

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

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**IN THE MATTER OF THE APPLICATION )  
OF PUBLIC SERVICE COMPANY OF )  
COLORADO FOR APPROVAL OF ITS ) PROCEEDING NO. 16A-0396E  
2016 ELECTRIC RESOURCE PLAN )  
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**STIPULATION**

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Public Service Company of Colorado (“Public Service” or “Company”), the Colorado Public Utilities Commission Staff (“Staff”), the Colorado Office of Consumer Counsel (“OCC”); the Colorado Energy Office (“CEO”); the City of Boulder (“Boulder”); Climax Molybdenum Company (“Climax”); the Colorado Energy Consumers Group (“CEC”); Colorado Independent Energy Association (“CIEA”); the Colorado Solar Energy Industries Association (“COSEIA”), Interwest Energy Alliance (“Interwest”); Invenergy, LLC (“Invenergy”); Southwest Generation Operating Company, LLC (“SWG”); Rocky Mountain Environmental Labor Coalition and Colorado Building and Construction Trades Council, AFL-CIO (jointly, “RMELC/CBCTC”); Vote Solar; and Western Resource Advocates (“WRA”) (collectively the “Stipulating Parties”), hereby enter into this Stipulation pursuant to Rule 1407.

In addition to the 15 Stipulating Parties, 6 other parties have intervened in this proceeding but have not joined in the Stipulation. Non-joining parties who intervened and take no position on the Stipulation are: Holy Cross Electric Association, Inc., Yampa

Valley Electric Association, Inc. ("YVEA"), Intermountain Rural Electric Association ("IREA"), and Grand Valley Rural Power Lines, Inc. Non-joining parties who intervened and oppose the Stipulation are International Brotherhood of Electrical Workers, Local No. 111 ("IBEW Local No. 111") and Sustainable Power Group, LLC ("sPower").

This Stipulation represents agreement among Stipulating Parties and gives the Colorado Public Utilities Commission ("Commission") an opportunity to evaluate a portfolio described herein as the "Colorado Energy Plan Portfolio" in Phase II of this pending Electric Resource Plan ("ERP") proceeding. The Colorado Energy Plan Portfolio seeks to harness the benefits of cost effective renewable generation and leverage federal tax incentives for customers while simultaneously providing economic development benefits and business opportunities and continuing to lower the overall emissions of the Public Service generation fleet. The Colorado Energy Plan Portfolio involves voluntary retirement of select existing coal-fired generation resources to allow for the development of a larger portfolio of generation resources using the competitive bidding process of this ERP. Based on bids received in this competitive bidding process, the Company will seek to construct a portfolio of generation resources that will keep customers neutral or result in savings for customers on a present value basis. If the Company can meet this high burden, it will present the Colorado Energy Plan Portfolio to the Commission for evaluation and approval in 2018. If the Commission approves the Colorado Energy Plan Portfolio in its Phase II decision, the Company would then move forward with the retirements of its Comanche 1 and Comanche 2 coal-fired generating units.

This Stipulation does not seek approval of the Colorado Energy Plan Portfolio. Rather, if approved it would allow the Company to present the Colorado Energy Plan Portfolio for Commission approval in this proceeding. The development and presentation of the Colorado Energy Plan Portfolio is supported by a diverse array of stakeholders including Commission Staff, OCC representing residential and small commercial customers, large energy consumers (CEC and Climax), CEO, independent power producers (“IPPs”) (CIEA, Interwest, Invenergy, and SWG), conservation organizations (WRA), and distributed generation advocates (COSEIA and Vote Solar). These parties believe the presentation of the Colorado Energy Plan Portfolio is in the public interest and should be permitted by the Commission.

### **PROCEDURAL BACKGROUND**

On May 27, 2016, Public Service filed an Application for approval of its 2016 Electric Resource Plan (“2016 ERP” or “Application”) pursuant to the Commission’s ERP Rules (Rule 3600, 4 C.C.R. 723-3 *et seq.*) along with the direct testimony of five witnesses, which initiated Phase I of this ERP proceeding. In its Application, the Company sought approval of its 2016 ERP and the accompanying assumptions and studies.

On July 15, 2016, the Commission set the Application for hearing and established the parties in this Proceeding.<sup>1</sup> The parties included Staff, OCC, CEO, the City of Boulder, CEC, Climax, CIEA, Interwest, COSEIA, IBEW Local No. 111; RMELC/CBCTC, Holy Cross, YVEA, IREA, Grand Valley Rural Power Lines, Inc., Invenergy, sPower, SWG, WRA, and Vote Solar. The Commission also granted the Air

<sup>1</sup> Decision No. C16-0663-I, issued July 15, 2016, Proceeding No. 16A-0396E.

Pollution Control Division of the Colorado Department of Public Health and Environment (“CDPHE”) leave to participate as *amicus curiae* in this Proceeding.

On September 23, 2016, the Commission established a procedural schedule for Phase I of the proceeding.<sup>2</sup> Consistent with the established schedule, on December 9, 2016, Staff, OCC, CIEA, WRA, SWGen, sPower, COSEIA, and Interwest filed Answer Testimony. On January 17, 2017, Public Service filed its Rebuttal Testimony, and OCC, sPower, and WRA filed Cross-Answer Testimony. On January 26, 2017, the Commission granted Staff’s motion to allow parties to submit written Surrebuttal Testimony regarding the Company’s proposal in its Rebuttal Testimony to address three levels of resource need in the Company’s 120-Day Report.<sup>3</sup> On January 30, 2017, Staff and the OCC filed Surrebuttal Testimony.

The Commission conducted a public comment hearing on February 1, 2017, and an evidentiary hearing was conducted February 1, 2017 through February 6, 2017. Parties filed Statements of Position (“SOP”) on February 24, 2017, including Public Service, Staff, the OCC, CIEA, WRA, CEC, SWGen, Vote Solar, sPower, COSEIA, Interwest, RMELC/CBCTC, and Boulder. CDPHE also filed an SOP.

On April 28, 2017, the Commission issued Decision No. C17-0316 on Phase I of the 2016 ERP (“Phase I Decision”). The Phase I Decision approved, with modifications, Public Service’s plan to implement a competitive bidding process for acquiring resources to meet its projected resource need during an eight-year resource acquisition period (“RAP”) extending from 2016 through 2023. The Phase I Decision also approves the process for evaluating bids in the competitive solicitation and establishes the

<sup>2</sup> Decision No. C16-0867-I, issued September 23, 2016, Proceeding No. 16A-0396E.

<sup>3</sup> Decision No. C17-0082-I, issued January 26, 2017, Proceeding No. 16A-0396E.

modeling parameters, including inputs and assumptions, for the presentation and consideration of potential resource portfolios.

On June 15, 2017, the Commission issued Decision No. C17-0494 addressing the applications filed by Public Service and OCC for Rehearing, Reargument, or Reconsideration (“RRR”) to Decision No. C17-0316. The Commission granted, in part, and denied, in part, the Application for RRR filed by Public Service and denied the Application for RRR filed by OCC. In Decision No. C17-0494 the Commission also approved Accion Group, LLC (“Accion”) as the Independent Evaluator (“IE”) for the Phase II competitive solicitation and approved the contract between Accion and Public Service for IE services.

The parties commenced discussions regarding this Stipulation earlier this summer. Consistent with the discussion herein, these discussions resulted in the filing of this Stipulation.

## **STIPULATION**

### **I. BACKGROUND**

#### **A. Relevant ERP Decisions and Background**

The Phase I Decision expresses “the Commission’s preference to consider resource acquisitions in an ERP context ....”<sup>4</sup> The record in this proceeding contains extensive discussion regarding providing the Commission with an opportunity to evaluate resource portfolios that include select coal-fired generation retirements. Further, the Commission signaled a willingness to evaluate a different type of resource portfolio in the Phase II bid evaluation process as set forth in Paragraph 47 of the Phase I Decision, which provides: “[W]e permit Public Service to present in its 120-Day Report

<sup>4</sup> Decision No. C17-0316, at ¶ 47.

an alternative portfolio that includes additional resources in excess of the calculated resource need.” Therefore, the record in this proceeding, paired with the Commission’s preference to consider resource acquisitions in the ERP process and willingness to consider alternative types of resource portfolios as an extension of this preference, encouraged the Company to engage the parties regarding bringing forward an additional resource portfolio in the Phase II bid evaluation that includes voluntary retirements of existing coal-fired resources. Consideration of such a portfolio is not expressly provided for in the Phase I Decision. However, the Stipulating Parties believe that presentation of the proposed portfolio is consistent with the record in this proceeding. Further, Colorado public policy supports presentation of the proposed portfolio, as discussed below. The Stipulating Parties believe that the Commission’s consideration of the portfolio described as the Colorado Energy Plan is therefore appropriate from a public interest perspective.

After issuance of the Phase I Decision in this proceeding, On July 11, 2017, Governor Hickenlooper issued Executive Order D 2017-015, Supporting Colorado’s Clean Energy Transition, which sought to, among other things, have “[a]ppropriate state agencies ... work strategically with any interested electric utilities or cooperatives that, on a voluntary basis, would like to maximize its use of renewable energy, while maintaining reliability and without increasing costs to customers.” The Executive Order further set forth (1) greenhouse gas emissions reduction goals on an economy-wide basis, and (2) specific to the electricity sector, carbon dioxide emission reduction targets of twenty-five (25) percent from 2012 levels by 2025 and thirty-five (35) percent from 2012 levels by 2030.

The Colorado Energy Plan Portfolio will include voluntary coal plant retirements conditioned on the satisfaction of certain utility ownership percentage targets of eligible energy resources and dispatchable and semi-dispatchable resources in the Phase II process and approval of other actions as described herein. The Colorado Energy Plan Portfolio will seek to increase deployment of eligible energy resources and lower carbon dioxide emissions “without increasing costs to customers,” consistent with the goals and directives of Executive Order D 2017-015, and as further described in Sections III(B) and V(A). The Company expects to bring online a substantial percentage of cost-effective eligible energy resources to fill the Colorado Energy Plan Portfolio resource need and the goals of the Executive Order, and will provide support for these eligible energy resource acquisitions in its 120-Day Report presented to the Commission.

#### **B. Relevant Commission Rules**

This Stipulation is filed pursuant to Rule 1407 and seeks to resolve a “matter of substance or procedure that is at issue” – specifically, whether the Colorado Energy Plan Portfolio may be brought forward for Commission consideration in the Phase II bid evaluation process that is yet to be conducted. The Stipulating Parties agree that the Commission can and should evaluate the Colorado Energy Plan Portfolio in the Phase II process. The Stipulating Parties therefore seek an order from the Commission approving this Stipulation and allowing consideration of the Colorado Energy Plan Portfolio by the Commission. The Colorado Energy Plan Portfolio would be presented *in addition to* the 0 MW need and the updated demand forecast resource need (approximately 450 MW) portfolios as required by the Phase I Decision.

### **C. Colorado Energy Plan Portfolio Overview**

The Colorado Energy Plan Portfolio and related actions involve five discrete items:

- First, as part of this ERP, the Company would voluntarily propose to retire Comanche 1 no later than the end of 2022 (325 MW) and Comanche 2 no later than the end of 2025 (335 MW). At a minimum, the Company's updated demand forecast need and Comanche 1 replacement capacity resource need would be filled through the Phase II solicitation in this ERP.
- Second, as part of any Colorado Energy Plan Portfolio approved in the Phase II process in this ERP, the Company will own a proportion of the resources acquired pursuant to the 2017 Phase II competitive solicitation to fill the resource need associated with the updated demand forecast and the voluntary retirement of Comanche 1 and Comanche 2, as further described in Section III(A), below. Of the resources included in the Colorado Energy Plan Portfolio, Public Service will own a target of fifty (50) percent of the nameplate capacity of all eligible energy resources. The Company will also own a target of seventy-five (75) percent of the nameplate capacity of all dispatchable and semi-dispatchable resources acquired to fill the resource need.
- Third, the Company would seek to accelerate the depreciation expense for both Comanche 1 and Comanche 2 in a separate proceeding filed later in 2017. This would adjust the depreciation schedules of these units to align with the new retirement dates and defer recovery to align with reduction of Renewable Energy Standard Adjustment ("RESA") collections, described next.
- Fourth, in that same future proceeding, the Company would propose to reduce RESA collections from the present two (2)% to approximately one (1)% (but not less than one (1)%). The Company will set up a cost recovery mechanism and use the dollars that otherwise would have been collected through the RESA to offset Colorado Energy Plan Portfolio costs. The Company will seek approval to create a regulatory asset to collect incremental depreciation and related costs from the early retirement of Comanche 1 and Comanche 2 as part of any filing to reduce the RESA. With regard to the reduction of the RESA and accelerated depreciation, the Company is still developing its approach to and the content of the filing.
- Finally, the Company will bring forward a separate CPCN Application seeking authority to construct a new switching station on the southern transmission system in Energy Resource Zone-5 remote from the Comanche Substation.



The Colorado Energy Plan Portfolio and related actions are not severable and work in concert with one another. The Company's commitment to voluntarily retire Comanche 1 and Comanche 2 is conditioned upon the approval of the Colorado Energy Plan Portfolio, the separate Application, and related actions. The Stipulating Parties contemplate that some approvals may occur in this proceeding, while other approvals will occur in separate proceedings upon application by the Company. Each of these actions is addressed in the Stipulation.

## **II. COMANCHE 1 AND COMANCHE 2**

### **A. Retirement of Existing Generation Units Within This ERP**

The Stipulating Parties agree the Company may put forward a portfolio that includes the voluntary retirement of existing generation units as part of Phase II of its 2016 ERP. Accordingly, the Colorado Energy Plan Portfolio will include the voluntary retirements of Comanche 1 (325 MW) no later than the end of 2022 and Comanche 2 (335 MW) no later than the end of 2025. The targeted need in the 2016 ERP Phase II solicitation would be the need resulting from the Company's updated demand forecast as ordered in the Phase I Decision plus 325 MW resulting from Comanche 1 retirement for a targeted need of 775 MW. Depending upon the bids it receives in the Phase II solicitation, the Company would replace some, none, or all of Comanche 2 capacity with projects identified in this Phase II solicitation (*i.e.*, up to 1,110 MW inclusive of the Comanche 2 capacity). Any portion of Comanche 2 capacity not filled in this Phase II competitive solicitation will be addressed in the 2019 ERP process.

## **B. Necessity of a CPCN for Plant Retirements**

The Stipulating Parties agree that no additional CPCN is required to authorize voluntary retirement of existing generation units if: (1) those retirements are approved in a Phase II ERP decision, and (2) the Company will acquire capacity that will constitute an equivalent replacement for the retired facilities. Notwithstanding the above agreement, the Stipulating Parties recognize the Commission may require the Company to file “limited-scope” CPCN applications after approving the retirement(s), as was ordered in Proceeding No. 10M-245E, by Decision No. C10-1328, paragraph 144, or some other additional application.

## **III. UTILITY OWNERSHIP**

### **A. Ownership Percentage Targets**

The utility ownership percentage targets are: (1) fifty (50) percent of the total nameplate capacity of eligible energy resources, and (2) seventy-five (75) percent of the total nameplate capacity of all dispatchable and semi-dispatchable resources. Projects owned by either the Company or an affiliate shall count towards the utility ownership percentage targets. If the Colorado Energy Plan Portfolio is approved, and to the extent all or some portion of the Comanche 2 capacity is not filled through this Phase II competitive solicitation, the Company shall bring forward a request to fill that replacement capacity in the 2019 ERP process. The Company shall indicate in its 120-Day Report the amount of Comanche 2 capacity it seeks to replace in this proceeding and the amount of replacement capacity it shall bring forward in the 2019 ERP. The Company reserves its right to make proposals for utility ownership in its 2019 ERP.

As part of this agreement regarding ownership percentage targets, the Company agrees not to propose any utility self-builds for resources in this ERP other than for gas-fired resources in this ERP. There shall be no restrictions as to utility self-build bids or advocacy related to the same in the 2019 ERP or any other ERP process thereafter pursuant to this Stipulation.

## **B. Additional Details**

In the 120-Day Report, the Stipulating Parties agree that the Company may present a single Colorado Energy Plan Portfolio to the Commission that satisfies the ownership percentage targets for both eligible energy resources and dispatchable and semi-dispatchable resources. However, if another portfolio: (1) provides between forty (40) percent and sixty (60) percent utility ownership of eligible energy resources, (2) provides between sixty (60) and seventy-five (75) percent utility ownership of dispatchable and semi-dispatchable resources, and (3) is materially less expensive (more than \$50 million on a present value basis estimated savings) than the Colorado Energy Plan Portfolio presented to the Commission, then the Stipulating Parties agree that the Company will also present the materially less expensive portfolio ("MLEP") in the 120-Day Report.

The Stipulating Parties agree there are benefits associated with a generation resource mix that includes a balance of utility-owned and IPP-owned resources. Through this Stipulation, the Company seeks the ability to propose to voluntarily retire existing utility-owned generation resources and develop a portfolio of generation resources that will not increase costs to customers and save customers money over the long-term. All eligible energy resources and dispatchable and semi-dispatchable

resources acquired to fill the Colorado Energy Plan Portfolio resource need in this ERP will be acquired through the ERP Phase II competitive bidding process. Under these circumstances, it is appropriate to provide for ownership percentage targets for the generation resources to fill the resource need and replace the retiring generation resources. The Company anticipates the market will provide bids for utility ownership and IPP ownership that allow for the development of a Colorado Energy Plan Portfolio that meets the ownership percentage targets and saves customers money over the long-term. The Company retains the right in its sole discretion to not present a Colorado Energy Plan Portfolio in this proceeding based on any attendant facts and circumstances. If the Company does not include a Colorado Energy Plan Portfolio in this proceeding, the Company shall explain why in its 120-Day Report.

If a Colorado Energy Plan Portfolio is presented in the 120-Day Report, the Stipulating Parties are free to advocate for approval or denial of the Colorado Energy Plan Portfolio based on the information contained in and underlying the Company's 120-Day Report. However, the Stipulating Parties agree that, if the Colorado Energy Plan Portfolio is projected to result in material savings (\$50 million or more) on a present value basis, the Company will present the Colorado Energy Plan Portfolio in the 120-Day Report as follows: (1) the Company's preferred Colorado Energy Plan Portfolio and (2) the MLEP, if applicable, and that the Stipulating Parties will not advocate for an alternate mix of retirements or replacement resources in the Colorado Energy Plan Portfolio or the MLEP presented so long as such portfolios are in compliance with this agreement. If a Stipulating Party argues for denial of the Colorado Energy Plan Portfolio, to the extent that Stipulating Party advocates for approval of a different

portfolio, the Stipulating Party may only advocate for: (1) the MLEP presented to the Commission that satisfies each of the three MLEP requirements, or (2) one of the other portfolios presented to fill either the 0 MW or updated demand forecast case. In advocacy relating to the 0 MW and 450 MW case portfolios, the Stipulating Parties shall have all rights granted under the ERP Rules with regard to comments on the 120-Day Report.

If the Colorado Energy Plan Portfolio is projected to result in savings of less than \$50 million on a present value basis, the Company shall also make available the least-cost portfolio, without application of any ownership percentage targets, that meets the Colorado Energy Plan Portfolio need to assist parties in determining whether to advocate for the approval or disapproval of the Colorado Energy Plan Portfolio. This advocacy remains subject to the process set forth above, *i.e.*, if a Stipulating Party advocates for disapproval, it may advocate for (1) the MLEP or (2) one of the portfolios presented to fill either the 0 MW or the updated demand forecast case.

This agreement regarding ownership percentage targets applies solely to the Colorado Energy Plan Portfolio and MLEP. This Stipulation does not apply any ownership percentage targets to the 0 MW or updated demand forecast case capacity portfolios to be presented in 120-Day Report pursuant to the Phase I Decision at Paragraphs 45 and 46, respectively. The Stipulating Parties agree that if the Colorado Energy Plan Portfolio as presented in the 120-Day Report is modified by the Commission, the Company may withdraw the Colorado Energy Plan Portfolio.

### **C. CPCNs for Generation Facilities**

The Stipulating Parties agree that, for utility-owned generation projects (whether build-transfers or purchase of existing assets) included in the Colorado Energy Plan Portfolio, the Company will file for a CPCN in a follow-on proceeding consistent with Rule 3613(h) and Rule 3617(d)(II). For any CPCN filing for utility-owned wind generation projects, the Stipulating Parties agree that the Company shall propose a performance metric that shall be substantially similar to, but no more stringent than, the performance metric for the Rush Creek Wind Project. So long as the Company includes such a performance metric with its filing, the Stipulating Parties agree not to advocate for any additional performance-based or cost recovery conditions on the CPCN for the utility-owned wind project. To the extent the Company proposes a performance metric that is not substantially similar to the Rush Creek Wind Project performance metric, the Company shall meet with the Stipulating Parties ahead of the CPCN filing to discuss the different metric and the Stipulating Parties may advocate for revisions to or a different form of performance metric. The Stipulating Parties further agree that performance metrics are unnecessary for any solar project owned by the utility or a utility affiliate and agree not to seek any performance-based or cost recovery conditions for such projects. Hard capital cost caps for any utility-owned generation resource approved in this proceeding are unnecessary given that, pursuant to Paragraph 117 of the Phase I Decision, all bids for utility-owned generation resources must be evaluated based on a point cost and the Company must establish the existence of extraordinary circumstances to recover amounts above the point cost for capital.

#### **D. Cost Recovery**

The Stipulating Parties agree that it is appropriate for the Commission to address cost recovery in this ERP for all utility-owned resources consistent with Rule 3611(f).

With regard to eligible energy resources, the Stipulating Parties agree that the Company will not seek to recover Construction Work in Progress ("CWIP") and a current return on CWIP at the most recently authorized WACC through the RESA during construction of any utility-owned eligible energy resource approved as part of the Colorado Energy Plan Portfolio, notwithstanding that the Company is permitted to seek such recovery pursuant to § 40-2-124(1)(f)(IV), C.R.S. and Rule 3660(i). The Company will instead accrue interest at the AFUDC rate during the construction period. The Stipulating Parties further agree that the Company may recover costs for any utility-owned eligible energy resource approved as part of the Colorado Energy Plan Portfolio from the time of commercial operation until the resource is placed in base rates through a combination of the RESA and ECA, as contemplated by § 40-2-124(1)(f)(IV), C.R.S. and Rule 3660(i).

In addition, consistent with Rule 3611(f), the Company may also include cost recovery proposals for utility-owned non-eligible energy resources, such as gas-fired resources, as a condition of its Colorado Energy Plan Portfolio.

#### **E. Rule 3660(h) Calculation and Related Issues**

The Stipulating Parties agree that, because any utility-owned eligible energy resources will be acquired through competitive bidding, these eligible energy resources are not subject to the requirements of § 40-2-124(1)(f)(I), C.R.S. or Rule 3660(h). Specifically, the Company does not need to show that any of these eligible energy

resources either (1) “can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market” pursuant to Rule 3660(h)(I) for total eligible energy resource ownership amounts up to 25%, or (2) “can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market and ... would provide significant economic development, employment, energy security, or other benefits to the state of Colorado” pursuant to Rule 3660(h)(I) for total eligible energy resource ownership amounts up to fifty (50)%. This is appropriate and consistent with Colorado law because utility-owned eligible energy resources included as part of any Colorado Energy Plan Portfolio have been “selected as the winning bidder” in a competitive solicitation, as contemplated by § 40-2-124(1)(f)(I), C.R.S. and Rule 3660(h)(III).

The Company agrees that it will include any utility-owned eligible energy resources acquired as a result of the approval of its Colorado Energy Plan Portfolio in both the numerator and denominator for purposes of calculating utility ownership levels under Rule 3660(h). All eligible energy resource acquisitions shall count in the denominator for purposes of such calculations. In addition, the Company will not propose to acquire any projects through applications filed pursuant to Rule 3660(h) between now the filing date for the 2019 ERP (on or before October 31, 2019). To the extent the Company files a Rule 3660(h) application during the pendency of the 2019 ERP proceeding, the Company will seek to consolidate the application proceeding with the 2019 ERP proceeding. Further, in evaluating whether any resources proposed pursuant to Rule 3660(h) “can be constructed at reasonable cost compared to the cost of similar eligible energy resources available in the market,” as required by § 40-2-



124(1)(f)(I), C.R.S., the Company shall use the bid pool in the 2019 ERP Phase II competitive solicitation to identify similar eligible energy resources for comparison with the proposed Rule 3660(h) resources.

#### **IV. RATE ISSUES**

##### **A. Overview**

The Colorado Energy Plan Portfolio implementation, if approved, is dependent upon two additional approvals best addressed by separate application. First, the Company would lower the RESA collection to approximately one (1)% (but not less than one (1%)). Second, Public Service would modify the depreciation schedules for Comanche 1 and Comanche 2 to accelerate the depreciation associated with these units to reflect the retirement dates. Credit for the reduction in RESA collections and the incremental cost of the accelerated depreciation and related costs of Comanche 1 and Comanche 2 will be included as components in the evaluation of the cost effectiveness of the Colorado Energy Plan Portfolio.

##### **B. RESA Reduction**

Within 60 days of the filing of this Stipulation, the Company will file by separate application to reduce the RESA collection to approximately one (1)% from its current two (2)% (but not less than one (1%)). The Company anticipates that the RESA reduction will begin in 2021 or 2022, and this reduction will be in place for a period of time as needed to allow for implementation of the Colorado Energy Plan Portfolio. The Stipulating Parties agree it is appropriate for the Company to propose to reduce the RESA collections to approximately one (1)% (but not less than one (1%)) as a component of the Colorado Energy Plan Portfolio.

The State of Colorado has determined that Distributed Generation resources are an appropriate generation resource to be acquired by public utilities. RESA dollars will be available to continue to support Distributed Generation resources, and the RESA reduction will not result in any change in previously-agreed commitments for Distributed Generation programs nor will it result in any suspension of such programs.

As part of its filing regarding the RESA reduction, the Company will propose a cost recovery mechanism and use the dollars that otherwise would have been collected through the RESA for Colorado Energy Plan Portfolio costs. The RESA reduction is contingent upon the selection of the Colorado Energy Plan Portfolio in the Phase II competitive solicitation as the Commission's approved portfolio.

The Stipulating Parties agree to include, as part of the existing Future Voluntary Renewable Programs Stakeholder Group ("Future Programs Stakeholder Group"), a forum to explore and consider how the remaining RESA collections may be used to best achieve applicable statutory policy objectives. The Future Programs Stakeholder Group will include, at a minimum, representatives from Vote Solar, COSEIA, SEIA, Interwest, CIEA, WRA, Public Service, Staff, CEO and the OCC. No Stipulating Party waives, and all Stipulating Parties reserve all rights, with respect to any issue pertaining to the uses of the RESA in future proceedings.

Further, after the issuance of the 120-Day Report, Public Service will work with the existing Future Program Stakeholder Group to understand the modeling of the Colorado Energy Plan Portfolio, including estimated avoided cost effects.

### **C. Accelerated Depreciation**

In the application proposing RESA collection reductions, the Company will also seek approval to accelerate the depreciation associated with Comanche 1 and Comanche 2 and amortize the incremental depreciation expense for recovery concurrent with the reduction in RESA collections. The Stipulating Parties agree it is appropriate for the Company to propose to accelerate the depreciation associated with Comanche 1 and Comanche 2 as a component of the Colorado Energy Plan Portfolio. This depreciation change is contingent upon the selection and approval of the Colorado Energy Plan Portfolio in the Phase II of this ERP. Because the Company will have to accelerate depreciation expense associated with Comanche 1 and Comanche 2 under generally accepted accounting principles (“GAAP”) prior to the date that the RESA reduction begins, the Company will seek approval to create a regulatory asset to collect incremental depreciation and related costs from the early retirement of Comanche 1 and Comanche 2 in this same filing.

### **D. Reservation of Rights**

The Stipulating Parties agree it is appropriate for the Company to propose to reduce the RESA from two (2)% to approximately – but not less than – one (1)%. The Stipulating Parties agree it is appropriate for the Company to propose to accelerate the depreciation expense for Comanche 1 and Comanche 2. However, no Stipulating Party waives any of its rights, and all Stipulating Parties reserve all rights, with respect to any issue pertaining to the Company’s proposals to reduce the RESA to no less than one (1)%, accelerate depreciation of Comanche 1 and Comanche 2, and implement a cost recovery mechanism as discussed above.

## **V. POLICY AND OTHER ISSUES**

### **A. Economic and Environmental Benefits**

Overall, the Colorado Energy Plan Portfolio gives the Commission an opportunity to evaluate a portfolio that harnesses the benefits of cost effective renewable generation resulting from federal tax incentives for customers while simultaneously providing economic development benefits and business opportunities and continuing to lower the overall emissions of the Public Service generation fleet. The Stipulating Parties anticipate the overall bill impacts of the Colorado Energy Plan Portfolio will be neutral or will result in savings for customers, on a present value basis, while providing greater price certainty for customers by utilizing the extension of the production tax credit/investment tax credit extension for customers. Any Colorado Energy Plan Portfolio must, based upon current projections, provide savings for customers, consistent with Section III(B), above. Based upon current projections, the Company believes, and represents, such savings may be up to \$200 million on a present value basis. In evaluating the savings of the Colorado Energy Plan Portfolio, the analysis will include all power supply and transmission costs and benefits associated with the Colorado Energy Plan Portfolio, including without limitation accelerated depreciation and decommissioning costs for Comanche 1 and Comanche 2, avoided fuel and fuel savings, costs of added eligible energy resources and non-eligible energy resources, eligible energy resource integration costs, coal cycling costs, transmission interconnection and delivery-related costs, and gas delivery costs. The Company will evaluate the projected present value savings of the Colorado Energy Plan Portfolio

using base modeling assumptions consistent with the Phase I Decision. The Colorado Energy Plan Portfolio will also be subject to evaluation under the sensitivity analyses required by the Phase I Decision, including carbon cost sensitivities, which will provide additional information regarding the potential savings associated with the Colorado Energy Plan Portfolio. The Company will also address the reliability attributes of all portfolios presented in the 120-Day Report.

Further, if the Colorado Energy Plan Portfolio is approved in the Phase II process, the Company expects to meet or exceed carbon dioxide emission reduction targets of 25 percent from 2012 levels by 2025 and 35 percent from 2012 levels by 2030 set forth in Executive Order D 2017-015; cut mercury, particulate matter, NO<sub>x</sub>, and SO<sub>2</sub> pollution; reduce water consumption; and avoid costly emission controls necessary to meet future environmental requirements. If approved, the Colorado Energy Plan will assist the State of Colorado to continue its progress on regional haze and ambient air quality, while also reducing the financial risks to customers of any future carbon regulation.

## **B. Labor Issues**

The Company commits to the use of a Project Labor Agreement for labor for the construction of any new utility-owned self-build gas resource included as part of the approved Colorado Energy Plan Portfolio. For any demolition work for Comanche 1 and Comanche 2 following any early retirement, the Company commits to the use of a Project Labor Agreement for such demolition work. If the Company converts the generators at either Comanche 1 or Comanche 2 to synchronous condensers for

transmission reliability purposes, the Company commits to the use of union labor for labor associated with the conversion to synchronous condensers.

### **C. Consistency with Commission Directives**

The Commission has stated its preference to consider resource acquisitions in an ERP context. The Colorado Energy Plan Portfolio puts forward the Company's voluntary early retirement of coal-fired generation resources and the resource acquisitions necessary to fill the resulting resource need (*i.e.*, the resource need created by the voluntary early retirements and the resource need based on the Company's updated demand forecast). Further, to the extent additional resource acquisitions are necessary in the 2019 ERP, this Stipulation provides that such acquisitions shall occur in the 2019 ERP process and not through filings external to the ERP such as Rule 3660(h) applications. As discussed above, to the extent the Company files a Rule 3660(h) application during the pendency of the 2019 ERP proceeding, the Company will seek to consolidate the application proceeding with the 2019 ERP proceeding.

### **D. Transmission Issues**

Retirement of the Comanche units 1 and 2 will create transmission injection capability for new generation resources on the Company's transmission system. The Company will therefore bring forward a separate CPCN Application to construct a switching station on the Company's southern transmission system in ERZ-5 in order to facilitate interconnection access to ERZ-5 generation resources including wind and solar generation. The approximate location of this switching station would be provided in the 2017 Phase II solicitation RFP documents.

### **E. Independent Evaluator**

The Independent Evaluator will verify the results of the Colorado Energy Plan Portfolio consistent with the scope of work set forth in the Phase I Decision and as approved in Decision No. C17-0316.

## **VI. PROCEDURAL ISSUES**

### **A. Notice**

The Stipulating Parties agree not to object to the Commission renoticing this proceeding and establishing a supplemental intervention period.

### **B. Testimony**

The Stipulating Parties may file testimony supporting the Stipulation contemporaneously with the Stipulation. The Stipulating Parties do not object to the Commission (1) allowing for testimony from other intervenors either supporting or opposing the Stipulation, and (2) setting the Stipulation for hearing.

### **C. Decision**

The Stipulating Parties request a final Commission decision regarding this Stipulation no later than December 31, 2017, in order to provide sufficient time for the Company to prepare its 120-Day Report.

## **GENERAL PROVISIONS**

1. The Stipulating Parties understand that the Commission's approval of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable, and reasonable resolution of issues. Accordingly, the Stipulating Parties state

that reaching resolution of the issues in this Stipulation through this negotiated agreement is in the public interest and that the results of the compromises and agreements reflected in the Stipulation are just, reasonable, and in the public interest.

2. The Stipulating Parties agree to join in a motion that requests the Commission to approve this Stipulation and to testify in support of this Stipulation. All testimony in support of the Stipulation shall be admitted into evidence. Each Stipulating Party further agrees that in the event that it sponsors a witness to address the Stipulation at any hearing that the Commission may hold to address it, the Stipulating Party's witness will testify in support of the Stipulation and all of the terms and conditions of the Stipulation. The Stipulating Parties agree to reasonably seek approval of this Stipulation before the Commission against challenges that may be made by non-executing parties.

3. Except as expressly stated herein, nothing in this Stipulation shall resolve any principle or establish any precedent or settled practice.

4. Nothing in this Stipulation shall constitute an admission by any Stipulating Party of the correctness or general applicability of any principle, or any claim, defense, rule, or interpretation of law, allegation of fact, regulatory policy, or other principle underlying or thought to underlie this Stipulation or any of its provisions in this or any other proceeding. As a consequence, no Stipulating Party in any future negotiations or proceedings whatsoever (other than any proceeding involving the honoring, enforcing, or construing of this Stipulation in those proceedings specified in this Stipulation, and only to the extent, so specified) shall be bound or prejudiced by any provision of this Stipulation.



5. The discussions among the parties that have produced this Stipulation have been conducted with the understanding, pursuant to Colorado law, that all offers of settlement, and discussions relating thereto, are and shall be privileged and shall be without prejudice to the position of any of the Stipulating Parties and are not to be used in any manner in connection with this or any other proceeding.

6. In the event the Commission modifies this Stipulation in a manner unacceptable to any Party, that Party shall have the right to withdraw from this Stipulation and may also request a hearing to address issues that, but for the Stipulation, it would have timely raised and which may have had a material bearing on the Commission's decision to modify the Stipulation.


7. All Stipulating Parties have had the opportunity to participate in the drafting of this Stipulation. There shall be no legal presumption that any specific Party was the drafter of this Stipulation.

8. This Stipulation may be executed in counterparts, all of which when taken together shall constitute the entire agreement with respect to the issues addressed by this Stipulation.

Dated this 29th day of August, 2017.

Agreed on behalf of:

PUBLIC SERVICE COMPANY  
OF COLORADO

By: 

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Scott B. Brockett  
Interim Regional Vice President,  
Rates and Regulatory Affairs

Approved as to Form:

By: 

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William M. Dudley  
Lead Assistant General Counsel

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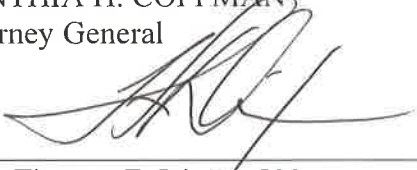
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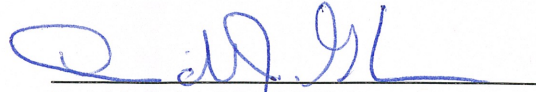
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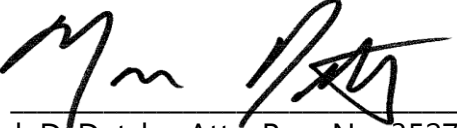
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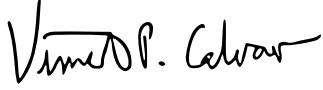
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Representing the Interwest Energy Alliance

Dated this 29<sup>th</sup> day of August, 2017.

Agreed on behalf of:

Invenergy LLC

/s/ Judith M. Matlock

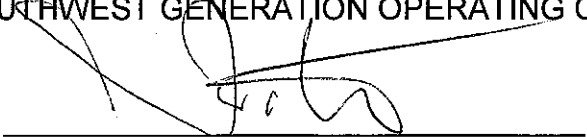
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Proceeding No. 16A-0396E, Stipulation

SOUTHWEST GENERATION OPERATING COMPANY, LLC

By:



John Foster

President and Chief Executive Officer

By: */s/ Gary Arnold*

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Gary Arnold, President  
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**ROCKY MOUNTAIN ENVIRONMENTAL LABOR COALITION (RMELC)**

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