Decision No. C16-1075

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16AL-0048E

IN THE MATTER OF ADVICE LETTER NO. 1712 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ELECTRIC BASE RATES AND CHANGES TO TARIFF SHEETS AND REPLACE PUC NO. 7 WITH PUC NO. 8 TO BECOME EFFECTIVE FEBRUARY 25, 2016.

PROCEEDING NO. 16A-0055E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS SOLAR*CONNECT PROGRAM.

PROCEEDING NO. 16A-0139E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2017-2019 RENEWABLE ENERGY COMPLIANCE PLAN.

DECISION GRANTING MOTION TO APPROVE SETTLEMENT, GRANTING MOTION FOR WAIVERS, DENYING MOTION TO DISMISS APPLICATION, ORDERING TARIFF FILINGS, ADDRESSING NEW PROCEEDING ON TRIAL AND PILOT RATE ROGRAMS, ADDRESSING RECOVERY OF RENEWABLE COMPLIANCE PLAN COSTS, AND ADDRESSING FUTURE RESOURCE ACQUISITIONS

Mailed Date: November 23, 2016
Adopted Date: November 9, 2016

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I. BY THE COMMISSION

A. Statement

1. This Decision grants the Motion to Approve Non-Unanimous Comprehensive Settlement Agreement (Settlement) filed by Public Service Company of Colorado (Public Service or Company) on August 15, 2016. The Settlement resolves all contested issues and requested approvals in Proceeding Nos. 16AL-0048E (Public Service's Phase II Electric Rate Case), 16A-0055E (Public Service's Application for Approval of the Solar*Connect Program), and 16A-0139E (Public Service's Application for Approval of the 2017-2019 Renewable Energy Compliance Plan).

2. Because waivers from certain previous Commission decisions and Commission rules are necessary to implement the terms of the approved Settlement, we grant the Joint Motion for Waivers filed by Public Service on August 23, 2016.

3. We also establish filing requirements for the tariff changes resulting from the approval of the Settlement and the Company's transition from the P.U.C. No. 7-Electric Tariff to the P.U.C. No. 8-Electric Tariff.

4. Consistent with the discussion below, we deny the Motion to Dismiss Application filed by SunShare, LLC (SunShare) on August 22, 2016 in Proceeding No. 16A-0055E.

5. We will open a new proceeding for the purpose of gathering and reviewing information related to the pilot program for the Residential Demand Time Differentiated Rates (Schedule RD-TDR) and the trial for the Residential Energy Time-of-Use (Schedule RE-TOU) Residential Service.

6. Consistent with the discussion below, we impose a cap on the recovery of incurred costs of the Solar*Rewards programs.

7. Finally, we advise Public Service to propose any additional energy resource acquisitions for the Resource Acquisition Period extending through the next six to ten years for evaluation within the Company's Electric Resource Plan (ERP) in Proceeding No. 16A-0396E.

B. Discussion

1. Proceeding No. 16AL-0048E: Phase II Electric Rate Case

8. On January 25, 2016, Public Service filed Advice Letter No. 1712-Electric with tariff sheets and supporting testimony as a Phase II rate proceeding. The Company proposed to replace its currently effective General Rate Schedule Adjustment with revised base rates for all electric rate schedules; to introduce several new rate schedules for customers; and, to revise existing rate schedules consistent with its intention of developing a common rate design platform that includes time-of-use rates and a demand charge for the majority of its customers.

9. Public Service's rate design proposals included: (1) grid use charges to recover distribution costs for customers served under Residential Service (Schedule R) and Commercial Service (Schedule C); (2) an optional Residential Demand/Time-of-use schedule available to up to 10,000 customers in 2017; (3) revising the summer and winter rate differential for customers on Schedule C; (4) an on-peak demand charge for customers on Primary General Service Schedule (Schedule PG) and Transmission General Service (Schedule TG); (5) an optional Critical Peak Pricing program for Commercial and Industrial Customers; (6) a supplemental service for customers on Schedule PG, Schedule TG, and the Secondary General Service (Schedule SG); (7) revising the differential between the summer and winter demand rates for Schedules SG, PG, and TG; (8) reducing the maximum demand for determining if a Schedule SG customer is eligible for a time-of-use Electric Commodity Adjustment; and, (9) eliminating or

closing to new customers some service options that do not complement the Company's proposed long-term rate design.

10. The Advice Letter also sought approval to replace Public Service's currently effective tariff sheet P.U.C. No. 7-Electric Tariff with an updated P.U.C. No. 8-Electric Tariff. The Company states that its primary proposals include: (1) instituting a new General Definitions section to clarify and standardize the meanings of terms; (2) reorganizing the Rules and Regulations section to group together similar sections; (3) revising the Rules and Regulations applicable to Street Lighting Service to address the relocation and removal of lights; (4) specifying that customers taking service under Schedules R and C who have on-site renewable energy generation operating in parallel with the Company and are not net-metered will be subject to a buy-all, sell-all arrangement; (5) adding a Production Meter Charge applicable to customers on various service schedules with on-site generation; (6) updating the customer list for Schedule TG; (7) modifying the Secondary General Standby, Primary General Standby, and Transmission General Standby services (Schedules SST, PST, and TST) by adding a Production Meter Charge and basing the annual grace energy period on a calendar year; (8) modifying the Street Lighting Service to incorporate the new Light Emitting Diode options; and (9) revising the Parking Lot Lighting Service (Schedule PLL) to differentiate this lighting from Commercial Area Lighting Service.

11. On February 10, 2016, we suspended the effective date of the Company's tariffs pursuant to § 40-6-111(1), C.R.S., and referred the matter to Administrative Law Judge (ALJ) Robert I. Garvey.[1]

[1] Decision No. C16-0135, issued February 10, 2016, Proceeding No. 16AL-0048E.

2. Proceeding No. 16A-0055E: Solar*Connect

12. On January 27, 2016, Public Service filed an Application for Approval of Its Solar*Connect Program. Solar*Connect is a customer choice program that allows a customer to purchase some or all of their energy from solar energy provided by a new solar generation resource of up to 50 MW in size that the Company would procure through a Power Purchase Agreement (PPA). A customer may elect a term of five years or three years with the price for the contract terms based, in part, on the cost of the PPA. In the event that energy generated from the solar resource contracted through the PPA exceeded the amount of energy consumed by program participants, Public Service proposes to acquire that energy for its system.

13. On March 9, 2016, by Minute Order, we referred the Application to ALJ Mana L. Jennings-Fader.

3. Proceeding No. 16A-0139E: 2017-2019 RES Compliance Plan

14. Colorado's Renewable Energy Standard (RES) requires Public Service to provide 20 percent of its retail electric sales from eligible energy resources in 2017, 2018, and 2019, and provide 2 percent of sales from renewable distributed generation (DG) resources during that time. § 40-2-124(1)(c)(1)(D), C.R.S. In general, Public Service demonstrates compliance with these RES requirements through the retirements of Renewable Energy Credits (RECs).

15. On February 29, 2016, Public Service filed an Application for Approval of 2017-2019 Renewable Energy Compliance Plan. Public Service proposed to acquire RECs from retail renewable DG through its Small, Medium, and Large Solar*Rewards programs. The Company states that the plan puts forward renewable energy acquisitions that would enable it to exceed the RES while keeping spending within the limit of the 2 percent retail rate impact cap.

16. The Company proposed two different customer options for the Small Solar*Rewards program for photovoltaic (PV) systems between 0.5 kW and 25 kW. In Option A, Public Service sought approval to acquire RECs from up to 24 MW of PV systems per year where the customers take net metered service in conjunction with the Company's standard residential retail rate (Schedule R). In Option B, Public Service sought approval to acquire RECs from up to 9 MW to 18 MW of additional PV systems per year. Public Service proposed to pay a higher price for RECs under Option B to induce customers to take net metered service under the Residential Demand Time-of-Use pilot tariff as proposed in the Phase II Electric Rate Case.

17. Public Service also sought approval of its Solar*Rewards Community program that supports the acquisition of RECs generated by community solar gardens (CSGs). Under § 40-2-127(5)(a)(IV), C.R.S., the Commission is required to set an annual minimum and maximum acquisition level for CSGs. Public Service specifically proposed to acquire RECs from a minimum of 10 MW of CSGs per year to a maximum of 30 MW of CSGs per year. The Company stated that it would acquire the majority of the CSG RECs through competitive solicitations, for which it would accept bids containing positive or negative REC prices.

18. In addition, Public Service proposed to acquire 20 MW of recycled energy per year (60 MW total in the three plan years) through a Recycled Energy Program with a customer incentive payment of $500/kW. Pursuant to Commission Decision No. C15-1280,[2]

[2] Decision No. C15-1280 issued December 4, 2015 in Proceeding No. 15AL-0118E.

Public Service included with its Application a revised tariff for recycled energy generators (Schedule RE) that included a calculation of a lower monthly reservation charge based on six weeks of grace energy and a daily demand charge.

19. Finally, Public Service sought approval to change the calculation of the premium customers pay to participate in its Windsource program. The Company's proposed method for calculating the Windsource premium would reduce the rate from $2.1588 per 100 kilowatt-hour block to $1.50 per 100 kilowatt-hour block.

20. On April 8, 2016, Public Service filed a Motion to Sever an Issue from the Proceeding (Motion to Sever). Public Service requested that the Commission remove from this Proceeding the Commission's consideration of the price the Company offers to pay for RECs through its Small Solar*Rewards program. Public Service instead requested that the Commission address the REC prices paid through the Small Solar*Rewards program as part of the Company's Phase II rate case in Proceeding No. 16AL-0048E.

21. On May 3, 2016, we denied the Motion to Sever and referred the proceeding to ALJ G. Harris Adams.[3]

C. Settlement Procedures and Pleadings

22. On August 15, 2016, Public Service filed the Settlement.

23. Public Service, Staff of the Colorado Public Utilities Commission (Staff), the Colorado Energy Office (CEO), the City of Boulder, Colorado Solar Energy Industries Association (COSEIA), and Western Resource Advocates (WRA) join in all Settlement provisions for the Phase II Electric Rate Case, Solar*Connect, and the

[3] Decision No. C16-0369-I, issued May 3, 2016 in Proceeding No. 16A-0139E.

2017-2019 RES Compliance Plan. The Colorado Office of Consumer Counsel (OCC) also joins in all aspects of the Settlement but it retains the right to advocate any position regarding the Company's proposed revenue decoupling application in Proceeding No. 16A-0546E including denial of the Company's application.

24. The City & County of Denver (Denver), Energy Outreach Colorado (EOC), and Sunrun, Inc. (Sunrun) join in the Settlement provisions for the Phase II Electric Rate Case and the 2017-2019 RES Compliance Plan. Clean Energy Collective (Clean Energy), Grid Alternatives, Inc. (Grid), and Ormat Nevada, Inc. (Ormat) join in the Settlement provisions for the 2017-2019 RES Compliance Plan. CF&I Steel, L.P (CF&I), the Colorado Communications and Utility Alliance (CCUA), Colorado Energy Consumers (CEC), and Vail Summit Resorts (Vail) join in the provisions for the Phase II Electric Rate Case. The Colorado Independent Energy Association (CIEA) and NextEra Energy Resources, LLC (NextEra) join in the provisions for Solar*Connect. Vote Solar and the Solar Energy Industries Association (SEIA) join in the provisions for the Phase II Electric Rate Case and Solar*Connect.

25. Climax Molybdenum Company (Climax) joins the Settlement provisions for the Phase II Electric Rate Case and does not oppose the provisions for the 2017-2019 RES Compliance Plan. The Energy Freedom Coalition of America (EFCA) joins in the provisions for the Phase II Electric Rate Case and the 2017-2019 RES Compliance Plan and takes no position on the provisions for Solar*Connect. Interwest Energy Alliance (Interwest) does not oppose the Settlement provisions for Solar*Connect and the 2017-2019 RES Compliance Plan. Walmart Stores, Inc. and Sam's West, Inc. (Walmart) does not oppose the provisions for the Phase II Electric Rate Case and for Solar*Connect.[4]

[4] Transcript, October 5, 2016, p. 185.

26. The Southwest Energy Efficiency Project (SWEEP) joins in certain Settlement provisions for the Phase II Electric Rate Case but opposes other provisions. SWEEP recommends that the Commission reject the Schedule RD-TDR Pilot. SWEEP also suggests the Commission modify the proposed Schedule RE-TOU trial and modify the design of the Residential General (Schedule R) service rate to include more tiers.

27. On August 22, 2016, SunShare filed its Motion to Dismiss, arguing that the rate for customers electing to participate in Solar*Connect could be discounted and unlawfully preferential, in violation of § 40-3-106(1), C.R.S., and *Mountain States Legal Fund v. Pub. Utils. Comm'n*., 590 P.2d 495 (Colo. 1979). SunShare also opposes certain provisions for the 2017-2019 RES Compliance Plan. Notwithstanding this opposition to aspects of the Settlement, SunShare joins in the Settlement provisions for the Phase II Electric Rate Case.

28. On August 23, 2016, the Settling Parties filed a Joint Motion for Waivers in Support of Settlement Agreement. The Settling Parties request waivers from seven of the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 that are necessary for Public Service to implement the Settlement.

29. On August 25, 2016, we consolidated the three proceedings, set filing deadlines for written testimony, and scheduled an evidentiary hearing on the Settlement.[5]

30. On September 2, 2016, the following parties submitted Opening Testimony in support of the Settlement: Public Service, Staff, OCC, CEO, CEC, COSEIA, EOC, GRID, SEIA, Vote Solar, and WRA. SunShare filed Opening Testimony opposing the

[5] Decision No. C16-0798-I, issued August 25, 2016, Proceeding Nos. 16AL-0048E, 16A-0055E, and 16A-0139E.

Settlement provisions for Solar*Connect and seeking modifications to certain provisions for the 2017-2019 RES Compliance Plan.

31. On September 6, 2016, Public Service, WRA, Staff, the OCC, and CEO filed a joint response opposing SunShare's Motion to Dismiss. SEIA and COSEIA also filed a separate response opposing the motion. Both responses argue, among other things, that the rates under the proposed Solar*Connect tariff are not prohibited by § 40-3-106(1), C.R.S., or relevant case law, because the rates are based on a cost of service. They argue that participants are not being subsidized by non-participants, and reasonable rate differences are permitted as long as they are not prejudicial.

32. On September 23, 2016, Public Service, Staff, COSEIA, EFCA, SunShare, Vote Solar, and WRA submitted Responsive Testimony. SWEEP submitted Responsive Testimony recommending that the Commission reject the Schedule RD-TDR pilot and modify the Schedule RE-TOU trial. SWEEP further proposed modifications to the summer tiered rates in Schedule R as amended in the Settlement.

33. We conducted a hearing on the Settlement on October 5, 2016. Hearing Exhibit Nos. 1 through 92 and 94 through 98 were offered and admitted.

34. On October 28, 2016, Public Service, Staff, OCC, CEO, CF&I, Denver, Clean Energy, Climax, CCUA, CEC, CIEA, COSEIA, EFCA, EOC, GRID, Interwest, NextEra, Ormat, SEIA, Sunrun, Vote Solar, and WRA filed a Joint Statement of Position (SOP) in support of the Settlement. SWEEP and SunShare each filed an SOP opposing certain provisions in the Settlement.

D. Terms of the Settlement

35. The Settlement is attached to this Decision as Attachment A.

36. The Settlement is long and complex, but it primarily serves to modify the rates, tariff sheets, and programs as described in even greater detail in Public Service's applications and pre-filed testimony (*i.e.*, Hearing Exhibits Nos. 2 through 24).

1. Phase II Electric Rate Case

37. The Settling Parties argue that the Settlement resolves Public Service's Phase II rate proceeding in a manner consistent with the public interest. They state that the Class Cost of Service Study—as modified by the agreement—reasonably assigns or allocates costs for use in rate design. They argue that stipulated rates for all customer classes are reasonably designed to allow customers to respond to appropriate price signals, to take advantage of various resources offered in the three proceedings, and to invest in new technologies. The Settling Parties further explain that, as a consequence of the agreements reached, Public Service will institute time of use rates on a trial basis in anticipation of moving to such rates as the default rate design for all residential customers. In turn, Public Service withdraws its proposed grid use charge. The Settling Parties also support approval of Colorado PUC No. 8 – Electric, as modified by the Settlement.

38. Notably, the Settlement provisions for the Phase II Electric Rate Case result in a $7.5 million reduction in total allocation of base rate revenues to the residential class (Schedule R) and a $500,000 reduction in the total allocation of base rate revenues to the small commercial class (Schedule C). To balance these reductions, allocated costs to the other customer rate classes increase.[6]

[6] Settlement, p. 18.

39. The Settlement makes Public Service's net metering tariff (Schedule NM) available to customers who are part of Solar*Rewards as well as customers who install on-site solar but are not part of the Solar*Rewards program.[7] Public Service will provide both types of customers with "equivalent treatment," and the Company further agrees not to change this treatment prior to its next Phase II rate case.

40. The Settlement proposes that Public Service implement a critical peak pricing program for commercial customers and that the Company retains its Secondary Photovoltaic Time-of-Use (Schedule SPVTOU). Public Service also agrees not to implement its proposed time-based assessment of demand charges for Schedule Transmission General (Schedule TG).[8]

41. As stated above, the Settlement allows Public Service to implement a pilot for a voluntary service rate called the Residential Demand Time Differentiated Rate (Schedule RD-TDR) and a larger-scale trial for another voluntary service rate called Residential Energy Time-of-Use (Schedule RE-TOU).

42. For the Schedule RD-TDR pilot, Public Service would, at a customer's request, replace the customer's electric meter and put that customer on a three-part electrical service rate that includes a monthly demand charge, a time-of-use energy charge, and a service and facilities charge. The Company intends to enroll up to 10,000 customers in 2017, to add 4,000 customers in 2018, and add an additional 4,000 customers in 2019. Public Service states that it intends to use the pilot to monitor customer loads in order to better understand the impacts of

[7] Settlement, p. 26.
[8] Settlement, p. 25.

demand charges on customer behavior and energy choices.[9] The Settlement states that the pilot will start in 2017 and terminate in 2022.

43. For the Schedule RE-TOU trial, also starting in 2017, the Settlement proposes that customers electing to participate will, at the customer's expense, have their meters replaced with advanced meters that allow the Company to track the customer's energy usage on a time differentiated basis.[10] Public Service proposes to enroll up to 10,000 customers in the trial in 2017 and to have up to 30,000 participants in 2019, including up to 500 low-income customers.

44. The Settlement requires Public Service to file an advice letter no later than December 2, 2019 in order for Schedule RE-TOU to become a permanent and mandatory rate for all residential customers. The 2019 advice letter filing will include the results of the Company's analysis of the Schedule RE-TOU trial, which, according to the Company, is intended to inform the Commission about whether the tariff: requires modification, is working well as originally implemented, or should be discontinued.

2. 2017- 2019 RES Compliance Plan

45. The Settling Parties argue that the 2017- 2019 RES Compliance Plan, as modified by the Settlement, establishes a framework for the expansion of eligible energy resources "in a measured and prudent manner" while addressing "growing customer preferences for renewable energy offerings and adds renewable energy to Public Service's system in an economically reasonable way."[11] The Settlement proposes adding significant amounts of on-site solar capacity to the Company's Solar*Rewards program as well as continued development of CSGs through

[9] Settlement, p. 41.
[10] Settlement, p. 26.
[11] Settlement, p. 54.

the Solar*Rewards Community programs. The Settling Parties agree to lower the premium for the Windsource program and to finalize the new Recycled Energy program.

46. With respect to Public Service's on-site solar programs, the Settlement proposes to enhance Solar*Rewards with 8 MW of acquisitions through the Medium program (for on-site solar systems between 25.1 kW and 500 kW) and 14 MW of acquisitions through the Large program (for systems larger than 500 kW). The Settlement proposes a $0.005/kWh REC incentive for all on-site solar systems installed through the "Option A" Small program, which is a reduction from the incentive currently offered to customers that install third-party owned systems or customer owned systems.[12]

47. With respect to CSGs, the Settlement proposes increasing the minimum Solar*Rewards Community capacity from 30 MW to 45 MW over three years. The Settling Parties further agree that the Commission should direct Public Service to acquire the maximum Solar*Rewards Community program capacity, which the Settlement expands from 90 MW to 105 MW over three years.[13] The Settling Parties further seek to make CSGs more accessible to low-income subscribers, and the Settlement proposes that Public Service be allowed to offer up to 4 MW of CSG capacity per year to low-income customers. If approved, this program would add up to 12 MW of CSG capacity to serve only low-income customers.

48. In total, the Settlement proposes that Public Service acquire up to 390 MW of additional renewable energy resources. Despite this significant increase in acquisitions, Public Service estimates that the Renewable Energy Standard Adjustment (RESA) deferred account balance will remain positive and will grow to $573 million in 2026.

[12] Settlement, p. 58.
[13] Settlement, p. 60.

3. Renewable*Connect

49. The Settling Parties agree that the Commission should approve a modified Solar*Connect Program—renamed Renewable*Connect—and authorize Public Service to acquire the solar resources necessary to support the program.

50. As compared to the Company's initial proposal for Solar*Connect, the Settlement adds a month-to-month service term and changes the way that the customer charge and the bill credit are calculated. The customer charge includes the underlying solar resource costs, the integration costs, and program administration costs. The customer charge would also include a "risk factor" based upon the length of the contract. The bill credit would be based on an avoided energy cost calculation modeled after the "Qualifying Facility Methodology" previously approved by the Commission.[14] Any unsubscribed energy would be "sunk" into Public Service's system at a cost also determined using the "Qualifying Facility Methodology," and the Company would retain the associated RECs.

51. The Settlement further proposes that Public Service be allowed to keep "excess revenue" collected from the program up to the Company's Weighted Average Cost of Capital and specifies that revenue above what the Company is allowed to keep will be deposited in the RESA deferred account.

E. Objections and Proposed Modifications to the Settlement

1. SunShare's Motion to Dismiss

52. SunShare moves to dismiss the Renewable*Connect application, arguing that the rate for customers electing to participate in the program could be discounted and

[14] Decision Nos. R14-0911, issued August 1, 2014; C14-1153, issued September 19, 2014; R15-1177, issued November 5, 2015; and C16-0005, issued January 5, 2016 in Proceeding No. 13AL-0958E.

unlawfully preferential, in violation of § 40-3-106(1), C.R.S., and *Mountain States Legal Fund v. Pub. Utils. Comm'n.*, 590 P.2d 495 (Colo. 1979).[15]

53. We find that the pleading is procedurally deficient and deny the motion.

54. Under Colorado Rule of Civil Procedure (C.R.C.P.) 12(b)(5), motions to dismiss are typically asserted against complaints, not applications. Similarly, the Commission's Practice and Procedure Rules only address a motion to dismiss in the context of a complaint proceeding.[16] Even if a party could file such a pleading, a motion to dismiss must be filed before any other responsive pleadings. Here, SunShare filed its motion to dismiss after answer and rebuttal testimony were filed in the Solar*Connect proceeding, and only after the Settlement was filed.

55. Further, a motion to dismiss must relate directly to the complaint or initial pleading and we can only consider facts alleged in the complaint or stated in the initial pleading. SunShare does not allege errors or insufficiency in Public Service's application to approve Renewable*Connect that rise to the level of dismissal. Instead, SunShare's motion addresses the remedy, *i.e.,* the rates that the Commission will eventually approve. Consequently, SunShare's pleading does not meet the standard or definition of a C.R.C.P. 12(b)(5) motion to dismiss.

2. SunShare's Legal Argument that Renewable*Connect is Discriminatory

56. SunShare renewed its legal objection to the Renewable*Connect rates in its SOP.[17] According to SunShare, because the Renewable*Connect bill credit is based on the avoided capacity costs, the rate that subscribers pay to participate could drop below the regular residential retail electric rate if the cost of natural gas goes up significantly. SunShare argues that this

[15] SunShare Motion to Dismiss, pp. 4-7.
[16] *See* Rule 1308(e) of the Rules of Practice and Procedure, 4 CCR 723-1.
[17] SunShare SOP, pp. 9-10.

would result in Renewable*Connect being a discounted product, rather than a premium product (*i.e.,* the bill credit would be higher than the customer charge). SunShare argues that if that occurs, the Renewable*Connect rate would violate § 40-3-106(1), C.R.S., which prohibits a public utility from charging preferential rates.

57. The joint response to SunShare's Motion to Dismiss filed by Public Service, WRA, Staff, the OCC, and CEO and the joint response filed by SEIA and COSEIA argue that the Renewable*Connect rate does not violate § 40-3-106(1), C.R.S., because the statute does not prohibit all differences in rates, only unreasonable differences.

58. We find that the Renewable*Connect rate is reasonable and not discriminatory, and therefore not prohibited by law. *See Mountain States*, 590 P.2d at 498; *Integrated Network Servs. v. Pub. Utils. Comm'n*., 875 P.2d 1373, 1383 (Colo. 1994) ("In short, the PUC is not prohibited from establishing different rate structures, as long as such differences are just and reasonable.").

59. The tariff for the program is cost based, and customers choosing to participate in the program are paying the costs of the solar resources. Notably, Renewable*Connect subscribers are not subsidized by other rate classes. If the cost of participating in Renewable*Connect drops below tariffed rates because the cost of natural gas increases, then the benefit to the Renewable*Connect participants would be reasonable and based on the associated cost changes. The rate is not discriminatory to any other rate class or customer.

3. SunShare's Objections to Renewable*Connect

60. SunShare requests that the Commission either create "a level playing field" between CSGs and the Renewable*Connect Program or deny the Company's proposal.[18]

61. SunShare posits that Renewable*Connect is substantially similar to a CSG in the types of customers Public Service intends to serve. SunShare argues, however, that certain statutory restrictions on CSGs, which are not shared by Renewable*Connect, result in higher costs to participate in CSGs and, along with the economics of CSG development, limit the type and number of customers that participate in the Solar*Rewards Community program. According to SunShare, the Renewable*Connect program will make it possible for Public Service to offer the program at a lower cost than a CSG developer can offer its CSG subscription, which will result in a severe disruption to the existing CSG industry.[19]

62. SunShare also contends that Public Service will have access to the Company's existing customer database for the purpose of soliciting new subscribers to Renewable*Connect. SunShare argues that this information includes data such as customer email addresses that are not readily available through ordinary means. SunShare suggests that third-party CSG developers may not be able access information that the Company has and that even if they can, it will be very costly.[20] SunShare argues that the ability to use a customer information database subsidized by all ratepayers creates an unfair advantage for Public Service, because CSG developers must incur an additional cost to acquire the information.

[18] Amster-Olszewski Opening, p. 6.
[19] Amster-Olszewski Opening, p. 30.
[20] SunShare SOP, p. 7.

63. Public Service rejects SunShare's claim that Renewable*Connect and CSGs must be on an exactly level playing field.[21] The Company posits that a CSG represents a limited exemption to the doctrine of regulated monopoly created by the Colorado Legislature and argues that the CSG exemption, including § 40-2-127, C.R.S., do not restrict the offerings the Company can make to its customers. Accordingly, the CSG exemption does not create a competitive market in the Company's service territory and no level playing field is required between CSG and Renewable*Connect. Public Service further argues that Renewable*Connect meets the intent of § 40-2-124(1)(e)(III), C.R.S., which encourages new and different solar programs.

64. Public Service argues that SunShare overestimates the benefits that the Renewable*Connect program may get from the size and geographic location of the solar resource. The Company also argues SunShare underestimates some of the costs for the larger program.[22]

65. Staff concludes that, based on all the changes made in the Settlement, Renewable*Connect no longer unfairly competes with CSGs.[23] Staff also agrees with Public Service that § 40-2-124(1)(e)(III), C.R.S., supports approval of the Renewable*Connect Program.[24]

66. We deny SunShare's requests that we alter the Renewable*Connect program and not approve the program as proposed in the Settlement. Renewable*Connect is not a CSG under § 40-2-127, C.R.S., and modifications to the Settlement forcing the program into the form of a CSG are not required. Rather, under the terms of the Settlement, Renewable*Connect is a

[21] Jackson Responsive, p. 19.
[22] Jackson Responsive, p. 25.
[23] Camp Opening, p. 18.
[24] Camp Opening, pp. 18-19.

limited, one-time, solar product offering made in accordance with Colorado statutes. Based on testimony provided in support of the Settlement, we find that Public Service made several changes to the application originally filed in Proceeding No. 16A-0055E that expand the types of customers that may participate in the Renewable*Connect program and that reduce potential conflicts with the Solar*Rewards Community program.[25] The Renewable*Connect program is limited to 50 MW, unless Public Service receives additional Commission approval to expand the program.[26]

4. SunShare's Proposed Modifications to the 2017-2019 RES Compliance Plan

67. SunShare recommends that the Commission alter several provisions of the Settlement related to the 2017-2019 RES Compliance Plan: (1) change the definition of "co-location" for CSGs, as defined in the Settlement; (2) require Public Service to pay CSG subscribers an additional $0.03/kWh per REC; and (3) increase the minimum and maximum of CSG capacity that Public Service can acquire. SunShare argues that its proposed changes will improve Public Service's CSG programs and will allow CSG developers to meet customer needs in a more cost-effective manner.[27]

68. First, SunShare recommends that the Commission change the definition of "co-location" used in the Settlement. The Settlement states that, to give effect to the 2 MW CSG size restriction in § 40-2-127(2)(b)(I)(A), C.R.S., "the location of CSGs may not result in more than 2 MWs of commonly owned total capacity of CSGs energized within a 0.5 mile distance as

[25] Camp Opening, pp. 18-21.
[26] Settlement, p. 46.
[27] SunShare SOP, page 14.

measured from point of interconnection."[28] SunShare contends that requiring each CSG owned by a given developer to be placed 0.5 mile apart will result increased costs for developing, interconnecting, and building CSG that will be passed on to subscribers. [29] SunShare further argues that there is no evidence for why the proposed 0.5 mile co-location limitation is necessary or in the public interest. SunShare suggests that, rather than imposing the co-location limits proposed in the Settlement, the Commission should delineate CSGs by inverter and metering equipment used to measure the production of a CSG and allow up to 10 MW (or up to five 2 MW CSGs) per common owner be built near one another and to share a single interconnection. SunShare argues that spreading interconnection and substation upgrade costs among five CSGs will result in lower development costs and, therefore, lower subscription prices for customers.

69. Public Service objects to SunShare's position, arguing that § 40-2-127, C.R.S., limits a single CSG to 2 MW in size and that SunShare seeks effectively to expand the CSG size limit to encompass a 10 MW solar field. Public Service observes that SunShare's proposal ignores the limitation of the Company's maximum transformer size in addition to other limitations to interconnecting generation on the distribution system.[30] Public Service also notes that the definition of co-location put forward in this Settlement is not new or arbitrary because the Company sought an almost identical provision in a settlement in Proceeding No. 13A-0836E that SunShare signed.

[28] Settlement, p. 63.
[29] Amster-Olszewski Opening, pp. 9-12, 14, and 16. Amster-Olszewski Responsive, p. 5.
[30] Jackson Responsive, p. 31.

70. Staff similarly argues that § 40-2-127, C.R.S., is clear and unambiguous in limiting a CSG to 2 MW in size. Staff suggests that SunShare's recommendation would be a way to circumvent the statutory limit in order to build CSGs at a lower cost.[31]

71. Second, SunShare states that residential customers are not participating in Solar*Rewards Community in an equal proportion to C&I customers, and that low residential participation is likely to continue without an "incentive."[32] SunShare argues residential customers have higher subscription and financing costs than C&I customers and that suggests that because the Request for Proposal (RFP) process pushes developers to bid the lowest possible price to secure capacity, developers have an incentive to offer bids that have a majority of C&I customers. To address the problem of residential customers being more expensive to serve, SunShare suggests adding $0.03/kWh to the $/kWh bid REC price, which it proposes would address the higher costs for CSG developers to serve residential customers.

72. Public Service recommends the Commission deny SunShare's request for a $0.03/kWh adder, stating that while SunShare's cost to serve customers is unknown, any additional cost likely means lower profits for SunShare. Public Service notes that "if SunShare believes it needs a higher REC price to compensate itself for higher costs associated with serving residential customers, it can simply bid a higher REC price."[33] Public Service suggests that other CSG developers may, as a result of a different business model, not require the $0.03/kWh adder.

73. Staff's analysis of SunShare's proposal for a $0.03/kWh per REC adder shows that the proposal would result in $47 million additional cost to the RESA deferred account.

[31] Camp Responsive, pp. 6 and 7.
[32] Amster-Olszewski Opening, p. 19.
[33] Jackson Responsive, p. 39.

Over ten years, the adder would result in a total cost for Solar*Rewards Community of over $100 million. Staff concludes that these additional costs are not reasonable.

74. Finally, SunShare argues that the proposed maximum acquisition of 105 MW of non-low-income CSGs over three years does not reflect demand from potential subscribers. SunShare argues that the annual cap should be raised to 80 MW (or 240 MW over three years) and suggests that increasing the cap would result in broader access to non-rooftop solar energy resources for customers, which is consistent with its understanding of directive in the CSG statute.

75. In response, Public Service argues that the CSG capacity amounts set forth in the Settlement strike the right balance when taking into account RESA impacts, customer interest, and past program levels.[34]

76. Staff agrees with Public Service that SunShare provided no estimate of the cost for its recommendation to increase the maximum annual CSG acquisitions. Staff's own cost estimates indicate that purchasing 80 MW per year of CSG resources, including SunShare's proposed $0.03 kWh REC adder, could result in a roughly $109 million charge to the RESA deferred account and a total cost for CSGs of roughly $230 million over the next ten years.[35]

77. We deny SunShare's request to modify the terms of the Settlement for the 2017-2017 RES Compliance Plan. We agree with Public Service and Staff that § 40-2-127, C.R.S., limits the size of CSGs to 2 MW. The "co-location" terms in the Settlement are not inconsistent with § 40-2-127, C.R.S., or other statutory provisions. We also agree with Staff's conclusion that SunShare's proposal for a $0.03/kWh adder for REC purchases would result in

[34] Jackson Responsive, p. 37.
[35] Camp Responsive, p. 15.

unreasonable additional costs to ratepayers, since it would more than double the required RESA subsidies paid by all retail customers for Solar*Rewards Community.[36] Under the existing Solar*Rewards Community RFP arrangements, SunShare can submit bids with whatever REC prices it believes are necessary to attract subscribers. We also deny SunShare's request to increase the annual minimum and maximum capacity acquisitions for the Solar*Rewards Community program. Public Service has acquired sufficient eligible energy resources to meet its RES requirements through 2020, and no new CSG capacity is necessary for RES compliance. Moreover, there are roughly 18 MW of CSG resources on-line,[37] and we approved the acquisition of an additional 90 MW of CSG for the period 2014 to 2016. By approving the Settlement, another 117 MW of additional CSG capacity may be acquired, roughly doubling the total CSG capacity in Colorado between 2016 and 2020. These additional capacity amounts in the Settlement are reasonable and will allow the market for CSG to expand significantly.

5. SWEEP's Objections and Proposed Modifications to the Settlement

78. SWEEP argues that the Schedule RD-TDR pilot, even as amended by the Settlement, is flawed. SWEEP argues that the proposed rate is more complicated than current residential rates and that it will be difficult for customers to understand how they are being charged for service.[38] SWEEP contends that residential customers do not understand the peak demand of their different appliances or devices and therefore will not know how their ordinary energy use will contribute to their peak. SWEEP also argues that, even assuming an understanding of demand, residential customers will not have the ability to respond to

[36] Camp Responsive, p. 16.
[37] Jackson Responsive, p. 37.
[38] Geller Responsive, p. 9.

any price signal due to a lack of control technologies for the individual appliances and because there will be no real-time information about such demands.[39]

79. SWEEP also objects to Public Service's use of a peak demand charge based on each customer's individual non-coincident peak, arguing that non-coincident peaks: (1) may not contribute to additional cost to Public Service's system; (2) may create a disincentive for customers to reduce overall energy use; and (3) could disproportionately burden lower usage and low-income customers.[40]

80. SWEEP alleges that Public Service intends to transition its rates for residential customers to demand-based charges. SWEEP raises concerns that Public Service will target customers who can benefit from that rate design to participate in the pilot, and consequently, the Commission will not have unbiased information about how a demand-based rate will impact the broader class of residential customers.[41]

81. Turning to the Schedule RE-TOU Trial, SWEEP recommends the Commission approve the rate and the trial parameters, but with certain modifications.[42] SWEEP suggests that the Commission direct Public Service to implement the new rate as a random control trial (*i.e.,* including a control group and an opt-out provision) and to recover the costs of the trial through all customer rates instead of charging only the participants for the meters required to implement time of use rates. SWEEP argues that these modifications would reduce the potential for self-selection bias, provide better information about customer response to the rate design, and allow the Commission to make a more informed decision about whether to adopt time of use

[39] Geller Responsive, p. 10.
[40] Geller, Responsive, p. 10-12.
[41] Geller Responsive, p. 19-21.
[42] SWEEP SOP, p. 2.

rates as the default for all residential customers in the future.[43] SWEEP recognizes that the Settlement establishes a stakeholder process to discuss issues related to the trial, including self-selection bias. Nevertheless, SWEEP is concerned that the Settlement does not speak to how those issues might be addressed and how any conclusions of the stakeholder group might be implemented.

82. Finally, SWEEP advocates for adding tiers to the Schedule R summer block rates for residential customers. Currently, Schedule R has two different energy charges for usage in summer months based on the total amount of energy a customer consumes. SWEEP argues that summer loads still drive most of Public Service's generation and transmission capacity costs and suggests that the objective of additional tiered charges is to reduce system costs by reducing consumption in response to price signals reflecting the higher cost of providing service in the summer.[44]

83. In response to SWEEP's objections and recommendations, the Joint SOP in support of the Settlement states that the parties that had otherwise opposed the mandatory demand charges for residential customers nonetheless came to support the Schedule RD-TDR pilot and the Schedule RE-TOU trial for various reasons, including: the protections for low-income customers; the limited duration of the pilot; the voluntary nature of the pilot; the oversight provided by the Pilot and Trial Program Stakeholder Group; and the fact that the cost of the program will either be borne by its participants or recovered after review in future rate proceedings.

[43] Geller Responsive, pp. 25-26.
[44] Geller, Responsive pp. 32-38.

84. We concur with the Settling Parties that the Settlement includes several provisions that limit any potential negative consequences from the Schedule RD-TDR pilot and the Schedule RE-TOU trial, such as the limits on the numbers of participants and on the length of time that each rate will be available. Further, service under either of the new rate schedules is voluntary, and the trial and pilot each has hold-harmless provisions to protect low-income customers.[45] Finally, we concur with the Settling Parties that SWEEP may participate in and contribute to the Pilot and Trial Program Stakeholder Group.

85. Nevertheless, SWEEP has presented thoughtful criticisms of the Schedule RD-TDR pilot and the Schedule RE-TOU trial, and we share some of the same concerns regarding the implementation and potential future of such rates. We encourage Public Service and the other stakeholders to consider the issues SWEEP has raised as they design and evaluate the new rate designs. Nevertheless, we are not inclined to adopt SWEEP's recommendations and will not modify the Settlement provisions for the Phase II Electric Rate Case.

86. Concerning SWEEP's proposal for modifying Schedule R, we find that the expansion of rate tiers would introduce additional complexity that could confuse customers, particularly in the context of the various other changes to rates resulting from this Proceeding. We also conclude that the adoption of any additional changes to residential rate design should come after the Commission determines whether Schedule RD-TDR and Schedule RE-TOU will continue for residential customers.

F. Motion to Approve Settlement

87. The Settling Parties explain that they chose to negotiate a global settlement of the three proceedings because of the interrelationship of the issues that have been raised and the

[45] Settlement, p, 32; Settling Parties SOP, p 22.

large number of common intervening parties. They argue that the approval of the Settlement is consistent with the Commission's directive in 4 CCR 723-1-1408(a) of the Rules of Practice and Procedure that encourages settlement of contested proceedings. The Settling Parties explain that the Settlement is the product of negotiation and compromise between the Company, customers, solar and renewable energy interests, environmental interests, and other stakeholders. The Settling Parties claim that the diversity of interests joining the Settlement, in whole or in part, supports a finding that approval of the Settlement is in the public interest.

88. Considering the totality of evidence in this Proceeding and the broad support of the Settlement, we agree with the Settling Parties that approval of the provision of the Settlement for the Phase II Electric Rate Case will result in just and reasonable rates. Rate-setting is inherently a legislative function, *City and County of Denver v. Pub. Utils. Comm'n.*, 266 P.2d 1105, 1106 (Colo. 1954); *City of Boulder v. Pub. Service Co.*, 996 P.2d 198, 204 (Colo. App. 1999), and not an exact science, *Pub. Util' Comm'n.*, *v. Northwest Water Corp.*, 451 P.2d 266, 276 (1963). Rates must be "just and reasonable." § 40-3-101, C.R.S. Under this standard, "it is the result reached, not the method employed, which is controlling." *Federal Power Comm'n. v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944).

89. Likewise, we find the resolution of the issues surrounding the proposed Renewable*Connect to be just and reasonable and in the public interest.

90. Pursuant to Rule 4 CCR 723-3-3657(c), we also approve the provisions of the Settlement for the 2017-2019 RES Compliance Plan.

91. Based on the foregoing, we grant the Motion to Approve Settlement.

G. Motion for Waivers

92. No party filed a response to the Motion for Waivers. However, the motion indicates that SunShare opposes the requests to waive Rules 4 CCR 723-3-3611, 3612, and 3613, which are related to acquiring the solar resources for Renewable*Connect outside of the ERP process. However, SunShare joins the motion with regard to the remainder of the request for waiver of rules. EFCA, Walmart, Vail, and SWEEP either do not oppose or take no position on the motion.

93. We find good cause to grant the requests in the Motion for Waivers. No request sought in the Motion for Waivers is contrary to statute. Further, with the exception of the request for waivers of Rules 4 CCR 723-3-3611, 3612, and 3613, the requests are unopposed and necessary for Public Service to implement the terms of the Settlement Agreement approved by this Decision.

94. We find good cause to grant the request for waivers of Rules 4 CCR 723-3-3611, 3612, and 3613. Consistent with the discussion above, we determine here that Renewable*Connect is not a CSG and we approve the program by this Decision. We find that these requests are necessary for Public Service to acquire the solar facilities that will be used to provide solar energy for the program.

H. Compliance Tariff Filings

95. The Settlement states that Public Service will file a complete set of tariffs in compliance with the Commission's final decision by December 2, 2016, for rates to take effect on January 1, 2017. The tariff sheets will be in the form of the proposed P.U.C. No. 8-Electric Tariff.

96. The Settling Parties claim that Attachment D to the Settlement is a complete set of "clean" tariff rates, rules, and regulations that will go into effect if the Settlement is approved. A cursory review of Attachment D reveals, however, that not all of the changes to tariffs that would be caused by our approval of the Settlement are reflected in the tariffs attached to the agreement. For example, the rate shown for Windsource (Schedule WS) is not the $1.50 per 100 kilowatt-hour block, or 1.5¢/kWh agreed to in the Settlement. Similarly, the tariff sheets for Solar Rewards Community Service (Schedule SRCS) are not consistent with the Settling Parties' agreement to support the continuation of a class average bill credit for all customer classes as approved in Proceeding No. 13A-0836E.

1. General Provisions, Base Rates, and Rules and Regulations

97. A traditional tariff compliance filing is reasonable for the majority of the rate schedules and tariff sheets that were subject to review in the Phase II Electric Rate Case. However, given the numerous tariff sheets being modified and the nature of some of the changes to the rates and terms caused by our approval of the Settlement, we find that the compliance tariff filing should be made on more than the two business days' notice allowed by Rule 4 CCR 723-1-1207(g). We also find that certain other rate schedules and tariff sheets in the proposed P.U.C. No. 8-Electric Tariff must be filed with at least 30 days' notice to provide sufficient time for closer examination.

98. Public Service may file a single compliance advice letter filing that includes, in the form of P.U.C. No. 8-Electric Tariff, Sheet Nos. 1 through 102, Sheet Nos. 115 and 116, and Sheet Nos. R1 through R199. This Phase II Electric Rate Case compliance filing may also contain certain adjustments, including the Franchise Fee Surcharge (Sheet No. 125), the Occupation Tax Surcharge (Sheet No. 126), the Earnings Sharing Adjustment (Sheet No. 130),

the Quality of Service Plan (Sheet No. 131), the Flexible Pricing Policy (Sheet No. 145), and the RESA (Sheet No. 150). The filing may also include the tariffs that apply to on-site solar customers, including Net Metering Service (Schedule NM, Sheet No. 112) and Photovoltaic Service (Schedule PV, Sheet No. 113). The filing may also include the Interruptible Service Option Credit (Schedule ISOC, Sheet No. 110).

99. The filing may be submitted on December 2, 2016, consistent with the terms of the Settlement. In the event more time is required to prepare and file this Phase II Electric Rate Case compliance tariff filing, the Company may file it after December 2, 2016, but on not less than a full two weeks' notice.

2. Windsource (Schedule WS) and Recycled Energy (Schedule RE)

100. We authorize Public Service to include in the Phase II Electric Rate Case compliance tariff filing described above the revised Windsource (Schedule WS, Sheet No. 111) and the Recycled Energy (Schedule RE, Sheet No. 117) tariffs initially at issue in Proceeding No. 16A-0139E. The Schedule RE has been sufficiently reviewed by the parties in this matter, and, although the Schedule WS in Attachment D to the Settlement is inaccurate, the reduction in the premium is a simple correction.

3. Schedules PCCA, TCA, ECA, and CACJA

101. The Settlement includes tariff sheets in the form of the proposed Colorado PUC No. 8 – Electric of the Purchased Capacity Cost Adjust (Schedule PCCA), the Transmission Cost Adjustment (Schedule TCA), the Electric Commodity Adjustment (Schedule ECA), and the Clean-Air Clean-Jobs Adjustment (Schedule CACJA). The rates and charges on these tariff sheets in Attachment D are those that were in effect on January 25, 2016, when Public Service filed Advice Letter No. 1712-Electric initiating the Phase II Electric Rate Case in Proceeding

No. 16AL-0048E. Some of the rates in these schedules in Attachment D have never been calculated before and are marked with placeholders for new values to be determined consistent with the Settlement.

102. On November 10, 2016, Public Service filed a limited set of tariff sheets setting forth new rates effective January 1, 2017, for Schedule TCA (Proceeding No. 16AL-0866E), Schedule PCCA (Proceeding No. 16AL-0867E), and Schedule CACJA (Proceeding No. 16AL-0869E). The filed tariff sheets contain only the specific sheets setting forth rates and charges. The other tariff sheets that describe the applicability of the charges or the basis of the rate calculations were not included.

103. Because the rates and charges were filed on not less than a full 30 days' notice, and because the balance of the tariff sheets for each of these adjustment mechanisms are not changing significantly as a result of our approval of the Settlement, those other tariff sheets for Schedule TCA (Sheet Nos. 142B-142C), Schedule PCCA (Sheet Nos. 141B-141E), and Schedule CACJA (Sheets 144B-144F) may be submitted with the filing of the Phase II Electric Rate Case tariffs made on December 2, 2016, or otherwise on not less than a full two weeks' notice.

104. On November 10, 2016, Public Service also filed in Proceeding No. 16A-0873E an application for approval of updated components to the ECA for the calculation of rates. Upon approval of these components in early December, Public Service states it will submit an application on less-than-statutory notice to apply them in the calculation of the ECA rates for effect on January 1, 2017, to be set forth on Sheet Nos. 143 and 143A in the form of the P.U.C. No. 8-Electric Tariff.

105. Consistent with the approach we have adopted for Schedules TCA, PCCA, and CACJA, the Company may submit the balance of the tariff sheets for the full Schedule ECA

(Sheets 143B through 143I) with the filing of the Phase II Electric Rate Case tariffs made on December 2, 2016, or otherwise on not less than a full two weeks' notice.

4. Schedule DSMCA

106. Updated rates and charges for the Demand-Side Management Cost Adjustment (Schedule DSMCA) are generally required to be filed on July 1 of each year. However, on June 30, 2016, we granted a petition for a partial waiver of that filing requirement and extended the time for Public Service to file its DSMCA tariff.[46]

107. On October 3, 2016, Public Service filed Advice Letter No. 1723-Electric in Proceeding No. 16AL-0755E to update the rates and charges for Schedule DSMCA for effect on January 1, 2017. The filing in that proceeding is in the form of the P.U.C. No. 7-Electric Tariff.

108. We permit Public Service to file an amendment in Proceeding No. 16AL-0755E to submit the same DSMCA rates filed for effect on January 1, 2017, in the form of the proposed P.U.C. No. 8-Electric Tariff (Sheet Nos. 140 and 140A). Public Service may elect to submit the balance of the tariff sheets to complete the full Schedule DCSMA (Sheet Nos. 140B through 140E) either in that amendment filing in Proceeding No. 16AL-0755E or in the Phase II Electric Rate Case tariffs made on December 2, 2016 or otherwise on not less than a full two weeks' notice.

5. Renewable*Connect (Schedule RC)

109. The tariff sheets for Renewable*Connect (Schedule RC) in Attachment D to the Settlement contain no values for the Renewable*Connect Charge or the Renewable*Connect Credit. The Settlement explains that the Renewable*Connect Charge will include the cost of the

[46] Decision C16-0595, issued June 30, 2016, Proceeding No. 16V-0471E.

PPA(s) executed by Public Service for the underlying solar resources as well as the final solar integration costs updated through the 2016 Electric Resource Plan in Phase I (Proceeding No. 16A-0396E). The Settlement further explains that the credit will be calculated using the "Qualifying Facility Methodology" based on terms approved by Decision No. R15-1177 in Proceeding No. 13AL-0958E issued November 5, 2015.

110. The value of the Renewable*Connect charge is presently unknown, and the Commission has not yet reviewed a complete tariff filing applying the "Qualifying Facility Methodology" to the Renewable*Connect rates. Therefore, Public Service shall not file the tariffs for Schedule RC until the requisite pricing information is known for the dedicated solar resource(s). After the Company has entered into the PPA(s), Public Service may file an advice letter to implement Schedule RC on not less than 30 days' notice. The filing will include Sheets 109 through 109G in the form of the P.U.C. No. 8-Electric Tariff.

111. The initial advice letter filing for Schedule RC also must include the Renewable*Connect Subscriber Agreement with updated terms, termination fees, charges, and a month-to-month option. We must have the opportunity to examine the modified terms and other necessary revisions associated with the new month-to-month option that was introduced in the Settlement.

6. Schedule SRCS

112. The Settlement explains that the Settling Parties "support continuation of a class average bill credit for all customer classes as recently approved in Proceeding No. 13A-0836E, Decision No. C16-0747. This approach shall be reflected in the Company's CSG tariff, and the Settling Parties request further waiver of Rule 3665(c)(I) for the term of this RES Plan in the

Motion for Waivers in Support of the Settlement Agreement."[47] However, the tariff sheets for Solar Rewards Community Service (Schedule SRCS) in Attachment D to the Settlement do not reflect this provision of the agreement.

113. On November 15, 2016, Public Service filed Advice Letter No. 1728-Electric in Proceeding No. 16AL-0882E with a single rate sheet for Schedule SRCS, in the form of P.U.C. No. 8-Electric Tariff, showing only the billing credits to be paid to CSG subscribers effective January 1, 2017.

114. At our weekly meeting on November 17, 2016, we denied Public Service's motion for alternative form of notice for Advice Letter No. 1728-Electric but allowed the Company to file the complete set of tariff sheets for Schedule SRCS, modified pursuant to the terms of the Settlement, as an amended advice letter in that same proceeding.

7. Small Power Production and Cogeneration

115. On August 27, 2013, Public Service filed Advice Letter No. 1649-Electric in Proceeding No. 13AL-0958E proposing to implement a new methodology to derive payment rates applicable to Qualifying Facilities with a design capacity between 10 and 100 kW. On September 25, 2013, the Commission suspended the effective date of the tariffs filed under Advice Letter No. 1649-Electric and set the matter for hearing.

116. On September 19, 2014, the Commission issued Decision No. Cl4-1153 permanently suspending the tariff sheets associated with Advice Letter No. 1649-Electric and establishing most of the steps to derive new Energy and Capacity Payment Rate Components pursuant to the "Qualifying Facility Methodology" discussed in the Settlement.

[47] Settlement at p. 61.

The Commission also remanded one matter to ALJ Jennings-Fader for additional hearings in order to complete the "Qualifying Facility Methodology."

117. On November 5, 2015, ALJ Jennings-Fader issued Decision No. R15-1177 addressing the method for calculating the energy payment rate component, thereby allowing the Commission to complete the "Qualifying Facility Methodology." ALJ Jennings-Fader declined to rule on Public Service's request to calculate and to implement the rates for 2016 through a compliance tariff filing made in accordance with her decision, should it become the decision of the Commission.

118. On November 30, 2015, Public Service filed Advice letter No. 1706-Electric[48] with revised payment rates applicable to Qualifying Facilities with design capacity between 10 and 100 kW. Because Decision No. R15-1177 was still subject to exceptions at that time, and a final Commission decision had not yet been issued, the Company requested to extend the 2015 energy and capacity payment rates, without change, through calendar year 2016. The Commission subsequently allowed the tariff sheet filed under Advice letter No. 1706-Electric to take effect on January 1, 2016, by operation of law.

119. On January 5, 2016, the Commission addressed exceptions to Decision No. R15-1177 and adopted the full "Qualifying Facility Methodology."[49] The Commission also granted Public Service's request to direct the Company to file the rates for effect on January 1, 2017, on December 1, 2016.

120. The tariff sheets for Small Power Production and Cogeneration in Attachment D to the Settlement reflect the rates and methods used for rates in effect through 2016 and do not

[48] Advice Letter No. 1706-Electric was filed in Proceeding No. 15AL-0935E.
[49] Decision No. C16-0005, issued January 5, 2016, Proceeding No. 13AL-0958E.

reflect the changes necessary to implement the "Qualifying Facility Methodology" beginning January 1, 2017.

121. Therefore, we direct Public Service to file the full set of new tariff sheets for the Small Power Production and Cogeneration (Sheet Nos. P1-P10) that implement the "Qualifying Facility Methodology" separately from the Phase II Electric Rate Case compliance tariffs. The tariff filing shall be made in a new advice letter proceeding in the form of P.U.C. No. 8-Electric Tariff on not less than 30 days' notice.

I. New Proceeding on Trial and Pilot Rate Programs

122. Schedule RD-TDR and RE-TOU represent new rate designs for residential customers in Colorado. SWEEP has made a persuasive case that any transition to these types of rates, particularly if they form the basis of standard residential service in the future, will require useful, reliable, and timely information. By a separate decision, we will open a new proceeding to serve as a repository for information related to the trial and pilot rates. Public Service will file in that proceeding the reports, studies, and data provided to the Pilot and Trial Program Stakeholder Group. Staff will be directed to participate in that stakeholder group and will assist the Commission in its review of the materials in the new proceeding to ensure the Commission is well positioned to address the Final Schedule RE-TOU Advice Letter Filing and to decide "whether Schedule RE-TOU requires modification prior to implementing the final RE-TOU rate design for all Residential customers, whether Schedule RE-TOU is working well as originally implemented, or whether it should be discontinued."[50]

[50] Settlement, p. 33.

J. Recovery of Renewable Compliance Plan Costs

123. Staff's testimony on the Settlement shows that projected total, actual cost for Public Service's Solar*Rewards program is significantly less than the calculated avoided costs associated with the acquired on-site solar production.[51]

124. At hearing, Staff witness Gene Camp confirmed the estimate for the total, actual cost of the Solar*Rewards program under the Settlement to be roughly $69 million over ten years. Mr. Camp also confirmed that the avoided cost for the program is projected to be roughly $155 million over that same period. Because Public Service recovers the avoided costs of eligible energy resources through the ECA, and because Solar*Rewards costs are accounted for in the RESA deferred account and not in the ECA deferred account (unlike PPAs for other eligible energy resources), ratepayers would pay roughly $80 million more than the actual cost incurred by the Company. Mr. Camp explained that "rooftop solar systems are creating headroom in the RESA, rather than a cost."[52]

125. Consistent with Rule 4 CCR 723-3-3660(a), Public Service is authorized to recover its actual costs to implement the Solar*Rewards programs as demonstrated in the record in this Proceeding. However, given the significant current and projected cash balances in the RESA deferred account, we find that it is unreasonable for the Company to recover through the ECA any avoided cost amounts in excess of actual program costs incurred. Therefore, we cap the amount of costs Public Service may recover through the ECA as avoided costs at the actual cost incurred for each of its Solar*Rewards programs.

[51] Camp Opening, p. 15. Camp Responsive, pp. 7-8
[52] Transcript, October 5, 2016, p. 137.

K. Future Resource Acquisitions

126. The Commission has approved nearly 1 GW of new renewable energy resources by this Decision and Decision No. C16-0958 approving the Rush Creek Wind Project.[53] The requests for approval to acquire this significant expansion of new resources were made outside of the ERP process.

127. In this Proceeding, Public Service has criticized SunShare's proposal to increase substantially the minimum and maximum amounts of CSG resources to be acquired between 2017 and 2019, arguing that some amount of solar resources should be acquired through the ERP for the benefit of all of the Company's customers.[54]

128. Staff also presented an analysis in this Proceeding showing that the additional 123 MW of CSG capacity proposed by SunShare would reduce Public Service's capacity need in 2022 and 2023. Staff asserted that, if CSG acquisitions continue at a similar pace in years 2020 through 2023, Public Service might not need any new utility resources before 2023.[55] At the hearing, Staff witness Mr. Camp agreed that it would be useful for the Commission to consider the relative benefits to all ratepayers garnered by large solar investments as compared to acquisitions of smaller on-site solar investments and CSGs.[56]

129. The Commission designed the ERP process specifically to compare the cost and benefits of all proposed resources on an equivalent basis. Rule 4 CCR 723-3-3657(a)(IV) requires Public Service to file with each ERP—including the ERP currently pending in

[53] Decision No. C16-0958, issued October 20, 2016, Proceeding No. 16A-0117E.
[54] Jackson Responsive, p. 37.
[55] Camp Responsive, p. 14.
[56] Transcript, October 5, 2016, pp. 141-142.

Proceeding No. 16A-0396E—a RES compliance plan detailing renewable resource acquisitions during the same resource acquisition period as addressed in the ERP.

130. The evaluation of resources through the ERP process helps the Commission to ensure that any additional renewable energy acquisitions provide maximum benefits to Public Service's system and to all customers. To the extent that Public Service proposes to acquire any additional renewable energy resources, the Company shall do so through the ERP process in Proceeding No. 16A-0396E.

II. ORDER

A. The Commission Orders That:

1. The Motion to Approve a Non-Unanimous Comprehensive Settlement Agreement filed by Public Service Company of Colorado (Public Service) on August 15, 2016, is granted, consistent with the discussion above.

2. The Non-Unanimous Comprehensive Settlement Agreement (Settlement) filed by Public Service on August 15, 2016, is approved.

3. The Joint Motion for Waivers in Support of Settlement Agreement filed by Public Service on August 23, 2016, is granted, consistent with the discussion above.

4. The Motion to Dismiss Application Pursuant to Colorado Rule of Civil Procedure 12(B)(5) filed by SunShare, LLC on August 22, 2016, in Proceeding No. 16A-0055E, is denied.

5. The tariffs attached to Advice Letter No. 1712-Electric, as amended on July 26, 2016, in Proceeding No. 16AL-0048E, are permanently suspended.

6. The Application for Approval of the Solar*Connect Program filed by Public Service on January 27, 2016, in Proceeding No. 16A-0055E is approved as modified by the Settlement, consistent with the discussion above.

7. The Application for Approval of the 2017-2019 Renewable Energy Compliance Plan filed by Public Service on February 29, 2016, in Proceeding No. 16A-0139E is approved as modified by the Settlement, consistent with the discussion above.

8. In compliance with this Decision, Public Service shall make advice letter filings in separate proceedings consistent with the discussion above. The tariff sheets included in these advice letter filings shall be in the form of P.U.C. No. 8-Electric Tariff.

9. By separate decision, a proceeding will be opened for the purpose of collecting and reviewing information associated with the Schedule RD-TDR pilot and the Schedule RE-TOU trial, consistent with the discussion above.

10. The amount of avoided costs associated with the Solar*Rewards programs that Public Service may recover through the Electric Commodity Adjustment is capped at the actual cost incurred for each of the Solar*Rewards programs, consistent with the discussion above.

11. To the extent that Public Service proposes to acquire additional renewable energy resources during the resource acquisition period of its pending Electric Resource Plan in Proceeding No. 16A-0396E, Public Service shall make such request in that proceeding.

12. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

13. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING November 9, 2016.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

GLENN A. VAAD

FRANCES A. KONCILJA

Commissioners

ATTEST: A TRUE COPY

Doug Dean,
Director