



State of Utah

DEPARTMENT OF COMMERCE
Committee of Consumer Services

To: The Public Service Commission of Utah

From: The Committee of Consumer Services
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Date: January 24, 2008

Subject: Docket No 00-035-T01: Rocky Mountain Power's Annual Report of Blue Sky Program – Schedule 70, Renewable Energy Rider, Optional – Schedule 72, Renewable Energy Rider – Optional -- Bulk Purchase Option

1 Background

On October 31, 2007, Rocky Mountain Power (Company) filed its Annual Report (Report) of the Blue Sky Program (Program) for the period September 2006 through August 2007, with the Public Service Commission (Commission) as required by Order in Docket No. 00-035-T01. On November 19, 2007, the Commission issued an Action Request to the Division of Public Utilities (Division) with a due date of January 7, 2008, directing them to:

- 1) Review and evaluate PacifiCorp's attached Annual Report of Blue Sky Program per the requirements of the referenced docket and also in light of PacifiCorp's recent filing and the Commission's Order in Docket 07-035-T01¹;
- 2) Provide comments to the Commission on PacifiCorp's reduction of available Blue Sky Program funds by \$900,000 resulting from PacifiCorp's contractual obligation to purchase RECs payable over five years beginning in 2008; and
- 3) Provide information to the Commission explaining what happens with the excess Block Product Purchases when only a portion of the purchase is used to meet a Blue Sky sales requirement.

¹ The Committee assumes that the Commission is referring to Docket No. 07-035-T13, the most recent Blue Sky tariff filing.

On January 4, 2008, the Division requested an extension of time in order to facilitate a meeting with the Company and other interested parties. The extension was granted with a new response deadline of January 24, 2008.

In this memo, the Committee provides its responses to each of the issues in the Action Request, as well as an overview of its interest in the Blue Sky Program.

2 Evaluation of the Blue Sky Annual Report

In its Order of April 17, 2000 in Docket No. 00-035-T01 the Commission stated:

The Company will provide annual reports on the program to the Commission and any interested parties commencing October 31, 2000. The reports will account for all revenues received, blocks purchased, blocks generated or contracted for and other program costs. The information is intended to provide the necessary information to assure that the program revenues are just sufficient to cover the costs over the life of the program. In case of a surplus or deficit, the Company will request that the tariff be adjusted either by changing the price of the premium or the size of the purchased block.

The Company's Annual Report of October 31, 2007 accounts for revenues received, blocks purchased and other program costs. However, the Committee finds a lack of transparency in areas of the Report as well as a lack of accessibility, and makes the following recommendations:

1. Community Projects Awarded. The Report should include additional information in order to provide a more complete overview of this portion of the program. Specifically, the Committee recommends that the following items be added:
 - a. A description of the criteria and requirements that are used to judge the feasibility of projects.
 - b. A description and location of the project as well as the appropriateness of project costs.
 - c. The number of grant requests received and the number awarded.
 - d. Deviations of any part of a project from the approved grant with the reason for the deviation.
 - e. Any project grants awarded that failed to be completed should be identified with an explanation of why the project failed and the amount of the grant that was refunded².
2. Accounting. The beginning balance, expenditures and ending balance should be detailed on a Utah basis as well as a total Company basis.
3. Accessibility of Report. The Report is currently filed with the Commission with copies forwarded to interested parties. The Committee believes that the Report

² If no refund of grant funds was received, that should be explained as well.

should be readily available to all current and potential participants so that funds collected and the projects supported are transparent. We recommend that the Report be posted on the Company's website and that participants in the Program be notified of the posting³.

3 Responsiveness to Previous Commission Orders

In Docket No. 07-035-T13, the Commission's Order, at page 10, directed "the Company to work with the Division, the Committee and other interested parties in the development of the annual report to address their concerns including the contents, timing, distribution, notification and other aspects of this report". On January 15, 2008 representatives of the Company, the Division, the Committee, the Utah State Energy Program and the Governor's Energy Advisor met to discuss the Blue Sky Annual Report. However, the Committee's understanding is that this meeting was not initiated by the Company nor did it include "all interested parties." Therefore, the Company has not met its obligation under the Commission's Order. Further, as of this date, the Committee is uncertain as to the outcome of the suggestions made at that meeting, but does not feel assured that its concerns have or will be adequately addressed.

4 Commitment of \$900,000 Blue Sky Program Funds

Through the Qualifying Initiatives portion of the Program, PacifiCorp committed to purchase 200,000 green tag attestations for \$900,000 over five years from a single source. The purchase price of \$4.50 per tag was determined based on an average of REC purchases in September and November of 2006. In general the Committee does not object to the purchase of additional RECs with Blue Sky funds, however, there is no evidence provided to make a determination that this was the best use of such a significant amount of funds. The Commission should require some analysis in the Blue Sky Annual Report, justifying that the projects selected (or additional RECs retired) were prudently pursued and provide the value intended for the voluntary participants in this program.

5 Use of Excess Block Purchase Funds

The Commission in its Order in Docket No 07-035-T13 observed that parties had raised concerns regarding the selection and funding of Qualifying Initiative projects. Although it made no direct findings on specific issues, the Commission Order stated:

"We therefore direct the Company to work with the Division, and other parties as well, to address comments regarding the process of selecting and funding projects. We also direct them to review the information maintained by the Company on its Web site, and to determine the provision of other information deemed necessary by the Division to carry out its review function."⁴

The Committee is troubled that the Commission's Order regarding the Company working

³ The Committee notes that the Company has indicated an unwillingness to provide this kind of direct access to the annual report. The Committee would be willing to explore alternatives such as developing a companion report for more public distribution or Company notice to participants that the report is available at the Commission website.

⁴ Public Service Commission Order in Docket No. 07-035-T13 at page 11.

with parties to address the process of selecting and funding projects has seemingly been disregarded.⁵ In its memo to the Commission in Docket No. 07-035-T13, the Committee addressed some of its concerns with the Qualifying Initiative projects and made the following recommendations:

- 1) Establish detailed criteria and requirements to judge the feasibility of projects, appropriateness of costs, and the reliability of the technology proposed.
- 2) Clearly identify all requirements as well as any weighting applied to specific criteria.
- 3) Require applicants to provide detailed and specific information regarding their proposed projects. Major modifications or deviations from an approved proposal should require review.
- 4) Establish criteria, selection of projects, and review of modifications through a group of experts.
- 5) Establish adequate oversight as to the actual completion and performance of the project. Explore other means of allocating funds for projects rather than an upfront disbursement. Establish a verification process.
- 6) Obtain Commission approval of selected Qualifying Initiative projects prior to funding.
- 7) Require the Company to clearly communicate to potential and existing participants the changes related to how Blue Sky funds will be used.

The Committee believes that reworking the process for Qualifying Initiatives is imperative and that the Commission should provide more specific direction to the Company for working with interested parties in addressing concerns raised in Docket No. 07-035-T13.

There are other aspects of the Program that should also be evaluated, such as the participants' cost for each block of Blue Sky product and the level of overhead costs associated with the Program. In a recent meeting, several state agencies indicated concern at the magnitude of overhead. However, the Company has stated that Blue Sky overhead is considered "best in class". Additional information regarding appropriate levels of overhead costs is another example of the type of information that could greatly improve the quality of the Blue Sky Annual Report.

5 Overview of Committee Policy

The Committee notes that the Blue Sky Program has been generally well received in the community and the number of participants continues to increase. Many of the customers that the Committee represents are Blue Sky subscribers and all are potential subscribers.

⁵ In response to CCS 2.8, dated December 26, 2007, (Docket 00-035-T01) the Company stated that it intends to continue using its current process to award Community Projects. Response CCS 2.9 stated that "Work is underway to update the application form, web content and 2008 timetable to clarify requirements and the evaluation process."

An even larger number of small customers are impacted by the Blue Sky program as there is an increasing number of local governmental bodies that subscribe to the program. The Committee supports the Blue Sky Program to the extent that it provides an option to customers who wish to indicate their support for certain resource options through participation in a voluntary tariff. It is our intent to offer these comments and suggestions in an effort to strengthen the program.

Although the Blue Sky Program is funded by voluntary participants, the regulatory system -- and the Committee as consumer advocates -- maintains certain responsibilities. Of utmost importance is that customers have access to adequate and accurate information upon which to make an informed decision regarding their individual participation in the program.

Next, customers must rely on the regulatory system to oversee the nuts and bolts operations of the program to ensure that customer funds are prudently spent consistent with the terms of the program, and leveraged to acquire projects that can reasonably be found to be the best use of these revenues.

Finally, the Commission maintains an obligation to ensure just and reasonable rates, even for a voluntary program. The Committee respectfully asserts that in order for the Commission to meet this obligation, it may need to be more specific and prescriptive in its Orders regarding this program and urges the Commission to consider the recommendations we present in this memo.

The Committee also notes that it has been difficult for some stakeholders to ascertain how to best participate in this process. When the process evolves solely through an action request to the Division, it is not clear whether the Commission will also consider stakeholder comments and whether those comments should be presented by the deadline given to the Division, or afterwards incorporating the work of the Division. Therefore, the Committee requests that the Commission help to facilitate broader participation of interested parties by including, as a matter of standard practice, in its action requests to the Division its preference for the timing of receiving comments from other parties as well.

6 Recommendations

The Committee makes the following recommendations in regard to the Blue Sky Program and Annual Report:

- 1) The Commission should require specific changes to the Blue Sky Annual Report to ensure that the report provides adequate information to give a comprehensive overview of the program. These changes should include, at a minimum:
 - a. A description of the criteria and requirements that are used to judge the feasibility of projects.
 - b. A description and location of the project as well as the appropriateness of project costs.
 - c. The number of grant requests received and the number awarded.

- d. Deviations of any part of a project from the approved grant with the reason for the deviation.
 - e. Any project grants awarded that failed to be completed should be identified with an explanation of why the project failed and the amount of the grant that was refunded⁶.
 - f. The beginning balance, expenditures and ending balance should be detailed on a Utah basis as well as a total Company basis.
 - g. Justification that the excess funds not used to purchase RECs to satisfy the block subscriptions were put to their “best use.”
- 2) The Commission should establish a process for ensuring appropriate oversight of project selection, including, at a minimum:
- a. Require the Company to meet with parties to discuss improvements to the selection and funding process for Qualifying Initiative Projects as well as other aspects of the Program.
 - b. The selection criteria for Qualifying Initiatives must be clearly identified for those who submit an application for funding. Any weighting given to specific criteria should be explicitly identified.
 - c. The Company should explore alternate methods of providing funds to selected applicants rather than a full upfront disbursement.
 - d. Qualifying Initiative projects selected through the application process should require Commission approval prior to receiving funding.
- 3) The Company should be required to clearly communicate to its customers the details of the types of purchases that will be made with Blue Sky funds.
- a. Program participants should be informed of grants to Qualifying Initiatives in the prior year and the status of the projects annually.
 - b. Notification that an annual status report has been submitted should be sent to Blue Sky parties.
 - c. Company website and marketing materials should be easily understandable to subscribers and potential subscribers, making it clear where the Blue Sky funds are spent.

In addition, The Committee recommends that the Commission facilitate stakeholder participation in this, and other dockets. To do this, it should clarify the process whereby all interested parties have an opportunity to comment on Action Requests that are sent to the Division.

⁶ If no refund of grant funds was received, that should be explained as well.