electricity from eligible energy resources proposed in the plan, resulting in a "RES plan" and "No-RES plan" estimate. Rule 3661(h)(II). Utility expenditures for unsubscribed energy and renewable energy credits generated by community solar gardens must be included in the utility's retail rate impact calculation. § 40-2-127(6), C.R.S.; Rule 3665(d)(VII).

26. Thus, the retail rate impact rule requires the Commission to consider the costs of a compliance plan. Costs are also an important consideration because utilities are entitled to a rebuttable presumption of prudence in the actions taken under an approved compliance plan; this means that generally, utilities may recover the costs of such actions from ratepayers. § 40-2-124(1)(i), C.R.S.; Rules 3657(c) and 3660(a). As a result, when deciding to approve a plan, the Commission should also consider whether the plan is prudent. *See* § 40-3-101(1), C.R.S. Consistent with its obligation to ensure that utilities' charges are just and reasonable, it is the Commission's policy that "utilities should meet the RES [renewable energy standard] in the most cost-effective manner." Rule 3656(a); § 40-3-101(1), C.R.S.

27. Qualifying retail utilities use a Commission-created cost recovery mechanism known as the RESA to provide funding for implementing the standard in § 40-2-124, C.R.S. Rules 3652(bb) and (cc) and 3660. In practice, investor-owned electric utilities bill retail electric customers no more than 2 percent of their total electric bill annually through a Commission-approved RESA rider, consistent with the retail rate impact rule in § 40-2-124(1)(g)(I)(A), C.R.S.; Rule 3660(d). The amounts collected through the utility's RESA rider are placed in a segregated RESA deferred account. Rule 3660(c).

28. A plan's impact on the RESA account balance informs whether the plan is reasonable and prudent. *See* Rule 3660(e); *see e.g.,* Decision No. C12-0606, ⁋ 20, Proceeding No. 11A-418E. As such, when deciding whether to approve a plan, the Commission should consider the plan's impact on the RESA account balance, including whether it will result in a deficit that ratepayers must pay back with interest. *Id.*

III. EVIDENCE, ARGUMENTS, FINDINGS, ANALYSIS, AND CONCLUSIONS

A. Commission Jurisdiction

29. Public Service asks the Commission to approve its Plan to comply with the renewable energy standard in § 40-2-124, C.R.S. Hearing Exhibit 1 at 1. The Company filed the Application under Rules 3002(XVII) and 3657. It is undisputed that Public Service is a qualifying retail utility as contemplated by § 40-2-124(1), C.R.S., and therefore, is subject to the renewable energy standard in that statute and the Commission's related rules. The ALJ concludes that the Commission has jurisdiction to decide this matter. *See* Colo. Const. art. XXV; §§ 40-3-102, 40-7-101, 40-2-124(1), C.R.S.; Rules 3002(XVII) and 3657(c).

B. Bridge Plan Concept

30. The Company describes its Plan as a bridge plan that facilitates the shift from significant changes required by its last plan to an anticipated dramatically different plan for its next compliance plan period (years 2022 through 2025). Hearing Exhibit 2, 3: 4-7—4: 1. The Company expects that the next plan will be largely influenced by new Commission rules currently being considered in Proceeding No. 19R-0096E, and statutory changes reflected in SB 19-236 requiring a transformative clean energy plan to achieve 80 percent carbon dioxide emission reduction by 2030. *Id.* at 4: 1-7. Within the backdrop of this rapidly changing landscape, the Company seeks to continue its progress on renewable energy advancement and customer choice while these significant changes are developed and implemented. *Id.* at 4: 7-10; *see* Public Service Statement of Position (SOP), at 1. In doing so, Public Service proposes minor modifications to its 2017-19 Plan programs to "right size" them to customer demand and incremental changes to program administrative policies and practices. Hearing Exhibit 2, 4: 13-18. After reviewing interveners' answer testimony, the Company modified its original

proposed plan through written rebuttal testimony, as detailed below. *See* Hearing Exhibit 8, 10: 3-27—14: 1-2.

31. Many interveners oppose the bridge plan concept, arguing this is a delay tactic to avoid significantly expanding the use of renewable energy resources. Parties raise policy arguments in favor of substantially expanded programs, and also urge immediate and significant action in this Plan to advance the Company's progress in meeting other statutory goals, such as requirements to reduce carbon dioxide emission and greenhouse gas pollution in § 40-2-125.5, C.R.S. *See e.g.,* COSSA SOP at 1-3; Hearing Exhibit 200, 8: 6-10; Hearing Exhibit 400, 7: 2-12; Hearing Exhibit 700, 5: 10-20—6: 1-2. In doing so, parties fail to recognize the scope of this proceeding: to enforce the renewable energy standard and related regulations.

32. The ALJ agrees that the legal landscape surrounding renewable energy is changing, and will continue to change in the very near future. Those changes are likely to impact or address many of the issues presented here. For example, the Commission is considering amendments to its Rules Regulating Electric Utilities (4 CCR 723-3), which include potential changes to electric resource planning, renewable energy standard compliance, the cost of carbon dioxide emissions, net metering, CSGs, qualifying facilities, and interconnection procedures and standards.[16] Many parties acknowledge these rulemaking proceedings' potential impact on issues raised here. And, this proceeding is not the Company's only opportunity to invest in renewable resources. Specifically, the Company's anticipated clean energy and electric resource plans offer a more appropriate forum to take a comprehensive look at many of the issues raised here, including new programs proposed. *See* § 40-2-125.5(4), C.R.S. Finally, the ALJ finds it

[16] The ALJ notes that the Commission also opened a proceeding to engage Commission Staff, stakeholders, and interested parties on changes to rules concerning integrated distribution system planning, as required by § 40-2-132, C.R.S. Decision No. C19-0957 in Proceeding No. 19M-0670E issued December 3, 2019.

significant that the Plan will be in effect for a short-period—less than two years. All of this weighs in favor of approving a bridge plan concept. For all of these reasons, the ALJ agrees that the Company's bridge plan concept is appropriate under the circumstances, and is a reasonable and prudent way to ensure the Company complies with the law as it exists today while minimizing the probability of unintended consequences, including imprudent spending that may result from the narrow perspective that this proceeding offers.

C. Plan's Proposed Electricity from Eligible Energy Resources.

33. Although the Company proposes a bridge plan concept, it seeks to increase program capacity from existing levels, and to exceed the renewable energy standard's required production through a combination of customer choice programs that generate or cause electricity to be generated from the following eligible energy resources: wind, recycled energy, company owned solar, customer-sited solar, and CSGs. Hearing Exhibit 2, 29: 13-15; Hearing Exhibit 2, Attachments JWI-1 at 5-10, 22-44; and JWI-2 at 2-10; Hearing Exhibit 8, 10: 3-27—14: 1-2. The Company has provided ample evidence showing that it seeks to meet the standard through eligible energy resources, and that its Plan will exceed the minimum required electricity under § 40-2-124 (1)(c), C.R.S. *Id.* No party challenges this.[17] As such, the ALJ finds that it is undisputed that the Company's proposed Plan complies with § 40-2-124(1)(c), C.R.S.'s minimum required electricity to be generated or caused to be generated from eligible energy resources as defined by § 40-2-124(1)(a), C.R.S. The ALJ also concludes that the preponderance of the evidence establishes that the Company's proposed Plan exceeds § 40-2-124(1)(c), C.R.S.'s minimum required electricity to be generated or caused to be generated from eligible energy

[17] While not all parties directly admit that the proposed plan exceeds the statutory minimum required capacity, no party raises this as a disputed issue. Instead, several rely on this in making arguments. *See e.g.,* Hearing Exhibit 400, 13: 5-18; 14: 1-2; Hearing Exhibit 200, 27: 12-14; 28: 1-2; Hearing Exhibit 1500, 5: 16-20—6: 1-2.

resources as defined by § 40-2-124(1)(a), C.R.S. *See* Hearing Exhibit 2, 29: 13-15; Hearing Exhibit 2, Attachments JWI-1 at 5-10, 22-44; and JWI-2 at 2-10; Hearing Exhibit 8, 10: 3-27—14: 1-2.

D. Estimated Retail Rate and RESA Impact.

34. Using the method in Rule 3661, Public Service estimates the retail rate impact for the Plan will not exceed 2 percent of retail customers' estimated total annual electric bills. Hearing Exhibit 2, Attachments JWI-1 at 56-60, JWI-2 at 14; Hearing Exhibit 4, 11: 18-23—20: 1-14; at 22: 1-23—29: 1-2;[18] *see* Vol. II Transcript, 93: 3-8. As required by Rule 3661(e), the Company used the same methodologies and assumptions used in its most recently approved electric resource plan (Proceeding No. 16A-0396E) in calculating the retail rate impact. Hearing Exhibit 2, Attachment JWI-1 at 57.

35. The Company proposes to use the same cost recovery and deferred accounting mechanisms for its 2020-21 Plan as used in its 2009 through 2019 compliance years. Hearing Exhibit 2, Attachment JWI-1 at 69. Specifically, the Company seeks to use the electric commodity adjustment (ECA) to recover the costs of eligible energy resources that match the costs of the avoided non-renewable energy resources, and the RESA to recover the costs of eligible energy resources that are incremental to the costs of the avoided non-renewable resources and program and administration costs of the Solar*Rewards® and the Solar*Rewards Community® programs. *Id.* The Commission has previously approved this cost recovery mechanism, most recently by approving the Settlement Agreement in Consolidated Proceeding Nos. 16AL-0048E, 16A-0055E, and 16A-0139E (Three-Case Settlement). Decision No. C16-1075 issued November 23, 2016; Hearing Exhibit 1608. Public Service plans to use the

[18] Pages 2 to 31 of Hearing Exhibit 4 incorrectly identifies it as Hearing Exhibit 3.

same deferred regulatory account for the RESA program, which will record the revenue, costs, and accrued interest for the RESA program, consistent with Accounting Standards Codification Topic 980 Regulated Operations. *Id.* at 72. The Company will report to the Commission on the RESA account via its monthly reports.

36. The Company anticipates that the RESA will have enough funds to cover the RESA-attributable costs of its Plan, and that it will not need to advance funds to the RESA during the compliance period. Hearing Exhibit 2, Attachments JWI-1 at 10, and JWI-2 at 14.

37. Several parties raise questions about the Company's proposed cost recovery for the Plan. While WRA does not dispute the Company's ability to recover avoided and incremental costs as part of its cost recovery, it argues that the Company should not recover CSG bill credits through the RESA and ECA. WRA SOP at 9. Relying on § 40-2-127(5)(b)(II), C.R.S., WRA argues that like net-metering for rooftop solar customers, the cost of bill credits or reductions should not be recovered through revenue riders (such as RESA and the ECA) which all customers must pay. *Id.* at 10. WRA acknowledges that Rule 3665(d)(VIII) includes language that could be interpreted to allow the Company to recover the bill credits as lost revenue. As such, WRA does not ask the Commission to remove the costs of the CSG bill credits from the Company's retail rate impact calculation, and instead asks that the Commission make certain factual findings about the Company's cost recovery. *Id.* at 12. WRA explains that this issue is better addressed through rulemaking currently underway, but that its proposed factual finding will help inform the Commission of future policy changes. *Id.*

38. COSSA argues that § 40-2-127(6), C.R.S., does not authorize utilities to charge the RESA for any component of the bill credit it provides to customers. COSSA SOP at 18-19. COSSA asserts that while Public Service charges the RESA for incremental costs, it does not do

this for on-site solar systems under net metering. COSSA argues that Public Service should treat CSG bill credits the same as on-site photovoltaic (PV) solar systems, by not charging the RESA for the bill credits.

39. The OCC asserts that the Company failed to provide information supporting its avoided cost calculations, such as avoided cost numbers and assumptions. The OCC explains that this information is relevant to the amounts the Company collects from the ECA and RESA. OCC SOP at 17-19. The OCC recommends that a technical conference be required to address this. *Id.* at 20. The OCC also makes arguments similar to Staff's (below), except that it argues the Company should not recover any avoided or negative incremental costs in excess of actual program costs, without limitation. *Id.* at 20.

40. Relying on the Commission's decision approving the Three-Case Settlement, Staff asserts that the Company should not be allowed to use the ECA to fund RESA expenditures through modeling negative incremental or avoided costs. Hearing Exhibit 1500, 44: 19-21—45: 1-18. In response to a discovery request, Staff modified its position, stating "Staff now agrees that this should remain for RDG program offering only as Mr. Trowbridge believes was the Commission's intent in Decision C16-1075." Hearing Exhibit 1604.

41. While noting Staff's changed position, the Company urges the Commission to reject Staff's original recommendation, as this would decrease the RESA by nearly $850 million, and result in a negative balance of $459 million by 2029. Hearing Exhibit 9, 10: 9-14. Customers would be required to pay interest on the negative balance until it is paid off, resulting in unnecessary expense, and no funds to pay for additional renewable energy resources. *Id.* at 24: 6-8. The Company explains that Decision No. C16-1075 caps "the amount of costs Public Service may recover through the ECA as avoided costs at the actual cost incurred for each of its

Solar*Rewards® programs," but not other programs, and argues that the same limitation should apply here. Public Service SOP at 20, (emphasis omitted).

42. Public Service argues that COSSA erroneously relies on "the statute governing payment" for net-metered energy, not for RECs associated with the energy generated by an on-site solar system. Hearing Exhibit 8, 97: 10-14. The Company is working to integrate Solar*Rewards with general billing so that REC payments may be made by bill credit; the Company believes this is better for parties to REC Purchase Contracts and customers generally. Hearing Exhibit 8, 97: 10-20. The Company maintains that its RES and No-RES modeling calculations comply with Rule 3657 and the Three-Case Settlement. Public Service SOP at 21.

43. Several parties appear to conflate the retail rate impact rule with a cost recovery mechanism. Although they are closely related, they are not one and the same. As already explained, the RESA is a Commission-created cost recovery mechanism, while the retail rate impact rule is a statutorily-created cap on the retail rate impact that a utility's compliance with the renewable energy standard may have. § 40-2-124(1)(g)(I)(A), C.R.S.; Rule 3652(cc). The ALJ agrees with WRA that the more appropriate forum to address how CSG bill credits should be classified is through the relevant on-going rulemaking proceeding. The ALJ rejects COSSA's argument that § 40-2-127(6), C.R.S., prohibits the Company from charging the RESA for any component of the bill credit it provides to customers because that statute merely requires that expenditures for unsubscribed energy and RECs generated by CSGs be included in the retail rate calculations under § 40-2-124(1)(g), C.R.S.

44. As to other arguments relating to the Company's cost recovery, as mentioned above, the Company complied with Rule 3661(e) by using the same methods and assumptions in its most recent Commission-approved electric resource plan (Proceeding No. 16A-0396E).

Hearing Exhibit 2, Attachment JWI-1 at 57. This includes the Company's modeling for incremental and avoided costs. As such, the Company calculated its incremental and avoided costs (which results in its proposed cost recovery), consistent with Commission rules. The Commission is considering amendments to these rules; the relevant rulemaking proceeding offers a more appropriate avenue to address the cost recovery issues raised.[19] Even so, under the circumstances here, the ALJ also concludes that capping cost recovery through the ECA as suggested is not prudent or in the public interest, as this is likely to result in more and unnecessary costs for ratepayers, including interest on an anticipated RESA deficit. Hearing Exhibit 9, 10: 9-14; *see* Rule 3660(e); *see also,* § 40-2-124(1)(g)(B), C.R.S.; *see e.g.,* Decision No. C12-0606 at ⁋ 20, Proceeding No. 11A-418E.

45. The ALJ concludes that the preponderance of the evidence establishes that the RESA account's estimated rolling balance is sufficient to cover the costs attributed to the RESA for the Plan. Hearing Exhibit 2, Attachments JWI-1 at 10, and JWI-2 at 14; *see* Vol. II Transcript, 93: 3-8. Based on the foregoing, the ALJ concludes that the Company's proposed cost recovery is appropriate, complies with the relevant statutory and regulatory requirements discussed in Section II of this Decision, and should be approved. No party asserts that the retail rate impact for the Company's Plan exceeds the statutory 2 percent cap. As such, the ALJ concludes that this is not a disputed issue. The ALJ finds that the Company's retail rate impact calculation is consistent with § 40-2-124(1)(g)(I)(A), C.R.S., and Rule 3661, and that the retail rate impact is within the limit set by the same statute and rule. Hearing Exhibit 2, Attachments JWI-1 at 56-60,

[19] The ALJ notes that the Commission has never authorized the Company to recover more from ratepayers than the actual cost of any eligible resource (*i.e.*, the sum of the costs of eligible energy resources recovered through the ECA and of the costs of eligible energy resources recovered through the RESA cannot exceed the total cost of the plan's eligible energy resources.).

and JWI-2 at 14; Hearing Exhibit 4, 11: 18-23—20: 1-14; at 22: 1-23—29: 1-2; *see* Vol. II Transcript, 93: 3-8. The ALJ also finds that the Company's RES and No-RES cost analysis of locked down resources as compared to a RES and No-RES analysis based on market conditions provided helpful and relevant evidence, and as such, requires the Company to provide this same analysis with its next plan filing.

E. Proposed Community Solar Gardens Programs

43. The Company's Solar*Reward® Community program is a combination of several CSG offerings, that is: the Solar*Rewards Community Request for Proposal (General RFP), Low-Income Solar*Rewards Community RFP (Low-Income RFP), Solar*Rewards Community Standard Offer (Standard Offer), and the Low-Income Solar*Rewards Community Company-Offered (Company-Offered Low-Income CSG). Hearing Exhibit 8, at 13 (Table KRK-R-1); Hearing Exhibit 1, 3: 1.

1. Proposed CSG Capacity

46. Based on intervener recommendations, the Company revised its original Plan to propose higher capacity levels for most of its CSG programs, and to combine the General RFP with the Low-Income RFP into a single request for proposal (RFP). *See* Hearing Exhibit 8, 11: 11-41—12: 1-19. With these changes, Public Service proposes the following annual capacity for its CSG programs: 15 MW minimum and 40 MW maximum for the combined General RFP and Low-Income RFP; 10 MW maximum for the Standard Offer; and 4 MW maximum for the Company-Offered Low-Income CSG, for a total annual maximum capacity of 54 MW, and 108 MW over the course of the Plan. *Id.* at 13 (Table KRK-R-1).

47. CEO objects to the Company's proposed capacity levels, and recommends increasing the annual maximum capacity to 150 MW, and the annual minimum capacity to

50 MW. CEO SOP at 5; Hearing Exhibit 700, 31: 1-5. CEO asserts these capacity targets will more appropriately accommodate customer demand for CSGs. CEO asserts that because Public Service's existing CSGs are fully subscribed and there is a waitlist for the Company's Renewable*Connect program, there is a high level of customer demand.[20] Hearing Exhibit 700, 32: 1-14. CEO also relies on high levels of annual capacity bid into the Company's CSG RFPs as a gauge of demand. *Id.* at 32: 4-6. As to interconnection issues, CEO argues that the Company has not analyzed its interconnection capacity for CSGs, and that the Company generally considers interconnection availability too late in the process (when reviewing an application). CEO SOP at 11. CEO requests that the Commission require Public Service to hire an independent consultant to analyze interconnection capacity and system constraints. *Id.* at 12.

48. COSSA originally proposed increasing annual capacity to 270 MW, but modified this position to support CEO's recommended increase to annual capacity to 150 MW, with the qualifier that it should be measured in AC not DC. Hearing Exhibit 203, 5: 4-16. COSSA argues that the Company's CSG capacity proposal fails to meet customer demand, and thus, violates § 40-2-127(5)(a)(IV)(A) and (B), C.R.S. COSSA argues that these increased capacity levels will help put Colorado on track to achieve its clean energy and decarbonization goals. COSSA SOP at 1-2. COSSA asserts that while interconnection is a barrier to CSG deployment, it is not a reason to limit its potential by failing to expand the CSG program capacity. *Id.* at 13. COSSA argues that interconnection problems arose because the Company failed to identify issues and require

[20] CEO relies on Hearing Exhibit 700, Attachment KMH-10 for its assertion that the Company's CSG programs are fully subscribed, with a waitlist. Hearing Exhibit 700, 31: 21-22—32: 1-2. That Attachment shows that in 2018, the Company's unsubscribed CSG capacity was 1,504,778 kWh, which is .22% of the program capacity. As such, the ALJ questions CEO's reliance on this evidence to support is conclusion.

mitigation during the interconnection review process. *Id.* at 13-14. It further argues that recent legislation should positively influence the type of interconnection issues the Company faces, and that the Company can address solutions to the interconnection problems as required by Rule 3667. *Id.* at 13. In short, COSSA sees interconnection as "completely surmountable" issues that should not influence the capacity requirements in this Plan. *Id.* at 14.

49. Boulder argues that the Company should be required to acquire maximum targeted acquisition for each CSG category of 35 MW per year, and to dedicate CSG capacity for residential and small commercial customers, with an incentive for developers to install CSGs on municipally-owned sites. Hearing Exhibit 400, 9: 14-16—10: 1-5.

50. Staff supports the Company's proposed CSG capacity, arguing it is reasonable and allows for continued measured growth. Hearing Exhibit 1501, 25: 15-17. Staff also argues that COSSA's recommendation to increase capacity is based on faulty assumptions of unserved CSG demand because COSSA relies on an increasing number of CSG bids submitted annually. *Id.* at 26: 17-19. Staff asserts that COSSA's position should be rejected because it provides no estimated cost impact to ratepayers for its proposals. *Id.* at 26: 11-16. Staff is concerned that ratepayers will be responsible for unknown costs associated with bill credits and that interconnecting large-scale distributed generation at COSSA's proposed capacity level may impact on-site retail distributed PV solar systems. *Id.* at 27: 11-15.

51. Public Service opposes CEO and COSSA's recommended increased capacity for its CSG offerings. The Company asserts that the Commission has never approved annual capacity levels higher than the Company's proposed CSG capacity; the Company believes its proposed capacity balances customer interest, safety, reliability, and cost-effectiveness. Public Service SOP at 8; Hearing Exhibit 3, 45: 12-16. Public Service explains that it cannot safely,

effectively, and reliably interconnect CEO and COSSA's proposed capacity levels, which would threaten its ability to meet its overarching obligation to provide safe, reliable, and economical service to the public. *See* Public Service SOP at 9-10, and fn. 31. The Company argues that these concerns, embodied in Colorado public utilities law, underpin the need for regulatory decisions that protect the Company's ability "'to provide safe, reliable, and effective distribution and transmission service to its customers[.]'"*Id.*, quoting Decision No C19-0874 at ⁋ 56, Proceeding No. 15A-0589E issued October 28, 2019.

52. The Company explains that during the 2017-19 Plan, it started experiencing interconnection issues associated with distribution facilities reaching their thermal limits or facing high penetration loads. Hearing Exhibit 10, 13: 1-10; 14: 6-18. The Company made upgrades to address these issues, but even with those upgrades, at least two of those substations may not interconnect any more distributed generation capacity, including CSGs and on-site solar. *Id.* at 14: 6-15. The Company explains that these upgrades worked for the substations at issue when there was "a lot more" available capacity on the substations, but additional upgrades should be based on more comprehensive studies and protocols rather than one-off solutions for individual projects. *Id.* at 13: 19-23—14: 1-2. Public Service has started discussions with the National Renewable Energy Laboratory to examine whether it may combine topography and land information with substation and feeder information to examine areas which appear more favorable for CSG developers. *Id.* at 27: 8-12. The Company hopes to start with a pilot so it may share preliminary results more rapidly and get stakeholder feedback. *Id.* at 27: 12-13.

53. The Company has 86 MW of CSG capacity interconnected and is developing another 110 MW. Hearing Exhibit 10, 11: 19-20—12: 1. Half of this CSG capacity is interconnected at three substations, thus creating the issues discussed above. *Id.* at 12: 8-12. Even though these are just three substations within the Company's service area, as discussed,

Public Service agrees that the problem requires a broader solution to account for second-order impacts to the distribution and transmission system. *Id.* at 14: 2-5.

54. The Company is concerned that its current safety and reliability issues are likely to become more challenging given the larger size of systems (up to 5 MW) that will be allowed to be bid into future RFPs under § 40-2-127(2)(b)(D), C.R.S., which will be further compounded if the Commission approves COSSA and CEO's proposals. Public Service SOP at 11; Hearing Exhibit 10, 24: 17-21—25: 1-8.

55. Public Service also argues that COSSA and CEO focus almost exclusively on statutory language relating to customer demand for ownership in CSGs (§ 40-2-127(5)(a)(IV)(A) and (B), C.R.S.), while ignoring the Company's legal obligation to provide safe, effective and reliable service, and the Commission's policy that "utilities should meet the RES in the most cost-effective manner." Public Service SOP at 10, quoting Rule 3656(a). The Company maintains that CEO and COSSA's proposed capacity is not a cost-effective proposition for customers, particularly as compared to utility-scale solar. The Company explains that 300 MW of utility-scale solar would cost about half the amount that COSSA and CEO's proposed capacity would cost. Hearing Exhibit 9, 30: 1 (Table AGT-R-5); *see* Public Service SOP at 2. The Company estimates that over a 10 and 20-year period, COSSA and CEO's 150 MW capacity proposal would likely cost ratepayers roughly $622 million as compared to its proposal of $207.4 million. Hearing Exhibit 9, 32: 1 (Table AGT-R-6); Hearing Exhibit 1606. The Company also estimates that COSSA and CEO's proposed capacity levels will result in negative incremental costs, with a significant impact on costs recovered through the ECA. *Id.* at 30: 11-15—31: 1-9.

56. The ALJ finds that COSSA misinterprets § 40-2-127(5)(a)(IV)(A) and (B), C.R.S., to require the Commission to ensure that the Company's CSG capacity meets demand. Instead, those provisions require the Commission to create policies that encourage ownership in CSG subscriptions and other distributed generation, and to specifically encourage residential retail and agricultural customer CSG ownership (including low-income customers), "to the extent the commission finds there to be a demand for such ownership." § 40-2-127(5)(a)(IV)(A) and (B), C.R.S. This plain language does not require the Commission to ensure that CSG capacity meets demand, but to encourage ownership in CSGs if it finds there is a demand for it.

57. Nonetheless, the preponderance of the evidence does not establish demand for CSG ownership at CEO and COSSA's proposed capacity levels. They rely on evidence that is largely based on untested assumptions about the meaning of certain data. Hearing Exhibit 700, 32: 1-14. Even if they accurately assume that the data indicates a higher capacity demand, it is too far a leap to conclude that the demand is at the substantially increased capacity level they propose. But even if CEO and COSSA accurately assess CSG ownership demand, the inquiry does not end there. The Commission must also simultaneously encourage developing CSGs with attributes that it finds "result in lower overall total costs" for customers, and cannot overlook the Company's essential obligation to provide safe and reliable service at just and reasonable charges. § 40-2-127(5)(a)(IV)(C), C.R.S.; *see* § 40-3-101(1) and (2), C.R.S. While CEO and COSSA seek to more than triple capacity, they do not fully develop the associated costs, and resulting RESA and ECA impacts. Hearing Exhibits 1631 and 1634; Hearing Exhibit 1501, Attachments WJD 19; Vol. II Transcript, 168: 1-21. The Company's estimates of the costs of

CEO and COSSA's proposed capacity is particularly concerning, and raises questions about the overall prudence of CSG capacity at those levels.[21]

58. CEO and COSSA also fail to counter the credible safety and reliability issues that the Company raises, instead blaming the Company for the problems, or arguing that the issues can be addressed later. The ALJ concludes that the preponderance of the evidence shows that under the current conditions, the Company cannot add CEO and COSSA's proposed increased capacity levels to its system without threatening its ability to provide safe, adequate, efficient, just, and reasonable service to its customers. *See* § 40-3-101(1) and (2), C.R.S. The Company most definitely needs to turn its attention to addressing interconnection safety and reliability issues, and should do so in a more transparent manner. But given the many ongoing rulemaking proceedings and stakeholder outreach on distribution planning rule changes, the ALJ will not require the Company to hire a third party to evaluate its distribution planning system, as CEO requests. The ALJ encourages the Company, parties, and stakeholders to continue to work through these issues in relevant ongoing rulemakings and other appropriate proceedings.

59. For all of these reasons, the ALJ concludes that the preponderance of the evidence establishes that CEO and COSSA's proposed CSG capacity levels are not reasonable, prudent, or in the public interest. The ALJ rejects CEO and COSSA's proposed CSG capacity levels.

60. For the reasons discussed, the ALJ concludes that the preponderance of the evidence shows that the Company's proposed capacity levels allow for measured growth in the CSG market, and expanded customer access to renewable energy resources without endangering

---

[21] The ALJ explicitly rejects suggestions that the CSG programs need not be cost effective. Such arguments fly in the face of utility regulation principles that charges be just and reasonable (§ 40-3-101, C.R.S.); the statutory mandate that the Commission encourage utilities to create CSG programs that result in "lower overall total costs" for customers (§ 40-2-127(5)(a)(IV)(C), C.R.S); and the Commission declaration in Rule 3656(a) that the renewable energy standard be met in the "most cost effective manner."

the Company's ability to provide safe, reliable, and adequate service. *See* § 40-3-101, C.R.S. The ALJ finds the Company's Plan takes steps towards promoting diversity in customer access, including access for low-income customers. For the same reasons, the ALJ concludes that the Company's proposed minimum and maximum CSG capacity levels are prudent, reasonable, in the public interest, and meet the other relevant statutory and regulatory requirements discussed in Section II of this Decision, including § 40-2-127(5)(a)(I), C.R.S. As such, the ALJ approves the Company's proposed CSG 15 MW minimum and 54 MW maximum annual capacity levels, and as required by § 40-2-127(5)(a)(IV), C.R.S., establishes those as the minimum and maximum capacity levels of electrical output to be purchased from newly installed CSGs for this Plan.

2. RFP Process and Bid Evaluation.

61. Public Service proposes to continue to use a competitive RFP bidding process for most of its Solar*Rewards Community capacity. The Company explains that a market-based pricing model eliminates the boom and bust cycles of standard offer models that may not account for the solar industry's changing market conditions, including fluctuating tariff levels and tax incentives, equipment supply and pricing, land availability, rules, and customer expectations. Hearing Exhibit 3, 41: 1-5. During its 2019 Standard CSG bid cycle, the Company developed evaluation bid criteria that weighs economics at 50 percent while also incorporating other non-economic evaluation criteria, which it proposes be used as the default criteria here. Hearing Exhibit 3, at 47: 12-14. Specifically, the Company proposes the following default evaluation criteria: 50 percent economic; 20 percent developer experience; 10 percent subscriber diversity; 10 percent financial; site and permitting preparedness; 10 percent for additional commitments; geographic location as a tiebreaker; and additional weight for community based projects. *Id.* at 48: 2-4.

62. Based on anticipated CSG rule changes, the Company also seeks to reserve the right to change the default evaluation criteria if the modified rules impact its CSG programs, or if necessary due to other unforeseen conditions. *Id.* at 47: 20-22; 49: 6-8. If a change is necessary, the Company proposes to make an informational filing explaining the changes at least 15 days prior to releasing the RFP. *Id.* at 47: 23--48: 1-2; 49: 6-8.

63. As mentioned, the Company agrees with Staff's recommendation to combine its General and Low-Income CSG RFPs into a single solicitation with a 10 percent low-income target in the General RFP. Hearing Exhibit 8, 65: 5-8. Based on this change, the Company explains that original proposed CSG incentive structures no longer make sense, as there will not be a separate RFP for 100 percent Low-Income CSGs. *Id.* As such, the Company proposes that: incentives for the Standard Offer be calculated using the weighted average winning bid price from the annual Solar*Rewards Community RFP, plus an adder of $0.02 per kWh; and the Low-Income RFP receive the Standard Offer incentive, plus an incremental adder of $0.02 per kWh if the CSG commits to 100 percent direct-billed residential low-income subscribers and to retain at least 25 percent net bill savings for the life of the CSG. *Id.* at 11: 18-41; 65: 5-19. The Company also proposes that CSGs receiving this adder be required to file an annual compliance report confirming they have met adder commitments. Hearing Exhibit 8, 105: 6-8.

64. Public Service plans to seek stakeholder feedback to help it balance targeted RFPs by project size and bidder diversity with the desire for low-cost solar resources before offering capacity through competitive bids. *Id.* at 38: 2-6. The Company proposes that the capacity starting point for these stakeholder conversations be a minimum of 20 percent of the 20 MW capacity for projects less than or equal to 1.5 MW. *Id.* at 38: 6-9.

65. Based on an imbalance in capacity allocation for RFP subscriptions favoring commercial and industrial customers that the Company experienced in its 2019 RFP, it proposes a minimum 25 percent (10 MW) residential subscriber target and a minimum 10 percent (4 MW) low-income target for this RFP. The Company believes this will help build a cost-effective model for generating higher levels of residential subscribers. *Id.* at 60: 11-13 and 61: 1-2. Projects may bid in 100 percent targeted capacity, or any mix thereof, or no subscriber commitments. Public Service will also discuss RFP criteria with the Renewable Programs Stakeholder Workgroup for input and discussion, to attempt to reach consensus on changes. *Id.* at 61: 10-21.

66. The Company also asks the Commission to increase the standard timeline for CSG completion without penalty from 24 to 30 months to allow it to fully analyze site interconnections and potential location switches within a reasonable timeframe to complete RFP award requirements. *Id.* at 81: 1-16. To balance this, the Company offers not to collect fees for site moves and allow as many site moves as a developer needs, without providing timeline extensions related to site moves. *Id.* at 81: 11-13.

67. Staff believes that the proposed RFP process and evaluation criteria are generally sufficient, with some exceptions. Hearing Exhibit 1500, 14: 15-17. As mentioned, Staff recommends that Public Service combine the General RFP and Low-Income RFP into a single RFP to avoid discouraging competitive and innovative market response to serve the low-income community. *Id.* at 23: 1-17. Staff also recommends that the Company reject bids that do not meet a minimum 5 percent low-income subscription on a per garden basis, as required by Rule 3665(d)(IV). *Id.* at 22: 5-9; 23: 14-17. Staff argues that the Company should restrict CSG developers' participation to either the General RFP, or the standard non-RFP CSG offering, but not both. *Id.* at 14: 15-17; 16: 13-16. Staff asserts that this change is necessary to allow equal

access to those who may not be interested in participating in large CSG bid capacity or becoming a large CSG developer. *Id.* at 16: 14-20. Staff also recommends that Public Service retain some bids as backups to replace projects that are cancelled or delayed. *Id.* at 17: 3-7. Staff also suggests that a non-refundable $1 per kW bid evaluation fee could help prevent bidders from submitting different bid amounts for the same intended projects, arguing this would force bidders to submit viable project bids. *Id.* at 17: 10-14.

68. COSSA argues that the Company's General RFP should be designed to exclusively solicit bids from CSGs with beneficial attributes, including those that offer added reliability, resiliency, and other grid benefits. Hearing Exhibit 201, 22: 18-22—24: 1-23. COSSA recommends a separate RFP for "each bucket of attributes" with the "developer community" evaluating the need and appropriate incentive price. *Id.* at 25: 1-7. COSSA suggests that the Company target CSGs with these beneficial attributes by increasing their compensation through REC adders, and generally supports Grid's recommended adders (discussed below). COSSA SOP at 16. It also argues that the bid scoring criteria should include a positive score adder for ancillary services that CSGs provide. Hearing Exhibit 200, 78: 12-15. COSSA also proposes that the Company institute a standard-offer credit adder to compensate CSGs for increased costs associated with serving smaller customers. *See* Hearing Exhibit 201, 17: 8-11. COSSA asserts that entrants into this segment should be required to demonstrate a sufficient degree of project maturity and viability so that the Company does not waste time on speculative projects.[22] *Id.* at 27: 11-14.

[22] COSSA also originally urged the Commission to adopt an open-market RFP CSG segment to increase customer choice, but later withdrew this request because it is being addressed in rulemaking Proceeding No. 19R-0608E. Hearing Exhibit 201, 21: 3-22—22: 1-7; Hearing Exhibit 203, 5: 17-22—6: 1-3. To the extent that it remains at issue here, the ALJ does not approve this proposal because it has not been fully developed, and thus, the evidence does not establish the proposal is reasonable and prudent. Also, the relevant rulemaking proceeding is the more appropriate proceeding to address this concept.

69. CEO asserts that because the upfront incentive reduces overhead and administrative costs while ensuring that bill savings can be carried over to customers, the Low-Income RFP incentive should be $0.05 kWh, the same incentive as Company-offered CSGs. CEO SOP at 10; Hearing Exhibit 700, 20: 7-11. In support, CEO argues that operational and administrative costs are generally the same for low-income and non-low-income CSGs and there is no reason for the incentive to differ. Hearing Exhibit 700, 38: 14-21—38: 1-8.

70. Boulder recommends that RFP projects serve 100 percent residential, small commercial, or municipal customers. Hearing Exhibit 400, 8: 1-2. Denver suggests changing the General RFP evaluation criteria to: decrease the weight economics are given; increase the weight given to geographic location to up to 15 points; and increase the weight for community-based projects to up to 15 additional points. Hearing Exhibit 500, 15: 3-9. Denver also suggests that the criteria favor CSGs hosted near load centers and assign value to energy storage systems. *Id.* at 6: 15-17.

71. Public Service argues that Denver's suggestions should be explored through the Renewable Programs Stakeholder Workgroup rather than in this proceeding. Hearing Exhibit 8, 62: 9-20. The Company asserts that Boulder's recommendation that RFP projects serve 100 percent residential, small commercial, or municipal customers is inconsistent with its legal obligation to broadly target multiple customer classes, including residential and commercial entities, renters, low-income utility customers, and agricultural producers. Hearing Exhibit 8, 63: 2-7. The Company also objects based on its duty of non-discrimination. *Id.* at 63: 5-6.

72. Public Service counters Staff's recommendation to restrict CSG developers to participating in either the General RFP or Standard RFP program by suggesting that, instead,

CSG developers be restricted from co-locating sites.[23] *Id.* at 71: 18-20. The Company believes that this approach will maintain benefits and efficiencies from operating a diverse portfolio of CSGs. Hearing Exhibit 8, 71: 15-18. The Company also supports Staff's recommendation to require a $1 per kW bid fee and proposes to contribute these fees to the RESA to offset administrative costs. *Id.* at 72: 12-16. While the Company currently requires a $750 per project bid fee, the Company agrees that additional bid costs could help reduce speculative or duplicative bids. *Id.* Public Service agrees with Staff's back-up bid proposal but notes that this still may not guarantee that back-up bids proceed. *Id.* at 74: 16-17. The Company also suggests that back-up bids only be awarded within six months of the original RFP, and be subject to the same timelines to fulfill award requirements and project completion. *Id.* at 74: 16-21. Public Service disagrees with Staff's interpretation of Rule 3665(d)(IV), arguing that the Rule sets a goal, and not a mandate that it reserve 5 percent low-income CSG subscriptions, and does not require that goal be met on a per garden basis as opposed to a program-level basis. *Id.* at 70: 2-13. The Company sees benefits such as cost efficiencies and customer benefits from CSGs bidding to their strengths, but defers to the Commission to interpret its Rule. Hearing Exhibit 8, 70: 13-24.

73. The ALJ finds that the Company's proposed competitive market-based RFP process, bid evaluation and scoring criteria offers a balanced and flexible approach that weighs economic factors and other worthy factors such as subscriber diversity, developer experience, financial soundness, energy efficiency, system needs (including location), and other

[23] For example, the Company suggests that a 4.5 MW CSG restricting CSG developer/operators cannot be sited on the same parcel as a 500 kW Standard 1 Offer CSG. Hearing Exhibit 8, 71: 20-21—72: 1.

commitments. The ALJ finds that the preponderance of the evidence demonstrates that combining the General RFP and Low-Income RFP into a single RFP as proposed may promote a more competitive market response that may ultimately better serve low-income customers. For the reasons that Public Service provides, the ALJ finds that it is in the public interest to approve the Company's proposal to target up to 10 percent of capacity for low-income customers and up to 25 percent of capacity for residential customers, unless otherwise adjusted by consent of the Renewable Programs Stakeholder Workgroup, with proposed changes reviewed by Staff prior to RFP release, unless changes are inconsistent with other requirements in this Decision. The ALJ agrees that Staff's back-up bid proposal, with the Company's proposed changes, serves the public interest because it creates an opportunity not to lose ground on CSG installation when bids fail, and approves it.

74. For the reasons already discussed, the ALJ finds that the Company's proposed REC incentives are prudent, reasonable, and in the public interest; the ALJ approves the Company's proposed REC incentives. The ALJ also finds that the preponderance of the evidence does not support a need for increased incentives (including through adders), as interveners propose, and that the costs of those proposals have not been fully developed in the record. As such, the ALJ concludes that those proposals are not reasonable, prudent, or in the public interest and are rejected.

75. Based on evidence that the Company requires more in-depth analysis of its interconnections and other reliability-related issues, the ALJ finds it is prudent, reasonable and in the public interest to approve the Company's requests to increase the standard timeline to

30 months for CSG completion without penalty and to remove bid fees for site relocations.[24] The evidence does not support requiring CSGs receiving an adder to file an annual compliance report confirming that they have met adder commitments and thus, does not require this.

76. The ALJ rejects Staff's interpretation of Rule 3665(d)(IV); the Rule does not require the Company to reject bids that do not meet a minimum 5 percent low-income subscription on a per garden basis.

77. The ALJ is cognizant of the problems Staff and the Company attempt to address through a non-refundable $1 per kW bid fee and co-location prohibition, but is concerned that these requirements may make bidding more costly and burdensome for CSG developers. Based on the current record, the ALJ finds that the preponderance of the evidence does not show that these requirements will serve their intended purpose, or that potential progress in addressing the issues outweighs the potential burden on CSG developers. For the same reasons that the Company provides, the ALJ rejects Boulder's request that the Company serve only residential, small commercial and municipal customers. As such, the ALJ concludes that the evidence does not establish that these additional requirements serve the public interest, and does not approve them.

78. The ALJ appreciates interveners' efforts to provide a framework that could remodel RFP bidding, evaluation, and competitive solicitation, and also appreciates the Company's willingness to discuss a more transparent bidding process through continued stakeholder discussions, and current rulemaking proceedings. In light of the Commission's

[24] This is based only on the circumstances here and does not imply that this should apply again in the future. On balance, making these changes better serves the public so that the Company has time to address the safety and reliability issues associated with interconnection problems. This should be revisited in the Company's next compliance plan.

on-going rulemaking proceeding on CSGs and the short term nature of this Plan, the ALJ finds that it is not prudent, reasonable, or in the public interest to approve the other proposed changes to the RFP process, bid evaluation and scoring criteria, including incentive increases, or other restrictions. The ALJ concludes that it is in the public interest to instead allow the Company, parties, and stakeholders to explore these issues through the relevant ongoing rulemaking proceedings and continued informal stakeholder discussions. This approach allows the Commission to consider and formally decide many of the bigger policy issues associated with interveners' suggestions. As such, unless otherwise noted, the ALJ rejects interveners' proposals concerning the matters discussed above.

3. Company-Offered Low-Income Community Solar Garden's Incentives, PLA, and Related Issues.

79. In order to support its proposed expansion to a total 8 MW of Company-offered Low-Income CSGs, the Company plans to establish a collaborative labor partnership using contractors working under a project labor agreement (PLA) to construct or expand its CSG facilities. Hearing Exhibit 2, 47: 3-9; 64: 4-16. The Company plans to enter into discussions with Rocky Mountain and others to develop its PLA and labor partnership for these projects, similar to the one proposed in its Community Resiliency Initiative in Proceeding No. 19A-0225E. *Id.* at 9-14.

80. These Company-owned gardens will target direct-billed low-income residential subscribers, and will seek to provide 25 percent bill savings. Hearing Exhibit 8, 82: 9-15. Awards will be held to the same requirements as other Solar*Rewards Community projects, with the additional requirement that subscribers meet the low-income definition in Rule 3652(o). The Company proposes to receive an upfront REC incentive of "up to $0.05 per kWh" to support this project, including construction, union labor and training, interconnection, subscribing

direct-billed low-income residential customers, and subscriber savings of around 20 percent. *Id.* at 8, 83: 3-8. Because the Company is uncertain that these projects will require the full incentive, it will finalize the numbers in "early 2020," and review the cost drivers, amounts, and incentive needed with Staff before it signs any agreements, but does not agree to do so for Company-owned CSGs approved under its last plan. *Id.* at 8, 83: 9-12; 84: 15-18. The Company plans to use Energy Outreach to establish a pool of eligible customers, and to enroll and educate customers on the program. Hearing Exhibit 3, 57: 3-5; Hearing Exhibit 1500, Attachment WJD-7. The Company explains that because its low-income customers are already familiar with Energy Outreach, using Energy Outreach will make customer enrollment and billing more efficient. Hearing Exhibit 3, 57: 5-7. The Company did not consider other providers because Energy Outreach has an established long-standing and positive relationship with the low-income community, having supported low-income communities throughout Colorado with energy assistance. Hearing Exhibit 1500, Attachment WJD-7. And, Energy Outreach has experience enrolling low-income customers in third party developer CSGs. *Id.*

81. Grid and Rocky Mountain focus on issues relating to the Company's plan to enter into a PLA with Rocky Mountain. Grid argues that the Commission should not approve a PLA which only includes federally registered apprenticeship training programs, because it believes this training is restrictive. Grid SOP at 21; *see* Hearing Exhibit 301, 16: 10-13. Grid argues that some federal apprenticeship training programs present barriers such as requiring a high school GED or a five-year commitment, and that Grid's training programs offer pathways that are less restrictive and focus on low-income and underserved communities. Hearing Exhibit 301, 16:13-17. Grid also suggests the Commission require a training component in the PLA that focuses on low-income and underserved communities. *Id.* at 17: 10-14.

82. Rocky Mountain/Labor Coalition explain that PLAs are a proven way of ensuring that a company applies best value employment metrics and best value contracting concepts that will add significant value local in communities and the State, including ensuring that workers have been through safety and apprenticeship training programs. Hearing Exhibit 1000, 15: 1-20. Rocky Mountain/Labor Coalition explain that the PLA with the Company will: provide robust best value employment metrics and long-term economic benefits to Colorado; ensure that the workforce for the CSG construction are trained through federally registered apprenticeship programs with specific and rigorous standards; and that the majority of the workforce will be Colorado workers. *Id.* at 16: 3-6; 17: 14-15; *see* Rocky Mountain/Labor Coalition SOP at 6.

83. COSSA argues that the competitive advantages the Company is proposing for itself as a part of its Company-Offered Low-Income CSG should be available to other CSG providers, such as an (up to) $0.05 per kWh REC payment, and the proposed on-bill subscription payment. Hearing Exhibit 201, 38: 6-14. COSSA objects to the Company's proposal to receive the incentive up-front, arguing that this contradicts the Company's arguments concerning CEO's request to receive the full performance based incentive upfront for the Low-Income Rooftop Weatherization Assistance Program (WAP) program. Hearing Exhibit 200, 50: 11-16; 51: 18-24.

84. CEO states that it recognizes the value of a $0.05 per kWh upfront incentive for low-income customer demographics and proposes that such a practice be expanded to other low-income customer programs. Hearing Exhibit 700, 20: 19-21.

85. Staff argues that the Company's proposed upfront incentive lacks a cost basis, and should be rejected. Staff recommends that the Company earn market based incentive payments over time like other program participants. Hearing Exhibit 1500, 25: 14-17. Staff also suggests that the Company's collaboration effort with Energy Outreach to enroll low-income subscribers

may have been completed in an "ad-hoc fashion" and the Company may not be considering other qualified providers. Staff argues that the Commission should review any contract that the Company enters into with Energy Outreach. *Id.* at 26: 20-21—27: 1-5. Because it cannot determine if the Company's collaboration with Energy Outreach is cost effective, Staff recommends that the Company issue a competitive RFP or request for information to organizations that can identify, qualify, and recommend low-income customers interested in CSG subscriptions. *Id.* at 29: 16-20. Staff also recommends that the Company take steps to make the low-income community aware of CSGs by providing them with a list or portal of available CSGs. *Id.* at 58: 1-3.

86. In response to arguments that the Company-Offered Low-Income Program gives the Company a competitive edge, Public Service asserts that its program "complements, rather than competes with, the RFP low-income CSGs." Hearing Exhibit 8, 86: 1-2. The Company explains that the program is intended to broaden the universe of low-income CSG beneficiaries by targeting a category of customers seldom pursued by other CSG operators—direct-billed residential low-income subscribers. *Id.* at 85: 14-20. Public Service explains that other CSG operators target low-income housing agencies where commitments can be met with less effort and risk. *Id.* To increase awareness and low-income subscriber diversity, the Company agrees to create a webpage where potential subscribers can learn more, find CSGs serving low-income customers, and request to subscribe to the Company's low-income CSG. *Id.* at 86: 14-20. This allows customers to explore other low-income CSG options beyond the Company's. The Company's position on Staff's recommendation that it solicit other entities to enroll subscribers is unclear. On the one hand, the Company argues that the timing of Staff's request is inappropriate, and that it has already made considerable efforts toward forging its collaboration

with Energy Outreach. *Id.* at 85: 1-2. On the other, the Company states that it is willing to discuss Staff's suggestion during its review of program details before signing contracts, but does not commit to soliciting other entities. *Id.* at 86: 14-16.

87. The Company maintains that its proposed upfront REC incentive is appropriate. The Company argues that this form of REC incentive has been consistently offered to other CSGs. For example, Public Service maintains that the Standard Offer incentives may be paid up-front, resulting in a financially "agnostic" RESA situation. *Id.* at 87: 14-17. Under this approach, the interest earned by the RESA when paying out the incentive over time is included in calculating the upfront payment. *Id.* at 87: 17-19. The Company also explains that although rarely used, the Solar*Rewards Community RFP process offers a similar option. *Id.* at 87: 19-20. The Company counters Staff's arguments that there is no cost-basis for this incentive by explaining that there are many aspects to running the proposed CSG that exceed merely installing the solar, and that is finalizing the economics of its proposal and will provide additional information to Staff before coming to a final incentive amount. *Id.* at 88: 11-16. The Company plans to review the cost drivers, amounts, and incentive needed with Staff before it signs any agreements. *Id.* at 83: 9-12. Public Service also argues that this offering provides unique value to the labor perspective and subscriber commitments that warrant special consideration beyond market-based CSG offerings. *Id.* at 88: 17-19.

88. The Company responds to arguments that other providers should receive the same incentive by pointing out that other providers, such as CEO, do not address the most critical aspect of its proposal: the labor component. *Id.* at 89: 20-21. The Company explains that its PLA will provide an opportunity for Colorado trade laborers to gain valuable experience and training in construction of distributed solar facilities, which will help labor union members assist utilities

with the State's clean-energy transition. *Id.* at 82: 15-19. The Company argues that it is vital to have a pipeline of qualified workers to facilitate the State's transition away from fossil fuels and toward more renewable energy resources. *Id.* at 89: 21-23—90: 1. The Company submits that its role in training this highly reliable and capable workforce warrants special consideration. *Id.* at 90: 1-3.

89. The ALJ finds that the preponderance of the evidence establishes that the Company's proposals for the Company-Offered Low-Income program provides increased opportunities to expand low-income offerings and may also serve segments of the low-income community that have been underserved, that is direct-billed low-income customers. The ALJ concludes that the evidence establishes that the offering may compliment other low-income offerings. The Company seeks flexibility on the final REC incentive amount, but caps it to an upfront $0.05 per kWh incentive. While this cap is higher than incentives the Company proposes for other CSGs, the ALJ agrees that the Company's plan to use union labor and a PLA distinguishes it from other CSGs, and warrants special consideration. This approach provides added value, such enhancing all Colorado utilities' future access to workers well-trained in solar installation; positively impacting Colorado communities' economic viability by using a majority of workers that are Colorado-based; and boosting such Colorado workers' long-term career opportunities. *See* § 40-2-129(1)(a), C.R.S.; Rule 3656. For these reasons, the ALJ approves the proposed upfront REC incentive, capped at $0.05 per kWh with the conditions mentioned below, and rejects arguments that other CSGs should have the same incentive. The Company will be required to review the cost drivers, amounts, and the final required incentive with Staff prior to signing agreements. The ALJ will also enter other relevant orders to ensure that this review is

complete, and that Staff agrees to the final incentive amount, which may not exceed $0.005 per kWh.

90. As shown above, the ALJ has considered best value employment metrics, per § 40-2-129, C.R.S. and Rule 3656. As to Grid's PLA arguments, nothing in the law mandates a particular type of apprenticeship program, but the best value employment metrics require the Commission to consider the availability of federally registered apprenticeship training programs. per § 40-2-129, C.R.S. and Rule 3656. This suggests a preference for such programs. And, the evidence also establishes that the PLA's training programs will ensure that workers have the necessary vital training in solar installation. For the reasons discussed, and because the PLA will ensure that best value employment metrics are implemented, the ALJ finds that the Company's proposal to use a PLA with Rocky Mountain or others is reasonable, prudent, and in the public interest. The ALJ approves the Company's plan to use a PLA, and rejects Grid's arguments as to PLA training programs.

91. The ALJ rejects Staff's recommendation to require the Company to issue an RFP or like solicitation to seek other providers to recruit and enroll low-income customers into the program. The evidence supports the Company's decision to use Energy Outreach for these efforts. For example, Energy Outreach's statewide experience assisting low-income customers with energy needs and specific experience enrolling subscribers in third-party CSGs well positions it to act in this role for the Company. Nonetheless, the ALJ finds merit in Staff's concerns about cost.[25] As such, the Company will be required to review other potential options with Staff as part of its review of the incentive amount (discussed above), and to share

[25] The ALJ notes that Rule 3661(d) sets a limit on administrative costs, thereby creating an additional parameter within which the Company must work.

agreements with Staff before signing them. The Company will also be required to share any other agreements with Staff that are associated with the Company-Offered Low-Income CSGs under this Plan. The ALJ agrees that it is in the public interest for the Company to create a webpage where potential subscribers can learn more about low-income CSG options, find CSGs serving the low-income community, and request to subscribe in the Company's low-income CSG, and will require the Company to do so.

F. Proposed On-Site Solar Programs

92. The Company's Solar*Rewards® program is available to customers who install solar electricity generation facilities at their own premises. Hearing Exhibit 1, at 3. The Company proposes to largely continue the same program offerings from its 2017-19 plan, with a few exceptions. *Id.* at 4-5. Through its Solar*Rewards® Small (On-Site Small), Solar*Rewards® Medium (On-Site Medium), Solar*Rewards® Large (On-Site Large), and the Low-Income Rooftop Solar Weatherization Assistance Program (CEO Rooftop Low-Income program or offering), Public Service proposes 56.35 MW of annual on-site Solar*Rewards capacity per plan year, with a total plan capacity of 112.7 MW. Hearing Exhibit 8, 13: 1.

1. On-Site Small Program

93. The On-Site Small offering is for customers with on-site solar systems which generate less than 25 kW. Hearing Exhibit 2, 43: 12-14. The Company's Plan seeks to provide 12 MW annual capacity for On-Site Small (24 MW total). Hearing Exhibit 8 at 13. This offering has included two options, A and B. The Company wants to discontinue Option B because there was no customer interest in it during the 2017-2019 plan. Hearing Exhibit 2, 44: 1-3. Option B was available to customers who installed new solar under the Peak-Demand Pricing portion of the Company's rate pilot program. Hearing Exhibit 3, 22: 13-15. The Company explains that its

On-Site Small program is no longer being fully subscribed, and that a majority of small program installations now occur outside the On-Site Small program through net metered only service (NEM-only service). *Id.* at 43: 16-22. In 2018, the Company received applications totaling 45 MW of small retail distributed generation capacity, with only 8 MW capacity of that total for the On-Site Small offering, and the rest (37 MW) for NEM-only small project capacity. *Id.* at 12: 2-5. Public Service seeks to retain the existing incentive payment levels for this offering, that is, $0.005 per kWh paid to the customer for 20 years. Hearing Exhibit 1 at 6.

94. Several interveners urge the Commission to create new programs that would replace Option B for the Small offering, such as solar plus storage (solar + storage) programs.[26] *See* Hearing Exhibits 200, 42: 14-19; 300, 32: 2-5; 700, 26: 4-7.

95. COSSA also objects to the Company's practice of requiring all customers with on-site solar systems, including those with systems below 10 kW, to have a production meter to measure output of their system as violating the Commission's net metering rule. COSSA SOP at 23. It asserts that this is the Company's practice even for those customers who do not participate in the On-Site Small offering. *Id.* COSSA argues that under Rule 3664(e), production meters may only be installed for systems that are 10 kW or less when the customer explicitly consents or requests that one be installed. *Id.* COSSA also points to Rule 3658(f)(X)(F), which instructs utilities to estimate the output of these smaller systems to determine the amount of the customer's REC payment. *Id.* COSSA acknowledges that the Commission waived these rules for purposes of the Company's 2017-19 plan, but argues that it should not do that here. *Id.* at 24-25, *citing* Hearing Exhibit 1608, at 76 (granting all necessary waivers). COSSA maintains that PV Watts, the program Public Service initially used for Solar Rewards customers, is appropriate

[26] The ALJ addresses arguments for solar + storage programs later in this Decision.

for the Company's data needs for On-Site Small customers. Hearing Exhibit 200, 26: 1-7. COSSA also argues that it is "good policy" not to require production meters for small and unincentivized systems because the monthly cost of the production meters erodes the value proposition for customers participating in incentivized programs, and is an unnecessary drain on the RESA funds. COSSA SOP at 26.

96. In response, Public Service asserts that production meters are the best way to accurately measure generation data for on-site solar arrays. Hearing Exhibit 8, 24: 1-6. Calculating the PV production levels through the direct measurement of the output ensures both accurate data on the actual energy production and accompanying incentive payment. *Id.* at 24: 21-23. The Company believes that losing production data from on-site solar installations would be a significant step back in its grid modernization efforts. *Id.* at 24: 12-15. The Company also notes that the Commission is considering issues relating to production meters, including cost recovery, in ongoing rulemaking Proceeding No. 19R-0096E.

97. The Commission may grant a waiver of Commission rules for good cause shown. Rule 1003(a), 4 CCR 723-1. The ALJ concludes that the Company has not shown good cause to waive Rule 3658(f)(X)(F)'s requirements at this time. These production meters come at a cost, but the evidence does not justify that cost. Rather, the Company's reasons appear more based on its general disagreement with Rule 3658(f). This also suggests that the better forum to address the Company's concerns with the rule is in the relevant ongoing rulemaking proceeding. The Company is directed to follow Rule 3658(f)(X)(F)'s requirement to use PV Watts for the Company's data needs for On-Site Small customers. Accordingly, Public Service may not require production meters for On-Site Small customers at the customers' expense, unless authorized

under Rule 3664(e), and also is not authorized to recover from ratepayers the cost of production meters installed by the utility at its expense.

98. The ALJ finds that the preponderance of the evidence demonstrates that the Company's proposed capacity for the On-Site Small offering aligns with customer interest as demonstrated through prior plan years' capacity usage, including the lack of interest Option B. The ALJ also finds that the preponderance of the evidence demonstrates that the proposed offering is consistent with requirements and program design framework in § 40-2-124(1)(e), C.R.S., Rule 3658, and the market, and the other relevant statutory and regulatory requirements in Section II in this Decision. For all the reasons discussed, the ALJ concludes that the Company's proposed On-Site Small offering is reasonable, prudent, in the public interest and is approved, and rejects interveners' proposals.

2. On-Site Medium

99. The Company's On-Site Medium offering is available to customers with on-site solar systems producing between 25 kW and 500 kW. Hearing Exhibit 2, Attachment JWI-1, at 32. Because the On-Site Medium offering was under-enrolled, Public Service originally proposed to lower its annual capacity to reflect decreasing market demand. Hearing Exhibit 1 at 5; Hearing Exhibit 3, 23: 16-22—24:1-5. After considering intervener testimony, the Company increased its original capacity proposal from 20 MW annually to 24 MW. Hearing Exhibit 8, 28: 7-9.

100. The Company proposes maintaining the current incentive for the program, $0.0375 per kWh paid to customers over 20 years. Hearing Exhibit 1 at 6. The Company explains that because any drops in the federal Investment Tax Credit (ITC) are more than offset by declining costs of installed solar, that the incentive level should not be increased or decreased.

Hearing Exhibit 9, 18: 1-19—19: 1-19; *see* 26 U.S.C. § 48 (a). The Company also asserts that the incentive should not be increased because many factors impact how customers react to incentive programs and tax incentives at any given point, and that reducing or increasing incentives at this time is inappropriate given the ITC uncertainty and the steady decline in solar installation costs. Hearing Exhibit 8, 20: 1-13.

101. The OCC objects to the Company's proposed incentive level, arguing that it should step-down to $0.0325 per kWh in 2020 and $0.0275 per kWh in 2021, consistent with step-downs in its prior plan. Hearing Exhibit 600, 4: 3-4.

102. CEO supports the Company's proposal for an annual program capacity of 24 MW, but argues that the incentive level should be higher, at the 2018 performance-based incentive level of $0.0425 per kWh. Hearing Exhibit 700, 28: 3-7. CEO believes the program's decreased participation in 2019 was driven by the incentive level ($0.0375 per kWh), which was lower than incentive levels in 2017 and 2018 levels. *Id.* at 27: 13-17 and at 28: 8-10.

103. COSSA argues that capacity should be 25 MW per year. Hearing Exhibit 200, 66: 8-12. COSSA objects to the proposed incentive, and argues that it should be increased to $0.55 per kWh. COSSA SOP at 27. In support, COSSA argues that this is necessary to incent commercial and industrial customers to invest in on-site solar because it will put the internal rate of return for Medium projects over a 9 percent hurdle with the 30 percent ITC. Hearing Exhibit 200, 66: 3-4.

104. Public Service objects to the proposed increases to the On-Site Medium offering's incentive level. The Company estimates that CEO's proposed incentive level would increase costs by approximately $6 million and COSSA's by $21 million more than maintaining the current incentive. Public Service SOP at 23. The Company asserts that maintaining the current

incentive level balances cost-efficiency and market potential in light of the broad variety of customers and rate classes participating in this option, the continuing decline in solar prices, and ITC decreases while also providing a stable program for customers. Public Service SOP at 22-23; *see* Hearing Exhibit 8, 29: 12-20—32: 1-17.

105. Public Service argues that there has been "healthy activity" in the On-Site Medium offering, despite COSSA's perception that incentive levels are sub-standard. Hearing Exhibit 8, 30: 1-3. The Company asserts that COSSA fails to consider that many customers qualify for the Secondary PV Time-of-Use (SPVTOU) rate and that offsets many of COSSA's concerns. *Id.* at 30: 3-7. Public Service also explains that customers participating in the On-Site Medium offering may request to be on the SPVTOU rate. *Id.* at 30: 8-11.

106. The Company also explains that customers' cost savings for participating in the On-Site Medium offering differ based on their customer class and associated rates. Hearing Exhibit 8, 30: 8-12—31: 1-3. These rates vary considerably. Because different customer classes participate in this offering, it is particularly complex to attempt to create an On-Site Medium offering with an incentive that meets the needs of all customers. *Id.* at 30: 3-6. The Company asserts that it is not prudent or reasonable to create an incentive for a program available to all customers based only on the least-financially advantageous rate scenario. *Id.* at 31: 16-19. The Company asserts that such an overly rich incentive will lead to a rush for program capacity each time capacity opens, and that, like the last time the On-Site Medium offering incentive was above $0.05 per kWh, capacity is likely to sell out without within seconds of release. *Id.*, and at 32: 8-12. Such a rush results in complications like duplicate or speculative applications submitted to reserve capacity, which ultimately may prevent other well vetted and viable projects from moving forward. *Id.* at 32: 8-12.

107. The ALJ finds that the preponderance of the evidence supports the Company's proposed capacity level for this offering. The Company's proposed capacity level allows the Company to accommodate potentially higher program interest than seen in the last plan period, without drastic changes that would be inconsistent with a bridge plan concept. The ALJ finds that the preponderance of the evidence does not support an increase or decrease to the incentive for this offering. It remains uncertain how the ITC step-downs and continued decreasing costs of solar installation will impact the market. Without more evidence on these issues, the ALJ finds that it is premature to increase or decrease the incentive for this offering.

108. The ALJ also agrees with the Company that it is not prudent to create an incentive level for a program available to all customers based only on the least-financially advantageous rate scenario, as COSSA proposes. *See* Hearing Exhibit 8, 31: 16-19. In addition, while the costs of COSSA's proposed increases are not fully developed, the Company's estimate show a potentially dramatic increase in costs, which is not justified by the evidence. As such, the ALJ rejects the proposed increases as not prudent, reasonable, or in the public interest. The ALJ finds that the Company's proposal appropriately balances cost-efficiency and market potential in light of the broad variety of customers and rate classes participating in this option, while also providing a stable program for customers.

109. The ALJ also finds that the preponderance of the evidence demonstrates that the proposed offering is consistent with requirements and program design framework in § 40-2-124(1)(e), C.R.S., Rule 3658, and the market, and the other relevant statutory and regulatory requirements in Section II in this Decision. For all the reasons discussed, the ALJ concludes that the Company's proposed On-Site Medium offering is reasonable, prudent, in the public interest and is approved, and rejects interveners' proposals.

3. On-Site Large

110. The Company's On-Site Large offering is available to customers with solar systems greater than 500kW. Hearing Exhibit 2, Attachment JWI-1 at 32. Public Service proposes a 43 percent increase – up to 20 MW annually– to its Large offering to reflect the strong customer interest the Company has observed. Hearing Exhibit 3, 30: 3-8. The incentive level for this offering is not pre-determined, and instead will be part of RFP requirements for developers or customers to propose with their bids. *Id.* at 30: 14-18. But, incentives will be paid to customers or developers over a 20-year period based on actual production. Hearing Exhibit 2, Attachment JWI-1 at 32. The Company explains that the Large offering RFPs yielded competitive pricing from a robust pool of applicants during the 2017 and 2018 offerings. *Id.* at 28: 19-20. The Company opines that it may be appropriate to reserve some part of the available capacity to smaller project segments, and as such, it plans to seek stakeholder feedback about targeted RFPs by project size, potential bidder diversity, and low-cost solar resources before offering capacity through competitive bids. Hearing Exhibit 3, 29: 1-11.

111. To increase transparency, the Company proposes to release an anonymized RFP bid response summary through an informational filing with the Commission within 30 days of the bid deadline; that summary will include average bid price, number and capacity of bids received, and number of bidders. *Id.* at 50: 4-9. The Company plans to continue the following current practices: share early notice of RFP release timing during workgroup meetings; hold RFP informational sessions after they are released, and publish information that arises as part of those sessions; review RFP bid award recommendations with Staff before granting awards; and provide information on operational CSGs in its annual compliance reports *Id.* at 50: 12-21. The Company explains that economic criteria will remain paramount in its bid evaluation, and that it

will also consider developer experience, project viability, unique project attributes such as size or educational focus, and customer segment details. *Id.* at 29: 12-23—30: 1-2.

112. COSSA argues that capacity for this offering should be 28 MW annually to recognize the significant customer interest in the competitive solicitation process and to allow the market to more fully take advantage of the ITC before it steps down in 2021. Hearing Exhibit 200, 70: 2-6; 72: 1-4. COSSA recommends that the Company formalize RFP bid evaluation criteria, using similar criteria as for the Solar*Rewards Community program, and provide it to bidders in a timely and transparent manner. *Id.* at 75: 2-3; 75: 11-13. COSSA also suggests that the Company make anonymous project scoring publicly available after the award. *Id.* at 75: 13-14. COSSA also commends the Company for considering reserving capacity for smaller bids, and makes suggestions on how that may work, including allocating 35 percent of capacity for projects under 1.5 MW. *Id.* at 74: 1-27. CEO argues that the Commission should adopt COSSA's recommendations, which will increase renewable energy in Colorado, and support the Governor's Roadmap and legislation to reduce greenhouse gas pollution. Hearing Exhibit 702, 9: 1-19; *see also,* Hearing Exhibit 700, Attachment KMH-1.

113. Boulder asks the Commission to require the Company to publish REC bids for all awarded projects under the On-Site Large offering. Hearing Exhibit 400, 12: 9-10. In support, Boulder argues that ratepayers are entitled to know how their RESA dollars are spent and that there is similar transparency in other offerings. *Id.* at 12: 12-14. Boulder argues that the RFP could require applicants to waive confidentiality, and that if confidentiality is a concern for bidders, they do not have to bid into the program. *Id.* at 13:7-8.

114. Relying on Rules 3032 and 3033, the Company argues that Commission data privacy rules protect against the unauthorized disclosure of customer-specific information, and as

such Boulder's arguments should be rejected. Hearing Exhibit 8, 41: 11-14. The Company explains that publishing the type of data requested may lead to customers refraining from bidding into the solicitation to protect their business information, which many consider proprietary and commercially sensitive. *Id.* at 41: 14-18. Rather than making disclosures as proposed, the Company instead offers to make an informational filing summarizing anonymized RFP bid responses within 30 days after the bid deadline; the Company believes this balances the need for transparency with privacy concerns. *See* Hearing Exhibit 8, 41: 4-11. The Company also points to its many other efforts (explained above) to increase transparency. *Id.* at 38: 13-15; 39: 1; *see* Hearing Exhibit 3, 50: 12-21.

115. Because the Company is uncertain about market demand and bid costs for increasing capacity beyond its proposed levels, it does not advocate for expanding capacity further. Hearing Exhibit 8, 37: 8-10. The Company reasons that in the past, it received low-cost bids reflecting economies of scale for large projects with the land, load, and business expertise needed to complete solar projects up to 10 MW per bid. *Id.* at 37: 10-13. Given that not as many of these customers exist, the Company anticipates that future RFPs will likely lead to higher priced projects than in the past. *Id.* at 37: 13-15. The Company responds to COSSA's suggestion to allocate capacity for projects of 1.5 MW or less, by explaining that the better approach is to seek stakeholder feedback to aid it in balancing targeted RFPs by project size before offering capacity under the Plan. *Id.* at 38: 2-6. The Company suggests that the starting point for these conversations be to reserve a minimum of 20 percent of the 20 MW capacity for projects of 1.5 MW or smaller, with the caveat that it will consider the reasonableness of projects determined not to be cost-effective. *Id.* at 38: 6-11.

116. The costs of COSSA's proposed increased capacity is not fully developed; the increased capacity is inconsistent with a bridge plan concept. As such the ALJ rejects those proposals, as not reasonable, prudent, or in the public interest. The ALJ finds that the preponderance of the evidence establishes that the Company's proposed capacity level allow for measured growth in the solar market and expanded customer access to renewable energy resources while also being consistent with a bridge plan concept. The ALJ finds that the Company's proposed capacity for the On-Site Large programs are just, reasonable, prudent, in the public interest, and are approved.

117. The ALJ finds that the Company's proposal to file anonymized RFP bid response data for the On-Site Large offering through an informational filing 30 days after the bid deadline provides added transparency while protecting customer privacy and directs the Company to do so. For the reasons discussed, the ALJ finds that the preponderance of the evidence demonstrates that the proposed On-Site Large offering is consistent with requirements and program design framework in § 40-2-124(1)(e), C.R.S., Rule 3658, and the market, and the other relevant statutory and regulatory requirements in Section II in this Decision. *See* Hearing Exhibit 3, 12: 3-13. The ALJ concludes that the Company's proposed On-Site Large offering is reasonable, prudent, in the public interest, and is approved.

4. Timing Suggestions Relating to the Investment Tax Credit.

118. COSSA suggests that the Company release capacity for its On-Site Small and Medium offering in a way that will allow developers and customers to maximize the benefits offered through the ITC. Hearing Exhibit 200 9: 4-7. COSSA asserts that the ITC has been a key driver to the solar industry's growth, and that as it steps down, solar project economics will be challenged. *Id.* at 9: 1-4. For the On-Site Small offering, COSSA recommends front-loading

capacity release, with 2 MW per month released in the first quarter of 2020, and 1.5 MW released per months for 4 months, equaling the Company's annual proposed 12 MW total. *Id.* at 34: 7-9. COSSA argues this will increase the chance of energizing a system before December 31, 2020 and capturing the 26 percent ITC. Hearing Exhibit 200, 34: 7-11. For the On-Site Medium program, COSSA recommends that the Company release half of the capacity in the first quarter and the second half in the second quarter (each year); that unused capacity roll forward to the next quarter's release; and that the second quarter's application period remain open until the end of the year. *Id.* at 33: 19-23.

119. For the On-Site Large program, COSSA suggests that the Company issue its 2020 RFPs no more than a week after the Commission issues its final decision in this proceeding; set a 30-day bid deadline; and make bid awards within two weeks of the bid deadline. Hearing Exhibit 200, 33: 14-16. For 2021, COSSA suggests that the Company issue its On-Site Large RFPs late in 2020 so that awards can be made as early as possible in January 2021. *Id.* at 33: 16-18.

120. Public Service supports COSSA's suggestion to release more capacity in its Small and Medium offerings earlier in the year to better take advantage of the ITC before step-downs occur, with the caveat that released capacity aligns with the amounts approved for the first quarter of 2020.[27] Hearing Exhibit 8, 10: 18-21; 23: 4-10; and 35: 1 (Table KRK-R-5). The

[27] By Decision No. R19-0807, the ALJ extended the Company's 2017-19 Plan through the first quarter of 2020, to account for the anticipated timing of a final Commission decision in this proceeding. The Company correctly points out that it can only release approved amounts in the first quarter of 2020, and since this plan is not to be approved by the start of the first quarter of 2020, it cannot release the full amounts that interveners suggest in that quarter. Hearing Exhibit 8, 34: 13-20.

Company also explains that if this Plan is not approved before the April 2020 release, it will subtract 2020 allocations from the annual total approved for this Plan.[28] Hearing Exhibit 8, 23: 8-10. The Company agrees to target the release milestones COSSA suggests for the On-Site Large offering, assuming broad stakeholder support (through the Renewable Programs Stakeholder Meeting in the first quarter of 2020), and that the final approved 2020-21 Plan aligns with the discussion at the same stakeholder meeting. *Id.* at 39: 11-16—40: 1. The Company adds that it will target one week to review the RFP bid responses, but that it reserves the right to take up to 30 business days if necessary to evaluate the bids and review them with Staff prior to awarding bids. *Id.* at 40: 3-5.

121. The ALJ finds that the suggested modified timing to release capacity for the On-Site Small and Medium offerings and the suggested timelines for the Large RFP increase the possibility that customers and developers will be better positioned to take advantage of higher ITC levels. *See* 26 U.S.C. § 48(a)(6). As such, the ALJ finds that adjusting the On-Site Small and Medium offerings' capacity release timing as suggested with the Company's modifications is prudent, reasonable, in the public interest, and is approved. *See* Hearing Exhibit 8, 10: 18-21; 23: 4-10; and 35: 1 (Table KRK-R-5). For the same reasons, the ALJ also finds that targeting the proposed deadlines for the On-Site Large RFP while allowing the Company flexibility is just, reasonable, prudent, and in the public interest. As such, the ALJ approves COSSA's proposal, as

[28] For 2020, the Company's proposed timed-release is: 2 MW per month for January, February, and March; 1.5 MW per month for April, May, June, and July, with further capacity available after July only if there is roll-over capacity remaining from cancelled projects. Hearing Exhibit 8, Rev. 1, 23: 3-10. For 2021, the proposed timed-release is 1.5 MW per month for each month from January to August, with further capacity available after July only if there is roll-over capacity remaining from cancelled projects. *Id.*

modified by the Company to target proposed deadlines On-Site Large RFPs. *See* Hearing Exhibit 8, 39: 11-16—40: 1-5.

5. CEO Low-Income Rooftop Solar Program

122. The CEO Low-Income Rooftop Solar is a three-year program within the U.S. Department of Energy's (DOE) WAP.[29] Hearing Exhibit 701, 8: 22-25. This offering provides access to distributed energy generation for low-income customers who have limited opportunities to use existing renewable energy distributed generation programs, and is partially funded through the DOE's WAP. Hearing Exhibit 1608 at 64. Public Service partners with CEO to implement the program with funding from the DOE. CEO uses its existing weatherization or solar installation partners to install rooftop solar systems on qualified low-income-occupied dwellings. *Id.* at 64.

123. The proposed CEO Low-Income Rooftop offering is available to eligible customers with system sizes that are 3.5 kWh or less.[30] Hearing Exhibit 3, 32: 3-5; Hearing Exhibit 1608 at 66. As originally designed, the offering was a three-year pilot program that limited the number of installations to 300 total systems.[31] Hearing Exhibit 1608 at 66. Public Service proposes that the program shift from installation counts to capacity, with a maximum annual program capacity of 0.35 MW. Hearing Exhibit 3, 32: 4-5. Public Service asserts that because CEO has established contracts and other business arrangements, continuing the program

[29] The program was originally established through the Three-Case Settlement, in Consolidated Proceeding Nos. 16AL-0048E, 16A-0055E, and 16A-0139E. *See* Hearing Exhibit 1608. Decision No. C16-1075 approved the Three-Case Settlement.

[30] In addition, the Low-Income offering is only available to individually net-metered systems occupied by direct-billed Public Service customers. Hearing Exhibit 3, 31: 15-16.

[31] Installations in the pilot grow from 75 systems in the first year, to 100 installations in the second year, then to 125 systems in the third year. Hearing Exhibit 1608 at 66.

with an installation rather than capacity limit would slow the program's forward momentum. Hearing Exhibit 8, 46: 4-9.

124. Public Service proposes to maintain the current incentive structure, that is, an upfront incentive of $2.00 per installed watt, paid from the RESA account, with a performance based incentive of $0.034 per kWh for electricity generated by the system paid for 20 years. Hearing Exhibit 8, 48: 15-18. The Company sends CEO the monthly incentive payments in separate checks associated with customers' systems. *Id.* at 49: 10-13; Hearing Exhibit 701, 23: 6-8. Under the Plan, the Company retains all RECs generated from the systems; customers receive net metering credits to offset their electricity bill, consistent with Commission Rule 3664. Hearing Exhibit 1608 at 65. Public Service points to the high cost and flexibility of the current incentive structure as reason to maintain the structure. Hearing Exhibit 3, 31: 17-18. And, while the Company has considered increasing upfront incentive payments, it believes that maintaining performance-based incentives is important to ensure that systems are maintained and produce energy and RECs for the full system life. *Id.* at 31: 18-21—32: 1-2. Public Service also proposes to require projects to be completed within 12 months from the time of the incentive allocation. *Id.* at 32: 5-6.

125. The Company also seeks to require each of the installed systems to meet a weighted average generation capacity factor of at least 14 percent. *Id.* at 31: 13-15; Hearing Exhibit 8, 52: 7-8. A capacity factor is a measurement of a system's level of electrical output and performance; thus, a minimum capacity factor requirement ensures that a system meets a minimum level of electrical output and performance. *See* Hearing Exhibit 701, 19: 9-11.

126. CEO objects to the proposed system size cap of 3.5 kW or less, and instead supports Grid's recommendation (discussed later), that individual systems be sized at 7 kW or less.[32] CEO SOP at 20. CEO argues that this higher system capacity cap will allow greater administrative efficiency while ensuring prudent use of RESA funds. CEO SOP at 20. CEO asserts that increasing the individual system size will allow greater flexibility that could allow the program to obtain more cost-effective installations. Hearing Exhibit 703, 7: 13-16. CEO believes that larger installations create the opportunity to lower the program's overall per-watt costs, though CEO did not estimate the financial impact this may have. Hearing Exhibit 701, 17: 14-17. CEO states that several systems in the program had to be downsized to conform to the 3.5 kW threshold. *Id.* at 18: 4-6. While CEO generally supports the Company's move away from an installation-count cap to a program capacity cap, it objects to the Company's proposed annual capacity. CEO SOP at 20. CEO argues that the program can still allow more systems under an individual system size cap of 7 kW or less if the program capacity cap is raised to 0.5 MW annually.[33] *Id.* at 20.

127. CEO objects to continuing the same incentive structure for the program. CEO *Id.* at 20-22. CEO asserts that the current incentive structure does not allow it to make the best use of the funds, and creates unnecessary administrative costs and burdens. Hearing Exhibit 701, 22: 19-21—23:1-20. The Company pays CEO the performance based incentive ($0.034/kWh) each month by issuing nearly 200 individual checks associated with individual customer's

[32] CEO initially argued that the individual system size should mirror the sizing requirements for the On-Site Small offering, that is, 25 kWh or less per system. CEO SOP at 20. CEO changed its position on this issue after the close of evidence. *Id.*

[33] As with its position on the individual system size requirements, CEO also changed its position on the Company's proposal to use a program capacity cap after the close of evidence. *See* CEO SOP at 20. CEO initially argued that the program should be a budget-based program rather than a capacity-based program. *Id.*

systems' performance. *Id.* at 23: 6-8. CEO wants to instead receive the entire incentive upfront in a single annual payment of CEO $1,220,000.[34] *Id.* at 21.

128. CEO supports other interveners' recommendations that the incentives for each project be capped at the total cost of the project. CEO SOP at 21.

129. CEO urges the Commission to reject the Company's plan to require that individual systems meet a minimum 14 percent system capacity factor, and to maintain the current approach that looks at the average capacity factor on a program-wide basis. Hearing Exhibit 701, 20: 8-10. CEO argues that the Company's proposed change would increase CEO's administrative burden "for a program component that does not warrant this level of additional scrutiny."[35] *Id.* at 21: 1-3. But, by its own admission, CEO's current prescreening process prevents systems below the 14 percent minimum capacity factor from being developed, and as a result, CEO already tracks and monitors systems in the program to ensure that each system meets the 14 percent minimum. Vol. III Transcript, 38: 5-25—39: 1-4. CEO believes that none of the projects in the program fall below the minimum 14 percent capacity factor. *Id.* at 37: 20-23. In fact, the current average capacity factor for program installations with a full year of production data is 16 percent. Hearing Exhibit 701, 20: 3-5. And, CEO agrees that a per-system 14 percent minimum capacity factor will not have a significant impact on customers' ability to qualify for the program. Vol. III Transcript, 38: 13-16. CEO also argues that the per-system minimum capacity factor should not be required because it is not required for systems participating in

[34] CEO came to this figure by multiplying the combined incentive of $2.44 per watt by CEO's requested 0.5 MW of program capacity. CEO SOP at 21. Thus, if the approved program capacity is lower than 0.5MW, this amount will be lower. CEO initially argued that it should receive an upfront incentive of $2.71 per watt, but ultimately accepts the Company's calculation of the combined upfront payment of $2.44 per watt. Hearing Exhibit 701, 24: 3-6; CEO SOP at 21.

[35] CEO also argues that other program requirements, such as the savings-to-investment ratio, serve a similar function as the capacity factor, as it ensures that systems are installed on houses with high solar resources. Hearing Exhibit 701, 20: 10-19.

similar programs under the market rate, but does not argue that the program should be treated in all ways like market-rate programs. CEO SOP at 23.

130. COSSA primarily speaks up in support of recommendations that CEO later withdrew or modified. *See e.g.,* Hearing Exhibit 202 at 7: 6-21 (supporting budget-based cap and increasing system size maximum to 25 kW). COSSA generally supports expanding the program to increase solar installations. *Id.* at 9: 3-15. COSSA argues that any individual award should not exceed the actual cost of the system. *Id.* at 9: 13-15. In other words, if a system can be installed for less than the proposed solar-specific WAP funding plus the RESA incentive, COSSA argues that the RESA incentive should be reduced so that the total award does not exceed the cost of the system. *Id.* at 9: 15-18.

131. Staff objects to the Company's proposal to continue the program, asserting that it is unclear whether ratepayers are better off with the program. Staff SOP at 4; Hearing Exhibit 1500, 51: 10-14. Staff recommends that the program conclude as contemplated by the Three-Case Settlement, and that CEO be required to provide an analysis of the program's costs, benefits, and areas for improvement as a part of the Company's next renewable energy compliance plan. Hearing Exhibit 1500, 52: 17-21—53: 1-4. Staff argues that allowing the program to expire as contemplated by the Three-Case Settlement will allow time to assess its cost-effectiveness and efficiency before deciding whether the program should be reinstated. Staff SOP at 4. Staff submits that the program's ratepayer-funded upfront rebates and incentives increase the per kilowatt price of the program's installed solar arrays beyond the market price of rooftop arrays in Colorado, and that the costs exceed the anticipated savings. Hearing Exhibit 1500, 49: 11-15 and 50: 4-6, *citing,* Hearing Exhibit 1500, Attachment WJD-18. Staff questions whether the program creates an economic solar offering based on the systems'

low-output, and asserts that other programs may offer lower cost solar energy to more low-income subscribers. *Id.* at 50: 15-20—51:1-2 and 52: 9-14. Staff argues that it is almost certain that program inefficiencies will persist and grow if the program continues without addressing the "high program cost and low energy savings." *Id.* at 52: 5-7. Staff recommends a comprehensive review of programs for low-income ratepayers, and cautions against going too far too soon on low-income programs that may not be sustainable or cost-effective. *Id.* at Exhibit 1501, 9: 4-10.

132. Grid participates in the CEO Low-Income Rooftop offering as a solar-installer, and brings that perspective to bear on Staff's arguments that the program should end. Hearing Exhibit 301, 6: 1-2. To start, Grid disagrees with Staff that the program is too expensive, arguing that Staff's analysis does not adequately acknowledge the benefits of the program. Hearing Exhibit 301, 3:11-18—6:1-2. For example, Grid argues that the Commission should consider the DOE cost-benefit metric requirements, equity principles, and the impact the program has on its customers, other ratepayers, and society. *Id*. at 5: 15-18. Grid submits that the program provides relatively greater impact for its customers through energy burden reduction, which averages $462 annually. *Id*. at 5: 18-21—6:1-2. Grid believes the program has been beneficial, pointing to national attention the program has received, which it believes has encouraged other states to follow suit, and inspired federal legislation. *Id.* 28: 6-15.

133. Grid objects to the Company's plan to cap individual system sizes at all, but alternatively suggests that if there is a cap, it should be 7 kW. Hearing Exhibit 300, 27: 7-18. In support, Grid argues that the program should not be restricted from serving larger families that require slightly larger installations to cover their relatively higher consumption. *Id.* at 27: 12-14. Grid anticipates that 7 kW systems will account for larger families wishing to participate in the

program. *Id.* at 27: 16-18. Grid also objects to the Company's suggested 0.35 MW annual program capacity cap. Grid argues that program capacity should be increased to 500 kW annually (or 0.5 MW annually), which would accommodate extra capacity associated with removing the 3.5 kW system cap. *Id.* at 28: 2-5. In support of these recommendations, Grid provides vague information on its installations in Colorado.[36] *See* Hearing Exhibit 300, 27: 5-21.

134. Public Service asserts that maintaining the 3.5 kW system size cap allows more households to participate, and is consistent with its bridge plan concept. Hearing Exhibit 8, 51:14-19. The Company questions whether eligible customers' energy needs require a higher individual system size. *Id.* at 50: 14-16. But, even if a need exists, doing so will increase the program's costs based on the current $2.00 per watt up-front rebate level, resulting in using a larger portion of the program's allocation (whether by capacity or dollars) on a single project. *Id.* at 50: 16-20—51: 1-3. The Company does not believe this is prudent. *Id.* at 51: 1-3. The Company argues that more discussion is necessary to determine whether its highly subsidized low-income program should, by default, aim to eliminate electricity use charges by sizing to fully cover annual electric use. *Id.* at 51: 7-13. The Company believes there is merit in requiring low-income customers to pay for a "reasonable amount" of electricity to encourage energy awareness and efficient use. *Id.* at 51: 4-13.

135. The Company urges the Commission to reject requests to increase the program's capacity size because this would increase the program's costs when it is in an evaluation phase. Public Service SOP at 16. The Company argues that a 0.35 MW program capacity cap will allow

[36] For example, Grid says that 23 percent of its low-income installations in Colorado are greater than 3.5 kW, but does not provide the actual system sizes, or any other information about these customers such as whether they participate or are qualified to participate in the CEO Low-Income Rooftop program, or other relevant information. Hearing. Exhibit 300, 27: 5-21.

CEO to install more systems, and help more customers if some systems are sized below the per-system size limit. Hearing Exhibit 8, 46: 14-18.

136. Public Service opposes CEO's request to restructure the incentive for the program. Public Service argues that this is not the time to change the incentive structure because it proposes that this Plan function as a bridge plan. *Id.* at 47: 15-19. The Company is amenable to sending the monthly performance based incentive directly and payable to the program's customers, which would alleviate CEO's administrative burden. *Id.* at 49: 6-7. The Company explains that CEO has been receiving the checks because it is designated as the "third-party recipient" of the performance based incentive under the terms of the Three-Case Settlement. *Id.* at 49: 10-13. The Company argues that although CEO handles the large-scale maintenance for the systems, customers are still responsible for daily minor maintenance (such as clearing snow off panels) and would benefit from receiving the performance based incentive instead of CEO. Vol. I Transcript, 262: 24-25—263: 1-14. The Company responds to CEO's offer to contract with the Company to maintain solar systems in the program for 20 years by suggesting that the Commission require CEO to be responsible for the operation and maintenance of systems installed under the program for at least the 20-year term of the Solar*Rewards contract. Hearing Exhibit 8, 55: 9-13.

137. The Company argues that the minimum 14 percent capacity factor is a reasonably flexible requirement for systems that receive an upfront incentive, particularly given that the PV Watts capacity factor for a system installed in Denver, Colorado using default inputs today is 18.3 percent, which is higher than a 14 percent capacity factor requirement. *Id.* at 52: 7-11. Given the high level of subsidy these systems receive, the Company believes that it is reasonable to require projects to have a higher production performance expectation than just exceeding a 1:1

savings to investment ratio. *Id.* at 52: 13-17. The Company proposes to build in this requirement into its application process to lessen or eliminate the administrative burden that the requirement may have on CEO. *Id.* at 52: 17-19.

138. As to Staff's arguments, the Company generally agrees that the program should be analyzed, which should include an examination of low-income customers' energy needs, the best way to serve those needs, and cost efficiency. *Id.* at 53: 9-14. The Company believes that a thorough analysis of the program is prudent and necessary, and suggests that CEO, the Company, and others complete a holistic study of the low-income landscape. *Id.* at 47: 9-13; Hearing Exhibit 7, 55: 8-21. Public Service shares Staff's concerns about the program's cost effectiveness relative to other possible means to lower the energy burden of low-income customers, but recommends that the program be maintained in order to capitalize on the growth that CEO has established through operational contracts, and CEO's other business arrangements to continue. Hearing Exhibit 8 at 45:17-20—46: 1-5.

139. As mentioned, the Three-Case Settlement established the CEO Low-Income Rooftop program as a three-year pilot program. The terms of a pilot program are not set in stone, particularly when its timeframe runs its course. The question then becomes whether the program should continue, and if so, in what form. To best answer this question, the Commission needs a thorough analysis to determine the program's efficacy. The record lacks a thorough analysis that could help answer whether and in what form the program should continue in the long-term, but the evidence does support continuing the program in the short-term. Indeed, low-income customers have benefited from the pilot program, and the program has augmented and expanded the use of renewable energy resources in the low-income community. *See* § 40-2-124(1)(e)(III), C.R.S. As such, the ALJ finds that preponderance of the evidence establishes that it is just,

reasonable, prudent, and in the public interest to continue the program, with a few changes, for the short term of the Company's plan. Continuing the program for the short two-year plan period will allow time for the Company to work with stakeholders to analyze the program as part of a holistic review of the low-income landscape without losing ground.

140. The preponderance of the evidence does not establish a need to increase the proposed per-system size of solar installations within the program, or that there is a demand for a higher program capacity. The evidence in support of this was anecdotal, vague, and unhelpful. *See* Hearing Exhibit 300, 27: 5-21. Even so, the record lacks evidence on whether these proposed changes will meet needs in an efficient, cost-effective, and sustainable manner. In fact, the evidence raises questions about the long-term impact of increasing the per-system size limit and proposed program capacity limit. For example, the Company explains that increasing both will also increase the program's costs, and may result in imprudent over-spending on single installations. Hearing Exhibit 8, 50: 16-20—51: 1-3. The ultimate costs of CEO's proposals, and resulting effect on ratepayers and the projected RESA balance is unclear. Indeed, CEO admits it has not quantified the RESA impact of its recommendations. Hearing Exhibit 1634. For these reasons, the ALJ concludes that intervener proposals to increase capacity and system size is not reasonable, prudent, or in the public interest, and are rejected.

141. There remains no dispute that the program should move to a capacity limit rather than an installation limit. The ALJ finds that the preponderance of the evidence establishes that the Company's proposed annual program capacity size of 0.35 MW will allow the program to continue to gain momentum, while remaining consistent with the program's original installation goals (100 per year). This capacity is prudent and reasonable. For the reasons discussed, the ALJ

concludes that it is in the public interest to continue the program at the Company's proposed system size capacity and program capacity.

142. The ALJ finds some merit in CEO's arguments that the Commission should consider restructuring the program's incentives, but concludes that any restructuring should be determined after considering information the Company presents out of its holistic review of the low-income landscape, including the effectiveness of this program's incentives, and whether it should continue in the long-term. For the same reasons, the ALJ rejects the Company's proposal to send the monthly performance based incentives directly to customers. Rather, the ALJ finds that the preponderance of the evidence weighs in favor of CEO continuing to keep the monthly performance based incentive as the third-party recipient. During the pilot program, CEO has been trusted to appropriately use that incentive on behalf of customers, and there was no evidence indicating that it failed to do so. Nor was there evidence weighing in favor of providing the incentive to customers, rather than CEO. The record was devoid of evidence to show that giving customers the incentive would positively impact the type of daily maintenance that the Company believes customers must manage. CEO's administrative burden in managing the numerous monthly checks could be reduced if the Company provides a single monthly check, but the record lacks information as to whether this is feasible while also tracking the associated performance of each customers' system. The ALJ encourages CEO and the Company to work together to determine if there is a way to manage this without creating undue burdens or increasing costs.

143. The ALJ finds that interveners' recommendations that the incentives for each project be capped at the total cost of the project is reasonable and prudent, and approves it. Also, given that the initial program design requires CEO to partner with entities to install the rooftop

systems, the ALJ agrees with the Company that CEO should be responsible for operating and maintaining the systems for the 20-year term of the Solar*Rewards contract, and requires that. As such, there is no need for CEO to contract with the Company to maintain the systems for 20 years, and CEO's proposal on this is rejected.

144. For the reasons that Public Service outlines, the ALJ is persuaded that a 14 percent per-system capacity factor should apply as a reasonable production performance measure for this program. The ALJ finds that the preponderance of the evidence establishes that implementing a 14 percent per-system minimum capacity factor does not impact the customers' ability to qualify for the program as compared to the current capacity factor approach (program-wide average). This minimal requirement is reasonable particularly when considering the program's funding, incentive structure, and that it does not create an additional hurdle for customers to qualify for the program because CEO already prescreens to prevent installations of less than 14 percent. Given CEO's prescreening process, the ALJ finds that the requirement does not create an appreciative additional administrative burden on CEO.

145. For the reasons discussed, the ALJ concludes that the proposed CEO Low-Income program is consistent with requirements and program design framework in § 40-2-124(1)(e), C.R.S., Rule 3658, and the market, and the other relevant statutory and regulatory requirements in Section II in this Decision. For all the reasons discussed, the ALJ concludes that the proposed program reasonable, prudent, in the public interest and is approved, and rejects interveners' proposals.

G. Other Issues.

1. Solar + Storage Proposal

146. COSSA suggests solar + storage programs be ordered but does not fully develop the costs for such programs. Hearing Exhibit 200, 18: 13-18; *see also* Hearing Exhibit 7, 32: 5-12. CEO, Denver, and Boulder agree. COSSA SOP at 6-9; CEO SOP at 27-29; Boulder SOP at 1-6; Denver SOP at 8-9. Their arguments follow the same general themes that: solar + storage programs are necessary to achieve legislative goals such as carbon dioxide emission reduction; and the RESA may be used to pay for such programs as a part of this proceeding. *Id.;* Hearing Exhibit 200, 17: 11-20; Hearing Exhibit 401, 6: 10-13; *see* WRA SOP 16-18. Several parties add that when energy storage systems are paired with solar, RESA funding can be used to pay for the costs of storage. Hearing Exhibit 200, 9: 11-12; Boulder SOP at 3; *see* WRA SOP 16-17.

147. CEO correctly notes that the RESA is created by Commission Rule 3652(cc), not by statute. CEO SOP at 27-28. CEO argues that Commission rules do not limit use of RESA funds to eligible energy resources, and that the Commission has never strictly construed its rules or § 40-2-124, C.R.S., to limit the use of RESA funds for eligible energy resources. *Id.*

148. COSSA suggests that this proceeding and the RESA be used to create programs that jumpstart the solar + storage market. COSSA SOP at 28. Denver points out that a solar + storage program must be thoughtfully designed to avoid the type of mistakes made in California, where a program was found to incentivize battery operation in a way that increased emissions. Denver SOP at 9. While WRA does not take a position on the solar + storage programs that other interveners propose, it urges the Commission to "endorse Public Service's further coordination with stakeholders on battery storage programs and pilots." WRA SOP at 19.

149. The Company, CEC, Staff, and the OCC oppose using RESA funds for solar + storage. Most argue that solar + storage is not an eligible energy resource under the plain language of § 40-2-124(1)(a), C.R.S., and as such, the RESA cannot be used to fund such programs (at least in this proceeding). CEC SOP at 8-9; Staff SOP at 7; and OCC SOP at 16. The OCC adds that the use of RESA funds for energy storage can only be decided as part of a clean energy plan, per § 40-2-125.5, C.R.S. OCC SOP at 15-16.

150. The Company also argues that as a practical matter, the storage proposals are premature. Public Service SOP at 7. The Company explains that it is continuing to evaluate the role of storage on its system, and hone to its related interconnection procedures. Public Service SOP at 8. For example, the Company is running multiple pilot programs to help it evaluate the financial, operational, and other benefits to on-site storage applications, including how they can be shared between the storage-owning customers and the grid. Public Service SOP at 8; Hearing Exhibit 7, 31: 5-9. The Company argues that it is not just and reasonable to impose the substantial costs of the proposed energy storage programs on non-participating customers without measurable benefits. Public Service SOP at 8. The Company asserts that COSSA's proposal to spend millions of customers' money to jump start the storage industry positively impacts its constituency's financial interest, but does not serve the broader public interest. Hearing Exhibit 7, 32: 5-12. In support, the Company explains that COSSA has made no showing that any growth the solar + storage industry may enjoy from millions from the RESA will be sustained beyond that immediate financial incentive, or that this would result in a broader value that matches the cost to customers. *Id.* at 32: 12-16.

151. The Company and CEC agree that the RESA should not be used to jump-start the solar + storage industry. Public Service SOP at 5-6; CEC SOP at 8-9. Staff also argues that the

Commission should not give independent CSG developers and interconnection facility owners a financial windfall by paying for the costs associated with interconnection through RESA funds. Staff SOP at 8. Staff asserts that using RESA to subsidize these costs would bolster private profits at public expense.

152. Staff also asserts that even if solar + storage could be paid out of the RESA in this proceeding, there are better ways to encourage deployment of batteries and other energy storage techniques, such as time-of-use rates designed to make it more cost-effective for customers to charge their batteries during off-peak periods, and use stored energy during peak periods. Staff argues that this approach is more sustainable in the long-term and will conserve RESA funds that will be needed to achieve statutory carbon dioxide emission reduction requirements. Staff SOP at 8-9.

153. CEC argues that interveners conflate the scope of this proceeding with other distinguishable emission-reducing procedural vehicles. CEC SOP at 7. CEC explains that the Company's clean energy plan proceeding offers a more appropriate vehicle to comprehensively consider how best to achieve state carbon dioxide emission goals in a cost-effective and coordinated manner. CEC SOP at 7. CEC argues that it is premature to use RESA dollars to fund solar + storage, or to divert the funds towards a to-be-filed clean energy plan, and that a better approach is to save the funds for after the Plan is filed so that they may have a greater impact. *Id.* at 7-8.

154. It appears that many of the parties focus on the wrong issue, *i.e.,* whether the RESA may be used to fund solar + storage. The more important inquiry is whether solar + storage can be approved as an eligible energy resource *to comply with* the renewable energy standard under § 40-2-124, C.R.S. Section 40-2-124, C.R.S., defines eligible energy resources

that may be used to meet the renewable energy standard, as is set forth in detail in Section II of this Decision. The ALJ finds that under the plain and unambiguous language of § 40-2-124(1)(a), C.R.S., energy storage systems, even when coupled with solar electric generation facilities, are not included in the definition of an eligible energy resource. Indeed, no language within that definition includes a reference to storage or batteries, paired or otherwise. As such, energy storage systems are not an eligible energy resource that may be used to meet the renewable energy standard in § 40-2-124(1)(c), C.R.S. This plain statutory meaning must be applied as written. *Cowen v. People*, 431 P.3d 215, 218 (Colo. 2018) (courts must give effect to plain meaning when the statute is clear and unambiguous and do not need to look further).

155. Construing the statute as suggested violates rules of statutory construction to read the statute in harmony and give effect to all parts. *Id*. For example, under § 40-2-124(1)(g), C.R.S., the maximum retail rate impact for compliance with the standard is 2 percent. But since energy storage systems are not eligible energy resources that may be used to comply with the standard, allowing storage systems under the compliance plan renders language in § 40-2-124(1)(g), C.R.S., meaningless, and may subvert the statute's intent to ensure that the retail rate impact for compliance with the renewable energy standard be not exceed 2 percent of retail electric customers' annual bill.[37]

156. This does not mean RESA dollars may never be used to pay for energy storage, or solar + storage. To the contrary, as many parties correctly point out, once the Company files its clean energy plan, it may propose to use up to half of the funds collected under

[37] As already explained in Section II of this Decision, the RESA is Commission-created cost recovery mechanism intended to provide funding for implementing the renewable energy standard. Rule 3652(bb) and (cc). The Commission could modify its rules governing the RESA to accommodate funding certain energy storage project in the future. The ALJ draws no conclusion on whether Rule 3652(bb) and (cc) allow funding as requested, because it is unnecessary to decide that.

§ 40-2-124(1)(g), C.R.S., for the incremental costs of clean energy resources and their directly related interconnection facilities, which includes energy storage systems. § 40-2-125.5(2) and (4)(a), C.R.S. But this is not a clean energy plan proceeding; it's a renewable energy standard compliance plan proceeding.

157. Even if § 40-2-124, C.R.S., allows the Company to use solar + storage programs to comply with the renewable energy standard, the record does not support doing so here. The ALJ finds that the record lacks evidence to fully comprehend the contours of the proposed programs, including whether they are efficient, effective, cost effective, or whether they offer customers and the public sustainable benefits. Likewise, the record contains insufficient evidence on the proposals' total estimated costs, the potential impact to Company distribution infrastructure, or even the details of how the programs would operate. Given that these are wholly new programs, the lack of detail is damning. The record also establishes that rushing into creating a program without carefully examining it may ultimately cause more harm than good. *See e.g.,* Denver SOP at 9. For all these reasons, the ALJ concludes that the preponderance of the evidence does not establish that the proposed solar + storage proposals are prudent, reasonable, or in the public interest. The ALJ rejects proposals to require solar + storage systems as a part of this Plan.

158. The ALJ recognizes that technology advancement is key to extending progress toward a reliable, low-cost, clean energy future. *See* § 40-2-125.5 (1) and (2), C.R.S. Based on the evidence presented here, there is little question that energy storage systems are a technology that warrant further consideration. The ALJ encourages Public Service and stakeholders to engage in a robust discussion to aid in this effort, to raise these issues through the relevant ongoing rulemaking proceedings, or to address it in the Company's anticipated clean energy plan proceeding.

2. Third-Party Audit Proposal

159. Staff recommends that the Commission order an independent third party accounting audit on the Company's RESA account. Staff SOP at 3. In support, Staff argues that the RESA accounting history, and the Company's modeling show a significant increase in the RESA balance while revenue and spending remains flat, and that Staff does not have reservations that the Company's RESA account forecast is not reliable or accurate enough to measure meaningful rate impact analysis. Hearing Exhibit 1500, 48: 5-17.

160. The Company generally does not oppose an audit, but objects to Staff's request because the scope of the audit has not been defined, and therefore, it does not understand Staff's request. Vol. II Transcript, 102: 9-20; Public Service SOP at 21. The Company argues that the RESA is already highly scrutinized, with many review and audit processes already in place, and that, depending on the scope of the audit, it could cost anywhere from $1-1.5 million, or higher. Public Service SOP at 21. The Company asserts that Staff has not established a need for the audit, so one should not be required here. Alternatively, the Company suggests that the Company and Staff be required to confer on the potential need for an audit, and if they reach an agreement, to present their proposal for consideration in the next renewable energy standard compliance plan. *Id.* Staff agrees with this suggestion. Staff SOP at 3.

161. The ALJ finds that it is in the public interest to require the Company and Staff to confer on the scope and budget for a third party audit, and if they agree, to present their proposal for the Commission to consider in the Company's next plan, and directs them to do so. The ALJ draws no conclusion as to whether such an audit should ultimately be required.

3. Holistic Review of Low-Income Programs.

162. As explained throughout this Decision, the Company objects to many of the low-income proposals because it believes that before expanding or substantially changing the current program, the Company should engage in a holistic review of all low-income programs, including renewable programs, demand-side management (DSM) programs, and energy assistance programs. Hearing Exhibit 7, 14: 18-22—15: 1-5. The Company explains that such a review is a better and more efficient approach to understand how low-income customers are served and will facilitate a consensus with stakeholders on a path forward to give the Commission greater confidence that it is serving low-income customers in the best way possible. *Id.* at 52: 7-18. The Company believes that the context it can develop through a holistic review will likely benefit low-income customers through long term, sustainable, cost effective, and targeted programs. *See* Hearing Exhibit 7: 15-5-9. The Company proposes to file the results of this review before filing its next renewable standard plan. *Id.* at 60: 12-15.

163. Many parties argue that low-income renewable energy programs should be expanded now, and that the Commission should not wait for a holistic review. *See e.g.,* Vote Solar SOP at 9-13. And some parties support a holistic review, arguing that it be statewide, and include an analysis of low-income customers' needs. Vol. III Transcript, 168: 23-25—170: 1-5.

164. The ALJ agrees that a holistic review across the Company's low-income programs and the low-income landscape could yield helpful information to help the Company better understand low-income customers' needs in order to hone the renewable energy low-income programs to best serve the public interest. As such, the ALJ concludes the proposed review is prudent, reasonable, and in the public interest. The ALJ directs Public Service to initiate a stakeholder outreach to further investigate low-income issues across the broad spectrum of

customer needs, which should include, at minimum, CEO, the OCC and Staff. The Company is directed to present the results of this review as part of its next renewable energy standard compliance plan. As it is unclear what role the Commission would play in a holistic review, the ALJ does not require that the Company initiate a formal proceeding before the Commission.

4. Weather Normalization Forecast Issue

165. Staff argues that the Company should be required to use a 10 year-weather normalization forecast, rather than a 30-year forecast to determine its estimated sales forecast for future renewable energy plans because 10-year forecasts more appropriately account for potential increased energy usage due to global warming. Staff SOP at 6. Staff argues that the Commission has already found that a 10-year forecast is more appropriate in the Company's recent ratemaking proceeding (Proceeding No. 19AL-0268E). *Id.* at 5-6. Staff argues that based on this, the Commission should order the Company to use a ten-year temperature average to calculate its demand forecast in future proceedings, including the next renewable energy standard compliance plan. *Id.* 6.

166. The Company responds by explaining that changes to the weather normalization methodology do not impact this Plan, or its ability to comply with this Plan. The Company also anticipates that, future renewable energy compliance plans will rely on the same weather normalization methodology approved in the Company's most recent electric rate review.

167. The ALJ concludes that Staff's request is unnecessary and premature. The Company already anticipates using the same weather normalization forecast method from its most recent electric rate proceeding. What is more, the Commission has not issued a final decision on the Company's recent electric rate proceeding. Also, Staff fails to provide evidence to indicate that the ten-year forecast the Company used here results in a deficient Plan. This is

highlighted by the fact that the Company is ahead in its compliance, and this Plan takes it beyond the minimum required compliance amounts. As such, the ALJ denies Staff's requested relief.

5. Rate Design Issues

168. Denver and COSSA raise rate design issues. Hearing Exhibit 500 at 6: 18-21; Hearing Exhibit 200, at 60: 1-14. The Company points out that rate design proposals are outside the scope of this proceeding. Public Service SOP at 27. The ALJ agrees with the Company, and rejects interveners' proposed rate design modifications as outside the scope of this proceeding.

6. Community Solar Garden Subscribers' REC Ownership

169. Boulder proposes that CSG customers should be allowed to keep their RECs. In support, Boulder notes that the Company says it is "well beyond" its RES compliance requirements. Hearing Exhibit 400, 13: 5-18; 14: 1-2. This proceeding concerns the Company's Plan to comply with the renewable resource standard, and is not the forum to remodel REC ownership. Boulder may appropriately raise these issues in the ongoing relevant rulemaking proceeding. As such, the ALJ denies Boulder's request.

7. Proposed Changes to Standard Contracts

170. COSSA suggests many changes to the Company's model contracts that will be used to effectuate plan components. Hearing Exhibit 200, 39: 15-23—42: 1-8; Hearing Exhibit 201, 28: 8-20—33: 1-8. COSSA argues that some contract terms are not consumer friendly, will increase customers' administrative burden, contain obsolete language, and amount to substantial policy shifts without Commission input. Hearing Exhibit 200, 38: 4-24. COSSA seeks a variety of additional language and changes to the Company's form contracts, including: changes to require parties to agree to modified contract language impacted by statutory or regulatory changes; changes to create a dispute resolution process before the Commission (for a

declaratory order); modifications to the definition of generation to exclude energy storage systems; and added assignment provisions, among others. Hearing Exhibit 200, 38: 3-2 7—42: 1-8; *see* Hearing Exhibit 201, 28: 8-20—33: 1-8.

171. The Company urges the Commission to reject COSSA's proposed revisions, explaining that it provided the model contracts with its plan as required by Rule 3657(b), but no Commission rule or statute require the Commission to decide disputes about the model contract language. Public Service SOP at 27-28. The Company argues that in some instances, COSSA inappropriately seeks changes to address proceedings that have not yet commenced or been completed. Hearing Exhibit 8, 92: 11-16. The Company asserts that in other instances, COSSA misunderstands or missed details of the contracts (many ministerial or operational). *Id.* at 92: 19-22. The Company also suggests that COSSA's arguments to adjust language rely on incorrect assumptions that CSG producers do not harm customers by delaying or failing in projects and should not be charged liquidated damages. *Id.* at 92: 22-23—93: 1-6. The Company addresses the proposed changes in detail in written testimony. *Id.* at 92: 11-23—100: 1-5.

172. For the reasons the Company details in Hearing Exhibit 8, 93: 19-23—100: 1-5, the ALJ rejects COSSA's arguments, and finds the disputed terms are reasonable and prudent. The ALJ rejects COSSA's suggested changes.

8. On-Bill Financing

173. Grid urges the Commission to require the Company to provide on-bill financing for customers to support low-income customers' participation in renewable energy programs. Hearing Exhibit 300, 55: 9-14. On-bill financing would eliminate the upfront costs for low-income customers seeking to install solar facilities by using their utility bill to repay such costs. *Id.* at 55: 12-14. Grid provides little information to explain its proposal, including the

estimated costs. *Id.* at 55: 9-21. The Company argues that Grid's proposal should be rejected because on-bill financing is a complex topic involving many issues that have not been explored here (such as cost, financing source, ratepayer risk, and customer awareness). Hearing Exhibit 8, 101: 9-14. The ALJ agrees, and finds that Grid's on-bill financing suggestion is not prudent, reasonable, or in the public interest; the ALJ rejects Grid's arguments.

9. Demand Side Management and RESA Charges to Customers.

174. The OCC argues that solar customers should pay DSM costs based on their total energy usage, rather than the amount they purchase from the Company. Hearing Exhibit 600, 6: 14-17. The OCC argues that solar customers should "pay for the DSM just like all other ratepayers" and should not be charged for DSM differently than non-solar customers. *Id.* at 6: 12-14. The OCC makes similar arguments about the RESA charge that solar customers should pay the RESA based on their total energy usage, rather than the total electricity purchased from the Company. *Id.* at 4: 10-13.

175. While the Company does not oppose the OCC's requests relating to DSM charges, it notes that this is not specifically allowed by Commission Rules, and may conflict with net metering rules. Hearing Exhibit 9, 36: 18-19; 37: 1-2. Vote Solar asserts that all residential customers pay DSM costs based on the amount of electricity they purchase from the Company. Hearing Exhibit 801, 6: 12-16. Vote Solar argues that the OCC's proposal would treat solar customers differently than other residential customers, and would be inequitable and discriminatory. Vote Solar SOP at 16. Vote Solar also argues that Rule 3664(g) already requires solar customers to pay the RESA charge in the way that the OCC proposes, and as such, an order is unnecessary. *Id.* at 13-15. Vote Solar also points out that the Commission's CSG rulemaking is

ongoing, and is another reason the Commission should refrain from taking action here to modify how solar customers pay the RESA charge. *Id.* at 15.

176. For many of the same reasons discussed throughout this Decision, the ALJ finds that these issues are more appropriately addressed in the Commission's relevant ongoing rulemaking proceedings and declines to address them there. As such, the ALJ denies the OCC's requests for relief.

H. Other Findings and Conclusions

177. The ALJ concludes that the Company's Plan provides the information and proposals required by Commission Rule 3657. *See* Hearing Exhibit 2, Attachments JWI-1, at 15-19; 25; 33; 38; 43 and 74; JWI-2, at 12-17; and JWI-3. However, the Company's Plan does not speak to statutory and regulatory requirements that obligate the Commission to direct it to allocate spending on residential and nonresidential retail renewable distributed generation in proportion to RESA revenues derived from each. § 40-2-124(1)(g)(I)(C), C.R.S., and Rule 3655(f). And, while both the statute and rule include an exception to allow spending to be allocated based on market response, the record lacks evidence to determine whether this exception should apply. The ALJ directs the Company to comply with § 40-2-124(1)(g)(I)(C), C.R.S., and Rule 3655(f).

178. The Company seeks the Commission to approve all of the Plan's programs, including undisputed Plan elements (*e.g.,* its Windsource® and Recycled energy proposals). Public Service SOP at 30. Consistent with the above discussion, the ALJ finds that as modified, the Company's Plan is prudent, reasonable, in the public interest, promotes statutory and regulatory goals to encourage developing eligible energy resources, and complies with

statutory and regulatory requirements in Section II of this Decision.[38] *See* Hearing Exhibit 2, 58: 3-20—59: 1-13; Hearing Exhibit 2, Attachments JWI-1, JWI-2, and JWI-3; Hearing Exhibit 1, 58: 2-20--62: 1-3. The ALJ approves the proposed Plan consistent with the discussion in this Decision. As such, the costs of eligible energy resources previously locked down are reset and allocated for cost recovery consistent with this Decision and the costs of new eligible energy resources acquired under this Plan are similarly locked down and allocated for cost recovery.

179. The Company requests a waiver of Rule 3665(c)(I)(B), and other rules necessary to implement the approved Plan. Hearing Exhibit 1, at 3 fn.3; 10-13. The Company explains it needs a waiver to apply a class-average bill credit for the Solar*Rewards Community® program. *Id.* at 11. The Company states that the Commission has already approved this approach through the Company's tariff sheets for Solar*Rewards Community® Service, but has not formally issued a waiver of the rule requirements. *Id.* The Company also points to Commission decisions approving similar waivers in its two most recent renewable energy standard compliance plans, citing Proceeding No. 16A-0139E, Decision No. C16-1075 ¶¶ 112-114 and Decision No. C16-0747 ¶¶ 45-51 issued August 12, 2016 in Proceeding No. 13A-0836E. The Company seeks a permanent waiver of Rule 3665(c)(I)(B). *Id.* at 12.

180. Interveners do not respond to the Company's proposed waiver. As a result, the proposed waiver is unopposed. The ALJ finds persuasive that the Commission has repeatedly granted the sought waiver, including necessary waivers to comply with the Plan. The ALJ concludes that the Company has established good cause for a waiver of Rule 3665(c)(I)(B) and other rules necessary to implement the approved Plan consistent with this Decision, and grants

[38] The ALJ finds the Company has incorporated the cost of carbon dioxide emission consistent with § 40-3.2-106(1)(b), C.R.S., and defers issues concerning how this should be considered in the Company's future plan to the relevant ongoing rulemaking proceedings. *See* Hearing Exhibit 1, 58: 2-20--62: 1-3.

such waivers. *See* Rule 1003, 4 CCR 723-1. The ALJ does not grant a permanent or otherwise indefinite waiver of Rule 3665(c)(I)(B), as this may amount to prohibited *ad hoc* rulemaking. *See* §§ 24-4-103 and 102(15), C.R.S.; *Home Builders Ass'n of Metropolitan Denver v. Public Utilities Comm'n,* 720 P.2d 552, 560-61 (Colo. 1986).

181. The Company also asks for a waiver of Rule 3657. Public Service SOP at 30. By Decision No. R19-0807-I, the ALJ granted the Company's request for a partial waiver of Rule 3657(a). The Company provides no information indicating that it seeks a different waiver than the one already granted. As such, the ALJ denies the request as moot.

182. The ALJ transmits the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order to the Commission as provided under § 40-6-109, C.R.S.

IV. <u>ORDER</u>

A. The Commission Orders That:

1. Public Service Company of Colorado's (Public Service or Company) 2020-21 Renewable Energy Compliance Plan (Plan) is approved consistent with the above discussion.

2. Within ten days of the date this Recommended Decision becomes a Commission decision, if that is the case, Public Service must make all the filings it proposes to make in its approved Plan and all filings discussed in this Decision, unless the Plan or this Decision require a different deadline. If so, the Company must make filings consistent with the approved Plan and specific Decision requirements discussed above.

3. Within ten days of the date this Recommended Decision becomes a Commission decision, if that is the case, Public Service must review the cost drivers, amounts, and the

resulting final renewable energy credit (REC) incentive for the Company-owned Low-Income Community Solar Garden offering with Colorado Public Utilities Commission Staff. This review must be completed before Public Service signs any agreements that commit funds for this offering. Within ten days of completing this review, the Company must make a filing establishing this review is complete, and identifying the final agreed-upon REC incentive for the Company-owned Low-Income Community Solar Garden offering.

4. This Recommended Decision will be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

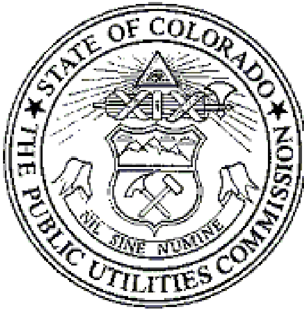
5. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision will be served upon the parties, who may file exceptions to it.

6. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision will become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

7. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Recommended Decision are filed, they may not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

____
Administrative Law Judge