

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

In the Matter of the Application of Public Service  
Company of Colorado for Approval of Its 2012-13  
Renewable Energy Standard Compliance Plan

Docket No. 11A-418E

**APPLICATION FOR REHEARING, REARGUMENT, OR RECONSIDERATION BY  
COLORADO SOLAR ENERGY INDUSTRIES ASSOCIATION (“COSEIA”) AND SOLAR  
ENERGY INDUSTRIES ASSOCIATION (“SEIA”)**

Pursuant to Rule 1506 of the Commission’s Rules of Practice, The Colorado Solar Energy Industries Association (“COSEIA”) and the Solar Energy Industries Association (“SEIA”)<sup>1</sup>, (collectively hereinafter, the “Joint Solar Parties”) hereby file this Application for Rehearing, Reargument or Reconsideration (“ARRR”) to Commission Decision Number C12-0606 (mailed June 8, 2012) (“Commission Decision”). The Joint Solar Parties respectfully request that the Commission reconsider Commission Decision regarding two issues: (1) the approval of the unification of the two Medium tiers into one program with one capacity cap, as described in Sections 53-57 of the Commission’s Decision, a structure that radically changes the current structure in which Medium Tier 1 projects are smaller projects sized between 10-100 kW, and Medium Tier 2 projects are larger projects sized between 100.1-500 kW; and (2) the rejection of the exceptions filed by SEIA and supported by several other organizations including COSEIA, the Vote Solar Initiative (“Vote Solar”) and the Interstate Renewable Energy Council (“IREC”), related to carrying forward any un-subscribed capacity remaining under the terms of the 11A-135E Settlement Agreement (“Settlement Agreement”).

**1. Two Medium Programs**

The Commission Decision failed to give consideration to the material facts, circumstances and procedural due process associated with collapsing the historically successful two-tiered Medium Program into a single Medium Program. The Commission Decision contains scant reasoning for supporting this significant change, which would alter a central structural component of the Solar\*Rewards program that

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<sup>1</sup> The comments contained in this filing represent the position of SEIA as an organization, but not necessarily the views of any particular member with respect to any issue.

has successfully been in place since the inception of the program (Commission Decision, ¶57, p.19). The Commission Decision points to the reasoning proffered by Public Service Company of Colorado (“PSCO”) (Commission Decision, ¶57, p.19). However, PSCO’s reasoning for eliminating the capacity distinction within the Medium Program was sparse (PSCO Exceptions, filed April 20, 2012, p. 8), and the Joint Solar Parties respectfully contend that the Commission erred in giving deference to PSCO’s position and in effect, placing a greater burden of proof on the Joint Solar Parties to advocate for a status quo position.

COSEIA, one of the Joint Solar Parties, offered ample testimony and comment into the record in support of maintaining two distinct Medium capacity tiers within the Medium Program and further clarified its position in Exceptions filed jointly with Vote Solar and IREC on April 6, 2012, pp. 9-10. In summary of its position, maintaining two separate capacity tiers within the Medium Program would ensure fair and equal access to the program by all size commercial and industrial ratepayers. The economics, technical constraints and financial realities of solar PV systems in each Medium tier vary dramatically and thus each tier served a distinct and discrete market segment. Collapsing both tiers into one Medium Program disadvantages, or even excludes, ratepayers seeking to construct smaller commercial PV systems because they have to compete for the same capacity as entities seeking to build much larger PV systems. For example, with 16.4 MW approved for acquisition in the Medium Program in the Commission Decision, a mere 32 Solar\*Rewards applications (for 500 kW PV systems) could easily consume roughly the entire Medium Program, leaving no capacity for the highly popular and critically important small commercial PV market of systems 10 kW - 100 kW.

It is important to note that the Medium Tier 2 program has suffered from the highest attrition rates of any tier in the program; meaning that a significant percentage of the capacity that is subscribed under the Solar\*Rewards program has not been constructed. The Medium Tier 1 has historically had a much smaller attrition rate, and therefore the variation in attrition between Medium Tier 1 and Medium Tier 2 is significant. It stands to reason that legitimate and high-probability projects that would have otherwise qualified as Medium Tier 1 applications may be squeezed out of the market and never

constructed if a disproportionate share of the Medium Program capacity goes to a few, relatively large projects. Further, the overall attrition rate within the Medium Program is likely to increase further as it will likely be disproportionately subscribed by larger projects. There is strong indication that market demand within the small commercial market segment is high, and we respectfully request the Commission to not change the program in a way that could effectively close out this segment of the market from participating in the Solar\*Rewards program.

Based on the rationale presented by COSEIA, PSCO concedes its position in its exception filing that there should only be one tier. The company instead recommended that the Medium Program capacity be divided 25% for Medium Tier 1 (10 kW to 100 kW) and 75% for Medium Tier 2 (>100 kW to 500 kW). PSCO supports its recommendation on grounds that the Medium Tier 2 appears to be its most popular program (PSCO Exceptions, p. 8). The Joint Solar Parties appreciate PSCO's willingness to maintain the two-tiered structure, but we strongly suggest that the capacity for the Medium program should be split equally between the two tiers.

The Commission Decision on this issue is very brief, sparing no more than 50 words – and relies exclusively on PSCO's original recommendation. The Commission Decision completely disregards PSCO's alternative recommendation, and likewise fails to consider the position presented by COSEIA, Vote Solar and IREC. The equitable distribution of capacity in the Medium Program has been an integral and highly successful component of the Solar\*Rewards program since its inception. A two-tiered Medium Solar\*Rewards program has created opportunity for a variety of sizes of solar companies, from “mom-and-pop” shops up to national companies, all of which have added high skilled jobs to the Colorado economy.

In summary, we ask the Commission to maintain two tiers within the Medium program at today's tier division: Tier 1 (10-100 kW) and Tier 2 (100.1-500 kW). Further we ask that the capacity for the Medium program in the 2013 and 2014 program years be equally divided between the two medium tiers, thus 8.2 MW per year, per tier.

## 2. Carrying Forward Settlement Agreement Capacity

In its June 2012 decision on PSCO’s 2012-13 Compliance Plan, the Commission approved a total capacity of 78 MW (see chart below) and approved the discontinuation of the 11A-135E Settlement Agreement and any MW left within that allocation. However, the amount of capacity currently available in the Solar\*Rewards program will not adequately support the current pace of the market through the 2012 and 2013 compliance period. The approval of additional capacity in the Solar\*Rewards program, tacked on to the 2013 steps, is critical to ensuring that a residential and commercial market both remain viable.

### *Approved Plan Acquisitions*

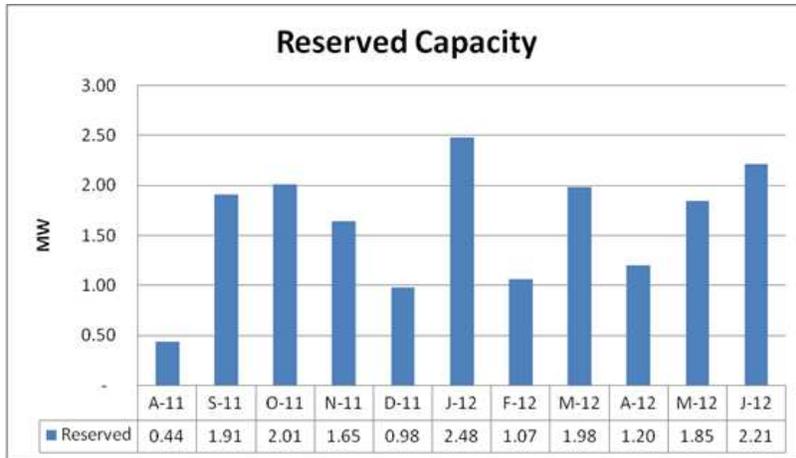
	<b>Small Programs</b>	<b>Medium Program</b>	<b>Large Program</b>	<b>Solar*Rewards Community</b>	<b>Total</b>	<b>Cumulative</b>
<b>2012</b>						
Step 1	4.8	8.2	4	9	26	
Step 2	4.8	8.2			13	
	9.6	16.4	4	9	39	39
<b>2013</b>						
Step 3	4.8	8.2	4	9	26	
Step 4	4.8	8.2			13	
					39	78

In the comments filed by SEIA and supported by COSEIA, IREC, Vote Solar, and GEO, the industry advocated for a reallocation of any remaining 11A-135E Settlement capacity to augment the acquisitions approved by the Recommended Decision. This capacity would be divided between the small and medium programs as mandated by HB 1001. In its comments, SEIA argued that the approval of only the MW contained within the Recommended Plan would be insufficient to meet demand.

Given both historical and recent rates of incentive applications in both the residential and commercial solar programs, the industry continues to be concerned that the capacity approved by the Commission will not be sufficient to avoid a complete shutdown of the solar industry's functions (sales, hiring, installation, financing) at some point during the duration of the 2012-13 Compliance Plan. In 2012 or 2013 and we therefore respectfully request that the Commission reconsider its decision not to reallocate the 14.92 MW (or the actual amount of remaining settlement capacity) remaining under the 11A-135E Settlement Agreement as of June 8<sup>th</sup>, 2012 into the 2013 steps under current Solar\*Rewards program. This additional capacity recommendation is consistent with the industry's previous arguments that additional capacity reduces costs for solar energy on a per kW basis, whether or not the additional capacity was agreed to be extended from the Settlement Agreement into the 2012-2013 Compliance Plan period.

To illustrate, it is helpful to look at the uptake of the Solar\*Rewards Small program in the past year. As evidenced by the graph below, an average combined total of 1.62 MW per month (17.82 MW total) have been reserved in the Small Third-Party and Customer-Owned categories since August 2011. In the most recent four months, this average has increased to 1.81 MW per month. However, going forward, the industry will only have access to a total of 19.2 residential MW over an approximately 18 month period, for an average availability of 1.06 MW per month. As such, the 9.6 MW per year of Small Tier capacity approved by the PUC is most certainly insufficient to meet demand and a program shutdown in either year is almost inevitable.

*Total Small Tier MW Reserved under Solar\*Rewards from August 2011 to June 2012*



The uptake under the Medium Tier Solar\*Rewards program has been similarly robust. This program has effectively been shut down since September. Recent reallocations of capacity from projects that have dropped out have sold out within hours and the reopening of the 2012 program on June 20<sup>th</sup> resulted in applications for all of the available Step 1 capacity almost instantaneously.

The Joint Solar Parties are keenly aware and supportive of the Commission’s and PSCo’s desire to balance the RESA in a timely manner. Therefore, it is important to note that the acquisition of 14.92 MW of additional capacity will result in RESA repayment *sooner* than outlined in PSCo’s recommended plan because the reallocated settlement capacity will be offered at lower incentive levels than if the Settlement had continued. The reallocation of 14.92 MW into the 2013 steps would cost the RESA significantly less than the projected cost for the same 14.92 MW under the Settlement Agreement. This is due to the high proportion of the 14.92 MW (13.2 MW were in the small customer-owned category) that were slated for the small customer-owned category, which required an upfront rebate. Reallocating 14.92 MW at the end of 2013’s step 2 would cost the RESA significantly less due both to the lower overall incentive price and to the lower net present value of the performance based incentive. As stated in PSCo’s Plan, “With the modifications to this program going forward, using performance based contracts instead of up-front payments, PSCo does not anticipate the Solar\*Rewards program costs to be a significant issue for the RESA account in 2012 and beyond.”

In its final order, the PUC found that the difference in the annual costs between the Recommended Plan and the Minimum Compliance Plan, estimated by WRA to be less than \$3 million, were reasonable although the difference in total capacity between the two plans was 62 MW. SEIA and COSEIA encourage the Commission to keep that same perspective as it considers our request to increase the capacity in the 2013 steps of the Solar\*Rewards program by 14.92 MW. Also, as the Recommended Order pointed out, “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.”

The Governor’s Energy Office is in agreement. In its response to exceptions, GEO suggested that the Recommended Plan’s long term effect on Colorado’s solar industry greatly outweighed the near term cost to ratepayers under RESA deferred accounting.

Xcel’s Solar\*Rewards program has been a resounding success—solar costs have decreased substantially, the pace of installations is increasing and jobs continue to be created. However, the addition of any remaining Settlement capacity to the 2013 steps is crucial to the continuation of a healthy solar industry in Colorado. The solar industry’s objective is to continue to provide cost-effective, reliable solar solutions and services to both utilities and ratepayers. In order to accomplish this goal, the industry must have the ability to supply solar at a pace that at least parallels market demand. As evidenced by market trends, this will allow solar installation costs to continue to decline as reliance on utility incentives is diminished, thus benefitting PSCo and ratepayers by reducing future RESA program costs.

Giving the industry access to the remaining settlement capacity will decrease the possibility that the Solar\*Rewards program will shut down mid-year and cause detrimental harm to the market. In order for the solar industry to continue to move toward a market that no longer requires subsidies, it must be given an opportunity to consistently grow, scale and drive down costs. Otherwise, many of the achievements that the industry has attained over the past years, including the creation of over 6,000 jobs, will be adversely impacted.

The jobs at stake as a result of this decision are significant. Colorado's solar industry employs more people than Colorado's coal industry and has helped the state become the national leader in solar jobs per capita.<sup>2</sup> It has been estimated that 15-30 jobs are created for each MW of solar installed<sup>3</sup> and solar PV results in more jobs per MW than any other type of energy.<sup>4</sup> SEIA simply recommends that the benefits of this progress continue on a sustainable and cost-effective basis rather than setting up a costly roadblock due to capacity limitations which are no longer required to reduce costs. The transition to production based incentives provides exponential savings which are not properly recognized by the PUC decision.

The Joint Parties strongly encourage the PUC to approve the addition of all 14.92 MW of 11A-135E Settlement Agreement capacity that remained unreserved at the time of the final Commission decision in this docket. HB 1001 requires that incentive funding provided to residential and non-residential customers be equal to the proportion of revenue received by PSCo from these customer classes. Accordingly, 62% of additional funding should be directed toward non-residential incentives in the 2013 steps while 38% should be directed to residential incentives in the 2013 steps. The reallocation of these MWs is critical to ensuring that capacity does not run out before the termination of PSCo's 2012-13 Compliance plan, thereby decimating the state's solar industry and stalling project installations for a significant period of time, and creating undue pressure to accelerate the 2014-2015 Compliance plan proceeding.

The Joint Parties agree with the ALJ that it makes sense to "sustain the Colorado solar industry at a reasonable cost to ratepayers" and we encourage the PUC to approve additional capacity that will allow the industry to continue to grow, drive down resource costs, deliver peak load capacity and create jobs all while creating significant value for ratepayers.

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<sup>2</sup> Solar Foundation's 2011 Solar Jobs Census

<sup>3</sup> Navigant Consulting, Inc. 2008. <http://seia.org/galleries/pdf/Navigant%20Consulting%20Report%209.15.08.pdf>.

<sup>4</sup> [http://rael.berkeley.edu/sites/default/files/WeiPatadiaKammen\\_CleanEnergyJobs\\_EPolicy2010.pdf](http://rael.berkeley.edu/sites/default/files/WeiPatadiaKammen_CleanEnergyJobs_EPolicy2010.pdf)

Wherefore, the Joint Solar Parties respectfully request that the Commission reconsider Decision Number C12-0606 and modify that decision as requested by this Application for Rehearing, Reargument and Reconsideration.

Dated this 27th day of June, 2012.

PERKINS RUSCHENA, LLC

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/s/

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