

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25M-0056E

IN THE MATTER OF THE COMMISSION’S IMPLEMENTATION OF PROVISIONS IN
SENATE BILL (SB) 24-207 RELATED TO COMMUNITY SOLAR GARDENS.

**COMMISSION DECISION OPENING PROCEEDING
TO ADDRESS INCLUSIVE COMMUNITY SOLAR,
TO SOLICIT AND RECEIVE FILINGS AND COMMENTS,
AND TO CLARIFY THAT COMMUNITY SOLAR GARDEN
SUBSCRIBER ORGANIZATIONS, SUBSCRIPTION
COORDINATORS, AND SUBSCRIBERS ARE NOT
CONSIDERED PUBLIC UTILITIES SUBJECT
TO REGULATION**

Issued Date: January 31, 2025

Adopted Date: January 29, 2025

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I. BY THE COMMISSION

A. Statement

1. Colorado legislators substantially modified policies supporting the development of Community Solar Gardens (“CSGs”) during the 2024 General Assembly. The enactment of Senate Bill (“SB”) 24-207 caused the replacement of the existing statute governing CSGs through December 31, 2025, *i.e.*, § 40-2-127, C.R.S., with new provisions in § 40-2-127.2, C.R.S., to be implemented starting January 1, 2026.

2. The new replacement provisions in § 40-2-127.2, C.R.S., foster the development of “inclusive community solar,” or CSG facilities having a nameplate capacity rating of 5 MW or less that interconnect to the distribution system of an investor-owned electric utility and that reserve at least 51 percent of capacity for subscribers who are income-qualified (“IQ CSG Subscribers”).

3. SB 24-207 further requires the Commission to take novel actions regarding CSG subscriber organizations and protections for CSG subscribers. For example, the Commission must adopt a uniform disclosure form that identifies the information a CSG subscriber organization or subscription coordinator must provide to a potential CSG subscriber, setting forth such information as: the future costs and benefits of CSG subscriptions; key contract terms; grievance, enforcement, and cancellation procedures; and other relevant information pertaining to CSG subscription offers. CSG subscriber organizations, subscription coordinators, and representatives of such persons are further prohibited from: using credit scores, utility customer scores, or any utility deposit requirements to approve or deny a prospective subscriber’s participation in a CSG; charging a sign-up fee or termination fee to a residential subscriber; engaging in misleading or deceptive

conduct; and making false or misleading representations. A CSG subscriber organization or subscription coordinator must also use specific methods to verify the income of a prospective CSG subscriber. CSG subscriber organization or subscription coordinators must also provide, at the request of the Commission through another form, details regarding guaranteed discounts granted to IQ CSG Subscribers. Notwithstanding those requirements, the Commission must clarify that CSG subscriber organizations, subscription coordinators, or subscribers are not subject to regulation by the Commission.

4. By this Decision, the Commission opens this Proceeding to solicit and collect information from interested persons regarding how best the Commission should fulfill its obligations under SB 24-207, including whether it is necessary to modify existing rules or to adopt new rules addressing inclusive community solar. Consistent with the discussion below, we also seek feedback on the potential establishment of a Colorado CSG Advisory Task Force. We further clarify that CSG subscriber organizations, subscription coordinators, or subscribers are not considered public utilities subject to regulation by the Commission solely as a result of their participation in inclusive community solar.

B. Discussion

1. Utility Acquisitions of Inclusive Community Solar

5. Sections 40-2-127.2(3)(a)(I) and (II), C.R.S., as enacted by SB 24-207, require Public Service Company of Colorado (“Public Service”) to make available at least 50 MW of inclusive community solar capacity on or after January 1, 2026, but before February 1, 2026. Public Service must also make any unclaimed CSG capacity as determined in the utility’s most

recent Commission-approved renewable energy plan.¹ Public Service must then make available, on or before February 1, 2027, an annual capacity allocation of at least another 50 MW of inclusive community solar capacity. If any of the 50 MW of inclusive community solar capacity from 2026 remains unclaimed, that unclaimed amount must also be made available in for 2027.

6. Sections 40-2-127.2(3)(b)(I) and (II), C.R.S., similarly require Black Hills Colorado Electric, LLC (“Black Hills”) to make available 3.5 MW of inclusive community solar capacity on or after January 1, 2026, but before February 1, 2026. Black Hills must then make available, on or before February 1, 2027, an annual capacity allocation of another 3.5 MW of inclusive community solar capacity.

7. Section 40-2-127.2(3)(c), C.R.S., requires the Commission to determine, by rule or order, the amount of inclusive community solar capacity that both Public Service and Black Hills are required to make available on or before February 1, 2028, and thereafter. The provision further allows the Commission to adjust any requirements related to inclusive community solar specified in SB 24-207.

8. Section 40-2-127.2(6), C.R.S., addresses cost recovery, requiring the Commission to allow both Public Service and Black Hills to recover prudently incurred costs, including energy purchases and administrative and information technology expenses, in a manner approved by the by rule or other appropriate mechanism.

9. Finally, § 40-2-127.2(8)(b), C.R.S., requires both Public Service and Black Hills to file an application with the Commission, on or before November 1, 2025, to “enable the allocation” of the inclusive community solar capacity required to be made available and to establish a process

¹ The Commission approved Public Service’s 2022-2025 Renewable Energy Plan by Decision No. C22-0678, issued on November 3, 2022, in Proceeding No. 21A-0625EG.

to prioritize CSGs located on “preferred locations” with certain conditions. SB 24-207 defines “preferred locations” to be a rooftop, a parking lot, another impervious surface, a brownfield site, a body of water, a municipal property, a state property, or another previously disturbed location as established by the Commission as part of a utility’s distribution system plan.

2. Consolidated Billing Program

10. Section 40-2-127.2(8)(a)(III), C.R.S., requires the Commission to establish a deadline by which Public Service must implement a consolidated billing program. SB 24-207 defines consolidated billing as the inclusion of the CSG bill credit and the subscription charges on a customer’s monthly electric utility bill from Public Service. The Commission must further direct Public Service to track all costs associated with implementing and operating the consolidated billing program for the purpose of establishing a fee to be paid by CSG subscriber organizations participate in the consolidated billing program.

3. Forms for CSG Subscriber Organizations and Subscription Coordinators

11. Section 40-2-127.2(5)(a)(V), C.R.S., states that, at the request of the Commission, a CSG subscriber organization or subscription coordinator must provide details regarding the guaranteed discounts granted to IQ CSG Subscribers in a form that is specified by the Commission. Such discounts are set forth at § 40-2-127.2(5)(b)(I) through (IV), C.R.S. First, a CSG subscriber organization must provide an IQ CSG Subscriber a discount of at least 25 percent of the value of the CSG billing credit by limiting the IQ CSG Subscriber’s subscription charge to no more than 75 percent of the value of the bill credit. Second, for a CSG that receives federal tax incentives for the specific purpose of being located in “an energy community,” the CSG subscriber organization shall provide an IQ CSG Subscriber a discount of at least 30 percent of the value of the billing

credit by limiting the IQ CSG Subscriber's subscription charge to no more than 70 percent of the value of the billing credit. Third, for a CSG that receives federal tax incentives to provide utility bill savings to IQ households pursuant to federal eligibility requirements, the CSG Subscriber organization shall provide an IQ CSG Subscriber a discount of at least 50 percent of the value of the billing credit by limiting the IQ CSG Subscriber's subscription charge to no more than 50 percent of the billing credit. Finally, for a CSG that receives both of those two federal tax incentives, the CSG subscriber organization shall provide an IQ CSG Subscriber a discount of at least 55 percent of the value of the IQ CSG Subscriber's billing credit by limiting the subscriber's subscription charge to no more than 45 percent of the value of the billing credit.

12. Section 40-2-127.2(5)(d), C.R.S., also requires the Commission to adopt a uniform disclosure form that identifies the information that a CSG subscriber organization or subscription coordinator must provide to a potential subscriber. The disclosure form must: disclose future costs and benefits of subscriptions; disclose key contract terms; provide grievance, enforcement, and cancellation procedures; provide other relevant information pertaining to the subscriptions; and be offered in both English and Spanish and, when appropriate, Native American or indigenous languages.

C. Findings and Conclusions

13. Section 40-2-127.2(8)(1), C.R.S., requires the Commission to adopt and enforce all rules required by the provisions in SB 24-207 addressing inclusive community solar as well as to require investor-owned electric utilities to file the tariffs, the agreements, or other forms necessary for the implementation those same provisions.

14. In the furtherance of that requirement in § 40-2-127.2(8)(1), C.R.S., the Commission finds good cause to open this Proceeding for the purpose of soliciting information.

15. Persons interested in participating in this proceeding are encouraged to file a notice of participation by February 28, 2025.

16. In accordance with the discussion below, comments from interested stakeholders are to be filed no later than February 28, 2025.

1. Solicitation of Comments

a. Rulemaking

17. As a general matter, we seek comments on whether it is necessary for the Commission to revise its rules governing CSGs within the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (“CCR”) 723-3 due to the enactment of SB 24-207. The specific provisions addressing CSGs are at 4 CCR 723-3-3875 through 723-3-3883 (“CSG Rules”).

18. In addition to such general comments, we invite suggestions for specific revisions to the CSG Rules to be considered in the development of a Notice of Proposed Rulemaking if one is required by SB 24-207.

b. Utility Acquisitions of Inclusive Community Solar

19. We seek information specifically from Public Service and Black Hills regarding their plans to seek necessary approvals from the Commission to implement the requirements in §§ 40-2-127.2(3)(a) and (b), C.R.S., regarding the inclusive community solar capacity made available in 2026 and 2027 and the claims for such capacity from CSGs. We specifically seek information pertaining to the expected date of the application filing required by § 40-2-127.2(8)(b), C.R.S., since the November 1, 2025, filing deadline fails to comport with the deadlines for decisions on litigated applications pursuant to § 40-6-109.5, C.R.S.

20. We also seek comments on how the Commission should determine the amount of inclusive community solar capacity that both Public Service and Black Hills are required to make available on or before February 1, 2028, and thereafter.

21. We further seek comments on whether the Commission should adjust any requirements related to inclusive community solar specified in SB 24-207, how such adjustments should be implemented, and when any such adjustment can and should be implemented.

c. Consolidated Billing Program

22. We invite comments, suggestions, and recommendations regarding how and when the Commission should establish a deadline by which Public Service must implement a consolidated billing program pursuant to § 40-2-127.2(8)(a)(III), C.R.S.

d. Colorado CSG Task Force/Commission Forms

23. The implementation of forms to be used by non-regulated entities in the electric industry—either for the Commission to collect information from CSG subscriber organizations or subscription coordinators or for CSG subscriber organizations or subscription coordinators to provide CSG subscribers—is a novel undertaking for the Commission. In addition, the Commission must consider the integration of CSG subscriptions, which are not regulated, with other programs designed to reduce customer utility bills and deliver energy-related services, including programs related to demand-side management, beneficial electrification, and transportation electrification, specifically with respect to IQ CSG Subscribers.

24. Because these are new endeavors for the Commission, and because the modifications to CSG development in Colorado has been substantially transformed by the enactment of SB 24-207, we seek to examine in this Proceeding whether it is appropriate for the Commission to establish a Colorado CSG Advisory Task Force. The purpose of the Colorado CSG

Advisory Task Force would be to address, on an ongoing basis, updates to Colorado's CSG development and more inclusive access to CSGs. An initial charge for the task force would be the development of the two Commission forms required by SB 24-207.

25. In addition to general feedback to the development of a Colorado CSG Advisory Task Force, we seek comments on: the representative parties to serve on the task force; the anticipated roles and responsibilities of Commission Staff with respect to participating on and administering the task force; and the scope of work for the task force.

26. We further seek comments on alternative approaches to developing the two Commission forms required by SB 24-207.

2. Commission Regulation

27. In accordance with § 40-2-127.2(8)(a)(V), C.R.S., we clarify that CSG subscriber organizations, subscription coordinators, or subscribers are not considered public utilities subject to regulation by the Commission solely as a result of their participation in inclusive community solar.

II. ORDER

A. The Commission Orders That:

1. A miscellaneous proceeding is opened to solicit and collect information from interested persons regarding how best the Commission should fulfill its obligations associated with inclusive community solar pursuant to Senate Bill 24-207 and the provisions in § 40-2-127.2, C.R.S.

2. This proceeding is designated as an administrative proceeding under 4 *Code of Colorado Regulations* 723-1-1004(b).

3. Persons interested in participating in this proceeding are encouraged to file a notice of participation by February 28, 2025.

4. Comments addressing the topics raised in this Decision shall be filed no later than February 28, 2025.

5. Community solar garden subscriber organizations, subscription coordinators, or subscribers are not considered public utilities subject to regulation by the Commission solely as a result of their participation in inclusive community solar.

6. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 29, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners