

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

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RE: IN THE MATTER OF ADVICE ) LETTER NO. 1712-ELECTRIC FILED ) BY PUBLIC SERVICE COMPANY OF ) COLORADO TO REPLACE ) COLORADO PUC NO. 7-ELECTRIC ) TARIFF WITH COLORADO PUC NO. 8- ) ELECTRIC TARIFF )	PROCEEDING NO. 16AL-0048E
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IN THE MATTER OF THE ) APPLICATION OF PUBLIC SERVICE ) COMPANY OF COLORADO FOR ) APPROVAL OF ITS SOLAR* ) CONNECT PROGRAM )	PROCEEDING NO. 16A-0055E
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IN THE MATTER OF THE ) APPLICATION OF PUBLIC SERVICE ) COMPANY OF COLORADO FOR ) APPROVAL OF ITS 2017-2019 ) RENEWABLE ENERGY COMPLIANCE ) PLAN )	PROCEEDING NO. 16A-0139E
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**NON-UNANIMOUS COMPREHENSIVE SETTLEMENT AGREEMENT**

August 15, 2016

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### **ATTACHMENTS**

<b>Attachment Identifier</b>	<b>Description</b>
A	Updated CCOSS
B	Settlement Revenue Proof
C	Customer Bill Impacts
D	Complete Tariff Book 8 – Clean
E	Complete Tariff Book 8 – Redline
F	Stakeholder Group Details
G	Revised Rate Case Expense Estimate
H	RESA Impact Update for Settlement

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**NON-UNANIMOUS COMPREHENSIVE SETTLEMENT AGREEMENT**

**Introduction and Identification of the Parties**

This Settlement Agreement is intended to resolve on a comprehensive basis all issues raised in three pending proceedings initiated by Public Service Company of Colorado (“Public Service” or “Company”): Proceeding No. 16AL-0048E (the Company’s Phase II Electric proceeding); Proceeding No. 16A-0055E (the Company’s application for authorization to implement its Solar\*Connect program); and Proceeding No. 16A-0139E (the Company’s 2017-2019 Renewable Energy Plan (“2017 RE Plan”)) (each a “Proceeding” and collectively the “Proceedings”). The Settling Parties, who are defined and identified below, believe that the interrelationship of the issues raised in

each of the three Proceedings has presented the opportunity to settle all three Proceedings on a global basis, and will request and support consolidation of these three proceedings by the Commission for ultimate resolution.

For purposes of this Settlement Agreement, a “Settling Party” is defined as any party that is an intervenor in any of the three Proceedings that has indicated it is joining the settlement in at least one of the Proceedings. A party is deemed a “Settling Party” for any Proceeding in which it has indicated its joinder but is an “Opposing Party” for each Proceeding in which it is an intervenor but has indicated its opposition. In the event that a party is an intervenor in a Proceeding and is indicating it is “not opposed” to the settlement of that Proceeding – *i.e.*, neither supporting or opposing – that party is a “Non-Opposing Party”. Each Settling Party agrees to the Settlement Agreement insofar as it resolves the Proceeding(s) in which the Settling Party is a party, and agrees not to oppose the Settlement Agreement insofar as it resolves any Proceeding(s) in which it is not a Party. A Non-Opposing Party to a Proceeding will not oppose the Settlement Agreement insofar as it resolves that Proceeding, and likewise agrees not to oppose the Settlement Agreement insofar as it resolves any Proceeding(s) in which it is not a Party. All Settling Parties and Non-Opposing Parties agree to support the Other Settlement Commitments and the General Provisions set out below. Public Service joins in the Settlement Agreement in its entirety.

While most parties to the three Proceedings have entered into this Settlement Agreement, it is not unanimous. Some parties are Settling Parties in one or more Proceedings but have reserved the right to oppose the Settlement Agreement’s resolution of other Proceeding(s). With one exception – specifically the Office of



Consumer Counsel – the Settling Parties have entered into settlements for each Proceeding on a comprehensive basis. The following table lists all twenty-six (26) parties to one or more of the three Proceedings. It also identifies which Proceeding(s) each Party is in, and whether the Party is joining the Settlement Agreement. If a party is listed as “joining” in the table below that means it is a Settling Party for every Proceeding it has intervened. Where applicable, the table also details whether a Party is only joining the Settlement Agreement with respect to some but not all of the Proceedings in which it is a party, in which case the table specifies the position the party is taking in each of Proceedings it has intervened. In the case of the Office of Consumer Counsel, the table also explains how it is joining the Phase II settlement on a partial basis.

<b>Intervenor</b>	<b>Phase II</b>	<b>Solar* Connect</b>	<b>2017 RE Plan</b>	<b>Settlement Position</b>
Staff of the Colorado Public Utilities Commission (“Staff”)	X	X	X	Joining
Office of Consumer Counsel (“OCC”)	X	X	X	Joining (with a special provision for Decoupling)
CF&I Steel, L.P. (“CF&I”)	X			Joining
City & County of Denver (“Denver”)	X		X	Joining
City of Boulder (“Boulder”)	X	X	X	Joining
Clean Energy Collective (“Clean Energy”)			X	Joining
Climax Molybdenum Company (“Climax”)	X		X	Joining Phase II; not opposing 2017 RE Plan
Colorado Communications and Utility Alliance (“CCUA”)	X			Joining
Colorado Energy Consumers (“CEC”)	X			Joining
Colorado Energy Office (“CEO”)	X	X	X	Joining
Colorado Independent Energy Association (“CIEA”)		X		Joining
Colorado Solar Energy Industries Association (“COSEIA”)	X	X	X	Joining
Energy Freedom Coalition of America (“EFCA”)	X	X	X	Joining RE Plan and Phase II; Non-Opposing Party for Solar*Connect

Intervenor	Phase II	Solar* Connect	2017 RE Plan	Settlement Position
Energy Outreach Colorado ("EOC")	X		X	Joining
Grid Alternatives, Inc.			X	Joining
Interwest Energy Alliance ("Interwest")		X	X	Non-Opposing Party for 2017 RE Plan & Solar*Connect
NextEra Energy Resources, LLC ("NextEra")		X		Joining
Ormat Nevada, Inc. ("Ormat")			X	Joining
Solar Energy Industries Association ("SEIA")	X	X		Joining
Southwest Energy Efficiency Project ("SWEEP")	X			Opposing Party for Phase II (has indicated that its disagreement is with some but not all substantive provisions of the Settlement Agreement in Phase II)
Sunrun, Inc.	X		X	Joining
SunShare	X	X	X	Joining Phase II; Opposing Party for Solar*Connect & 2017 RE Plan
Vail Summit Resorts ("Vail")	X			Non-Opposing Party for Phase II
Vote Solar	X	X		Joining
Walmart Stores, Inc. and Sam's West, Inc. ("Walmart")	X	X		Non-Opposing Party for Phase II; Opposing Party for Solar*Connect (indicates that it opposes QF Methodology)
Western Resource Advocates ("WRA")	X	X	X	Joining

### **Background Regarding Proceedings**

#### **I. Phase II Rate Case, Proceeding No. 16AL-0048E**

On January 25, 2016, Public Service filed Advice Letter No. 1712-Electric together with the supporting direct testimony and exhibits of six (6) witnesses. In this filing, Public Service proposed the first step in a long-term rate design overhaul centered on implementing revised base rates for all electric rate schedules with a proposed effective date of February 25, 2016,<sup>1</sup> and revising and replacing the Company's currently effective P.U.C. No. 7–Electric tariff with P.U.C. No. 8-Electric

<sup>1</sup> The Company proposed to refile the Advice Letter "after the Commission suspends this Phase II Rate Case in order to extend the procedural schedule so that rates will not be effective until January 1, 2017."

tariff. The proposed revised base rates are based on rate design principles and a Class Cost of Service Study (“CCOSS”) that allocates among customer classes the total annual revenue requirement approved by the Commission in the Company’s most recent Phase I rate case, Proceeding No. 14AL-0660E.

Specifically in the Phase II proceeding, the Company proposed instituting Grid Use Charges for residential and small commercial customers; implementing an optional Residential Demand Time-of-Use Service (“RD-TOU”);<sup>2</sup> revising the seasonal rate differential for small commercial and primary, secondary, and transmission general customers; instituting an on-peak demand charge for primary and transmission general customers; instituting a pilot Critical Peak Pricing (“CPP”) option for large commercial and industrial customers; offering a Supplemental Service to primary, secondary, and transmission general customers whose onsite generation is not as frequent or predictable as generators for whom Standby Service is intended; instituting Auxiliary Service for customers with onsite electric storage applications operating in parallel with the Company; lowering the required maximum demand to qualify Secondary General customers for the Time-of-Use Electric Commodity Adjustment (“ECA”); and closing certain existing service options to new customers as they are rendered obsolete by (or out of the scope of) the Company’s proposed long-term rate design.

By Decision No. C16-0135, adopted February 10, 2016, the Commission suspended the effective date of the Company’s tariffs for 120 days to June 24, 2016, and referred the matter to Administrative Law Judge (“ALJ”) Robert Garvey.

Following a prehearing conference held on April 7, 2016, in Decision No.

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<sup>2</sup> The Settling Parties have agreed that this pilot Schedule should be renamed as “Residential Demand - Time Differentiated Rates” or “Schedule RD-TDR”.

R16-0334-I mailed on April 19, 2016, ALJ Garvey adopted the procedural schedule, approved the intervention by right of three parties,<sup>3</sup> and granted permissive intervention to sixteen (16) parties<sup>4</sup> (collectively, “Phase II Parties”). Additionally, ALJ Garvey denied the permissive intervention request of Coal Creek Development Village, Inc. (“Coal Creek”), but granted it amicus curiae status. The procedural schedule approved included the filing of Answer Testimony by June 6, 2016, Rebuttal and Cross-Answer Testimony by July 15, 2016, stipulations or settlements by August 5, 2016, and hearings from August 10 to 23, 2016.

On May 24, 2016, pursuant to § 40-6-111(1), C.R.S. and Commission Rules 1305(c) and (e), ALJ Garvey issued Decision R16-0438-I, *sua sponte*, suspending the effective date of the tariff changes an additional ninety (90) days to September 22, 2016.

In accordance with its proposal in the original Advice Letter, Public Service filed an Amended Advice Letter on May 31, 2016, proposing to extend the tariff effective date to June 4, 2016, such that the suspension period would expire December 31, 2016, and new electric rates could go into effect on January 1, 2017.

In the Phase II proceeding, seventeen (17) parties filed answer testimony with accompanying exhibits: Boulder; Denver; Climax and CF&I jointly; CCUA; CEC; CEO; Staff; COSEIA; EFCA, EOC; OCC; SEIA; SWEEP; Vail; Vote Solar; Walmart; and WRA. Sunrun and SunShare did not file Answer Testimony in the proceeding.

To accommodate further settlement discussions and a stay of the procedural schedule, Public Service filed a Second Amended Advice Letter on July 26, 2016, with a

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<sup>3</sup> Staff, OCC, and CEO.

<sup>4</sup> CCUA; Boulder; COSEIA; Climax and CF&I jointly; Denver; EFCA; EOC; CEC; SEIA; Sunrun; SunShare; SWEEP; Vail; Vote Solar; Walmart; and WRA.

tariff effective date of August 4, 2016, and tariff suspension expiring February 28, 2017. By Decision No. R16-0698-I, ALJ Garvey vacated the remaining procedural schedule, including the hearing. He also set a prehearing conference for August 18, 2016.

## **II. Solar\*Connect, Proceeding No. 16A-0055E**

On January 27, 2016, together with the supporting direct testimony and exhibits of four (4) witnesses, Public Service filed an Application for the approval of its Solar\*Connect Program. Solar\*Connect will provide Public Service's customers the option of obtaining solar energy through a new solar resource or resources to cover some or all of their energy consumption.<sup>5</sup> Solar\*Connect is a voluntary program offered pursuant to a Commission-approved tariff. The Company proposed that customers who elect to participate pay their underlying tariff rate, pay the tariffed bill charge and receive the tariffed bill credit consisting of the ECA price for on-peak energy, plus a capacity credit. The Company proposed that if there is any excess energy generated by the new solar resources that exceeds the amount consumed by Program participants, the Company will sell the excess back to the Public Service system at the on-peak ECA plus the capacity value of the solar generation.

On March 9, 2016, the Commission deemed the Application complete and referred the matter to ALJ Jennings-Fader. In Decision No. R16-0234-I on March 21, 2016, ALJ Jennings-Fader approved the intervention by right of Staff,

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<sup>5</sup> Concurrent with the Application, Public Service filed a motion for the release of a request for proposal ("RFP") to acquire utility-scale resource(s) to supply solar energy for the Program.

OCC, and CEO, and granted permissive intervention to eleven (11) parties.<sup>6</sup>

ALJ Jennings-Fader held a prehearing conference on March 31, 2016, and set the procedural schedule, which included the filing of Answer Testimony on May 27, 2016, Rebuttal and Cross Answer Testimony on June 28, 2016, Settlement or Stipulations by July 12, 2016, and hearing from July 18 through 22, 2016. The ALJ adopted the procedural schedule in Decision No. R16-0318-I on April 12, 2016.

On May 27, 2016, nine (9) parties filed Answer Testimony: COSEIA, EFCA, OCC, SEIA, Staff, SunShare, Vote Solar, Wal-Mart, and WRA. Interwest, NextEra, Boulder, CIEA, and the CEO did not file Answer Testimony in the proceeding. Public Service filed Rebuttal Testimony, and COSEIA, Vote Solar, Walmart and WRA filed Cross-Answer Testimony as scheduled on June 28, 2016. Upon Rebuttal, the Company modified a number of Solar\*Connect provisions, which are included in the various terms set forth in the Solar\*Connect section of the Settlement terms.

In Decision No. R16-0657-I on July 14, 2106, ALJ Jennings-Fader vacated the remaining procedural schedule, including the hearing dates, to accommodate settlement discussions.

### **III. 2017-2019 Renewable Energy Compliance Plan, Proceeding No. 16A-0139E**

On February 29, 2016, Public Service filed an application for approval of its 2017 RE Plan together with the Direct Testimony and attachments of six (6) witnesses. The Company proposed a three (3)-year plan beginning in 2017 to add renewable energy to its system to meet or exceed Colorado's Renewable Energy

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<sup>6</sup> Boulder; the CIEA; COSEIA; EFCA; Interwest; NextEra; SEIA; SunShare; Vote Solar; Walmart; and WRA.

Standard (“RES”) by 2020. The Plan proposes increasing MW capacity for Public Service’s Solar\*Rewards and Solar\*Rewards Community programs, lowering costs for participation in its Windsource® program, and launching its Recycled Energy Program developed to generate energy from otherwise wasted heat or steam. The Plan also modeled incremental and avoided costs for resources not previously locked down in earlier renewable resource planning dockets, projecting that previously approved customer contribution levels to the Renewable Energy Standard Adjustment (“RESA”) would be sufficient to cover the costs charged to the RESA for the 2017 to 2019 compliance years. By operation of Commission Rule 1303(c)(III), the Application was deemed complete on April 15, 2016.

On April 8, Public Service filed a motion requesting the Commission sever the issue of REC incentive pricing levels for the Small Solar\*Rewards program and consolidate it with the Company’s 2016 Phase II Electric Rate Case (Proceeding No. 16AL-0048E).

On May 3, 2016, the Commission referred the case to ALJ G. Harris Adams by Decision No. C16-0369-I, as adopted in the Commissioners’ Deliberation Meeting on April 15, 2016. In the same decision the Commission denied the Company’s Motion to Sever and directed the Company to file Supplemental Direct Testimony. The Commission also approved the intervention by right of Staff, OCC, and CEO, and granted permissive intervention to twelve (12) parties.<sup>7</sup> In Decision R16-0442-I on May 24, 2016, ALJ Adams granted late permissive intervention to Ormat.

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<sup>7</sup> Boulder; Clean Energy; Climax; COSEIA; Denver; EFCA; EOC; Grid Alternatives; Interwest; Sunrun; SunShare; and WRA.

As directed in Decision No. C16-0369-I, Public Service filed the Supplemental Direct Testimony of a single witness on June 3, 2016.

ALJ Adams conducted a prehearing conference on June 7, 2016, and scheduled the hearing and certain procedural deadlines, including filing Answer Testimony by July 25, 2016, Rebuttal and Cross-Answer Testimony by August 25, 2016, settlements or stipulations by August 29, 2016, and hearings from September 26 through 28, 2016. The ALJ adopted these dates on June 8, 2016, in Decision R16-0487-I.

In Decision No. R16-0680-I, ALJ Adams granted an extension of the Answer Testimony deadline to August 8, 2016, to accommodate settlement discussions.

On August 2, 2016, a Joint Motion was filed by all parties to this proceeding except EFCA, OCC, and SunShare, requesting the remaining procedural schedule be vacated to allow for continued settlement negotiations. ALJ Adams granted this request and vacated the remaining procedural schedule on August 4 in Decision No. R16-0725-I.

### **Settlement of Electric Phase II Rate Case (Proceeding No. 16AL-0048E)**

#### **I. Class Cost of Service Study (“CCOSS”)**

##### **A. Modifications to the Company-proposed CCOSS**

The Settling Parties<sup>8</sup> agree that the CCOSS as proposed by the Company in Direct Testimony and corrected for errors related to the application of loss factors, which is based upon calendar year 2013 data consistent with the revenue requirement

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<sup>8</sup> The following are Settling Parties of the Settlement Agreement for Phase II: Staff, OCC (with a special provision for Decoupling), Boulder, CCUA, CF&I, Climax, CEC, CEO, COSEIA, Denver, EFCA, EOC, SEIA, Sunrun, SunShare, Vote Solar, and WRA. The following are Opposing Parties of the Settlement Agreement for the Phase II: SWEEP. The following are Non-Opposing Parties of the Settlement Agreement for the Phase II: Vail and Walmart.



approved in the Company's last Electric Phase I rate case, Proceeding No. 14AL-0660E, should be approved except as modified through this Settlement Agreement. Among other things and as proposed by the Company in its direct testimony, the Settling Parties agree that the AED-4CP methodology used to allocate fixed generation and transmission ("G&T") costs should be approved by the Commission. This is the methodology approved in the Company's 2009 Electric Phase II (Proceeding No. 09AL-299E ("2009 Phase II")) for allocating fixed generation costs. The parties also agree that the Company's proposed methodology for allocating Demand-Side Management ("DSM") costs should be approved by the Commission. If the terms of this Settlement Agreement do not modify a Company-proposed CCROSS methodology utilized to assign or allocate specific costs, then the proposed methodology is adopted. The Settling Parties believe that the CCROSS as modified by this Settlement Agreement reasonably assigns or allocates costs for use to design rates in this proceeding.

The Settling Parties agree that the CCROSS as proposed by Company in Direct Testimony will be modified with respect to the allocation of service lateral costs. As proposed by the OCC and supported by EOC, the Company has modified the CCROSS to use the methodology approved in the 2009 Phase II to allocate service lateral costs. The method approved in the 2009 Phase II uses a 2001 ratio to establish the apportionment among service lateral types and the share of these costs allocated to customer classes.

In consideration of the OCC's proposals regarding changes to the CCROSS in relation to the concepts of stratification, DSM cost allocation to the different classes, and the sales volume adjustment proxy for load changes since the last Phase I test period,

the Parties agree to modify the CCOSS study and the associated class revenue requirements as set forth in the table below. These changes will be implemented through a change to the Schedule R and C rates in each tier and season, to the demand rates for Schedules SG, PG, and TG customers, and through the fixed charges for street lighting customers. No changes will be made to the billing determinants included in the Company's CCOSS.

<b>Rate Class</b>	<b>CCOSS Class Revenue Requirement Modification</b>
R	\$(7,500,000)
C	\$(500,000)
SG	\$4,000,000
PG	\$3,500,000
TG	\$125,000
Lighting	\$375,000

Attachment A to this Settlement Agreement shows the results of the revised CCOSS to reflect the above modifications. Attachment B provides the Revenue Proof incorporating both the revised CCOSS and the agreements on Phase II pricing and tariff issues discussed in the following sections of this Settlement Agreement. Attachment C is the resulting bill impacts on typical customers of the five services schedules under which the Company provides the majority of our retail electric service.

The Settling Parties also agree that in its next Phase I electric rate proceeding, the Company will assign distribution load dispatching costs to all distribution functions rather than to only distribution substations, and investigate the need for related changes.

## **B. CCOSS Stakeholder Meetings**<sup>9</sup>

Public Service will convene an informal collaborative group of interested parties<sup>10</sup> in 2017 to discuss alternative methodologies for the classification and allocation of production plant. This collaborative group will investigate and discuss a variety of cost classification and allocation methodologies, including average and excess demand (“AED”), stratification, and others, and will discuss whether and the degree to which alternative methodologies might be reasonably employed in future Public Service Phase II rate proceedings. Participants in the stakeholder group and other future parties are free to advocate any classification and allocation methodology in future rate proceedings. The Company will provide a summary of the group’s discussions and conclusions, if any, in its next Phase II rate case.

In their Answer Testimony, CF&I/Climax raised a concern regarding the Service and Facility (“S&F”) Charges for Transmission General (“TG”) customers who have specifically assigned substation facilities and experience a permanent load reduction. The Settling Parties agree to not propose changes to the methodology for calculating the S&F charges for TG customers in this proceeding. However, the Company commits to engage with interested stakeholders, including Staff and the industrial intervenors in the Phase II proceeding, to discuss possible long-term solutions. Stakeholder meetings will be completed prior to the next Phase II rate case, with any agreed-upon changes incorporated in that filing.

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<sup>9</sup> The Settling Parties identified many issues, such as the calculation of S&F charges for TG customers, that were not necessary to resolve in this Settlement Agreement, but which the Settling Parties decided should be discussed in various Stakeholder Groups. These issues are discussed throughout this Settlement Agreement, and identified (and sometimes elaborated upon) in Attachment F.

<sup>10</sup> The Company will send the meeting invite/notice to all parties that have intervened in this Phase II proceeding.

## **II. Tariff Rates, Rules and Regulations**

The Settling Parties agree that the tariff rates, rules, and regulations in Colorado PUC No. 8 - Electric as proposed by the Company should be approved by the Commission except as modified through this Settlement Agreement. Attachment D of this Settlement Agreement is a complete set of clean tariff rates, rules and regulations that will go into effect if this Settlement Agreement is approved. Attachment E is a redline that shows how Attachment D differs from the terms, conditions, and rates that the Company originally proposed in this proceeding. Attachments H and I also contain the tariff sheets for Street Lighting Electric Service.

### **A. Auxiliary Service**

The Company withdraws its proposed Auxiliary Service. The Settling Parties agree that the Company will convene a stakeholder group to discuss whether and if so, how to potentially structure this auxiliary service. Public Service will make necessary filings to implement any changes that the Distribution Grid and Interconnection Stakeholder Group agree are needed.

### **B. Interconnection**

The Settling Parties agree that unless and until the Company's policies for interconnection and operation of customer-sited storage are further refined by the Distribution Grid and Interconnection Stakeholder group, the stakeholder group in Proceeding No. 15A-0847E, or other processes, the Company will follow the following approaches:

1. Customers with stand-alone battery interconnection are not required to have an interconnection agreement with the Company if they are in

compliance with NEC 702, obtain an appropriate safety inspection, and can provide verifiable proof that those systems are operated such that they do not serve their main electrical panel. Customers with stand-alone battery interconnections are required to have an interconnection agreement when their system is operated in parallel with the grid by serving their main electrical panel.

2. The Company will allow an energy storage system that is paired with net energy metering (“NEM”) eligible onsite renewable generation to be operated in parallel with the grid provided that (a) an interconnection review is completed; and either (b) the storage system is charged exclusively by the NEM eligible on-site generation, or (c) the customer can demonstrate the storage system will never export to the grid.<sup>11</sup>
3. The Company will allow an energy storage system to be located on the same side of the production meter as a NEM eligible onsite renewable generator provided that the storage system is charged exclusively by the onsite renewable generation and that only the production recorded by the production meter will be eligible for REC incentives.

The technical specifications to effectuate these principles will be resolved between the Settling Parties by January 1, 2017. In the event that the Settling Parties are unable to resolve the technical specifications in this timeframe, Public Service agrees to file a report with the Commission in this Proceeding by January 31, 2017, and interested parties will have the opportunity to comment on the Company’s report within 30 days.

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<sup>11</sup> The parties agree that momentary exports from the battery system will not render the customer NEM ineligible.

**C. Supplemental Service**

The Settling Parties agree that the Supplemental Service under the standard or optional three-part service schedules (to the extent customers are either required to or opt to take service under such schedules) will be implemented as proposed by the Company in its Direct Testimony with one clarification. The service schedules under which Supplemental Service is available will include a provision explaining that Supplemental Service will apply only to customers not receiving service under Schedule Net Metering (“Schedule NM”). Specifically, Supplemental Service will apply only to customers who install a distributed generation system that generates more than 120 percent of their historical total annual energy consumption measured at the time of interconnection or who elect to not take service under Schedule NM.

**D. Schedule SPVTOU**

The Settling Parties agree that Schedule SPVTOU (Secondary Photovoltaic Time-of-Use), which is applicable to electric service supplied at secondary voltage for customers who install on-site photovoltaic systems (“PV systems”) between ten (10) kW and 500 kW, will not be terminated as the Company proposed in its Direct Testimony. A revised Schedule SPVTOU will be available to new customers who are awarded capacity in the Medium Solar\*Rewards program on or after January 1, 2017. Customers on Schedule SPVTOU as of December 31, 2016, will remain eligible for service under Schedule SPVTOU at rates incorporating the current SPVTOU rate design, as will any customers who are awarded capacity in calendar year 2016 but do not have their photovoltaic system online prior to the end of 2016. Eligibility qualifications for new construction for Schedule SPVTOU where twelve (12) months of historical usage is

unavailable will be reviewed based on the submitted Electric Load forecast as part of the solar application. Discussions regarding the ability of commercial customers, such as Secondary General (“SG”) customers, to participate in voluntary renewable programs will continue as part of the Existing Voluntary Renewable Programs Stakeholder Group as described in Attachment F. Participation in Schedule SPVTOU after January 1, 2017, will be capped by the approved annual capacity for the Solar\*Rewards medium program. The Settling Parties agree that in the event in a calendar year the Company has new participants in the SPVTOU tariff totaling 36 MW in aggregate service demand, the Company will temporarily suspend the SPVTOU tariff<sup>12</sup> to new entrants and convene a meeting of the Existing Voluntary Renewable Stakeholder Group to discuss the issue and seek a resolution. All demand based riders to the SPV-TOU schedule shall be designed using the 2pm-6pm G&T demand charge structure in the SPV-TOU schedule.

**E. Elimination or Closing of Existing Service Schedules**

The Settling Parties agree with the Company’s proposals in its direct case with respect to the restriction/elimination/closing of Schedules STOU (Secondary Time-of-Use), PTOU (Primary Time-of-Use), TTOU (Transmission Time-of-Use), and SGL (Secondary General Low- Load Factor) except as modified below:

1. Schedule STOU will be closed to new customers as of January 1, 2017. For existing customers on Schedule STOU, the Company will continue to offer Schedule STOU through 2022. Schedule STOU will expire on January 1, 2023, unless the Commission explicitly extends it.

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<sup>12</sup> In the event that the suspension occurs prior to the fourth quarter of the year, the Stakeholder group will work to resolve the issue within a 60 day period.

2. Schedule PTOU will be closed to new customers as of January 1, 2017. For existing customers on Schedule PTOU, the Company will continue to offer Schedule PTOU through 2022. Schedule PTOU will expire on January 1, 2023, unless the Commission explicitly extends it.

### **III. Other Pricing Issues**

#### **A. Company Pricing Proposals Adopted in Settlement Agreement**

The Settling Parties expressly acknowledge that the service schedules included in Attachment D reflect agreement to implement the following pricing elements as proposed by the Company in its direct case:

- The seasonal rate differentials for Schedule SG and Schedule PG G&T Demand Charges.
- The period over which the billing demands applicable to the G&T Demand Charge will be determined.
- The 50% distribution demand ratchet for Schedule SG and Schedule PG, as approved by the Commission in the 2009 Phase II rate case.

#### **B. Grid Use Charge – Residential and Energy-Only TOU Rates**

In consideration for the compromises reached in this Settlement Agreement relating to all three Proceedings, the Company withdraws its proposed Grid Use Charge for Schedule R. The Settling Parties agree that the Company should initiate a trial Residential energy-only time-of-use (“TOU”) rate under a new Schedule Residential TOU (“RE-TOU”). The methodology and timeline for Schedule RE-TOU is described in Section IV of this Settlement Agreement. In accepting this proposal, the Settling Parties



also recognize the policy value of an appropriately designed Decoupling Mechanism. See Section VI of this Settlement Agreement regarding Decoupling.

**C. Grid Use Charge - Commercial**

The Company also withdraws its proposal regarding the Grid Use Charge for the small commercial service (Schedule C) in consideration for the compromises reached in this Settlement Agreement. The Settling Parties agree that Schedule C energy charges will be based on the Optional Energy Charges and lower Service and Facilities (“S&F”) charge proposed by the Company in Direct Testimony (Direct Testimony of Steven W. Wishart, Attachment SWW-2). These proposed rates will be revised as necessary to reflect the changes to the CCOSS explained above in Section I. Please see Section VIII below regarding a pilot for the Schedule C customers.

**D. Generation and Transmission Charges for TG Customers**

The Settling Parties agree that the Company’s proposed time-based assessment of G&T demand charges for Schedule TG warrants further collaboration. Thus, the Company withdraws its mandatory time-based assessment for Schedule TG at this time and agrees to continue to work with TG customers to move such a concept forward in the future. To facilitate such progress, the Company agrees to meet with interested parties prior to the next Phase II rate case to achieve the goal of providing Schedule TG customers additional information regarding the impacts of the time-based demand charge assessment.

**E. Schedule NM Customers**

The Settling Parties agree that customers who receive service under Schedule NM (Net Metering), regardless of whether they are participating through Solar\*Rewards, will have equivalent treatment to comparable Solar\*Rewards customers regarding base rate design. Public Service will not propose prior to the next Phase II rate case any new tariff that would alter this treatment. Public Service further agrees to cease sending the notification letters concerning the possibility of future tariff changes to customers who elect to participate in net metering, but not through a Solar\*Rewards program.

**IV. Residential Energy-Based TOU Base Rates and the Electric Commodity Adjustment (“ECA”)**

The Settling Parties agree that the Commission should consider whether to authorize Public Service to implement energy-based TOU rates for all residential customers. This Section IV discusses the implementation of an RE-TOU trial to study and analyze whether residential energy-based TOU rates should be implemented for all residential customers.

The Settling Parties agree to the Schedule RE-TOU on a trial basis and timeline of implementation for this trial as set forth below.

**A. Rate Structure for RE-TOU Trial**

**1. Time Periods**

The trial Schedule RE-TOU features an energy-based TOU rate design with three periods. To promote customer understanding, the Settling Parties agree that the time periods should not vary by season. The time periods included in the trial Schedule RE-TOU are as follows:

On Peak: 2 PM through 6 PM (weekday, non-holiday)  
Off Peak: 9 PM through 9 AM  
Shoulder: All Other Hours

## **2. Summer/Winter Differential**

Just as the Company's current tiered rates are higher in the summer, the energy-based Trial Program's RE-TOU rates will be higher in the summer than in the winter. The Summer period is defined as June 1 through September 30, and the Winter period is defined as all other months.

## **3. Proposed Rates**

The Proposed Rates are as follows:

	<u>Summer</u>	<u>Winter</u>
On Peak:	\$0.13814	\$0.08880
Shoulder:	\$0.08420	\$0.05413
Off Peak:	\$0.04440	\$0.04440

These Proposed Rates are for base rates only and do not include riders and other charges that will be in addition to the Proposed Rates shown above.

## **B. Implementation of the RE-TOU Trial Program**

### **1. Timeframe**

The trial Schedule RE-TOU rates will be effective and available to residential customers commencing January 1, 2017,<sup>13</sup> for any customer on Schedule R whose

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<sup>13</sup> There is a possibility that the availability of Schedule RE-TOU and RD-TDR may be delayed beyond January 1, 2017 due to software programming by the Company. In the event that this occurs, the promotion of both Schedule RE-TOU and RD-TDR will be delayed and made available to customers simultaneously. The Company will endeavor to complete the software programming and implement these changes as expeditiously as possible.

existing meter is exchanged for either (1) “a bridge meter”<sup>14</sup> or (2) an advanced grid meter (as defined and provided below in subsection B.8).

Public Service has made a filing, the Advanced Grid Intelligence and Security Application (“AGIS Application”) in Proceeding No. 16A-0588E, to implement advanced metering infrastructure in its service territory. This proposed metering infrastructure change would enable full deployment of the energy-based TOU rate design across the entire Residential class if approved by the Commission. As proposed in the Company’s AGIS Application, it is anticipated that the roll-out of advanced metering to all residential customers will begin in the fourth quarter of calendar year 2018 and be completed in late 2021. Although several provisions of this Settlement Agreement reference Public Service’s AGIS Application, this Settlement Agreement should not be construed as presupposing the Commission’s approval of that application or indicating any of the Settling Parties’ position on that filing. The Settling Parties are free to take any position they deem appropriate regarding the AGIS Application. In the event that the Commission does not approve the Company’s AGIS Application, the Company will file an Advice Letter to amend Schedule RE-TOU to close the schedule to new customers after December 31, 2019. In the event of this occurrence, the Company will also commence discussions in the Existing Voluntary Renewable Program stakeholder group regarding how to migrate existing customers on Schedule RE-TOU that also are subject to Schedule NM to other tariffs.

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<sup>14</sup> “Bridge meter” is defined and discussed further below.

## ***2. Commission Consideration for Transition from RE-TOU Trial Program to Final RE-TOU Schedule for All Residential Customers***

The Parties and the Commission will analyze and study the results of the trial contemporaneously with the filing of the Company's Advice Letter for a final Schedule RE-TOU for all residential customers. If the results warrant that the trial should be transitioned to all residential customers, then the Settling Parties propose to undertake several steps in order to ensure a successful implementation of the final Schedule RE-TOU schedule to all of Public Service's 1.2 million residential customers and ensure residential customers are well-informed. These steps are conditioned on Commission approval of the AGIS Application and the final Schedule RE-TOU Advice Letter discussed below.

First, prior to the Commission consideration for transition of all residential customers to final Schedule RE-TOU, the parties believe it would be informative to have a voluntary and early recruitment of diverse trial participants participating on the trial Schedule RE-TOU schedule who are representative of the residential population.

Second, the Company's Advice Letter for a potential final RE-TOU rate schedule will utilize all data gathered from the trial participant group up to five months before the Company's Advice Letter to inform its final Schedule RE-TOU Advice Letter filing. The stakeholders will convene to analyze and discuss the data and the trial participants' response prior to the filing of the final Schedule RE-TOU Advice Letter filing. Pursuant to the Pilot and Trial Program Stakeholder Group detailed in Attachment F, parties shall have access to data regarding the trial in advance of the Advice Letter filing.<sup>15</sup> The final

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<sup>15</sup> This stakeholder group will receive similar information on the RD-TDR pilot, described below.

Schedule RE-TOU Advice Letter filing is discussed in further detail in Section IV.B.7 of this Settlement Agreement.

Third, the parties believe it is reasonable that prior to implementation of final RE-TOU rates for all residential customers, Public Service shall file an Advice Letter (a final “Schedule RE-TOU Advice Letter filing”) for at least three reasons: (1) to provide the Commission, Public Service, and stakeholders a decision point as to whether Schedule RE-TOU should become the rate for all residential customers based on the efficacy of the initial design of Schedule RE-TOU rate structure on different residential customer demographics, specifically including low-income customers; (2) to provide an opportunity to revise Schedule RE-TOU; or (3) to discontinue Schedule RE-TOU.

### ***3. Number of Voluntary Trial Participants***

As a goal for participation, the target number of voluntary participants for enrollment in the Trial Schedule RE-TOU rate is the same number of customers as in the Schedule RD-TDR (Residential Demand – Time Differentiated Rates) pilot, which is 10,000 in 2017, 14,000 in 2018 and 18,000 in 2019 of cumulative participation by year. The Schedule RD-TDR pilot is explained in further detail below in Section VII of this Settlement Agreement. The participation goals and caps for the RD-TDR pilot and the RE-TOU voluntary trial participant levels are cumulative, and are summarized below:

	<b>2017</b>	<b>2018</b>	<b>2019</b>
RD-TDR Participation Goal	10,000	14,000	18,000
RD-TDR Participation Cap	10,000	14,000	18,000
RE-TOU Participation Goal	10,000	14,000	18,000
RE-TOU Participation Cap	10,000	20,000	30,000

Public Service will pursue similar budgets, marketing opportunities, participant characteristics, and goals for participation of voluntary trial participants in the Schedule RE-TOU service as the Schedule RD-TDR pilot.

#### ***4. RE-TOU Trial Participants***

The Company will seek voluntary participants in the trial Schedule RE-TOU to determine whether a final RE-TOU rate for all residential customers is prudent and in the public interest. Additionally, the trial will provide an opportunity for: (1) adequate educational materials to be prepared; (2) testing the impact of the trial RE-TOU rate differentials and pricing time periods; and, (3) testing the trial RE-TOU rate with existing and new DSM or energy efficiency tools, including special offers enabling information technology such as control and price/usage feedback devices and software for Schedule RE-TOU trial participants. Specifically, at a minimum, Public Service commits to promoting programmable thermostats as available through our DSM program to any residential customer that goes on the new Schedule RE-TOU service or pilot Schedule RD-TDR, including offering an incentive (rebate) on the smart thermostat under its DSM programs. Public Service commits to working with the stakeholders to recruit a representative and diverse group of residential customers to be trial participants in order to minimize the self-selection bias as discussed in Attachment F.

#### ***5. Low-income Trial Participants***

Up to 500 low-income residential customers will also be actively recruited to participate in the voluntary RE-TOU trial group described above. This will provide an opportunity to understand how this rate design works for this subset of customers. Recognizing these customers are a protected customer class under the Colorado

Utilities Law and the benefits of obtaining information on how TOU rates impact low-income customers, a “hold harmless” provision is instituted for this subset of customers. The “hold harmless” provision would allow low-income trial participants to pay the lower of their monthly bills determined under Schedule R and trial Schedule RE-TOU. If a low-income customer’s bill under Schedule R is less than the bill under Schedule RE-TOU, then this dollar difference will be deferred and collected later through residential rates from the entire residential customer class. A low-income customer will be charged the Schedule RE-TOU rate, but will receive a bill credit on the current or subsequent bill for any amount that exceeds what the customer would have been charged under Schedule R. Low-income voluntary trial participants will be clearly notified at the commencement of their service under Schedule RE-TOU, and again on their bills, as to how this credit will work and the difference between the billings under the two tariffs. For the purposes of any approved Decoupling Mechanism, the calculated Schedule RE-TOU rates will be utilized while the “hold harmless” provision of the trial is in place.

#### ***6. Bridge Meters for the RE-TOU Trial:***

The metering that is currently in place for residential customers is not capable of time-of-use billing. For voluntary trial participants, Public Service will install a “bridge meter” that would allow the Company to measure and bill a customer’s monthly electric usage under Schedule RE-TOU prior to such time that the advanced meter is installed and/or the Commission has issued a decision in the final Schedule RE-TOU Advice Letter filing described below. Trial participants would have the right to withdraw from the Trial RE-TOU tariff up to the end of the sixth billing cycle. The additional metering costs attributable to the bridge meter will be recovered through the S&F Charge assessed to



voluntary RE-TOU trial participants, subject to the hold harmless provision for low-income trial participants, discussed above.

### ***7. Final Schedule RE-TOU Advice Letter Filing:***

On December 2, 2019<sup>16</sup>, Public Service will file with the Commission an Advice Letter including the results of its analysis regarding participation in the Trial Schedule RE-TOU, along with all underlying data. This final Advice Letter is intended to inform the Commission 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. The Advice Letter will specifically address the evaluation of the impact of Schedule RE-TOU on low-income participants. All parties reserve their rights to take any position in the Advice Letter proceeding, including on the low-income issues raised therein and/or the presented materials and recommendation of Public Service. Additionally, parties may offer other recommendations as related to the final Schedule RE-TOU Advice Letter filing, including but not limited to: discontinuing Schedule RE-TOU, modifying the Schedule RE-TOU, grandfathering of RE-TOU rate designs for trial participants, and implementing a net metering offset credit approach for those trial participants that are net metered. In the event of a Commission decision approving a final Schedule RE-TOU Advice Letter, all residential customers with adequate metering to bill the approved Schedule RE-TOU rates will be transitioned to that service schedule as of the customer's next billing cycle if practical, or no later than the billing cycle subsequent to

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<sup>16</sup> This requirement to file an Advice Letter on Schedule RE-TOU is moot if the Commission denies the AGIS application. If the AGIS Application is denied, the Company shall provide a final set of data, analysis, and results from both the RD-TDR pilot and the RE-TOU to the Pilot and Trial Program Stakeholder Group. This analysis shall include an evaluation of the impact of each rate design on low income customers.

the next billing cycle. The Settling Parties recognize that the Commission has the right to deny the Advice Letter which at a minimum closes Schedule RE-TOU.

***8. Advanced Meters:***

Under the anticipated timeline for advanced meter installations, Public Service will begin installing meters in the third/fourth quarter of 2018, provided that the Commission approves Public Service's AGIS Application. To allow sufficient time to gather data and process such data for an informed final Schedule RE-TOU Advice Letter filing, the Company will offer, as discussed above, the trial Schedule RE-TOU on a voluntary basis prior to the Company's proposed advanced meter deployment pursuant to its AGIS Application and as described in this Settlement Agreement. In addition, some customers may receive their Advanced Meters prior to the Commission's decision on the final Schedule RE-TOU Advice Letter. The parties agree that these customers should also be moved to the trial Schedule RE-TOU prior to a Commission decision regarding the final Schedule RE-TOU Advice Letter, and be afforded an opt-out during their first six billing cycles, but prior to the end of the seventh billing cycle. If a customer opts-out of the trial Schedule RE-TOU rate prior to a Commission Decision on the final Schedule RE-TOU Advice Letter and after their Advanced Meter deployment, such customer will remain on Schedule R or an alternative residential service schedule; however, the customer will continue to pay the S&F charge in Schedule RE-TOU to cover additional metering costs attributable to the Advanced Meter.

Customers, who do not migrate to the trial Schedule RE-TOU or the Schedule RD-TDR pilot between January 1, 2017, and the installation of their advanced meter, will remain on Schedule R as set forth above.

The S&F Charge for trial Schedule RE-TOU includes recovery of the additional metering costs explained above and \$330,000 of estimated one-time programming and billing expenses for both the RE-TOU and RD-TDR implementation. Any additional programming and billing costs of implementing the RE-TOU and RD-TDR services as explained above shall be treated as miscellaneous trial program/pilot expenses eligible for deferred accounting and recovery in a subsequent proceeding, as explained in more detail below.

#### ***9. Other Issues related to the Implementation of Schedule RE-TOU***

The following items are other issues related to the implementation of Schedule RE-TOU:

- The Settling Parties agree that the tiered rate structure and rate differential for residential customers remain as proposed by the Company in Schedule R. Customers not yet moved to Schedule RE-TOU will remain on the revised Schedule R as described above.
- In order to simplify a residential customer's ability to track their energy periods, the Settling Parties agree that a TOU ECA should be assessed on Schedule RE-TOU customers. The Company agrees to work to implement an ECA that has an off-peak period defined consistently with the off-peak period designated for Schedule RE-TOU.

#### **V. Net Metering Considerations**

In light of the agreements reached regarding the Electric Phase II and RE Plan issues, the Settling Parties agree that changes to when a production meter is required

and how excess energy is treated for Schedule NM customers are necessary. As such, the Settling Parties agree as follows:

**A. Production Meters:**

Customers included under the Company's Solar\*Rewards programs are governed by applicable terms of the voluntary PV and NM tariffs. Under such tariffs, Solar\*Rewards customers are required to pay for applicable production meter costs as approved by the Commission.<sup>17</sup> Customers not participating in the Solar\*Rewards programs but taking service under Schedules PV and NM will also be subject to production metering; however, in recognition that such meters are not necessary for the tracking of production based incentives, the cost of those production meters will be assessed to the Company and funded through the RESA account.

**B. Excess Energy Treatment:**

Under a TOU-based rate design, it is feasible to measure customer consumption and customer renewable energy production within TOU time periods. The parties agree that within a monthly billing period, netting of customer renewable energy production and customer consumption inside of the TOU time periods is appropriate. This will allow, for example, customer renewable energy production in the On Peak time period to offset customer consumption within this same time period. However, the question of how to compensate customers for any monthly excess energy production needs to be addressed. With respect to monthly excess energy, § 40-2-124(1)(e)(I)(B), C.R.S., states a customer is able to make a one-time election regarding how he or she is

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<sup>17</sup> See Decision R14-0902 in Proceeding No. 13A-0836E, R12-0261 in Proceeding No. 11A-418E and tariff approval through Proceeding 15AL-0120E.

credited for excess energy. A customer may either elect to (1) roll such monthly excess energy forward to offset future monthly bills in perpetuity (the “Roll Over Option”) or (2) accumulate such monthly excess energy from month-to-month, and to the extent that any remains at the end of the year, the customer will be compensated at the Average Hourly Incremental Cost (“AHIC”) (the “Cash Out Option”). Current customers that have enrolled in net metering have already made this selection and new customers will continue to make this selection.

Commission Rule 3664(b) requires monthly excess energy generation to be credited against a customer’s next month’s bill on a one-to-one basis. However, a TOU rate structure assigns different values to kilowatt-hours (“kWhs”) based on the time of energy generation and consumption. Parties agree that a one-to-one retail credit for monthly excess generation may be achieved consistent with a TOU rate approach through one of two approaches, depending on whether a customer elects the Roll Over Option or the Cash Out Option. Accordingly, on a going forward basis under a TOU rate design, the Settling Parties agree that the following approach should be adopted for all net metering customers, new and existing.

### ***1. Roll Over Option***

For any Customer who is net metered and on a service schedule featuring time-differentiated base energy charges, the Company will track the Customer’s excess energy by the time period that the energy was generated (On Peak, Shoulder, or Off Peak, as applicable). A Customer’s excess energy by billing period will then be multiplied by the prevailing total energy rate (base energy rate plus riders assessed on a per-kWh basis) for the same time period that the excess energy was generated (On Peak, Shoulder, Off Peak, as applicable) to determine a dollar credit. This credit will

then be used to offset the Customer's bill for retail electric consumption, except for the Service and Facilities charge. To the extent that a remaining credit exists, it will roll from Month-to-Month in perpetuity until the Customer leaves the premise. The implementation of this Roll Over Option is dependent on a customer's service schedule:

- a. Schedule R, Schedule C, Schedule SG, Schedule PG, and Schedule TG – A customer's excess energy credit will be calculated by multiplying the prevailing monthly base energy rate by the excess energy generated (in kWh) in that month.
- b. Schedule RE-TOU and Schedule SPVTOU – A customer's excess energy will be multiplied by the prevailing base energy rate for the time period that the excess energy was generated (On Peak, Shoulder, or Off Peak as applicable) by the excess energy generated (in kWh) during that time period.

## ***2. Cash Out Option***

For any Customer who is net metered and on a service schedule featuring time-differentiated base energy charges, the Company will track the Customer's excess energy by the time period that the energy was generated (On Peak, Shoulder, or Off Peak, as applicable). Inside of a billing period, excess On Peak energy may be utilized to offset either Shoulder or Off Peak energy, and excess Shoulder energy may be utilized to offset Off Peak energy. Across billing periods, the Company will first apply accumulated excess On Peak energy to the On Peak period if the Customer has On Peak net consumption, then apply any remaining excess On Peak energy to the Shoulder Energy or Off Peak energy, as applicable. Shoulder energy will first be applied

to Shoulder Month consumption, then applied to Off Peak consumption. At the end of the Year, any remaining excess energy shall be compensated at the Average Hourly Incremental Cost (“AHIC”). The implementation of this Cash Out Option is dependent on a customer’s service schedule:

- a. Schedule R, Schedule C, Schedule SG, Schedule PG, and Schedule TG – No changes will be implemented to how customers are currently being provided compensation for excess energy.
- b. Schedule RE-TOU, Schedule RD-TDR, and Schedule SPVTOU– Public Service will accumulate the customer’s excess energy credit as it pertains to the time period that the energy was generated (On Peak, Shoulder, or Off Peak). In the month the energy is generated, excess On Peak energy generation at the end of the month will be utilized to offset Shoulder consumption first then Off Peak energy consumption second. Excess Shoulder energy generation at the end of the month will be utilized to offset Off Peak energy. Across months, Public Service will first apply excess On Peak energy from the prior month (or months) to the On Peak period in the event that the customer has On Peak net consumption before applying such excess On Peak energy to the Shoulder net consumption. The same will apply to excess Shoulder month energy: across months it will first be applied to Shoulder net consumption prior to being applied to Off Peak net consumption. At the end of the year, to the extent any excess kWhs remain, such excess energy shall be compensated at the AHIC.

Rule 3664(b) was adopted at a time that did not contemplate TOU rates. The Settling Parties, however, believe this approach is consistent with § 40-2-124(1)(e)(I)(B), C.R.S. Accordingly, to implement this provision, the Settling Parties agree to seek a waiver of Commission Rule 3664(b).

## **VI. Decoupling**

The Company has proposed a decoupling mechanism for its residential (Schedule R) and small commercial (Schedule C) customers in Proceeding No. 16A-0546E. For purposes of this proceeding and this Settlement Agreement, the Company is agreeing to: (1) withdraw the Grid Use Charge proposal, (2) implement Schedule RE-TOU, and (3) expand the capacity in the RE Plan beyond that originally offered in the Company's Direct Testimony. In consideration for these agreements, while not necessarily agreeing with the Company regarding the reasons a decoupling mechanism may be appropriate for residential (Schedule R) and small commercial (Schedule C) customers, the Settling Parties who are joining this Phase II settlement agreement in its entirety agree not to oppose the principle that the Company should be permitted to have some form of a decoupling mechanism in place for its residential (Schedule R) and small commercial (Schedule C) customers for a period of time, the duration of which will be determined in Proceeding 16A-0546E.<sup>18</sup> However, the Settling Parties are free to take any other position they deem appropriate regarding the form and mechanics of the decoupling mechanism including, but not limited to, positions on how such a mechanism should be implemented, how it should be structured, appropriate rate levels, and

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<sup>18</sup> The limitation set out in the Decoupling section shall not apply to the OCC, which has retained the right to advocate any position regarding the Company's proposed revenue decoupling application including denial of the Company's application.



appropriate terms and conditions for the mechanism. The Settling Parties are also free to take any position they deem appropriate regarding the broader implications of the existence of such a mechanism on how the Company is regulated and its rates are set. For example and without limitation, the Settling Parties are free to argue whether the existence of such a mechanism changes the level of risk borne by the Company and whether such a change should be reflected in the determination of the reasonable return on equity for Public Service. Finally, Settling Parties are free to take any position they deem appropriate on whether decoupling should be implemented for any other customer class.

## **VII. Pilot Program for Residential Customers**

The Settling Parties agree that Public Service shall implement the Schedule Residential Demand - Time Differentiated Rate (“RD-TDR”) Pilot, which was originally named the RD-TOU pilot in the Company’s Direct Testimony, as modified below in this Settlement Agreement. The Settling Parties agree to the rate and implementation of Schedule RD-TDR Pilot as described below. By agreeing to the Schedule RD-TDR pilot, the Settling Parties are not expressing support for the rate designs being tested through that pilot. The Settling Parties can express opposition to the tested rate design in any stakeholder group meeting related to a long-term rate design or in any Commission proceeding.

### **A. Grid Use Charge**

Effective January 1, 2017, the Schedule R-TDR pilot will be implemented as proposed in the Company’s Direct Testimony except that the Grid Use Charge will be converted into an around-the-clock demand charge to recover the same costs included

in the proposed Grid Use Charge. Attachment D to this Settlement Agreement provides a clean version of the tariff modified from the Company's direct case as specified above.

**B. Pilot Costs**

The S&F Charge assessed on RD-TDR customers will collect the incremental metering costs of the service and \$330,000 of one-time programming and billing costs for both the RD-TDR and RE-TOU implementation. Any additional programming and billing costs of implementing the RD-TDR and RE-TOU service as explained above shall be treated as rate-case expenses eligible for deferred accounting and recovery in a subsequent proceeding, as explained in more detail below.

**C. Self-Selection Bias**

As part of the Pilot Stakeholder process more fully described below and in Schedule B, the Settling Parties agree to collaborate and determine prior to December 31, 2016 adequate methods to mitigate self-section bias with respect to participation in not only the Schedule RD-TDR pilot but also the participation in the Schedule RE-TOU trial.

**D. Size of Pilot**

The participation pool of customers for the Schedule RD-TDR pilot is unchanged from Public Service's Direct Testimony and the cumulative participation by year is detailed in the table below for convenience. Public Service will pursue similar budgets, marketing opportunities, participant characteristics, and goals for participation in the Schedule RE-TOU trial as the Schedule RD-TDR pilot.

	2017	2018	2019	2020	2021
Cumulative Number of Participants	10,000	14,000	18,000	18,000	18,000

**E. Reporting**

Public Service will submit a study and evaluation plan by November 15, 2016, in this proceeding. Additionally, Public Service will institute a stakeholder group, the Pilot Stakeholder Group, to review the implementation, testing and evaluation plans, and information received as part of this pilot over the course of testing. The Pilot Stakeholder Group is detailed further in Attachment F to this Settlement Agreement.

**F. Sunset/Termination of Pilot**

The Schedule RD-TDR pilot will end January 1, 2022, unless explicitly otherwise changed by the Commission.

**G. Low-Income Participation**

Up to 500 low-income residential customers will also be actively recruited to participate in the Schedule RD-TDR pilot described above. This will provide an opportunity to understand how this rate design works for this subset of customers. Recognizing these customers are a protected customer class under Colorado utility law and the benefits of obtaining information on how demand rates impact low-income customers, a “hold harmless” provision is instituted for this subset of customers. The “hold harmless” provision would allow low-income participants to pay the lower of their monthly bills determined under Schedule R and Schedule RD-TDR. If a low-income customer’s bill under Schedule R is less than the bill under Schedule RD-TDR, then this dollar difference will be deferred and collected later through residential rates. A low-income customer will be charged the Schedule RD-TDR rate, but will receive a bill credit on the current or subsequent bill for any amount that exceeds what the customer would have been charged under Schedule R. Low-income participants will be clearly notified

at the commencement of their service under Schedule RD-TDR, and again on their bills, as to how this credit will work and the difference between the billings under the two tariffs. For the purposes of any approved Decoupling Mechanism, the calculated Schedule RD-TDR rates will be utilized.

#### **H. Participation:**

Public Service commits to implement marketing and encourage participation in the Schedule RD-TDR pilot and Schedule RE-TOU trialgroup on an equal basis. Public Service will strive to achieve equivalent participation levels of the Schedule RD-TDR pilot and the Schedule RE-TOU trial, to the extent possible. Pilot participants would have the right to withdraw from the Schedule RD-TDR pilot prior to the end of the seventh billing cycle.

### **VIII. Pilot Program for Commercial Customers**

The Settling Parties agree that a pilot program for “Commercial class” customers similar to that being proposed for the Residential customers is not appropriate at this time. However, because there may be merit in testing other rate design methods for the Commercial class, the Settling Parties agree to include this issue in the Pilot Stakeholder group discussions. Public Service may bring such a pilot to the Commission prior to the next Phase II rate case.

### **IX. Street Lighting Issues**

The Settling Parties agree that the Company’s proposed Tariff R141, which concerns attachments to the Company’s Street Light facilities, be deemed approved as revised in Attachment D to this Settlement Agreement. The Company agrees to

withdraw proposed Tariffs R142 and R143 regarding the relocation and removal of street light facilities, respectively.

#### **X. Revenue Requirement Issues**

The Settling Parties agree that the rate revenue level to be allocated in this proceeding is comprised of the revenue requirement of \$1,558,026,498 approved in the last Electric Phase I rate case, Proceeding No. 14AL-0660E, plus the costs associated with Public Service's Electric Affordability Program ("EAP") of \$4,000,000, for a total of \$1,562,026,498. This \$4,000,000 of EAP expenses is currently being collected through the General Rate Schedule Adjustment. The Settling Parties agree that the costs associated with the Company's Electric Affordability Program is a valid utility cost that is appropriate for continued recovery through base rates.

The Settling Parties also agree that Public Service will defer its actual rate case expenses for recovery in the next Electric Phase I rate case. All actual expenses are deemed eligible for recovery. Public Service will defer and track the actual costs in an accounting asset without interest until they are included for recovery in the next Electric Phase I rate case. In the next Electric Phase I rate case, parties will be free to challenge the recovery of these amounts and the manner in which those amounts may be recovered to the extent Public Service incurred those amounts imprudently or the recovery as proposed by the Company would be unjust or unreasonable. Attachment G provides an updated Phase II Rate Case Expense estimate as of August 1, 2016.

#### **XI. Colorado PUC No. 8 - Electric**

The Company's existing Colorado PUC No. 7 – Electric became effective on May 5, 1997, and has been altered by approximately 450 Advice Letters over the last

twenty (20) years. Following an evaluation of Colorado PUC No. 7 – Electric, Public Service in its Direct Filing proposed to replace Colorado PUC No. 7 – Electric with Colorado PUC No. 8 – Electric. The Settling Parties support approval of Colorado PUC No. 8 – Electric, as set forth in Attachment D.

### **Settlement of Solar\*Connect Application (Proceeding No. 16A-0055E)**

#### **I. General**

The Settling Parties<sup>19</sup> agree that the Commission should authorize Public Service's Solar\*Connect Program, and allow the issuance of the RFP necessary for Public Service to acquire the solar resource(s) for that program. The terms of the Program shall be as set out in Public Service's direct and rebuttal cases, unless expressly modified through this Settlement Agreement. As part of the settlement provisions, the program name will be changed to Renewable\*Connect and shall be referred to as Renewable\*Connect throughout the remainder of this Settlement Agreement.

#### **II. Size of the Program**

The new solar resource or resources acquired for the Renewable\*Connect Program shall not exceed fifty (50) MW (nameplate rating).

#### **III. Potential Future Renewable\*Connect**

In the event that in the future Public Service wishes to expand Renewable\*Connect to include more than fifty (50) MW of resources, it must file an

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<sup>19</sup> The following are Settling Parties of the Settlement Agreement for Solar\*Connect: Staff, OCC, Boulder, CEO, CIEA, COSEIA, NextEra, SEIA, Vote Solar, and WRA. The following are Opposing Parties of the Settlement Agreement for Solar\*Connect: SunShare and Walmart. The following are Non-Opposing Parties of the Settlement Agreement for Solar\*Connect: EFCA and Interwest.

application with the Commission to obtain its authorization. All parties are free to take any position regarding such future application or applications. Furthermore, Public Service is committing to exploring future Renewable\*Connect alternatives or complements through the Future Voluntary Renewable Programs Stakeholder process that would potentially combine Windsource® and Renewable\*Connect.

#### **IV. Subscription Issues**

##### **A. Capacity:**

Each customer subscribing to Renewable\*Connect may subscribe up to 100 percent of its annual energy consumption translated to a kilowatt basis. No one customer may subscribe to more than ten (10) percent of the total Renewable\*Connect capacity. In addition, a corporate entity with multiple premises cannot subscribe to more than forty (40) percent of the total Renewable\*Connect capacity, and each corporate premise is limited to an allocation not to exceed 100 percent of that premise's energy consumption.

##### **B. Term:**

Participation may be under any one of three (3) terms – month to month, five (5) years or ten (10) years.

##### **C. Initial Subscription Availability:**

Public Service will limit the availability of the initial Renewable\*Connect offering to Residential and Commercial Service level customers for the first eight (8) weeks of the Program offering. After that period, Public Service will make the remaining capacity available to all retail customers throughout its service territory.

**D. Transferability:**

A customer subscribing to Renewable\*Connect may transfer its subscription associated with a current premise to a new premise provided that the following conditions are met:

1. The new location is within Public Service's service territory;
2. The subscription does not exceed 100 percent of the customer's load at the new location;
3. Should the subscription exceed the load of the new location, the customer will pay a pro-rata portion of the penalty that applies for early termination, calculated using the percentage decrease in the subscribed amount multiplied by the full penalty amount for the customer; and,
4. The original subscription term will continue to apply to the transferred subscription.

**V. Renewable Energy Credits ("REC")**

**A. Certification:**

Public Service will certify RECs associated with the energy under the Program via Green-e.

**B. Retirement:**

Renewable\*Connect subscribers may choose one of the following two options for how the RECs will be handled on their behalf:

1. Public Service will retire RECs on the customer's behalf allowing the customer to claim the environmental attributes associated



with its subscription; or

2. The customer may elect to have Public Service transfer RECs to a subscriber's Western Renewable Energy Generation Information System ("WREGIS") account commensurate with their subscription. Any customer electing to take possession of the RECs must register with WREGIS and assume the financial obligations under WREGIS associated with RECs in their account.

## **VI. Bill Charges**

The Renewable\*Connect Bill Charge shall include: (1) the cost of the resource in the Purchase Power Agreement ("PPA") as executed by Public Service; (2) Solar Integration costs as updated through the 2016 Electric Resource Plan in Phase I; and (3) the Program's administrative costs, marketing, and IT costs. The Bill Charge shall be updated on an annual basis to reflect changes in PPA charges, Program administration costs, and IT costs. The risk factors applied to each of the terms will remain as proposed by the Company in its rebuttal case.<sup>20</sup> In each annual Advice Letter the Company will represent the respective cost allocation associated with the program cost to the respective tariff term offering.

## **VII. Bill Credit**

The Renewable\*Connect Bill Credit will be calculated using a Qualifying

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<sup>20</sup> Direct Testimony of Steven W. Wishart page 18 line 14 through page 19 line 13 and Rebuttal Testimony of Steven W. Wishart page 19 line 9 through page 20 line 5.

Facility (“QF”) methodology<sup>21</sup> as follows:

- A. The avoided energy credit will be calculated based on the approved small QF energy component per Decision No. R15-1177, with the exception that the marginal energy cost would be based on an annual 8,760 hour forward-looking calculation based on a 50 MW resource. The energy benefit will not include any line loss savings.
- B. The avoided energy credit will be updated annually.
- C. The avoided capacity credit will be calculated based on the 2018 projection of a 50 MW solar resource over the following ten (10) years starting in 2018. This capacity credit will be locked in for the term of the PPA.

#### **VIII. Unsubscribed Energy**

Public Service will sink the Renewable\*Connect energy that is unsubscribed to the system at the Unsubscribed Energy Rate, which will be calculated as follows:

- A. The energy component of the Unsubscribed Energy Rate will be calculated consistent with the energy benefit for the Bill Credit described in subsection VII.
- B. The capacity component of the Unsubscribed Energy Rate will be calculated consistent with the capacity benefit for the Bill Credit described in subsection VII.c. The capacity rate will be locked down for the life of the PPA.

All unsubscribed energy will be sunk to the system at the rate detailed above and the associated RECs will be transferred to the general pool of RECs. The rate

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<sup>21</sup> The parties agree to discuss further as part of the Future Voluntary Renewable Programs Stakeholder Group the appropriate methodology to utilize to provide a bill credit for future voluntary programs.

at which this energy is sunk to the system will be assessed to the ECA.

Public Service agrees to only charge for unsubscribed energy at the lower of (1) the PPA cost plus the administrative, marketing, and IT costs or (2) the Unsubscribed Energy Rate described above.

#### **IX. Risk and Excess Revenues**

Public Service will be allowed to retain certain excess revenues associated with the Renewable\*Connect Program. "Excess revenues" shall mean the total annual revenues collected under the Program minus Program costs (including PPA, administration, marketing, and IT costs).

Public Service agrees to limit the amount of excess revenues it is able to retain under the Renewable\*Connect Program to its prevailing weighted average cost of capital ("WACC"). Public Service agrees to limit the retained excess revenues under this provision to those associated with program revenues paid through customer subscriptions. In other words, revenues from unsubscribed energy will not be included in the excess revenue limit calculation. This calculation will be performed annually. Excess program revenues above that to which Public Service is allowed to retain shall be credited back to customers through the Renewable Energy Standard Adjustment ("RESA").

#### **X. Program Marketing/Management**

To address various competitive concerns that have been raised regarding the Program, Public Service agrees to the following:

- As proposed in its Direct Testimony, Public Service will provide a common platform web site landing page for all of the Company's voluntary renewable

energy programs (Windsource®, Solar\*Rewards, Solar\*Rewards Community, and Renewable\*Connect) where customers may access information on all four (4) programs.

- In addition to the common landing page on Public Service's website, Public Service will also utilize this common landing page when providing marketing materials for Renewable\*Connect as well as mention the other options customers have access to in these marketing materials.
- Public Service will not market Renewable\*Connect to existing Solar\*Rewards or Solar\*Rewards Community participants with one exception. To the extent a customer has a Key Account manager, that Key Account manager is permitted to provide the customer with information regarding all of the programs available to that customer, including Renewable\*Connect, even if one or more of that customer's premises in Public Service's service territory is subscribed to Solar\*Rewards or Solar\*Rewards Community. Existing Solar\*Rewards or Solar\*Rewards Community customers will not be precluded from participating in Renewable\*Connect. Key account managers shall not be incentivized by the Company to subscribe Renewable\*Connect.
- To further address competitive concerns, Public Service commits to enable online sign up of Net Metering only requests for solar installations.
- Through the Existing Voluntary Renewable Programs Stakeholder group, the parties will discuss the timeline for enabling customer download of forms through the My Account portal that prepopulate or aggregate the necessary customer information to inform an investigation by the customer into a rooftop

solar, or community solar option, including consent to disclose forms and resulting customer data.

- To provide additional insight, Public Service agrees to maintain a waiting list of customers who have indicated a desire to participate in Renewable\*Connect but are unable to because the program is fully subscribed. Reporting on the size (in terms of number of customers and potential subscription amounts) of the waiting list by rate class will be provided in the annual reporting of the Renewable\*Connect program.
- Data Access and Personnel Clarification - Public Service will ensure Company resources that work to complete Solar\*Rewards or Solar\*Rewards Community interconnections are not also working to subscribe Renewable\*Connect, provided, however, that this restriction does not apply to Key Account managers as described above. Access to Data and Information limitations will be as filed in Public Service's testimony.

## **XI. Program Reporting**

Public Service will file with the Commission annual reports including total program expenditures, total revenues, number of participants, program term capacities, unsubscribed energy volumes, excess revenue applied to the RESA, participation by rate class, and number and capacity of customers on the waitlist.

The annual tariff filing to update the factors of the Renewable\*Connect Bill Charge/Bill Credit will be made on or before November 15 of each year to be effective January 1st of each subsequent year.

Attachment D to this filing reflects the clean copy of the tariffs implementing Renewable\*Connect and Attachment E reflects the redline version of the tariffs.

## **Settlement of the 2017-2019 RE Plan (Proceeding No. 16A-0139E)**

### **I. Introduction**

The Settling Parties<sup>22</sup> request that the Commission approve Public Service's 2017 RE Plan, as modified by this Settlement Agreement. The Settling Parties agree that the 2017 RE Plan, as proposed by the Company in its application and modified by the following commitments, establishes a framework for the expansion of eligible energy resources in a measured and prudent manner that both addresses growing customer preferences for renewable energy offerings and adds renewable energy to Public Service's system in an economically reasonable way. Attachment H provides the estimated impact of the Settlement Agreement on the RESA balances.

### **II. Solar\*Rewards**

#### **A. Annual Capacity**

The Settling Parties agree that the Company will have the following capacity targets (in MW) for its Solar\*Rewards program for the 2017-2019 Compliance Years:

<b>Program</b>	<b>2017 Capacity</b>	<b>2018 Capacity</b>	<b>2019 Capacity</b>	<b>Total RES Capacity</b>
Sm Opt A	24	24	24	123
Sm Opt B	9	18	24	
Medium	24	24	24	72
Large	6	10	14	30

<sup>22</sup> The following are Settling Parties of the Settlement Agreement for the 2017 RE Plan: Staff, OCC, Denver, Boulder, Clean Energy, CEO, COSEIA, EFCA, EOC, Grid Alternatives, Ormat, Sunrun, and WRA. The following are Opposing Parties of the Settlement Agreement for the 2017 RE Plan: SunShare. The following are Non-Opposing Parties of the Settlement Agreement for the 2017 RE Plan: Climax and Interwest.

<b>Total Program Capacity</b>	<b>63</b>	<b>76</b>	<b>86</b>	<b>225</b>

### **1. *Small Solar\*Rewards Program***

Option A is the standard Solar\*Rewards program for small (under 25 kW) rooftop systems that has existed for several years. The Settling Parties agree that the distinction between customer-owned and third-party-owned systems shall be eliminated, and that Public Service shall offer capacity for this Option at 2 MW per month.

Option B is a new Small Solar\*Rewards program offering designed to operate in parallel with the Company's Schedule RD-TDR pilot as agreed to in the Phase II portion of this Settlement Agreement. The Settling Parties anticipate that a ramp-up period for customer and industry education will be needed in association with this offering and therefore anticipates that Public Service will launch this Option in the second quarter of 2017. Capacities for Option B will increase over each subsequent year of the RE Plan, as shown in the table above. The Settling Parties further agree that in the event that at the end of calendar year 2017, the capacity allocated to this Option B has not been utilized, that capacity will be rolled into the capacity available in 2018 for the Option A program. Such rolled capacity will then be distributed evenly over 2018, on a monthly basis.<sup>23</sup> For calendar years 2018 and 2019, Public Service will evaluate on a quarterly basis whether the previous quarter's Option B capacity was fully subscribed. In the event that this capacity is not fully subscribed, it will be made available to the Option A offering, again evenly distributed in monthly tranches, over the subsequent quarter. In

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<sup>23</sup> By "evenly" the Settling Parties present the following example: 6 MW is "rolled" from Option B at the end of 2017 into Option A for calendar year 2018. The per month capacity limit in 2018 for Option A would therefore no longer be 2 MW, but would instead be 2.5 MW.

the event that the RD-TDR pilot is not approved, the Sm Opt B capacity would be eliminated.

## **2. Medium Solar\*Rewards Program**

The Settling Parties agree that this program should be expanded to 24 MW a year for each of the three (3) years in the Plan. This program is larger than in past years to reflect potential program participation, as evidenced by reservation requests received by Public Service. Recently, Public Service has received reservation requests of 12 MW in a single quarter, which is equivalent to the total annual offering in this category during the 2014-2016 RE Plan.<sup>24</sup>

The Medium Solar\*Rewards program will contain the following program administration features:

- a. Public Service will allocate the yearly allotment of capacity on a quarterly basis.
- b. Unsubscribed program capacity may roll from quarter to quarter.
- c. A bid to utilize Medium Solar\*Rewards capacity will not be deemed “subscribed” until Public Service has received all deposits required by the participant.
- d. Commercial and Industrial customers on service schedules with demand charges (*e.g.*, Schedules SG, PG, and TG) who install a solar system less than 25 kW will be eligible for the Medium Solar\*Rewards program and

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<sup>24</sup> The Settling Parties acknowledge because Public Service is offering a Large Solar\*Rewards program, as discussed further below, C&I customers who previously only had the Medium program option may instead reserve capacity in the Large program.



associated REC incentive. These customers will remain on their respective service schedule for billing purposes.

In addition, the Settling Parties agree to continue discussions regarding subscription and attrition associated with the Medium program through the Existing Voluntary Renewable Programs Stakeholder Group as discussed in Attachment F to this Settlement.

### ***3. Large Solar\*Rewards Program***

The Settling Parties agree that the Large Solar\*Rewards program will be reestablished to give larger C&I customers an option for systems larger than 500 kW. A Large Solar\*Rewards program has not been offered since 2012. No individual system may be sized to exceed 120% of the customer's average annual electric consumption, however no other restriction on the size of the project bid into the program, will be imposed. The Company will roll any unsubscribed capacity from one year into the following year.

#### **B. REC Incentive Levels**

The Settling Parties acknowledge that the increases in Solar\*Rewards capacities agreed-to above will affect the number of systems for which REC incentives are paid. The Settling Parties also recognize that the capacities for the Solar\*Rewards programs are being increased due to demand for such programs, therefore the Settling Parties agree to a reduction in the amount to incent participation with the use of RESA funding.

### **1. *Small Solar\*Rewards program***

The Small Solar\*Rewards program REC incentives (per kWh) agreed-to through this Settlement are as follows:

<b>Year</b>	<b>Option A</b>	<b>Option B</b>
2017	\$0.005	\$0.0500
2018	\$0.005	\$0.0475
2019	\$0.005	\$0.0350

The \$0.005/kWh REC incentive for Option A is a \$0.015 reduction in the amount currently authorized for customer-owned solar systems and a \$0.005 reduction in the amount currently authorized for third-party-owned systems, as compared to the 2014-2016 plan.

The incentives for Option B are based on participation in the RD-TDR pilot. The higher REC incentive for Option B participants is designed to offset expected bill increases associated with this rate design, while also providing an additional financial incentive intended to attract participation in the RD-TDR pilot. The settling parties agree this additional financial incentive to attract RD-TDR pilot participation should be reduced for 2018 and eliminated for 2019.

Public Service will engage with stakeholders in further discussions on how to achieve the goal of financial neutrality for the average customer in relation to REC incentives and the expiration of the Schedule RD-TDR pilot program.

### **2. *Medium Solar\*Rewards program***

The Medium Solar\*Rewards program REC incentives (per kWh) agreed-to through this Settlement are as follows:

Year	Medium
2017	\$0.0475
2018	\$0.0425
2019	\$0.0375

### **3. *Large Solar\*Rewards program***

The REC incentives ultimately paid for the Large Solar\*Rewards program will be determined through a competitive solicitation process. The Company will award Request for Proposals (“RFP”) bids up to the annual capacity limit each year provided such bids are reasonable. Non-economic criteria will also remain part of Public Service’s evaluation of the proposals.

#### **C. Other Provision**

As discussed in the Phase II settlement portion of this Settlement Agreement in Section II.B, clarification is provided regarding the ability of customers who are eligible for Schedule NM and PV to be able to also install a storage device behind the meter without impacting their eligibility for Schedule NM and PV.

### **III. Solar\*Rewards Community**

#### **A. Annual Capacity**

Public Service presently has 18.1 MW of solar garden capacity online in its Solar\*Rewards Community program. Public Service recently awarded 30 MW of CSG RFPs for the 2015 Compliance Year.<sup>25</sup> In Proceeding No. 13A-0836E, Public Service and solar garden developers have received approval of a Settlement Agreement which contemplates the award of up to 60 MW of new solar garden capacity through its 2016

<sup>25</sup> The Commission recently issued a final decision on the 2015 RFP process and, therefore, the Company will soon be proceeding with final execution of those contracts. See Proceeding No. 13A-0836E, Decision No. C16-0747.

RFPs.<sup>26</sup> Public Service anticipates this RFP process will begin in the third quarter of this year.

Through this Agreement, the Settling Parties request that Public Service be allowed to acquire up to 105 MW of additional CSGs in the 2017-2019 Compliance Years, not including a separate process which will be conducted for 100% low-income CSGs. The low-income CSG provisions discussed at further length below in Section IV.B will allow Public Service to add an additional 4 MW per year, thereby potentially increasing the total CSG capacity that Public Service may acquire in the 2017-2019 timeframe up to 117 MW.

The Commission is charged with setting minimum and maximum levels by which Public Service will purchase the output of CSGs. The Settling Parties agree the minimum amount Public Service should be required to award in the 2017-2019 Compliance Years be increased from 6.5 MW, in effect during the 2014-2016 Compliance Years, to 15 MW per year for the term of this RE Plan. The Settling Parties also agree the Company should be directed to acquire up to a maximum of 30 MW in 2017, 35 MW in 2018, and 40 MW in 2019 through competitive solicitations and standard offers, not including the additional 4 MW of dedicated low-income CSG capacity the Company may acquire annually.

In summation, the Settling Parties seek Commission approval for the following annual CSG acquisition levels:

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<sup>26</sup> This includes 30 MW for 2016 and 30 MW for 2014.

	2017	2018	2019	Total
Minimum	15	15	15	45
Maximum <sup>27</sup>	30	35	40	105
100% Low-Income CSGs	4	4	4	12
<b>Combined Maximum</b>	<b>34</b>	<b>39</b>	<b>44</b>	<b>117</b>

#### **B. CSG Bill Credit**

The 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.

#### **C. Grid Information for Interconnection**

The Settling Parties recognize that understanding current distribution constraints on Public Service's system could provide several benefits, including assisting CSG developers in siting CSG facilities. Public Service commits to developing a study to make available possible interconnection points on the system for CSGs via a red-light green-light type of demarcation. The details of such a study will be discussed further in the Distribution Grid and Interconnection Stakeholder group as noted in Attachment F. The Settling Parties agree that Public Service should receive deferred accounting treatment for the monies needed to complete this study. The study will be capped at a cost of \$250,000 without further approval. The recovery methodology (*e.g.*, through the

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<sup>27</sup> As described below, of this Maximum amount, 1) 0.5 MW per year will be set aside for a Non-Low-Income Standard Offer; 2) up-to 2 MW per year of this capacity may be used by the Company to own low-income CSG; and 3) 0.5 MW per year will be set aside for a low-income standard offer.

RESA or base rates) of amounts included in this regulatory asset will be determined at the time the Company requests such recovery through rates.

**D. Non Low-Income Standard Offer**

Of the maximum amount of the CSG program, 0.5 MW will be set aside annually for a standard offer CSG offering. The maximum size for each individual CSG for the standard offer shall be 100 kW. In recognition of this size limitation, the REC incentive to be paid to the standard offer participants will be the average annual awarded REC plus \$0.02/kWh. The REC incentive for the standard offer shall be paid on a production basis. The maximum size for each individual CSG for the standard offer shall be 100 kW.

**E. RFP**

***1. Evaluation criteria***

The Company will use a variety of factors including, but not limited to, cost, location, geographic diversity, innovative project features, and whether a project is focused on serving higher levels of low income customers, in selecting CSGs. Notwithstanding the provisions below addressing (1) the potential for Public Service to own low-income CSGs and (2) a 4 MW set-aside for 100 percent low-income CSGs to be awarded through a separate process, Public Service is open to evaluating and accepting bids in the general CSG solicitation that offer a higher REC price in order to incent projects that provide higher levels of low-income participation, provided that any low-income minimum proposed through this solicitation, as well as through the low-income solicitation, must be maintained through the life of the Solar\*Rewards Community contract. Public Service will publicize to interested bidders at the initial RFP

bidders' meeting, on the RFP website, and in relevant documentation, that these factors will be considered in scoring bids. In the Company's annual Renewable Energy Compliance report, the Company will provide a summary explanation of the prior compliance year's awarded CSGs and the basis for selection if other than price.

## **2. 2 MW Clarification**

CSGs are defined in Colorado statute<sup>28</sup> and Commission Rules<sup>29</sup> as facilities limited to 2 MW in size. To give effect to this size restriction in the RFP process, the Settling Parties agree to the clarifications contained in this section. In response to a single annual Request for Proposal issued by the Company, 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 measured from point of interconnection<sup>30</sup> to point of interconnection for rural CSGs.<sup>31</sup> In urban areas the distance between points of interconnection between commonly owned CSG will be maintained at 0.5 miles; however, the capacity allowed within this distance will be increased to 4.0 MW. Furthermore, each awarded CSG must be contained on its own legal parcel of land.

Ownership shall be considered common ownership where awarded CSGs have common ownership arrangements (including through legal affiliates or partnerships other than common debt or tax equity partners). However, in subsequent years, the same developer would be eligible to bid and be awarded a CSG within 0.5 miles so long

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<sup>28</sup> §40-2-127(2)(b)(I)(A), C.R.S.

<sup>29</sup> Rule 3652(e). 4 C.C.R. 723-3.

<sup>30</sup> For the purposes of this agreement, an interconnection point is defined as the location of equipment where energy is transferred from a CSG to Public Service.

<sup>31</sup> For the purposes of this agreement, an area classified as "rural" by the Census Bureau – *i.e.*, areas that are not classified as urban by the Census bureau. See <https://www.census.gov/geo/reference/ua/urbanrural-2010.html>

as the later vintage CSG has its own point of interconnection and separate parcels of land.

**F. Negative RECs**

The Settling Parties have agreed to leave unresolved the question of whether negative REC price bids are appropriate from a legal or policy standpoint.

**IV. Low Income Considerations**

**A. Low-Income Rooftop Solar program**

Public Service will partner with CEO to create a low-income rooftop solar offering. The objectives of the initiative are to: (1) reduce participating low-income customers' bills, thereby decreasing their electric energy cost burden; and (2) increase access to distributed generation for customers that currently have limited opportunity to utilize existing voluntary renewable programs.

***1. Administration and Financing:***

The program will be administered by the CEO in partnership with Public Service. The CEO will contract with its existing weatherization or solar installation partners to install rooftop solar PV on qualified low-income-occupied dwellings located within the Company's service area as part of a package that includes both solar and weatherization measures.

CEO will fund the initial installation of the solar PV system using:

- a. Department of Energy ("DOE") funds of up to \$3,545 per home to offset the cost of the solar PV system.



- b. Public Service will provide an upfront incentive of \$2.00 per installed watt to offset the remaining costs of the solar PV system. These incentives will be paid from the RESA account.
- c. In addition, Public Service will provide a production-based incentive equal to \$0.034/kWh for the electricity generated by the PV system.

Public Service will retain all RECs generated from the solar systems. And, all net metering credits will be used to offset the low-income customers' electricity bill in accordance with the net metering structure outlined in Commission Rule 3664.

## ***2. Eligibility:***

CEO will analyze participation metrics to ensure that participating premises are low-income homes with a high probability of remaining low-income occupied for the useful life of the PV system, and where low-income inhabitants will reap the highest benefits from a solar PV system. This includes:

- A preference for non-profit owned properties or housing providers with long-term agreements to serve low-income customers;
- Homes with high solar capacity factors;
- Customers with high average electricity use; and/or
- Customers without access to low-income CSG offerings.

## ***3. Assignment:***

All application and contract documents issued by the CEO to low-income weatherization customers will include language specifying that all Solar\*Rewards upfront incentives and production based incentives issued by Public Service to the low-income customer will be assigned to the CEO.

#### **4. Relationship to Weatherization:**

Rooftop solar systems will be installed on dwellings that are also receiving weatherization measures. The solar PV system will be installed in addition to all other cost-effective weatherization measures, and will serve as an additional tool to decrease a low-income customer's bill. CEO will work with its qualifying partners to ensure that participating homes meet all eligibility requirements, and will only install rooftop solar systems at low-income homes where the savings to investment ratio ("SIR") meets DOE requirements.

#### **5. Project size:**

The Low-Income Rooftop Solar program will be scaled up over three years for no more than a total of 300 systems. In year one no more than seventy-five (75) systems will be installed; in year two 100 systems will be installed, and in year three 125 systems may be installed. The program parameters are listed below:

- a. CEO and the Company will phase-in this 3-year project. CEO and the Company will assess the performance at the end of years 1 and 2 against pre-determined criteria (listed below). If the program achieves the thresholds in those criteria, the project will continue into the next year.
- b. Each installed system will have a maximum size of 3.5 kW.
- c. Performance Criteria:
  - All DOE funding available per project will be utilized first, to best leverage the RESA-supported incentives.
  - Installed systems will yield at least a 1.0 SIR calculation using the DOE approved methodology.

- The CEO subgrantees, using either in-house labor or sub-contracted labor, will install at least ninety (90) percent of the number of systems proposed for the year.
- All homes receiving PV systems will receive the full list of DOE-approved energy efficiency measures (all measures with an SIR of 1.0 or greater), within the established CEO/DOE program parameters for determining measures to install.
- PV systems installed will yield a weighted average generation capacity factor of at least fourteen (14) percent.

#### **6. *Annual Reporting:***

The CEO shall provide an annual summary of the Low-Income Rooftop Solar program to be included in the Company's annual RES Report. The CEO shall provide this summary to the Company thirty (30) days prior to the due date of the RES Report.

The report shall include the following:

- A description with specificity of how the program has met the objectives of reducing bills for participating low-income customers and how the program has increased access to distributed generation for these customers.
- The total number of rooftop solar systems that serve low-income residents installed under this program, and the subtotals of installations on: (a) customer-owned premises, (b) non-profit owned properties, and (c) by housing providers. For the latter, the report shall include detail concerning the length of the long-term low-income occupancy agreements.

- The average contribution per customer from RESA funds and DOE weatherization funds utilized to install distributed generation including the SIR.
- Information by zip code concerning (a) the number of low-income customers that have had rooftop solar installed, and (b) the number of low-income customers eligible for receiving weatherization.

## **7. *Stakeholder group:***

The CEO commits to reporting on program implementation as part of the low-income participation sub-group within the “Existing Voluntary Renewable Programs Stakeholder Group” outlined in Attachment F.

### **B. Solar\*Rewards Community**

Commission Rule 3665(d)(IV) requires that at least five (5) percent of energy from CSGs be provided to low-income subscribers. The Settling Parties have considered methods to make CSG more readily available to low-income customers and agree to the following provisions in order to meet and potentially exceed the 5 percent minimum subscription in this RE Plan.

#### **1. *Low-Income Customer Definition Clarification***

Section 40-3-106, C.R.S., specifies that a “reasonable preference” may be provided for low-income customers. Furthermore, the statute defines a low-income customer to be at or below 185% of the Federal Poverty Line. The Settling Parties agree nonprofit affordable housing buildings or public housing authority buildings<sup>32</sup> will be considered “low-income subscribers” so long as: (1) the building’s residents meet the

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<sup>32</sup> Including homes and multi-family residential buildings.

“low-income” definition set forth in § 40-3-106, C.R.S.; and (2) the housing authority provides verifiable information that these residents are the beneficiaries of the CSG subscription(s).

## ***2. 5% Minimum Requirement***

To date, the low-income CSG availability obligation has been met through a five (5) percent low-income subscription requirement for each individual CSG. However, this approach has proven inefficient. To improve low-income customers’ access to CSGs, the Settling Parties agree to the following:

- a. The Company will assume the five (5) percent low-income subscription obligation through ownership of dedicated low-income CSGs.
- b. These facilities will be subject to all other CSG requirements applicable to other CSG facilities (2 MW maximum, etc.).
- c. The capacity of these gardens will be included in the maximum requirement outlined in section 3(a) above.
- d. The Company will receive an incentive for RECs generated by Company-owned CSGs equal to the standard offer REC incentive for low-income gardens as detailed below in subpart (iii) for each annual RFP.
- e. The Company will not seek recovery for its investment in such CSGs through base rates.

## ***3. Low-Income RFP***

Additionally, on an annual basis the Company will solicit through the RFP process up to 4 MW of CSGs that commit to provide 100% of their output to qualified low-income customers. This capacity amounts is in addition to the “maximum” amounts

each year as reflected in the Table in Section 3(a), which includes the five (5) percent minimum low-income CSG rules requirement.

The entity submitting a CSG into this segment of the RFP may submit a bid in one of two forms.

- The vendor may submit a production based incentive over the twenty (20) - year term of the CSG contract. For example, such a bid would include a dollar per REC rate paid as the awarded CSG produces energy over the twenty (20) - year term of the CSG.
- In the alternative, the vendor may submit a bid with the production incentive paid on an up-front basis. In this instance, the bid would include a dollar per REC rate that would be multiplied by the projected energy production over the life of the CSG contract and paid to the awarded CSG provider within the first quarter that the awarded CSG begins production. The production would be estimated by the bidder and such estimation will be verified by the Company through information provided by the bidder prior to interconnection approval.

The Company will utilize a net present value comparison of the provided bids into the low-income CSG RFP, at a discount rate to be specified in each RFP, to rank the costs of the CSGs on a comparable basis. All reasonable bids up to and including 4 MW will be accepted. The incentive payments of the approved bids will be charged to the Renewable Energy Standard Adjustment (“RESA”). Once all reasonable bids up to and including 4 MW have been selected, the Company is not precluded from accepting additional CSG bids with low-income subscribers. However, any capacity amount

above the 4 MW Low-Income RFP will count toward the maximum capacity of the CSG program.

To the extent that additional commitments that benefit low-income subscribers and low-income communities are included in a CSG bid and the entity submitting the bid provides a viable method for verification of the same, such additional commitments will be taken into account in the bid evaluation process. Additional commitments may include, but are not limited to: (1) percentage of expected electric utility bill reduction for the low-income customer, (2) provision of solar installation job training for low-income individuals at the bid CSG, and (3) coordination with installation of energy efficiency measures. Any entity providing additional commitments to a CSG bid, if awarded, will provide proof to the Company via a Company established methodology on an annual basis, as applicable to the specific measure. In the event the entity providing the additional bid commitments does not provide adequate proof of delivery of the commitments or does not produce the amount of energy made in the awarded bid, the Company may seek a cure from the developer or take that factor into consideration in future offerings from that same entity up to and including rejection of that entity's bid for past non-compliance.

Bidding information by vendor is considered Highly Confidential. The Settling Parties seek additional review of low-income bids, prior to bids being awarded, for the successful expansion of the CSG program to low-income customers, and assurance that additional commitments that benefit low-income customers are incorporated in the bid evaluation. Therefore, the Company and the Staff will confer regarding: (1) the reasonableness of the bids received, (2) the Company's evaluation, and (3) the

Company's recommendation for awards following the CSG low-income RFP and prior to awards being issued.

#### **4. *Low-Income Standard Offer***

Of the maximum amount of the CSG program, 0.5 MW will be set aside annually for a low-income standard offer. The REC incentive to be paid for standard offer participants will be the average annual awarded REC for the low-income CSG RFP plus \$0.01/kWh. The REC incentive for the standard offer shall be paid on an up-front basis within the first quarter that the CSG is providing energy to the system. The maximum size of each individual CSG for the standard offer shall be 100 kW, and eligible CSGs shall commit to provide 100% of their output to qualified low-income customers.

#### **V. Windsource®**

The Settling Parties agree the current Windsource® premium price will be reduced to \$1.50 per 100 kilowatt-hour block, or 1.5¢/kWh, on a market basis as described by the Company in its 2017 RE Plan direct testimony and attachments.<sup>33</sup> As discussed in the Solar\*Connect section of the Settlement above, the Company agrees to explore the future of the Windsource® program (including its goals and possible consolidation with Renewable\*Connect) through the Future Voluntary Renewable Program Stakeholder Group discussions in advance of the next RE Plan filing as discussed Attachment F to this Settlement. The Windsource® tariff revisions, and changes in other tariffs associated with those changes, are included in Attachment D to this Settlement.

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<sup>33</sup> See Direct Testimony and Attachments of Public Service witness Kerry Klemm.



## **VI. Recycled Energy**

The Settling Parties agree to revise Schedule RE as shown in the agreed-upon Schedule RE, included in Attachment D to this Settlement. The following items are the principal substantive revisions to the Company's proposals originally presented in its 2017 RE Plan:

- Recycled Energy generators may be either owned or leased by the customer.
- Recycled Energy generators may be constructed to offset more than 100% of a customer's load. Excess energy generated by a Recycled Energy generator up to 120 percent of a customer's annual on-site consumption will be compensated at \$0.043 in accordance with previous Commission decisions.
- In the event that a customer's recycled energy system produces excess energy over 120 percent of a customer's annual on-site consumption, the customer may sell such excess energy over 120 percent of a customer's annual on-site consumption to Public Service provided that it has requisite authority from the Federal Energy Regulatory Commission ("FERC") to make a wholesale sale of energy to Public Service. Excess energy generated beyond 120 percent of a customer's annual on-site consumption will be compensated at rates as negotiated through a PPA.
- A customer also retains the right to sell excess energy at wholesale to third parties, although in such event, transmission service must be arranged and paid for pursuant to Public Service's FERC-jurisdictional open-access transmission tariff.

- Upon written request for interconnection, the Company will evaluate the request pursuant to its small generator interconnect process as described in the tariffs.
- Amounts over avoided costs will be recovered through the RESA, based on a RES/no-RES analysis.
- Standby rates under Schedule RE reflect two weeks of unforced outages and four weeks of scheduled maintenance. Fluctuations in RE system output of up to twenty (20) percent of Contract Standby Capacity that occur outside of the hours of noon to 8 p.m. Mountain Time on non-holiday weekdays will not count against the amount of Annual Grace Energy.
- Clarifications have been added to Schedule RE regarding the terms and conditions of scheduled maintenance.
- Corrections have been added to Schedule RE G&T Standby Capacity Reservation Fees.
- When calculating the credit per kWh over ten (10) years necessary to provide the \$500 per kW incentive, the Company will apply a discount rate equal to the after-tax weighted average cost of capital.
- The Company will pay customer incentives for the twenty (20) year term over ten (10) years as described in detail in the Recycled Energy Incentive Contract.
- Given the escalation of incentive payments over ten (10) years, the Company retains the right to seek liquidated damages if the Recycled Energy generator ceases to operate before the number of hours for which it is receiving

incentive payments is reached. This same protection has been afforded to the Company and its customers in the Solar\*Rewards contracts, wherein advanced payment commitments were made. The Recycled Energy Incentive Contract details how liquidated damage calculations will be performed.<sup>34</sup>

## **VII. Retail Rate Impact**

### **A. Lock down the incremental costs of resource for the term of the planning period (2017-2026)**

The Settling Parties agree that Eligible Energy Resources which were previously locked down are now reset under this RE Plan and allocated for cost recovery through the ECA/RESA based on the new model runs for the ten (10)-year planning period defined in Commission Rule 3661(f).

### **B. Evaluation in Next RE Plan Filing**

In addition to its required RES/No-RES reporting, in its next RE Plan filing, the Company will present a comparison of the RES/No-RES cost analysis of the locked down resources as set through this Settlement, to a RES/No-RES analysis based on market conditions at the time of the next RE Plan filing.

### **Other Settlement Commitments**

1. All tariff changes resulting from this Settlement will be effective January 1, 2017.
2. Public Service will file a complete set of tariffs in compliance with this Settlement by December 2, 2016, for implementation on January 1, 2017. This filing will include a revenue proof similar in form to Attachment SWW-2 to the Direct

Testimony of Steven W. Wishart

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<sup>34</sup> The Company will file the updated contract provisions, as well as updated RFP documents, as part of its Opening Testimony on the Settlement Agreement.

3. The Settling Parties recognize that certain provisions of the Settlement Agreement may require waiver of Commission Rules. The Settling Parties will support any waiver requests and cooperate in preparing a separate motion to request any such required waiver. The Settling Parties will file such motion – Joint Motion Requesting Waivers in Support of the Settlement Agreement - within ten (10) days of the date of the filing of the Settlement Agreement.
4. Concurrent with this Settlement Agreement, the Settling Parties will jointly file a motion to approve this Settlement Agreement, requesting consolidation of the three proceedings and establishing procedures for the Commission’s consideration of this Settlement Agreement *en banc*. However, all parties understand a particular Settling Party is not deemed to have joined in the Motion to Approve the Settlement Agreement to the extent that it has reserved the right to oppose the Settlement Agreement’s resolution of a particular Proceeding.

#### **General Provisions**

1. Each Settling Party understands and agrees that this Settlement Agreement represents a negotiated resolution of all issues that the Settling Party either raised or could have raised in the Proceeding(s) to which it is a party. Each Settling Party understands that the Commission’s approval of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable, and reasonable resolution of these issues. Each Settling Party additionally agrees not to contest the Settlement Agreement insofar as it resolves issues in any of the Proceedings to which it was not originally a party. Accordingly, the Settling Parties state that reaching resolution

of these issues through this negotiated Settlement Agreement is in the public interest and that the results of the compromises and agreements reflected in the Settlement Agreement are just, reasonable, and in the public interest; provided, however, that it is understood that some Settling Parties have expressly reserved the right to contest the Settlement Agreement with respect to its resolution of specified Proceedings as shown in the Party/Proceeding Table above. The Settling Parties recognize that any party to the three Proceedings that has not become a Settling Party may contest the entirety of the Settlement Agreement.

2. Each Settling Party agrees to make available at hearing (1) any witness that filed pre-filed testimony in any of the Proceedings if called by Opposing Parties or parties not joining in this Settlement Agreement, or (2) any witnesses the Settling Party may sponsor to file testimony addressing this Settlement Agreement. Each Settling Party agrees to reasonably seek approval of this Settlement Agreement before the Commission against challenges that may be made by non-executing parties or Opposing Parties. Notwithstanding the foregoing, where a party is Settling Party for some Proceeding(s) but an Opposing Party for other Proceedings, as identified in the Party/Proceeding Table above, this provision shall only limit the testimony that party may sponsor that relates to the Proceeding(s) the party is agreeing to settle. In no event, however, shall a Settling Party oppose the Settlement Agreement's resolution of a Proceeding to which the Settling Party did not intervene prior to consolidation.
3. The Settling Parties agree that all pre-filed testimony and exhibits in any of the Proceedings submitted prior to the filing of this Settlement Agreement by any

party (whether or not the party supports this Settlement Agreement) shall be admitted into evidence. All Settling Parties agree they may not cross-examine a witness on an issue where the witness supports their position (*i.e.*, no “friendly cross”). A Settling Party may, however, cross-examine the witness of Opposing Parties (which may include those parties that are Settling Parties for only certain Proceedings).

4. Except as expressly stated herein, nothing in this Settlement Agreement shall resolve any principle or establish any precedent or settled practice. Moreover, nothing in this Settlement Agreement shall constitute an admission by any Settling Party of the correctness or general applicability of any claim, defense, rule, or interpretation of law, allegation of fact, regulatory policy, or principle underlying or thought to underlie this Settlement Agreement or any of its provisions in this or any other ongoing or future proceeding. As a consequence, no Settling Party in any future negotiations or proceedings whatsoever (other than any proceeding involving the honoring, enforcing, or construing of this Settlement Agreement in those proceedings specified in this Settlement Agreement, and only to the extent so specified) shall be bound or prejudiced by any provision of this Settlement Agreement. 5.
5. The discussions among the parties that produced this Settlement Agreement have been conducted with the understanding, pursuant to Colorado law, that all offers of settlement, and discussions relating thereto, are and shall be privileged, inadmissible, and without prejudice to the position of any party. Such

communications shall not be used in any manner in connection with this or any other proceeding.

6. This Settlement Agreement shall not become effective until the issuance of a final Commission Order approving the Settlement Agreement, which Order does not contain any modification of the terms and conditions of this Settlement Agreement as they may apply to any of the three Proceedings that is unacceptable to any of the Settling Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party shall have the right to withdraw from this Agreement and proceed to hearing on any issue(s) that may be appropriately raised by that Settling Party in any applicable Proceeding. The withdrawing Settling Party shall notify the Commission and the Settling Parties to this Settlement Agreement by e-mail within three business days of the Commission modification that the party is withdrawing from the Settlement Agreement and that the party desires to proceed to hearing; the e-mail notice shall designate the precise issue or issues on which the party desires rehearing (the "Hearing Notice").
7. The withdrawal of a Settling Party shall not automatically terminate this Agreement as to any other party. However, within three (3) business days of the date of the Hearing Notice from the first withdrawing party, all Settling Parties shall confer to arrive at for each of the Proceedings a comprehensive list of issues that shall proceed to hearing and a list of issues that remain settled as a result of the first party's withdrawal from this Settlement Agreement. Within (5) five business days of the date of the Hearing Notice, the Settling Parties shall file

with the Commission in each Proceeding a formal notice containing the list of issues that shall proceed to hearing and those issues that remain settled together with a proposed procedural schedule. The Settling Parties who proceed to hearing shall have and be entitled to exercise all rights with respect to the issues that are heard that they would have had in the absence of this Settlement Agreement.

8. All Parties have had the opportunity to participate in the drafting of this Settlement Agreement and the term sheet upon which it was based. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.
9. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Settlement Agreement with respect to the issues addressed by this Agreement.



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