

Decision No. C12-0606

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 11A-418E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR APPROVAL OF ITS 2012 RENEWABLE ENERGY STANDARD
COMPLIANCE PLAN.

ORDER ADDRESSING EXCEPTIONS

Mailed Date: June 8, 2012
Adopted Date: May 24, 2012

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I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of exceptions to Decision No. R12-0261 (Recommended Decision), issued by Administrative Law Judge (ALJ) Paul C. Gomez on March 8, 2012.

2. Pursuant to Decision No. C12-0318, mailed March 23, 2012, the following parties timely filed exceptions to the Recommended Decision: Public Service Company of Colorado (Public Service or the Company); Staff of the Colorado Public Utilities Commission (Staff); the Colorado Office of Consumer Counsel (OCC); the Governor’s Energy Office (GEO); Interstate Renewable Energy Council (IREC), the Vote Solar Initiative (Vote Solar) and the Colorado Solar Energy Industry Association (CoSEIA), jointly; the Solar Energy Industry Association (SEIA, formerly the Solar Alliance); Climax Molybdenum Company and CF&I Steel, LP, doing business as Evraz Rocky Mountain Steel (Climax/Evraz); and Ms. Leslie Glustrom.

3. Responses to exceptions were timely filed by: Public Service; Staff and the OCC, jointly; Climax/Evraz; SEIA; IREC, Vote Solar, and CoSEIA, jointly; and Western Resource Advocates (WRA).

4. On April 2, 2012, the Solar Alliance filed a Motion for Substitution of Parties (Notice of Merger). Solar Alliance explains that it merged with the Solar Energy Industries Association and that SEIA is the surviving entity. SEIA requests that the Commission recognize SEIA as being substituted for Solar Alliance with full standing as a party related to all matters in this Docket. SEIA explains that all parties have indicated no objection to the proposed change. We find good cause to grant the Notice of Merger, as there appears to be no opposition to SEIA's continued participation in these proceedings. We further find that SEIA's participation will not prejudice any other party.

1. Public Service's 2012-2013 RES Compliance Plan

5. On May 13, 2011, Public Service filed an application requesting approval of its Renewable Energy Standard (RES) Compliance Plan for years 2012 and 2013. The Company submitted the filing in accordance with Rule 3657 of the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3-3650, *et seq.* The RES Compliance Plan describes how Public Service proposes to meet the requirements of the RES for 2012 and 2013.

6. Section 40-2-124, C.R.S., requires Public Service to serve 12 percent of its total annual retail sales in 2012 and 2013 with renewable and certain other eligible energy resources. Within the 12 percent requirement, the Company must generate or cause to be generated renewable distributed generation to serve 1 percent of its 2012 total annual retail sales and 1.25 percent of its 2013 total annual retail sales.

7. In general terms, renewable distributed generation means renewable energy resources sized at 30 MW or less. Public Service's RES Compliance Plan focuses on the acquisition of on-site solar resources, a specific form of retail renewable distributed generation, through a suite of programs called Solar*Rewards. The Solar*Rewards programs provide financial incentives to customers either to install on-site solar facilities or to participate in community solar gardens (CSGs). The incentives compensate Solar*Rewards participants for the renewable energy credits (RECs) generated by the newly installed solar facilities. Public Service uses the purchased RECs to demonstrate compliance with the RES.

8. Solar*Rewards includes two programs for the acquisition of RECs from small systems that are less than 10 kW. One small program targets owners of on-site solar systems, while the other is directed at systems leased to customers by third party developers. Public Service presently offers an upfront rebate to customer-owned systems as well as a standard offer for the purchase of the RECs based on each kWh produced by the installed systems (*i.e.*, a performance based incentive). The small third party program offers a standard offer price for the purchase of RECs but no upfront rebate.

9. The medium Solar*Rewards program offers a standard offer for the purchase of RECs for systems from 10 kW to 500 kW in size. The large Solar*Rewards program acquires RECs through the issuance of requests for proposals (RFPs).

10. As part of its RES Compliance Plan, Public Service proposes to introduce Solar*Rewards Community for the acquisition of resources from CSGs. The Company's RES Compliance Plan includes annual purchases from CSGs up to a cap of 6 MW for 2012 and 6 MW for 2013, in accordance with § 40-2-127(5)(a)(II), C.R.S. Public Service also seeks

approval to acquire the 6 MW it could have been obligated to acquire in 2011 had there been CSG resources installed on its system last year.

11. Public Service outlines three acquisition scenarios in its RES Compliance Plan. The Minimum Compliance Plan targets 10 MW per year of on-site solar installations plus up to 6 MW of CSG resources. The Minimum Compliance Plan is primarily designed to manage the balance of the deferred account of the Company's Renewable Energy Standard Adjustment (RESA) rate rider, while acquiring sufficient RECs from retail renewable distributed generation to meet the RES. In contrast, the "High Plan" adds up to 60 MW of on-site solar and CSG resources and would result in the acquisition of RECs from on-site solar systems in substantial excess of what is needed to demonstrate compliance with the RES.

12. The "Medium Plan" or "Recommended Plan" contemplates the acquisition of 30 MW of on-site solar resources plus the required 6 MW of CSG resources. Public Service explains that this higher level of acquisitions is intended to promote a sustainable roof-top solar industry in Colorado. The Company estimates that the net present value of the costs to implement the Recommended Plan should be no more than \$46.7 million for acquisitions in 2012 and \$37.9 million for acquisitions in 2013. Based on computer simulations and projected collections from ratepayers, Public Service estimates the deficit in the RESA deferred account can be eliminated by 2017 with the implementation of the Recommended Plan.

13. As part of each scenario, Public Service proposed to continue offering rebates and incentives that remain under the terms of the settlement agreement approved by the Commission in Docket No. 11A-135E (the 11A-135E Settlement Agreement). In parallel with the Recommended Plan, the 11A-135E Settlement Agreement established specific acquisition targets for each Solar*Rewards program. Incentives offered to customers gradually decline

as acquisitions accumulate beyond these pre-determined caps. Public Service explains that, for some programs, there will likely be remaining capacity available under the terms of the 11A-135E Settlement Agreement when the Commission issues a final decision in this Docket.

14. As its name suggests, Public Service requests the Commission approve the acquisition targets and incentive levels in its Recommended Plan. Public Service estimates that, in relation to RESA collections from customers and other revenues flowing into the RESA account, and in relation to other costs charged against the RESA account, implementation of the Recommended Plan will require the Company to advance approximately \$25.7 million to the RESA deferred account in 2012 and \$4.6 million in 2013. Public Service requests that the Commission approve these levels of advanced funds to augment the RESA collections under § 40-2-124(1)(g)(I)(B), C.R.S., and Rule 3660(c)(II).

15. In addition, Public Service requests that the Commission approve: the proposed “locked-down” incremental costs of certain resources under Rule 3661(h)(V); the proposed Solar*Rewards Community tariff for determining the billing credits paid to CSG subscribers pursuant to § 40-1-127(5)(b)(II), C.R.S.; and the proposed Windsource premium for effect until any new rate is established by the Commission in Docket No. 11A-833E.

2. Recommended Decision

16. By the Recommended Decision, the ALJ approved Public Service’s Recommended Plan with two significant modifications. First, ALJ Gomez found that further acquisitions under the 11A-135E Settlement Agreement must cease and that Public Service must begin acquisitions of RECs through its Solar*Rewards program up to the quantities set forth in the Recommended Plan. Second, ALJ Gomez recommended that the Commission approve

higher incentive payments than proposed by the Company for the small Solar*Rewards programs in light of the discontinuance of the terms of the 11A-135E Settlement Agreement.

17. ALJ Gomez concluded that while the Recommended Plan will result in excess RECs from retail renewable distributed generation, the annual acquisition of 36 MW will help sustain Colorado's solar industry at a reasonable cost to ratepayers. ALJ Gomez further opined that the costs to implement the Recommended Plan would be mitigated by the Company's reduced payment levels for the performance based incentives and the end of large upfront rebates and incentives.

18. ALJ Gomez also recommended that the Commission approve the Company's proposed advancement of funds to the RESA proportional to the modified incentive levels set forth in the Recommended Decision. He further recommends that the Commission approve the Company's proposed locked-down incremental costs, its proposed Solar*Rewards Community tariff, and the proposed Windsource premium.

3. Discussion

19. Now being duly advised on the exceptions, the Commission upholds the principal findings and conclusions in Decision No. R12-0261. We reach this decision upon consideration of the various concerns raised by the parties in this proceeding, our statutory obligations, and the state's energy policies.

20. The General Assembly enacted § 40-2-124, C.R.S., and established the RES in accordance with the wishes of Colorado voters. The statute has evolved in response to changing market conditions, and the Commission has likewise taken steps in recent proceedings to ensure that Public Service's compliance with the RES is achieved at reduced costs. The Commission must also consider the rates that Public Service charges its customers for electric service.

In the context of the development of new renewable energy resources, the Commission requires a balancing on promoting renewable energy and minimizing the impact to the RESA deferred account. We are concerned about the large negative balances of that deferred account and the interest charges that will continue to be assessed to the ratepayers until the deficit is eliminated. The significant negative RESA balances also require the Commission to examine whether Public Service is proposing to utilize funds in the best manner to achieve immediate and future compliance with the RES. The Commission previously acted to reduce the deficit in Docket No. 11A-510E by adjusting the sharing mechanism associated with REC trading. Further, the RESA deficit already has been reduced from \$53 to \$33 million.¹

21. Therefore, the central issue raised by the RES Compliance Plan is the determination of the appropriate amount of renewable energy resources, primarily on-site solar, that Public Service should acquire in 2012 and 2013. The related issue is the reasonableness of the expected costs associated with these acquisitions and their potential impact on the RESA account.

22. Based upon these considerations, we generally affirm the Recommended Decision and approve Public Service's proposed acquisition plan for on-site solar resources. We further adopt spending caps and other cost controls in order to make substantial progress in the reduction of the RESA deficit balance as projected by the Company in or before 2017.

B. Retail Rate Impact

23. In the Recommended Decision, the ALJ found that Public Service's method for calculating the retail rate impact should be approved without modifications.

¹ See WRA's response to exceptions.

The ALJ further concluded that there is nothing in the record to indicate that the Company failed to follow the prescribed method for calculating the retail rate impact under the RES Rules.

24. Climax/Evraz fault the ALJ for not finding that the RES Rules “unintentionally allow Public Service to violate the statutory two percent retail rate impact limit.” They request that the Commission require the Company to amend its RES Compliance Plan and find a violation of the cap. They further request that the Commission open a rulemaking docket to address the flaws in the RES Rules that allow Public Service to violate statutory requirements.

25. Climax/Evraz argue, for example, that Rule 3661(h)(III) improperly excludes certain eligible energy resources used for RES compliance from the retail rate impact calculation.² They contend that these exclusions artificially separate the actual retail impact “felt by customers” from the regulatory calculation used to determine compliance with the 2 percent maximum rate impact. They also argue that the 2 percent cap is a “definitive statutory constraint” that prohibits annual spending in excess of annual RESA collections. Due to these alleged statutory violations, Climax/Evraz recommend the Commission order the Company to modify its RES plan to limit the acquisition of eligible energy resources so as not to exceed the 2 percent cap.

26. Public Service counters that it has litigated several dockets in which the same matters were addressed by the Commission before. Public Service also notes that, in 2010, the General Assembly amended § 40-2-124, C.R.S., explicitly to permit the Company to advance funds to the RESA from year to year. Public Service argues this means that the utilities are authorized under the statute to expend, in any given year, more on the incremental costs of

² Specifically, Climax/Evraz object to the exclusion of resources acquired before the “time fence” of July 2, 2006 and to the exclusion of “Section 123 resources” from the calculation of the retail rate impact under paragraph 3661(h)(III) of the RES Rules.

eligible energy resources than the collections from ratepayers through the RESA surcharge set at 2 percent of customer bills.

27. WRA also responds to Climax/Evraz, arguing that the Recommended Plan is in conformance with the RES Rules and that those rules are in compliance with Colorado law. WRA also points out that the provisions of the RES Rules in dispute were thoroughly considered and approved in a recent rulemaking proceeding.

28. In Decision No. C08-0559, mailed June 4, 2008 in Docket No. 07A-462E, the Commission found it had the authority to approve a renewable resource under § 40-2-123(1)(a), C.R.S., a so-called Section 123 resource, even if its incremental costs would exceed the 2 percent retail rate cap. The Commission ruled that the retail rate cap contained in § 40-2-124(1)(g)(I), C.R.S., did not apply to new clean energy or energy-efficient technology or demonstration projects acquired pursuant to § 40-2-123(1)(a), C.R.S., even if the RECs associated with these resources were used for purposes of compliance with the RES. More recently, the Commission affirmed that ruling by Decision No. C10-1033, mailed September 23, 2010 in Docket No. 09A-772E.

29. The Commission gave the following reasons, in support of its conclusion. First, the Commission relied on the plain language of the two statutes. Section 40-2-124(1)(g)(I), C.R.S., contains the clause “required by this section.” The Commission found that the term “this section” referred only to § 40-2-124, C.R.S., not to § 40-2-123, C.R.S., an entirely different section within Title 40. Further, § 40-2-124(1)(g)(I), C.R.S., contains terms such as “eligible energy resources” and “renewable energy credits.” On the other hand, § 40-2-123(1)(a), C.R.S., contains terms such as “new clean energy” and “energy-efficient technologies.” Even though the two sets of categories may overlap, they are not the same. Thus, it does not follow that the

retail rate impact limit contained in one statute applies to the resources discussed in the other statute, as Climax/Evraz advocate. It is important to note that § 40-2-123(1)(a), C.R.S., does not contain its own retail rate impact limit. The Commission also rejected the argument that its interpretation would allow a utility to meet the RES standard using expensive Section 123 resources without any cost limit whatsoever. The Commission noted that it has an obligation to review the proposed acquisition of resources and will not approve any resource, including a Section 123 resource, unless it is cost effective.

30. Second, the Commission noted that its interpretation would make investments in new clean energy and energy efficient technologies more likely. The contrary position, on the other hand, would make these investments less likely, because the utility would then spend most of the money within the 2 percent cap on less costly non-Section 123 resources needed for compliance with the RES standards contained in § 40-2-124, C.R.S. This is especially so after the passage of House Bill 10-1001, which significantly raised the RES standards contained in § 40-2-124, C.R.S.

31. We find that Climax/Evraz raise no new arguments to warrant a new rulemaking proceeding to revise the provisions in the RES Rules concerning the retail rate impact. Further, we affirm that the time fence concept is consistent with § 40-2-124(1)(g)(I), C.R.S. It is well-settled that statutes, including § 40-2-124(1)(g)(I), C.R.S., are presumed to be prospective in operation. *See, e.g.*, § 2-4-202, C.R.S. We therefore deny the exceptions filed by Climax and Evraz on this ground. We find that Public Service correctly calculated the retail rate impact in accordance with § 40-2-124, C.R.S., Rule 3661, and prior Commission decisions. We affirm the Recommended Decision on this ground and approve the Company's calculation of the retail rate impact and the proposed lock down costs.

C. Solar*Rewards Acquisitions

1. Capacity Caps

32. The Recommended Plan is designed to acquire up to 36 MW each year, in the following manner: 9.6 MW from small systems (≤ 10 kW), 16.4 MW from medium systems (10 kW to 500 kW), 4 MW from large systems (> 500 kW), and 6 MW from CSGs.

33. Staff, the OCC, and Climax/Evraz object to the approval of the Recommended Plan and instead request that the Commission adopt the Minimum Compliance Plan. As previously described, pursuant to the Minimum Compliance Plan, Public Service would acquire only 16 MW each year under that scenario rather than the 36 MW of the Recommended Plan. The 16 MW would be apportioned as follows: 3 MW from small systems, 4 MW from medium systems, 3 MW from large systems, and 6 MW from CSGs.

34. Staff argues that the current significant negative balance of the RESA deferred account supports the approval of the Minimum Compliance Plan. Staff concludes that the Minimum Compliance Plan will permit Public Service to exceed the requirements of the RES until at least 2020. Staff also argues that, if natural gas prices continue to be lower than the Company's forecasted prices, the RESA deficit will continue to remain negative under any of the plans the Company proposed for Commission consideration.

35. The OCC argues that the Commission's approval of the Minimum Compliance Plan will help keep costs in check and result in a lower RESA deferred balance that will be reduced more quickly. The OCC further agrees with Staff that the Minimum Compliance Plan will enable the Company to exceed RES requirements for retail renewable distributed generation in both 2012 and 2013 and that nothing in § 40-2-124, C.R.S., requires Public Service to acquire more than the minimum statutory levels for those years.

36. Climax/Evraz similarly argue that the Minimum Compliance Plan will be sufficient for Public Service to satisfy its RES requirements, will keep costs down, and will result in a lower RESA deferred balance. They opine that the Commission has no obligation to support the solar industry but instead is required to ensure just and reasonable electricity costs to consumers. They contend that the Recommended Decision does not go far enough in reducing the RESA balance, which has been quite high for years, at a substantial cost to ratepayers, and with no real movement towards its elimination. Climax/Evraz suggest that the Commission take this opportunity “to make a substantial dent in the RESA deficit balance, and to implement the Commission policy of minimizing costs to customers.”

37. In contrast, the parties representing solar interests (SEIA, IREC, Vote Solar, and CoSEIA) advocate in their exceptions for continuing capacity acquisitions pursuant to the 11A-135E Settlement Agreement before acquiring the amounts set forth in the plan approved by the ALJ. GEO supports this position as well.

38. SEIA proposes a specific reallocation of the remaining 11A-135E Settlement Agreement capacity to augment the acquisitions approved by the Recommended Decision. SEIA argues that this additional capacity is necessary to maintain Colorado’s solar market, to drive down costs, to deliver peak capacity, and to “meet ratepayer demands.” The reallocated capacity, estimated to be approximately 22 MW, would specifically increase acquisitions above ALJ Gomez’s approved levels for both the small and medium Solar*Rewards segments. SEIA explains that the reallocated capacity would be purchased according to the incentive levels approved in the Recommended Decision, which are significantly lower and spread out over time as compared to the terms of the 11A-135E Settlement Agreement. Finally, SEIA warns that if not modified, the Recommended Decision will cause a damaging shutdown of the

solar industry in 2012 or 2013, primarily because they expect the 9.6 MW allocated to the small systems will be insufficient to meet demand.

39. In its response, Public Service argues that SEIA's latest proposal is not part of the record and should therefore be rejected. Public Service also argues that the Recommended Decision is consistent with historical acquisition targets, supported by substantial evidence in the record, and situated at the balance between the competing positions put forward by the parties.

40. Staff and the OCC respond jointly to SEIA, GEO, IREC, Vote Solar, and CoSEIA, arguing that the 11A-135E Settlement Agreement was never intended to extend beyond its explicit duration. The terms of the agreement were instead intended to serve only as a "bridge" until the Commission issued a decision on Public Service's 2012 RES Compliance Plan. Climax/Evraz similarly state in their response to exceptions that the ALJ correctly rejects solar acquisitions authorized in this docket through the use of the 11A-135E Settlement Agreement. They conclude the Commission approved the terms of the 11A-135E Settlement Agreement to impose specific caps on spending and acquisitions.

41. SEIA responds to the exceptions of Staff, OCC, and Climax/Evraz, arguing that the adoption of the Minimum Compliance Plan will decimate the state's solar industry and result in job losses due to insufficient acquisitions by Public Service.

42. WRA also responds to Staff, the OCC, and Climax/Evraz, suggesting that the Commission reject the Minimum Compliance Plan. WRA argues that Colorado law and policy encourage investments in renewable energy resources beyond the statutory minimums set forth in the RES. WRA further argues, that while the Recommended Plan will help the local solar industry further reduce installation costs for on-site solar systems, the Minimum Compliance Plan will cause a "boom-bust cycle of investment" that will disrupt progress in

installation cost reductions. In addition, WRA argues that the elimination of upfront payments as suggested by ALJ Gomez will adequately address concerns about the cost impact of the Recommended Plan on the RESA deficit. WRA suggests that the estimated cost differential between the Minimum Compliance Plan and the Recommended Plan is likely less than \$3 million annually. Finally, WRA contends that, as compared to the Minimum Compliance Plan, the Recommend Plan will deliver greater emission reductions, water savings, and diversity of generation resources.

43. GEO similarly suggests, in its response to exceptions, that the Recommended Plan's long-term effect on Colorado's solar industry greatly outweighs the near-term cost to the RESA deferred account. GEO further warns that lower incentives could cause a severe contraction in the local solar industry.

44. We agree with the ALJ and the OCC on the issue of carrying out the acquisitions required by the settlement. The 11A-135E Settlement Agreement that the Commission approved in Docket No. 11A-135E contained explicit language that any solar acquisitions pursuant to the settlement would terminate once the Commission approves Public Service's 2012 RES Compliance Plan. Indeed, in its exceptions GEO concedes this point. We therefore deny the exceptions filed by SEIA, GEO, IREC, Vote Solar, and CoSEIA on this issue.

45. The approval of the Recommended Plan, as advocated by Public Service and recommended by ALJ Gomez, as opposed to the Minimum Compliance Plan, as suggested by Staff, the OCC, and Climax/Evraz, is the more difficult question to resolve. We are concerned that the approval of the Recommended Plan without modifications and completion of the pending projects under the terms of the 11A-135E Settlement Agreement might cause the Company's actual acquisitions and spending in 2012 and 2013 to appear inconsistent with

our intention to maintain reasonably steady levels of on-site solar purchases at reduced costs.³ As explained in Decision No. C11-0304, issued March 21, 2011, the approval of the 11A-135E Settlement Agreement was necessary to restart the Company's Solar*Rewards programs as soon as possible, even though the Commission acknowledged that it was not afforded time to examine comprehensively its impact on the Company's future ability to comply with the RES given the retail rate impact cap under § 40-2-124(1)(g), C.R.S. However, we are also concerned that the adoption of the Minimum Compliance Plan for 2012 and 2013 may result in too few on-site solar acquisitions relative to the recent trends, with potential adverse consequences to both ratepayers and the industry.

46. We conclude that the approval of the Recommended Plan's 36 MW of on-site solar acquisitions in 2012 and 2013 is, on balance, the better course of action. First, we establish caps on the advances to the RESA deferred account that Public Service may make in 2012 and 2013, as discussed in detail below. Such caps will serve to limit spending on on-site solar under the Recommended Plan.

47. Second, we find the likely difference in annual costs to implement the Recommended Plan as compared to the Minimum Compliance Plan to be reasonable. That difference, estimated by WRA to be less than \$3 million, is acceptable in relation to the level of annual RESA collections (above \$52 million each year) and the total annual RESA spending in 2012 and 2013 (\$92 million and \$68 million, respectively). Moreover, the movement toward lower incentive levels paid over time instead of upfront should further control the Company's expenditures on on-site solar as compared to annual spending levels in past years.

³ It is our understanding that projects have up to a year to be completed after reserving an incentive pursuant to the terms of the 11A-135E Settlement Agreement. Therefore, despite the termination of the 11A-135E Settlement Agreement upon the issuance of this Order, projects will continue to be completed and funded in the remainder of 2012 and into 2013.

48. Third, we expect to evaluate on-site solar acquisitions and spending in the context of the Company's 2014-2015 RES Compliance Plan, to be filed on or before March 1, 2013 pursuant to Decision No. C12-0066 in Docket No. 11A-870E issued January 19, 2012. In that future proceeding, we will examine closely the impact of the 11A-135E Settlement Agreement on acquisitions and costs in relation to the 36 MW of annual acquisitions under the Recommended Plan.

49. Finally, we emphasize that the approved capacity acquisition levels are caps and not purchase obligations. It is therefore possible that market response to the Company's proposed incentive levels may be less than expected and spending will likewise be reduced.

50. For the reasons stated above, we deny the exceptions of Staff, the OCC, and Climax/Evraz on this point and affirm the approval of the capacity targets under Public Service's Recommended Plan.

2. Mechanics of Capacity Caps

51. Public Service notes in its exceptions that the Recommended Decision did not explicitly approve the mechanics behind the Company's proposed capacity caps. For example, Public Service wants the capacity steps for its small and medium Solar*Rewards programs to operate independently. Compliance years 2012 and 2013 would each have two steps per program. Once the second step of capacity is filled, acquisitions will cease and the program would not commence again until the start of the following year.⁴ More generally, if any program segment is not filled, Public Service proposes the remaining MW be carried into the next year.

⁴ Each step corresponds to a MW threshold at which the standard offer for the purchase of RECs falls by either \$0.01/kWh or \$0.02/kWh.

52. We grant Public Service's request and approve the proposed operation of the capacity caps established for 2012 and 2013. Capacity that is not subscribed up to the cap in 2012 may rollover for acquisition in 2013. Likewise, Public Service may temporarily suspend a certain Solar*Rewards program when its corresponding annual cap is reached. The rollover of any capacity remaining at the end of 2013, however, shall be a matter to be addressed by the Commission with respect to the Company's 2014-2015 RES Compliance Plan.

3. Single Capacity Cap for the Medium Solar*Rewards Program

53. IREC, Vote Solar, and CoSEIA request that the Commission further modify the Company's approved Recommended Plan such that two distinct categories are maintained for the medium Solar*Rewards program. A subdivided medium program was also implemented under the 11A-135E Settlement Agreement.

54. IREC, Vote Solar, and CoSEIA argue that distinct sub-segments in the medium Solar*Rewards program are necessary to ensure that small commercial and industrial customers have access to the incentives, fearing that large commercial and industrial customers could consume the majority of the capacity in a combined category. In support of this argument, IREC, Vote Solar, and CoSEIA point to the implementation of the 11A-135E Settlement Agreement where the capacity cap for the larger medium category was exhausted "within a few weeks" while the smaller medium category capacity cap was not reached "for several months."

55. In response, Public Service states that it saw no need to continue to separate programs for medium projects based upon system size, since a common performance incentive would be extended to all program participants. However, if the Commission wants to split the medium program into two size categories, Public Service recommends that 25 percent of the

total medium capacity be devoted to smaller systems and 75 percent be devoted to larger systems.

56. GEO expresses support for IREC's, Vote Solar's, and CoSEIA's position.

57. We agree with Public Service that a single set of incentives is appropriate for the medium Solar*Rewards program. There is accordingly no need to establish separate sub-segments and tiers for projects of different sizes within the medium Solar*Rewards program. The exceptions of IREC, Vote Solar, and CoSEIA are thus denied.

4. Additional Community Solar Garden Acquisitions

58. Public Service explains in its exceptions that, while the Company is not obligated to purchase energy from more than 6 MW of new CSG resources in 2012 or 2013 under subparagraph 3665(d)(I)(A) of the RES Rules, the Company can agree to acquire more than 6 MW each year. Public Service therefore proposed to acquire some or all of the 6 MW of new CSG resources it could have acquired in 2011 as part of its RES Compliance Plan. In combination with the capacity rollover provisions proposed in the Recommended Plan, Public Service could acquire up to 18 MW of CSG resources by the end of 2013.

59. Staff also requests in its exceptions that the Commission clarify the specific annual acquisition levels for the Company's Solar*Rewards Community program and explain how those levels comport with § 40-2-127(5)(a)(III), C.R.S. In its case-in-chief, Staff argued that Public Service should acquire only 6 MW of CSG resources annually in 2012 and 2013 for a total of no more than 12 MW.

60. In their response to exceptions, IREC, Vote Solar, and CoSEIA support Public Service's request to acquire the 6 MW from 2011 as part of its approved RES Compliance Plan.

61. Section 40-2-127(5)(a)(III), C.R.S., indicates that the General Assembly expected the development of CSGs to begin in 2011. In addition, Public Service appears to be willing to purchase energy from more than 6 MW of new CSG resources in either 2012 or 2013. We therefore grant Public Service's exceptions on this point and allow the Company to acquire up to 6 MW of additional CSG resources through its Solar*Rewards Community program. Public Service may acquire up to a total of 12 MW of new CSG resources in 2012 and up to a cumulative total of 18 MW of new CSG resources before the end of 2013. We further find that these acquisitions can be achieved at a reasonable cost and can be accommodated within the budgetary cap established by the levels of funds Public Service is authorized to advance to the RESA, as discussed below.

D. Solar*Rewards Incentives

62. In the Recommended Decision, the ALJ concluded that, as a consequence of the termination of terms of the 11A-135E Settlement Agreement, revisions to the incentives to be offered to small Solar*Rewards customers were necessary. The adjusted incentive levels to be approved were set forth in a table on page 30 of the Recommended Decision, which showed increases of \$0.01/kWh to \$0.02/kWh in 2012 and 2013 for the small customer owned Solar*Rewards program and increases of \$0.01/kWh to \$0.02/kWh for Steps 1 to 3 for the small third party Solar*Rewards program. In addition, the ALJ recommended the elimination of all up-front payments to customers and a full transition to performance based incentives that are paid over time according to the production of the on-site solar facilities (in terms of kWh).

1. Incentive Levels

63. Public Service requests that the Commission modify the Recommended Decision with respect to the incentive levels for the small 30-party Solar*Rewards program and instead

approve the lower incentives the Company recommended as part of its case-in-chief. Public Service argues that, because the third party program participants have never received upfront payments before and have only ever received performance based payments, no increases to its proposed incentive levels are necessary to transition from the terms of the 11A-135E Settlement Agreement to the terms of the Recommended Plan. Public Service also estimates that ALJ Gomez's recommendation will increase the payments to these third party projects by approximately \$1.6 million over the lifetime of the systems.

64. Staff argues in its case-in-chief that Public Service's proposed incentives are, across the board, unnecessarily high compared to market prices and should therefore be reduced by the Commission. In its exceptions, however, Staff recommends that the incentive levels for all components of the Solar*Rewards remain as proposed by the Company. Staff argues that by increasing the incentive levels for the small customer owned program, Decision No. R12-0261 inappropriately favors the most expensive component of the Solar*Rewards. Staff also argues that ALJ Gomez's recommended incentive levels would violate § 40-2-124(1)(g)(I)(C), C.R.S., and Rule 3665(f), since the higher incentive levels could result in expenditures between residential and nonresidential customers not in proportion to the RESA revenues collected from each customer group.

65. In response, Public Service explains that the incentive levels approved in the Recommended Decision will result in a minimal change to the allocation of expenditures between residential and nonresidential customer groups. Specifically, the spending split for residential customers' increases from 38 percent to 40 percent, while the spending split for nonresidential customers falls from 62 percent to 60 percent. Public Service states that it is

not clear whether the allocation provisions in § 40-2-124(1)(g)(I)(C), C.R.S., require the changes to the incentive levels that Staff suggests.

66. Consistent with our goal to discontinue upfront incentive payments to reduce RESA expenditures associated with on-site solar resources and the market changes that support the elimination of upfront incentives, we set the standard rebate offer for all on-site solar systems participating in Public Service's Solar*Rewards programs to \$0 per watt.

67. We also uphold the Recommended Decision and approve specific incentives to be offered to customers according to the capacity caps in the Recommended Plan. We find that the approval of pre-determined incentives is necessary for a well-defined, predictable, and stable on-site solar program, consistent with past Commission practice.

68. We nonetheless find good cause to grant Public Service's exceptions to reduce the incentive payments to be made to customers participating in the small third party Solar*Rewards program. We conclude that the lower incentive levels suggested by the Company will properly transition the program from the terms of the 11A-135E Settlement Agreement and will further benefit the RESA deferred account due to the correspondingly reduced expenditures. We therefore also grant Staff's request to reduce the incentives offered to systems through the small third party Solar*Rewards program.

69. However, we deny Staff's request to reduce the incentives offered through the small customer owned Solar*Rewards program from the levels approved by the ALJ. We share the ALJ's concerns that upward adjustments are necessary to transition from the currently effective terms of the 11A-135E Settlement Agreement, which includes upfront payments to customers, to the terms of the Recommended Plan that is entirely comprised of performance-based incentives. We find that the proposed performance-based incentives

proposed by Staff in its exceptions are too low to effectuate a reasonable changeover to the implementation of the Recommended Plan. We also find that the modified incentives adopted in the Recommended Decision can reasonably result in allocations between residential customers and nonresidential customers consistent with the provisions in § 40-2-124(1)(g)(I)(C), C.R.S., based on actual market response to the incentives.

70. Finally, we waive Rule 3658(f)(VIII) to allow for Public Service to offer to small customer-owned systems, a performance based incentive paid over time instead of a single upfront purchase of all RECs expected to be produced over a 20-year term.

2. Incentive Payment Schedules

71. Public Service proposed in its case-in-chief to make incentive payments to participants in the small customer-owned Solar*Rewards program over 10 years, for 20 years' worth of RECs. In contrast, the Company proposed to make payments to participants in the small third party Solar*Rewards program over 20 years, for 20 years' worth of RECs. In its exceptions, Public Service requests that the Commission explicitly approve these terms for payment.

72. We find Public Service's proposed payment schedules for REC purchases from small systems to be reasonable and therefore grant the Company's exceptions. Public Service is authorized to purchase 20 years' of RECs through 10 years' of incentive payments through the small customer-owned Solar*Rewards program. The Company is also authorized to purchase 20 years' of RECs through 20 years' of incentive payments through the small third party Solar*Rewards program.

3. Staff's Proposed Incentive Levels

73. Staff argues that the ALJ erred in ¶ 88 of the Recommended Decision, when he concluded that Staff did not propose defined incentive levels for the record. Staff argues that it specifically proposed that the Solar*Rewards incentives be initially calculated based on the average price of the 13 bids received in response to the Company's 2010 On-Site Solar RFP. New incentives would then be updated at six-month intervals.

74. We find no need to modify the language in ¶ 88 of the Recommended Decision. The ALJ properly described Staff's position by using the word "undefined," since, under Staff's proposed approach, the incentives to be offered under Solar*Rewards programs six months from now and then again in a year are unknown today. Staff's proposed approach for setting the incentive levels is in direct contrast to the Commission's approval of specific incentive levels which are intended to provide for a well-defined, predictable, and stable on-site solar program. We therefore deny Staff's exceptions on this point.

E. Advances to the RESA Account

75. Rule 3660(c)(II) states as follows: "[s]o long as the RESA does not exceed the retail rate impact under paragraph 3661(a) and in accordance with either an approved resource plan under the Commission's Electric Resource Planning Rules or an approved compliance plan under rule 3657, the investor owned QRU may...[a]dvance funds from compliance year to compliance year to augment the amounts collected from the RESA for the acquisition of more eligible energy resources." This rule provision conforms with § 40-2-124(1)(g)(I)(B), C.R.S.

76. In its case-in-chief, Public Service requested authorization to advance approximately \$25.7 million in 2012 and \$4.6 million in 2013.

77. The ALJ, in ¶ 141 of the Recommended Decision, anticipated that the level of funds to be advanced to the RESA would be a function of the incentives paid to customers through the Solar*Rewards program. As explained above, the incentive levels approved by the ALJ differed from the incentive levels used by the Company to calculate its estimates of funds to be advanced to the RESA account. The ALJ recommended that the Commission direct Public Service to make a compliance filing within 30 days setting out the amended levels of advanced funds for 2012 and 2013 under the approved incentives. In addition, the ALJ recommended that the Commission find the deficiency amounts in the RESA balance based on the approved incentives (*i.e.*, the difference between annual expenditures and annual revenues) to be reasonable.

78. In its exceptions, Public Service acknowledges that the terms of the 11A-135E Settlement Agreement require the Company “to request a Commission finding in every future Renewable Energy Standard Plan and Electric Resource Plan, where approval is sought in accordance with § 40-2-124(1)(g)(B), C.R.S., on the specific amount of funds to be advanced from year to year to augment the amount collected from retail customers under the RESA that will be presumed prudent.” Public Service also explains that it does not object to the compliance filing requirement set forth in the Recommended Decision related to the amount of funds projected to be advanced. However, Public Service requests that the Commission acknowledge that the projections will be based upon recommendations, other projections, and assumptions which could prove to be inaccurate, such that the actual amount of funds needed to be advanced to the RESA may be more or less than stated in the compliance filing. In any event, Public Service states that it is unlikely that the Company will be required to make advances to the RESA that are materially different from the Company’s estimates already in the record.

79. Staff and the OCC respond, arguing that the Company's request in its exceptions runs afoul of its commitment to request a specific amount to be advanced to the RESA pursuant to the 11A-135E Settlement Agreement. Staff and the OCC also take the position that requests for specific dollar amounts to be advanced are required by the RES statute. Staff and the OCC explain that these provisions are the result of the advances Public Service made in the past that were in significant excess of earlier cost projections. Staff and the OCC thus suggest that the Commission place a hard cap on the amount of funds Public Service is allowed to advance to the RESA in 2012 and 2013. Staff and the OCC further request that the Commission require Public Service to bear the burden of demonstrating prudence of any advanced funds above those caps.

80. We agree with Staff and the OCC that the Company is obligated to propose for Commission approval specific amounts of funds to be advanced to the RESA. This process serves to protect the ratepayers, because caps will ensure the Company makes progress toward eliminating the negative RESA balance on schedule. While we understand that Public Service's projections for RESA account deficiencies are estimates, we direct the Company to manage its RESA spending in order to stay within the approved amounts. In this way, approved advances also serve as caps on spending on the Company's on-site solar programs.

81. Public Service's exceptions are therefore denied. We find that the advancement of up to \$25.7 million to the RESA in 2012 is approved and the advancement of up to \$4.5 million to the RESA in 2013 is approved. The Company is instructed to control RESA account spending to stay within these amounts or to bear the burden of demonstrating the prudence of any advanced funds above those caps.

82. Notwithstanding these caps, we agree with Public Service that the changes we adopt to the incentive levels paid to customers under the approved Recommended Plan will not likely have a material impact on the level of funds to be advanced by the Company. We therefore modify the Recommended Decision and will not require Public Service to make a compliance filing with adjusted amounts to be advanced in 2012 and 2013 based on the modified levels of incentives approved by this Order.

F. Community Solar Gardens

1. Low-Income Set Asides

83. Rule 3665(d)(V) reads as follows:

- (V) In each plan to acquire renewable energy and RECs from CSGs, the investor owned QRU shall reserve, to the extent there is demand for such ownership, at least five percent of its renewable energy purchases from new CSGs for eligible low income CSG subscribers.
- (A) CSG subscriber organizations and investor owned QRUs may rely on certification by the Colorado Department of Human Services for acceptance in the Colorado Low-Income Energy Assistance Program (LEAP) as evidence of eligibility as an eligible low-income CSG subscriber in a CSG.
- (B) Acquisition of energy and RECs from eligible low-income CSG subscribers to CSGs may be either through dedicated low-income CSGs or low income set asides within other CSGs.

84. In the Recommended Decision, the ALJ approved Public Service's proposal to require all CSGs participating in its Solar*Rewards Community program to have a 5 percent set aside for low income subscribers. The ALJ found that Public Service's proposal is consistent with one of the options available to the Company under the RES Rules.

85. IREC, Vote Solar, and CoSEIA state that the Company's proposal does nothing to address the unique situations of low income customers in a manner that will actually encourage participation in CSGs. They further argue that only IREC and Vote Solar offered for the record

any effective, substantive proposals addressing low income customers. They contend that the Recommended Decision provides no solid basis for rejecting the two alternative approaches IREC and Vote Solar developed in their case-in-chief to encourage low income participation in CSGs.

86. Public Service responds that ALJ Gomez correctly found that the Company's proposal complies with the RES Rules. Public Service explains that a uniform requirement for each CSG to have a 5 percent set aside for low income subscribers creates a "level playing field" and properly places the responsibility for the payment of any needed subsidies to attract such low income subscribers on the CSG developers and subscriber organizations.

87. The General Assembly directed the Commission in § 40-2-127, C.R.S., to formulate and implement policies that encourage low-income customers to own shares in CSGs, to the extent there is demand for such ownership. The Commission took a foundational step in fulfilling this directive by promulgating Rule 3665(d)(V) in Docket No. 10R-674E.

88. We conclude that Public Service's proposed requirement that each CSG have a 5 percent set aside for low income subscribers comports with the RES Rules and properly and fairly places the challenge of attracting low income subscribers on the developers of CSG projects. We further find that the Recommended Decision offers a market test of whether there is demand for ownership in shares in CSGs. Therefore we deny the exceptions of IREC, Vote Solar, and CoSEIA.

2. Calculation of Billing Credit

89. In the Recommended Decision, the ALJ approved Public Service's proposed calculation of the billing credits to be paid to CSG subscribers under the Solar*Rewards Community program with one exception. The ALJ recommended that demand side

management-related costs and charges not be charged to CSG subscribers. Otherwise, the ALJ concluded that Public Service's proposal closely followed the calculation specified in § 40-2-127(5)(b)(II), C.R.S.

90. IREC, Vote Solar, and CoSEIA argue that the ALJ's conclusion is contrary to both the text and the intent of that statute, primarily because he does not address the requirement that the energy delivery charge be "reasonable." They contend that Public Service's derivation of the billing credit fails to include a "reasonable charge" since, in their opinion, it does not take into account the benefits that the Company receives from CSG projects in the determination of the underlying cost of service. Such benefits include avoided energy and capacity costs, avoided line losses, and avoided transmission and distribution costs. IREC, Vote Solar, and CoSEIA further argue that the ALJ offers little insight into the reasoning why he supported the Company's proposal instead of the approach suggested by IREC and Vote Solar in their case-in-chief.

91. In response, Public Service argues that the word "reasonable" as it appears in the statute cannot be read as a license to deviate from the statutory directive that the bill credit be calculated by starting with the Company's total aggregate retail rate. The Company states that the ALJ was correct in adopting the Company's proposed approach as it is in full compliance with the law.

92. In a rate case, the Commission approves the Company's "total aggregate retail rate charged to customers" as being just and reasonable. We find that this is the proper sense of "reasonable" when interpreting the phrase "reasonable charge as determined by the commission" in § 40-2-127(5)(b)(II), C.R.S. This interpretation is also consistent with the RES Rules where, in subparagraph 3665(c)(II), the phrase "reasonable charge" from the statute was interpreted to mean "Commission-approved." We therefore conclude that the cost of delivering electricity

embedded in the total aggregate retail rate is the proper charge to the CSG subscriber, because that cost is consistent with the manner in which the Commission considers and approves electric utility rates. Accordingly, we deny the exceptions of IREC, Vote Solar, and CoSEIA.

3. RESA Charge

93. IREC, Vote Solar, and CoSEIA state in their joint exceptions that the ALJ erred when approving Public Service's proposal to charge CSG subscribers the RESA. They argue that the RESA does not fit within the charge allowed under § 40-2-127(5)(b)(II), C.R.S., because, on one hand, the RESA covers more costs than just the administration of CSG contracts and billing credits, and, on the other hand, the RESA does not cover the costs of the integration of a CSG or the delivery of energy to subscribers' premises. They also take the position that CSG subscribers already contribute their "fair share" through their investments in the solar gardens with respect to § 40-2-124(1)(g)(IV)(B), C.R.S.

94. Public Service responds that the ALJ correctly found that the statutes require CSG subscribers to contribute to the RESA.

95. The Commission elected in Docket No. 10R-243E to order electric utilities, including Public Service, to charge the RESA to customers with on-site solar on their premises. Furthermore, the definition of a CSG in the RES Rules states that, for the purpose of crediting CSG subscriber's bills, the CSG shall be deemed to be located at the subscriber's premise. We therefore conclude that the RESA charge should be assessed to CSG subscribers under § 40-2-124(1)(g)(IV)(B), C.R.S., despite the lack of any mention of the RESA in § 40-2-127(5)(b)(II), C.R.S. The exceptions filed by IREC, Vote Solar, and CoSEIA are thus denied.

G. Windsource Premium

96. In the Recommended Decision, the ALJ approved Public Service's request to maintain the current Windsource premium, confirming that the rate will be \$21.588/MWh and concluding that any replacement method for calculating the premium should be determined in Docket No. 11A-833E, which is dedicated exclusively to the Windsource program. That docket is presently pending before an ALJ.

97. Ms. Glustrom requests in her exceptions that the Commission direct Public Service to recalculate the Windsource premium in this Docket. She argues that Public Service has acknowledged in Docket No. 11A-833E that the premium is too high, but she is concerned that this other proceeding will not likely be completed for several more months and its outcome is uncertain. She also argues that until the premium is reduced, Windsource customers are likely paying at least twice as much as they should be. As an alternative to resetting the Windsource premium now in this proceeding, Ms. Glustrom suggests that a "credit dating to January 2012" be paid to Windsource customers pursuant to any new premium recalculated in Docket No. 11A-833E.

98. Public Service replies that the Company is bound to follow the method for setting the premium as approved by the Commission in Docket No. 08A-260E and that the Company's calculation of the premium in this docket is merely a "compliance filing" to update the rate in accordance with that approved method. Public Service further explains that its proposed reduction in the Windsource premium in Docket No. 11A-833E comes from a change in product offering. Windsource presently funds the incremental cost of adding additional renewable energy to the Company's system, whereas the new Windsource product is intended to "monetize"

wind RECs already in the Company's inventory based upon market prices for "green premium programs."

99. Public Service further concludes that Ms. Glustrom has not presented any evidence or argument that the Company is failing to comply with existing Commission orders. The Company also argues that a retroactive credit is contrary to Colorado utility law governing rates on file at the Commission.

100. We agree with the ALJ that Public Service has complied with the present terms governing the Windsource program and that any change to the Windsource premium is best addressed in Docket No. 11A-833E. Ms. Glustrom's exceptions are therefore denied.

H. Other Matters

1. EMA Expenses

101. Staff objects to Public Service's request to recover from ratepayers \$8,500 annually for a share of a corporate account in NYSE Blue's Environmental Management Account (EMA). Staff argues that the EMA is related to the Company's REC trading efforts, is not required for RES compliance, and is inappropriate for recovery through the RESA. Staff also argues that Public Service has been successful in forecasting its REC position without the use of the EMA. Staff thus suggests that the Commission amend the Recommended Decision and deny the Company's request to recover the EMA costs through the RESA.

102. In response, Public Service explains that the EMA helps the Company measure its ability to comply with the RES and engage in REC trading. Public Service further explains its REC trading operations benefit ratepayers due to the millions of dollars of margins that flow into the RESA deferred account.

103. We approve the recovery of the \$8,500 annually through the RESA to cover the costs of the EMA. These expenditures are reasonable given that the EMA is used both to monitor compliance with the RES and to assist the Company in REC trading, which benefits customers through reductions to the RESA deferred account.

2. Cost Reporting

104. In the Recommended Decision, the ALJ directed Public Service to list in annual compliance reports and plan filings the costs of the renewable energy resources on its system, along with the corresponding cost recovery mechanism and costs. Such increased reporting was intended to satisfy Staff's concerns that ratepayers require this information.

105. In its exceptions, Public Service proposes a specific form that consolidates information found elsewhere in its Electric Commodity Adjustment and RESA filings. In addition, Public Service notes that the Company is required to file an annual RES compliance report no later than June 1 of each year. Rather than filing the first cost report as described above within 30 days after a final order in this docket, Public Service asks the Commission to modify Decision No. R12-0261, so that the Company may file the first report with its 2011 RES Compliance Report, which is due on June 1, 2012.

106. Staff makes no mention of Public Service's requests regarding cost reporting in its response to exceptions.

107. We find good cause to grant Public Service's request that the Commission approve the form attached to its exceptions for annual reporting on the costs of renewable energy resources. However, that form shall serve as a summary sheet to be followed by more details, such that each non-distributed generation resource and each wholesale renewable distributed generation resource is listed as a separate line item under the appropriate category of

renewable energy resources. In addition, for on-site solar expenditures, the costs shall be broken down by the Solar*Rewards program. We agree with the ALJ that this annual reporting will inform interested ratepayers about the Company's total spending on renewable energy resources and the cost recovery mechanisms used to recover those expenditures.

108. With respect to the timing of these filings, Public Service may file the report coincident with its filing of its 2011 RES Compliance Report or on some later date, but no later than June 29, 2012. Public Service is directed to file both the 2011 RES Compliance Report and the cost report discussed above in Docket No. 09A-772E.

3. Other Requests

109. The Commission hereby denies all other requests made by the parties in their filed exceptions.

II. ORDER

A. The Commission Orders That:

1. The Motion for Substitution of Parties filed by the Solar Energy Industry Association on April 2, 2012 is granted, consistent with the discussion above.

2. The Exceptions to Recommended Decision No. R12-0261 filed by Public Service Company of Colorado on April 6, 2012 are granted, in part, and denied, in part, consistent with the discussion above.

3. The Exceptions to Recommended Decision No. R12-0261 filed by Staff of the Colorado Public Utilities Commission on April 6, 2012 are granted, in part, and denied, in part, consistent with the discussion above.

4. The Exceptions to Recommended Decision No. R12-0261 filed by the Colorado Office of Consumer Counsel on April 6, 2012 are denied, consistent with the discussion above.

5. The Exceptions to Recommended Decision No. R12-0261 filed by the Governor's Energy Office on April 6, 2012 are denied, consistent with the discussion above.

6. The Exceptions to Recommended Decision No. R12-0261 filed by the Interstate Renewable Energy Council, the Vote Solar Initiative, and the Colorado Solar Energy Industry Association on April 6, 2012 are denied, consistent with the discussion above.

7. The Exceptions to Recommended Decision No. R12-0261 filed by the Solar Energy Industry Association on April 6, 2012 are denied, consistent with the discussion above.

8. The Exceptions to Recommended Decision No. R12-0261 filed by Climax Molybdenum Company and CF&I Steel, LP, doing business as Evraz Rocky Mountain Steel on April 6, 2012 are denied, consistent with the discussion above.

9. The Exceptions to Recommended Decision No. R12-0261 filed by Ms. Leslie Glustrom on April 6, 2012, are denied, consistent with the discussion above.

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

11. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING
May 24, 2012.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

Commissioners

COMMISSIONER MATT BAKER
RESIGNED EFFECTIVE MAY 11, 2012.