

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Rocky Mountain Power’s Application for)
Approval to Implement Community Clean)
Energy Program Authorized by the) Docket No. 25-035-06
Community Clean Energy Act)
)

DIRECT TESTIMONY OF
ANTHONY SANDONATO
FOR THE
OFFICE OF CONSUMER SERVICES

October 10, 2025

1 **Q. WHAT IS YOUR NAME, TITLE, AND BUSINESS ADDRESS?**

2 A. My name is Anthony Sandonato. I am an outside consultant with J. Kennedy and
3 Associates, Inc. (“Kennedy and Associates”), whose address is 570 Colonial Park
4 Drive, Suite 305, Roswell, Georgia, 30075.

5 **Q. ON WHOSE BEHALF ARE YOU APPEARING?**

6 A. I am appearing on behalf of the Utah Office of Consumer Services (“OCS”).

7 **Q. PLEASE PROVIDE A SUMMARY OF YOUR QUALIFICATIONS AND**
8 **EXPERIENCE.**

9 A. I have included a summary of my education, experience, and expert testimony
10 appearances in Exhibit OCS 1.1D. This is my first time testifying before the Utah
11 Public Service Commission (“PSC”); however, I have testified on several occasions
12 in South Carolina, and Georgia.

13 **Q. PLEASE DESCRIBE YOUR EXPERIENCE WITH COMMUNITY RENEWABLE**
14 **PROGRAMS.**

15 A. Prior to joining Kennedy and Associates in 2025, I worked for the Lawrence
16 Berkeley National Laboratory (“LBNL”) where I supported the National Community
17 Solar Partnership (“NCSP”). The NCSP is a coalition of solar stakeholders who
18 work with the Department of Energy to expand access to solar energy in
19 communities across the U.S. I worked to develop tools and curricula to advance
20 and implement community solar programs across various regulatory jurisdictions
21 and provided technical assistance to support the development and implementation
22 of Community Solar Programs.

23 While working at the LBNL, I developed a paper which identified strategies
24 to implement community solar programs in states without enabling community
25 solar legislation.¹ These strategies focused on utilizing technology to maximize
26 benefits from existing net energy metering laws, the formation of cooperatives to
27 allow for resource ownership, and the use of multi-family sites where all
28 participants could benefit from reduced site electrical consumption.

29 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

30 A. The purpose of my testimony is to discuss the OCS's findings and
31 recommendations regarding Rocky Mountain Power's ("RMP" or "the Company")
32 Application to implement a Community Clean Energy Program ("Program")
33 authorized by the Community Clean Energy Act ("The Act").²

34 **Q PLEASE PROVIDE AN OVERVIEW OF HOW THE PROPOSED PROGRAM**
35 **WILL WORK.**

36 A. RMP has proposed acquiring renewable energy resources to implement the
37 Program. Twenty-three communities have adopted a resolution that states they
38 support "a goal of achieving an amount equivalent to 100% of the annual electric
39 energy supply for participating customers from a renewable energy resource by
40 2030 ("Resolution Requirement")."³ These 23 communities then negotiated a
41 Governance Agreement, which established the Community Renewable Energy
42 Agency ("Agency").⁴ Eighteen communities that signed the Resolution

¹ https://www.energy.gov/sites/default/files/2024-07/Opportunity%20States_EMP_tech-brief_06.26.2024.pdf

² Utah Code §§ 54-17-901 – 1002.

³ Direct Testimony of Daniel E. Dugan p. 6, lines 64-66.

⁴ *Id.* at lines 97-103.

43 Requirement have entered into the Governance Agreement.⁵ Ultimately, the Utah
44 Legislature eliminated the Resolution Requirement through the passage of Senate
45 Bill 214, which allowed additional communities to join the Agency. Since Senate
46 Bill 214 passed, a 19th community joined the Agency.⁶

47 Under the current proposal, RMP will continue to operate a single system,
48 and all ratepayers will pay for energy generated by the Program resources
49 (“Resource”) at the avoided cost rate. However, the Agency’s participating
50 customers (“Participants”) will pay an additional amount for the Program resources
51 above RMP’s avoided cost based on the terms of the Program Resources’
52 Purchased Power Agreement (“PPA”).

53 All customers residing in the Communities in the Agency will automatically
54 be enrolled in the program but will have an opportunity to opt-out if they choose
55 not to participate. Additionally, a process will be in place to true-up costs annually,
56 and non-participating customer protections have been proposed in the event the
57 Program terminates early.

58 On January 24, 2025, RMP “filed Part I of this Application, which presented
59 certain aspects of the Program which the Company and Communities generally
60 agreed upon.”⁷ RMP’s current Part II filing, addresses the rest of the Program
61 structure, which includes issues of disagreement between RMP and the Agency.
62 According to RMP, the unresolved issues consist of: (1) the projected program
63 rates for each customer class, (2) the schedule for implementation of the program,

⁵ *Id.* at lines 113-116.

⁶ *Id.* at lines 124-129.

⁷ Part II Application, June 4, 2025, p. 2.

64 and (3) the methodology to ensure that non-participating customers and RMP will
65 not be subjected to any Program liabilities or costs.⁸ RMP and the Agency address
66 these disagreements by proposing different rate structures (which include
67 adjustments by the Agency to the Administrative Reserve fund), different opt-out
68 notification processes, and different treatment of the resource valuation and the
69 potential lost value of renewable energy credits (“RECs”).

70 **Q. WHAT DOES YOUR TESTIMONY ADDRESS?**

71 A. OCS’ role in this proceeding is to ensure the interests of all residential and small
72 commercial customers are protected, both participants and non-participants alike.⁹
73 In particular, my testimony addresses the Utah Code § 54-17-904 (4)(b)
74 requirement, which mandates that programs such as this “not result in any shift of
75 costs or benefits to any nonparticipating customer, or any other customer of the
76 qualified utility beyond the participating community boundaries.” Specifically, my
77 testimony addresses the overall Program application and Program details on which
78 RMP and the Agency have disagreements, and covers the following topical areas:

- 79 I. Community Renewable Energy Program Design
- 80 II. The Program Power Purchase Agreement
- 81 III. Consumer Protections, Rate Design and Low-Income Impacts
- 82 IV. Noticing and Customer Opt-out Provisions
- 83 V. Resource Valuation and REC Treatment

84 All data request responses referenced in this testimony are attached as
85 Exhibit OCS 1.2D.

⁸ Direct Testimony of Craig M. Eller pp. 5-6, lines 107-114, RMP’s Response to OCS Data Request 2.23.

⁹ Utah Code § 54-10a-201(3).

86

87 **Q. PLEASE PROVIDE A SUMMARY OF YOUR CONCLUSIONS AND**
88 **RECOMMENDATIONS.**

89 A. The Company's proposal is not unreasonable, however, it is deficient in several
90 critical areas. The proposed resource valuation methodology relies on Schedule
91 38 to determine avoided costs for the Program Resources with certain unspecified
92 adjustments. While the use of Schedule 38 is reasonable, the adjustments are
93 fundamentally opaque, granting RMP excessive and unilateral discretion. The
94 proposed resource valuation also relies on a future renewable resource, without a
95 clearly specified methodology to quantify the costs and benefits associated with
96 RECs, and how these costs and benefits are to be recovered from Participants.
97 The assumptions included in the filing show the Participants will pay more for the
98 electricity generated through the Program. Any potential bill reductions for this
99 phase of the Program occur only through a future draw down period where accrued
100 reserve funds are returned to the Participants.¹⁰

101 The OCS does not object to the approval of the Program so long as it is
102 modified to include the following recommendations:

103 1. No noticing or charging Participants should take place until after there is
104 a specific PPA that has been executed by RMP and approved by the
105 PSC.

¹⁰ Direct Testimony of Robert M. Meredith p. 4 lines 78-79.

- 106 2. Participants should be required to pay for both a 12.5-year Resource
107 Reserve¹¹ and 5-year Administrative Reserve fund. OCS supports the
108 use of an annual true up to ensure all incremental Program costs are
109 paid by the Participants and reflect the actual costs to administer the
110 Program.
- 111 3. All Participants should be charged on a per kWh basis for the program.
- 112 4. Two opt-out notifications should be sent by U.S. mail with a second
113 notification sent electronically if it is the customer's preferred method of
114 contact, and Participants should not be required to pay an opt-out fee if
115 the Participants opt-out during the first six-months after the
116 commencement of the Program.
- 117 5. Participants should be able to opt-out via a clear and simple automated
118 process if they choose to call the dedicated customer service line during
119 the Initial Opt-out period.
- 120 6. Additional notices should be sent out when future tranches of renewable
121 resources are procured, as the Agency works towards its goal of 100%
122 net renewable energy.
- 123 7. RMP should be required to publish the per kWh charges of the Program
124 Resources, the Resource Reserve and Administrative Reserve funds,
125 and the per month Surcharge to fund Low Income Assistance credits on
126 the Schedule 100 tariff.

¹¹ OCS does not oppose the Resource Reserve amount, if the funds required are reflective of the actual terms of the PPA.

- 127 8. RMP should be required to reevaluate the PPA in the event of Program
128 termination to determine if continuing to purchase energy from the
129 resource would provide benefits to all ratepayers.
- 130 9. RMP and the Agency should finalize, request and receive PSC approval
131 of the adjustments that will be made to Schedule 38 (Qualifying Facility
132 Procedures) for pricing the costs associated with Schedule 100
133 (Proposed Program) prior to the beginning of the notification process.
- 134 10. RMP retains ownership of the RECs and retires them on behalf of the
135 Participants, and the Program should reimburse the system to account
136 for the lost value of RECs under certain circumstances.

137 **I. Community Renewable Energy Program Design**

138 **Q. WHAT IS A COMMUNITY RENEWABLE PROGRAM?**

139 A. A community renewable program allows participating customers to benefit from a
140 shared renewable energy resource. Many community renewable programs use
141 solar as their renewable energy resource that is not located behind the customers'
142 meters.

143 **Q. WHAT ARE THE MOST COMMON COMMUNITY SOLAR PROGRAM
144 DESIGNS?**

145 A. Typically, a customer will pay for a subscription for either a block amount of solar
146 energy on a \$/kWh basis or for an amount of capacity on a \$/kW-Month basis.
147 Based on their share of the solar energy produced, participants may receive
148 benefits of the energy value back as a bill credit. These solar resource projects
149 can be funded and built by a third party (in states where third party ownership is

150 allowed) or by the area's electric service provider (investor-owned utility,
151 municipality or cooperative). In some cases, community solar programs allow
152 participants to receive benefits as reductions in their energy pricing. Community
153 Solar models have historically benefited from substantial tax incentives. However,
154 these tax incentives may no longer be available based on the passage of recent
155 federal legislation.

156 **Q. ARE YOU AWARE OF ANY PROGRAMS DESIGNED SIMILAR TO THE RMP'S**
157 **CURRENT PROPOSAL?**

158 A. No. I am not. In fact, RMP could not point to a similar program when asked in
159 discovery.¹² This program is a unique model based on Utah legislation. The Act
160 mandates the Program does not result in any shift of costs or benefits between
161 Participants and non-participants, which requires protections to ensure both
162 participants and non-participants are held harmless. These protections will ensure
163 the Program can work towards the goal of 100% new renewable energy by 2030
164 while protecting all customers, especially those not participating.

165 **II. The Program Power Purchase Agreement**

166 **Q. HOW WILL THE PROGRAM PROCURE RENEWABLE ENERGY**
167 **RESOURCES?**

168 A. The Agency is currently administering an RFP to acquire a renewable resource
169 that will produce energy for the program.¹³

¹² RMP's Response to OCS Data Request 5.2.

¹³ <https://www.utahrenewablecommunities.org/post/urc-closes-the-call-for-clean-energy-resources-the-response-was-outstanding>

170 **Q. WHAT IS THE TIMING OF THE PROGRAM AND THE ACQUISITION OF THE**
171 **PROGRAM RESOURCE?**

172 A. As discussed by RMP witness Craig M. Eller in his direct testimony, the PSC
173 granted RMP's application for the Program's Solicitation on May 13, 2025.
174 According to the RFP solicitation document found on the Agency's website, the
175 RFP was issued to the market on May 22, 2025, and agreements are expected to
176 be executed by February 6, 2026.¹⁴ Any program resource selected will require an
177 executed PPA to be approved by the PSC.¹⁵ Under RMP's current proposal, RMP
178 will begin to accrue Program startup expenses January 1, 2026, accounted for in
179 the Administrative Reserve fund. According to the Company, the Program will
180 officially begin July 1, 2026, at which time RMP will begin charging the Participants
181 for startup costs, recurring costs associated with the 5-year Administrative Reserve
182 fund, and costs associated with the 12.5-year Resource Reserve fund. (I further
183 address these two reserve funds later in my testimony.) Based on R746-314-301,
184 RMP shall provide the first opt-out notice to customers no earlier than 60 days and
185 no later than 30 days before the commencement date of the Program. This means
186 the initial notification must be sent by June 1, 2026, if not earlier, and should reflect
187 the actual Resource cost to show potential bill impacts as accurately and
188 transparently as possible.¹⁶

189 **Q. WHAT HAS RMP EXPLAINED WOULD HAPPEN IN THE EVENT THE**
190 **PROGRAM TERMINATES?**

¹⁴ <https://www.urc2024rfp.com/documents>

¹⁵ Direct Testimony of Craig M. Eller p. 12 lines 237-241.

¹⁶ 54-17-905(b)(i).

191 A. RMP has been somewhat vague about what would happen in the event of Program
192 termination. RMP has assumed that "...the resource PPA terminates upon
193 termination of the program."¹⁷ The ways the Program could potentially terminate,
194 include: the Utah legislature repeals the Community Clean Energy Act, the Agency
195 terminates the Governance Agreement, the Agency terminates the Utility
196 Agreement, the Agency defaults under the agreement, the Agency ceases to exist,
197 the PSC terminates the Program, or other similar events occur that could require
198 the Program to terminate (such as from limited customer participation through opt
199 outs).¹⁸

200 **Q. HOW WILL THE PPA IMPACT THE PROGRAM?**

201 A. The terms of the PPA will be critical to the pricing interested customers will have to
202 pay to participate in the Program. The cost of the initial phase of the Program will
203 be unknown until the resource(s) have been selected and approved by the PSC.
204 Without finalizing the terms of the PPA, RMP will not be able to provide notice to
205 potential participating customers about the estimated rate impacts. In other words,
206 until a resource has been selected, a PPA has been executed, and the PSC has
207 approved the PPA, the rate Participants will be asked to pay will be speculative. In
208 addition, until the PPA terms are finalized, there will be no certainty that the
209 Program participants will receive any renewable energy. In summary, it is important
210 to recognize that RMP is currently only seeking PSC approval of a framework in
211 this docket, which is lacking in the details that RMP will use to assign the costs and
212 benefits to the Program Participants. Thus, it is important that the PSC be provided

¹⁷ RMP's Response to DPU Data Request 2.3.

¹⁸ Direct Testimony of Craig M. Eller pp. 18-19 lines 387-393.

213 with the actual rate impacts when approving the PPA and finalizing the program
214 rates, to ensure the program does not result in shifting costs or benefits to other
215 utility customers.

216 Additionally, because there are many ways the Program could terminate,
217 the PPA needs to be in place prior to RMP collecting funds for the Program. The
218 terms of the PPA will dictate the way that the Resource Reserve Fund will be used
219 in the event of Program Termination and will establish the cost participating
220 customers will have to pay for the Program. RMP will require, and the Agency
221 understands that participants will have to pay into the Resource Reserve Fund,
222 even though they may not receive the energy benefits from the resource in the
223 event the Program terminates early, as discussed further in section III.^{19,20} Any
224 other costs associated with unwinding the program will be covered by a separate
225 Administrative fund. OCS does not object to RMP collecting Program costs prior
226 to the Resource in-service date, provided the PPA has been finalized and
227 executed, which will allow for accurate information to be sent to Participants in the
228 initial Notice.

229 **III. Consumer Protections, Rate Design and Low-Income Impacts**

230 **Q. HOW DOES RMP PROPOSE TO PREVENT SHIFTING OF COSTS AND**
231 **BENEFITS FROM PARTICIPANTS TO NON-PARTICIPANTS?**

232 A. As mentioned above, RMP has proposed the establishment of both a “Resource
233 Reserve Fund” and an “Administrative Reserve Fund.” RMP proposed establishing
234 the Resource Reserve Fund to cover 12.5 years of any resource incremental costs

¹⁹ RMP’s Response to OCS Data Request 4.10.

²⁰ Direct Testimony of Christopher Thomas p. 32 lines 647-650.

235 (the price of the PPA above RMP's avoided costs plus the potential lost value of
236 RECs) associated with the PPA. The Administrative Reserve Fund is designed to
237 cover five years of the Program's administrative costs. The Resource Reserve
238 Fund is intended, in part, to protect other parties, including non-participants and
239 RMP, from having to cover costs of the proposed Resource by collecting funds
240 from participants in advance of the resource's commercial operation date. This
241 Resource Reserve Fund, which is funded by the Participants, assigns the risk of
242 the development of the Program Resource to participants, to ensure non-
243 participants are held harmless. The Resource Reserve Fund may be paid to the
244 developer in the event of cancelation of the Program based on the final terms of
245 the executed PPA.

246 RMP stated that the following provisions will be included in the resource
247 PPA as customer protections for non-participating customers: (1) the Commission
248 must approve the PPA before the PPA becomes effective; (2) the Resource
249 Reserve fund and the Administrative Reserve fund must reach an agreed upon
250 level before the PPA becomes effective; and (3) the PPA will include several
251 termination provisions, as mentioned above, including termination if the reserve
252 accounts fall below established thresholds.²¹

253 **Q. WILL THE PROPOSED FUNDS PROPERLY PROTECT NON-PARTICIPANTS?**

254 A. The Proposed Reserve Funds provide protection to non-participating customers
255 from Program and Resource specific costs. Likewise, the existence of the
256 Resource Reserve Fund will avoid the need for non-participants to provide

²¹ Direct Testimony of Craig M. Eller p. 17 lines 355-361.

257 financial support in order for the Resource PPA to be executed. The proposed
258 Administrative Reserve Fund protects non-participants from costs associated with
259 winding down the program.

260 **Q. ARE THERE POTENTIAL RISKS THAT PARTICIPANTS WILL BE REQUIRED**
261 **TO TAKE?**

262 Yes, the Resource Reserve Fund will require advance funding from Participants
263 for a Resource that could terminate early or may not be constructed at all. The
264 same concern exists for the Administrative Reserve Fund. Participants will be
265 asked to fund Program startup costs for a program expected to last many years,
266 yet there will be no assurance the program will come to fruition or will operate
267 through the entire expected term.

268 **Q. DID RMP EXPLAIN WHY RMP AND THE AGENCY AGREED TO SET THE**
269 **RESOURCE RESERVE FUND TO 12.5 YEARS?**

270 A. In a response to DPU discovery, RMP explained “[t]he 12.5 years of resource
271 reserve balance is an initial perspective of what a developer may require to be
272 comfortable to execute a power purchase agreement (PPA)....”²²

273 **Q. SHOULD RMP RE-EVALUATE CONTINUING THE PPA IN THE EVENT OF**
274 **PROGRAM TERMINATION?**

275 A. Yes. In the event the Program terminates, RMP may still want to continue the PPA.
276 In other words, if the value of RECs increases, and if RMP’s future avoided cost
277 price increases, it may be beneficial for RMP to continue the PPA. Although RMP
278 recognizes this will be up to the resource developer, as it stated, “what happens to

²² RMP’s Response to DPU Data Request 2.22(5).

279 the resource after the PPA is terminated is for the resource owner to determine so
280 this may not be a viable option.”²³

281 **Q. SHOULD THE COMMISSION APPROVE THE USE OF A RESOURCE**
282 **RESERVE FUND IN THIS PROCEEDING?**

283 A. Yes, though, another important question that must be addressed is the amount of
284 the Resource Reserve Fund balance that should be maintained. Both RMP and
285 the Agency have agreed that a 12.5-year PPA reserve is reasonable.²⁴ The PPA
286 will result from a competitive bidding process that will include an arm’s length
287 negotiation process and may equate to the need for more or less than the assumed
288 12.5-year balance. OCS acknowledges that a 12.5-year balance could be
289 reasonable if it is found to be sufficient to meet the developer’s requirements when
290 the PPA is negotiated. However, should the amount that the developer requires be
291 greater than what would cover a 12.5-year balance period, OCS recommends the
292 reserve fund be set to fully cover the amount needed to meet the developer’s
293 requirements.

294 **Q. HAVE RMP AND THE AGENCY AGREED ON THE AMOUNT NEEDED FOR THE**
295 **ADMINISTRATIVE RESERVE FUND?**

296 A. No, there is disagreement on what Program startup and recurring costs will consist
297 of, and on the total amount that should be collected in the Administrative Reserve
298 Fund. RMP asserts that a five-year reserve is required, while the Agency believes
299 only a one-year reserve is needed. RMP states that the longer period is needed

²³ RMP’s Response to OCS Data Request 4.11.

²⁴ The 12.5-year Resource Reserve Fund will be achieved prior to the commercial operations date of the resource to provide the developer with a backstop assurance. RMP’s Response to DPU Data Request 2.22(4).

300 as a backstop to ensure sufficient funds are available to cover costs already
301 incurred and to cover costs needed to wind down the program, should the program
302 terminate early. This is important to ensure that non-participating customers are
303 not impacted by early termination.²⁵ OCS disagrees with the Agency's position, as
304 one year may not be sufficient to cover costs associated with the wind down of the
305 Program in the event of termination. Administrative costs and activities that follow
306 early termination could include items such as Participant notification and customer
307 support, Resource contract termination, Commission filings, and any potential
308 litigation costs.²⁶ Once the Program is up and running, the amount needed for the
309 Administrative Reserve fund could be adjusted through the Annual updates.

310 OCS agrees with RMP and recommends the Administrative Reserve Fund
311 allow for a five-year reserve to be established. The costs associated with both the
312 Resource Reserve Fund and Administrative Reserve Fund will be reviewed as part
313 of the Annual updates where the costs can be adjusted based on actual spending
314 and program performance. Should the program terminate early, RMP should
315 minimize the costs associated with the program wind down process and return any
316 remaining funds to the participants.

317 **Q. CAN YOU PROVIDE ANOTHER EXAMPLE THAT HIGHLIGHTS WHY AN**
318 **ANNUAL TRUE-UP OF ADMINISTRATIVE, PROGRAM AND PPA EXPENSES**
319 **IS IMPORTANT?**

320 **A.** Yes. The Subscriber Solar Program is an example that demonstrates why an
321 annual true-up of administrative, program and PPA expenses is important. The

²⁵ RMP's Response to DPU Data Request 3.4.

²⁶ RMP's Response to OCS Data Request 4.9.

322 Subscriber Solar Program's original design cost for the period of January 2017
323 through December 2024 was forecast at \$6,065,952. The actual net Program
324 expense for the period was \$3,005,986, roughly 50 percent below the original
325 forecast, or a savings of \$3,110,466 including cancellation fees.²⁷ This supports
326 the position that an annual true-up should be incorporated to allow the Program to
327 just collect actual costs if the Program comes to fruition.

328 **Q. HOW DO RMP AND THE AGENCY PROPOSE THAT FUNDS FOR THE**
329 **PROGRAM SHOULD BE COLLECTED FROM PARTICIPATING RATEPAYERS?**

330 A. RMP has proposed collecting the funds based on an energy surcharge on a per
331 kWh basis for all customer classes.²⁸ The Agency requested a fixed monthly
332 program charge for residential Participants of \$3.12 based on the Agency's
333 estimate in Resolution 25-01.²⁹ Thus, the Agency and RMP agree on the rate
334 design for most customer classes, but disagree on rate design with respect to the
335 residential customer class.

336 **Q. DOES OCS AGREE WITH RMP THAT THE PROGRAM FEES SHOULD BE**
337 **CHARGED ON A PER KWH BASIS, BASED ON RESIDENTIAL CUSTOMERS'**
338 **USAGE?**

339 A. Yes. OCS strongly supports charging customers based on a per kWh rate. This
340 better reflects the fundamental rate design principle of cost causation and will
341 better ensure that all Participants are not over-charged for the Program relative to

²⁷ Docket No. 2025-035-18, Rocky Mountain Power's 2024 Annual Report of the Subscriber Solar Program, p. 4, Costs include Administration, Marketing, and Billing for years 2015 through 2024, (21,723, 1,290,260, 349,358, 237,008, 199,267, 372,650, 139,698, 107,403, 159,436, and \$129,183 respectively). There are \$596,322 in accumulated interest expenses, and \$50,500 in accumulated cancellation fees.

²⁸ Direct Testimony of Robert M. Meredith p. 4 lines 88-89.

²⁹ Direct Testimony of Christopher Thomas p. 27 lines 534-537.

342 their actual participation level. If a monthly charge were applied to the residential
343 Participant's bill, then low energy usage residential customers might be required
344 to cover a greater share of the Program costs relative to the benefit (renewable
345 energy potentially offsetting other energy sources) they would receive from the
346 Program resource. OCS recommends that the Program fee be charged on a per
347 kWh basis for all Participants in every customer classes as proposed by RMP.

348 **Q. DOES THE PROGRAM INCLUDE PROVISIONS FOR LOW INCOME**
349 **CUSTOMERS?**

350 A. Yes. Low income Participants enrolled in Schedule 3 will automatically receive an
351 enhanced monthly bill credit and incur no termination fee should they opt out of the
352 program. The enhanced monthly bill credit is currently proposed to fully offset the
353 incremental costs of the program up to a maximum of \$7.00 per month. The
354 intention is that Schedule 3 customers would not incur a bill impact under the
355 current projected rate if their usage is under 1,109 kWh. RMP notes the exception
356 is that Schedule 3 customers "would see no impact unless the CREA forecasted
357 Schedule 100 program charge exceeded the \$7 cap. It is possible that Schedule
358 3 customers could see increase in their utility costs due to participation in the Utah
359 Community Clean Energy Program."³⁰ Using RMP's forecasted program rate of
360 \$.006309 per kWh, a Schedule 3 customer would see an increase to their utility
361 bill if they utilize over 1,109 kWh ($.006309 \times 1,100 = \$7.00$).³¹

362 **Q. HOW WILL THE FUNDING FOR THE LOW-INCOME CUSTOMER PROVISIONS**
363 **BE COVERED?**

³⁰ RMP's Response to OCS Data Request 2.20.

³¹ *Id.*

364 A. A monthly surcharge of no more than \$0.70 will be paid by the Participants who
365 are not enrolled in Schedule 3.³² RMP stated in response to discovery that "... the
366 Community Renewable Energy Agency (CREA) intends for the \$0.70 monthly
367 surcharge to apply to all customer classes, including commercial customers."³³

368 **Q. HOW DOES RMP PROPOSE THE FUNDS CHARGED TO CUSTOMERS BE**
369 **DISPLAYED ON THEIR ELECTRIC BILLS?**

370 A. The costs associated with the Program will appear as a single line item on
371 Participants bills.³⁴ However, the costs and revenues will be carefully tracked by
372 RMP including separately accounting of the revenues collected to cover the
373 Administrative Reserve fund and Resource Reserve fund. OCS is concerned that
374 Participants may want an additional breakdown of the Program components on the
375 Schedule 100 tariff, their bill, and the proposed Notice to fully understand the costs
376 associated with the Program. OCS recommends the proposed program (Schedule
377 100) costs be available by program component in the published tariff pages so the
378 Participants can fully understand the cost drivers of the Program and that the
379 Notice identify separate components of the overall program costs to the extent they
380 are reasonably known.

381 **IV. Noticing and Customer Opt-Out Provisions**

382 **Q. DID RMP AND THE AGENCY INCLUDE DIFFERENT PROPOSALS**
383 **REGARDING THE INITIAL OPT-OUT PERIOD?**

³² Attachment J.

³³ RMP's Response to DPU Data Request 1.5.

³⁴ RMP's Response to DPU Data Request 2.26.

384 A. Yes. The Program is designed to be an opt-out program, meaning that every
385 customer located within the boundaries of the participating community will
386 automatically be enrolled in the Program and must take specific action to opt-out
387 of participation in the Program, as dictated by the Act.³⁵ RMP and the Agency have
388 proposed different Initial Opt-out periods.

389 RMP proposed a two-step notification process, with the initial notification
390 provided through U.S. Mail for customers, separate from standard monthly bills,
391 with load of less than one megawatt (“MW”) and the second through U.S. Mail or
392 by email if a customer has opted for electronic billing.³⁶ In total, RMP’s proposed
393 notification process begins sixty days prior to the commencement date of the
394 Program, during which time the Participants will receive two notices. RMP also
395 proposed an Initial Opt-out period in which no termination fee would apply. The
396 Initial Opt-out period would begin on the commencement date of the Program (July
397 1, 2026) and would last one hundred days. This approach would allow Participants
398 to see the impact of the Program rates on their bills over three billing cycles.
399 Participants who opt-out would still be required to pay the Program rates prior to
400 their decision to opt-out.³⁷

401 The Agency proposed a similar two step opt-out process, in which the first
402 notification for customers with load under one MW would be sent by U.S. Mail in a
403 conspicuous mailer that would be sent separate from the customer’s bill. The
404 Agency also recommends the second opt-out notice be sent by email to customers

³⁵ Direct Testimony of Craig M. Eller p. 7 lines 148-149.

³⁶ Direct Testimony of Craig M. Eller p. 9 lines 178-179 “Customers that have load of one megawatt (“MW”) or greater must be contacted in person, per U.C.A. § 54-17-905(1)(c).”

³⁷ Direct Testimony of Craig M. Eller pp. 10-11.

405 who have elected to receive utility communications by email, with a second notice
406 sent through US mail for customers who have not elected to receive electronic
407 communication. It differs from RMP's proposal by having a longer Initial Opt-out
408 period, permitting customers to opt-out within six months of the Program
409 commencement date.

410 **Q. DOES OCS HAVE A PROPOSED OPT-OUT METHODOLOGY?**

411 A. Yes. OCS agrees with RMP's and the Agency's proposed noticing methodology.
412 OCS recommends the first Opt-out notification be sent as a conspicuous mailer
413 separate from the customer bill by U.S. mail. OCS recommends the second opt-
414 out notification be sent either by U.S. mail or electronically via email, for customers
415 that have elected to receive communications by email. This ensures both written
416 communication and communication in the format indicated to be preferred by each
417 individual customer.

418 OCS agrees with the Agency's proposed six-month Initial Opt-out period
419 after the commencement of the Program. While RMP's proposal meets the
420 minimum requirements of R746-314-101(3), a six-month Initial Opt-out period will
421 allow all Participants to fully understand the impacts of the program before opt-out
422 penalties get put into place.

423 In summary, OCS recommends two opt-out notifications should be sent by
424 U.S. mail with the second notification sent electronically if it is the customer's
425 preferred method of contact, and Participants should not be required to pay an opt-
426 out fee for six-months after the commencement of the Program.

427 **Q. WHAT INFORMATION DID RMP PROPOSE TO BE INCLUDED IN THE OPT-**
428 **OUT NOTICES?**

429 A. RMP proposed to include the projected rates and terms of participation in the
430 Program, an estimated bill comparison to otherwise applicable rates, and an
431 explanation that the customer may elect to opt-out of the Program. RMP included
432 its proposed opt-out notification in Attachment L of the Application. As discussed
433 above, the initial phase cost of the program will not be available until the PPA for
434 the Program resource has been fully executed and as a result, accurate notices
435 cannot be provided until the PPA has been executed and approved. Additionally,
436 the Agency has stated that its ultimate goal is to achieve 100% new renewable
437 energy by 2030, which will require further investment in renewable resources, and
438 will increase the Program costs. OCS recommends that the PSC require RMP wait
439 until the Resource PPA has been executed and terms finalized prior to beginning
440 the initial notification process. Until the costs associated with the PPA are finalized,
441 RMP will not be able to accurately inform the Participants of their initial potential
442 bill impacts. The notice should include language that explicitly informs the
443 customer that they will be charged program costs beginning on the
444 commencement date up to the point they may decide to opt-out during the Initial
445 opt-out period. It should also clearly indicate that these costs will vary over time,
446 both when additional resources are procured to move closer to the ultimate
447 program objectives and as the costs from the resource being recovered move
448 through the buildup, maintenance and drawdown phases. A similar notification
449 process should be utilized in the future as each new renewable resource is

450 procured, as RMP and the Agency work towards the goal of achieving 100% new
451 renewable energy by 2030. Because the Initial Opt-out period will have ended prior
452 to future resources being added, the notification could be limited to a bill insert and
453 email notification.

454 **Q. HOW CAN A POTENTIAL PARTICIPANT OPT-OUT OF THE PROGRAM?**

455 A. In RMP's proposed opt-out process, the notification will explain to participants that
456 they will have three options to opt-out of the program during the Initial Opt-Out
457 Period. Participants will be permitted to opt-out via an online process, through mail
458 by returning the included slip with required postage, or by phone through a
459 dedicated customer service line. OCS agrees with RMP's opt-out procedure, but
460 recommends that with regard to the phone opt-out process, there should be a clear
461 and simple automated process so that customers do not have long wait times.
462 OCS also recommends that RMP provide notice via email and mail confirming that
463 the Participant has successfully opted out of the Program.

464 **Q. CAN CUSTOMERS OPT-OUT OF THE PROGRAM AFTER THE INITIAL OPT-
465 OUT PERIOD?**

466 A. Yes. Participants can opt-out after the Initial Opt-out Period and pay a termination
467 fee and should be able to use one of the three methods available during the Initial
468 Opt-out period, although the details of later opt outs were not entirely clear and
469 could benefit from additional clarification as this proceeding continues. As
470 described previously, customers who receive service from RMP on Electric Service
471 Schedule No. 3 would be eligible for the Community Clean Energy Program's low-

472 income assistance benefits, which include a waiver of termination fees.³⁸ The
473 termination fee for all other customer classes is described in Schedule 100.

474 **Q. HOW WAS THE OPT-OUT TERMINATION FEE DERIVED?**

475 A. RMP adopted the termination fee proposed by the Agency, which is intended to
476 discourage customers from dropping out after the opt-out period, but not be so
477 high as to discourage actual participation in the program.³⁹ The Agency proposed
478 a \$30 termination fee, and described it as follows, "The Agency was reluctant to
479 impose termination fees that would dissuade customers from wanting to
480 participate. For residential customers, a \$30 termination fee was the highest the
481 Agency felt comfortable imposing. At the Agency's estimated average monthly bill
482 impact of \$3.21 for residential customers, \$30 is the equivalent of between 9 and
483 10 months of program participation. Such a tradeoff might convince participants to
484 stay in the program rather than paying the equivalent of 9-10 months of
485 participation to exit."⁴⁰ However, I note that it is also quite possible that the ultimate
486 monthly bill impacts will be substantially higher than \$3.21 per month, resulting in
487 much greater impetus for customers to opt out. Nonetheless, the proposal is
488 reasonable, and OCS is not opposed to this approach.

489 **Q. HOW WILL TERMINATION FEES BE APPLIED TO PROGRAM COSTS?**

490 A. Any termination fees collected will be applied to the balancing account for the
491 Program where all costs and revenues are tracked. RMP will include the opt-out

³⁸ RMP's Response to DPU Data Request 1.5.

³⁹ RMP's Response to OCS Data Request 2.24(b).

⁴⁰ Agency's Response to OCS Data Request 1.7.

492 fees as part of the annual filing and, when applicable, make changes to the
493 Schedule 100 rates.⁴¹

494 **V. Resource Valuation and REC Treatment**

495 **Q. HOW DID RMP PROPOSE TO DETERMINE THE PROGRAM SPECIFIC COSTS**
496 **AND RATES?**

497 A. RMP proposed valuing the Program resource using Schedule 38's avoided cost
498 methodology, with the inclusion of four modifications to account for interconnection
499 costs, transmission service costs, lost value of RECs, and contract life value
500 beyond the production cost model study period. RMP's proposal is intended to
501 account for aspects of the Schedule 100 Program Resource that are not applicable
502 under Schedule 38.⁴²

503 **Q. DOES OCS AGREE WITH RMP THAT SCHEDULE 38'S AVOIDED COST**
504 **METHODOLOGY WITH SOME ADJUSTMENTS IS A REASONABLE**
505 **APPROACH TO RESOURCE VALUATION?**

506 A. In general, yes. However, it is important that parties in this Docket have the chance
507 to review the four modifications to Schedule 38's avoided cost methodology prior
508 to when costs are finalized. This review is important to ensure accuracy and that
509 benefits and costs are not shifted by requiring Participants to pay for any verifiable
510 incremental cost of the PPA above the final calculated avoided cost. The additional
511 amount Participants will pay will be based on the cost of the PPA less the adjusted
512 Schedule 38 avoided cost.

⁴¹ RMP's Response to OCS Data Request 5.1.

⁴² RMP's Response to OCS Data Request 4.2.

513 **Q. ONE OF RMP'S PROPOSED ADJUSTMENTS TO THE SCHEDULE 38**
514 **AVOIDED COST METHODOLOGY IS TO ACCOUNT FOR THE LOST VALUE**
515 **OF RECS. HAVE RMP AND THE AGENCY REACHED AN AGREEMENT AS TO**
516 **WHO SHOULD RETAIN AND WHAT VALUE SHOULD BE ASSIGNED TO THE**
517 **RECS GENERATED BY THE RESOURCE?**

518 A. No. RMP refers to the lost value of RECs as the benefit the customers normally
519 receive from the sale of RECs. If the RECs are assigned to the Agency and retired,
520 then PacifiCorp's non-participating ratepayers will lose value that they would
521 otherwise have received when PacifiCorp acquires renewable resources. While
522 RMP has proposed to charge Participants for the lost value of RECs associated
523 with resources used for the Program, it has been unclear about how they propose
524 the RECs to be valued. RMP has not identified a specific methodology for
525 determining the REC value but expects to propose a value at a later time based
526 on recent REC transactions.⁴³

527 **Q. HAS THE AGENCY PROPOSED AN APPROACH TO MANAGE RECS WITHIN**
528 **THE PROGRAM DESIGN?**

529 A. Yes. Agency witness Thomas indicated "As articulated in Resolution 25-01, the
530 Board requests that it have the option to "elect for Participants' share of system
531 environmental attributes to be retired rather than sold, and for such foregone
532 revenue to be reflected on Participants' bills, though such election may be delayed
533 until 2030 or other such time as decided by the Board."⁴⁴ Agency witness Thomas
534 also proposed a mechanism similar to the recently approved tariff, Schedule 74,

⁴³ RMP's Response to OCS Data Request 4.3.

⁴⁴ Direct testimony of Christopher Thomas pp. 21-22.

535 which allows participants an option to have RMP retire RECs on the customers
536 behalf and the Schedule 74 participants forego the benefit from the sales of RECs
537 (which are tracked in Schedule 98 Renewable Energy Balancing Account).

538 **Q. DID THE AGENCY PROPOSE AN ALTERNATE APPROACH SHOULD THE**
539 **PSC DECIDE TO REQUIRE PROGRAM PARTICIPANTS TO PAY FOR THE**
540 **RECS?**

541 A. Agency witness Higgins offered an alternative proposal in the event the PSC
542 accepts RMP's argument that a REC valuation should be included as an
543 incremental cost to be covered by the Participants. In this event, Mr. Higgins
544 proposed that the Agency would have the option to either retire the RECs or turn
545 the RECs back to RMP. If the Agency decides to retire the RECs, then Mr. Higgins
546 accepts that Participants should be charged for the lost value of RECs. If the
547 Agency decides to turn the RECs back to RMP, then he proposes that RMP would
548 sell the RECs, and "the value of those estimated sales should properly be credited
549 to the Program resource as an incremental benefit."⁴⁵

550 **Q. WHAT IS YOUR INITIAL RESPONSE TO THESE COMPETING PROPOSALS**
551 **REGARDING RECS?**

552 A. As an initial matter, I note that it is important to separate the issue of whether to
553 calculate lost value of RECs associated with new resources acquired for the
554 Program from the issue of retiring all participants' share of the system's
555 environmental attributes, through the use of an additional tariff similar to Schedule
556 74.

⁴⁵ Direct testimony of Kevin C. Higgins p. 22 lines 479-481

557 **Q. WHAT DOES OCS RECOMMEND SHOULD BE DONE WITH THE RECS**
558 **ASSOCIATED WITH THE PROGRAM RESOURCE?**

559 A. OCS recommends the following. First, RECs associated with new resources
560 acquired on behalf of the Program should be owned by RMP and retired to meet
561 the goal of the program. Since these are resources to fulfill renewable
562 requirements, if they are not retired on behalf of the program then the associated
563 renewable attributes of those resources could be claimed by the Program and later
564 sold by RMP – in effect double counting the RECs. RMP stated in discovery that
565 they assumed REC retirement would occur and the Agency supports retirement of
566 the RECs as well.⁴⁶

567 Second, the PSC must approve a method for calculating lost value of the
568 RECs in setting the valuation of new resources for the program. Since non-
569 participating ratepayers are committed to paying avoided costs for these resources
570 they have an interest in the value of the RECs generated by the resources.

571 OCS recommends this be specifically stated in the program design consistent with
572 previous PSC orders. When the Schedule 38 tariff is used, RMP retains the RECs
573 associated with a Qualified Facility's during the portion of the contract term that the
574 avoided cost price is based on the costs of a renewable resource.⁴⁷ To implement
575 this concept in the context of the Program, in the circumstance where the RECs
576 are retained by RMP it should retire the environmental attributes and charge the

⁴⁶ RMP's Response to DPU Data Request 2.16(1).

⁴⁷ https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rates/038_Qualifying_Facility_Procedures.pdf See I. B. 11. Standard PPA Terms, "The Company will retain the Renewable Energy Credits (RECs) associated with a QF's output during the portion of the contract term that the avoided cost price is based on the costs of a renewable resource."

577 Program an appropriate level of additional cost to reflect the lost value of those
578 RECs. The details of this calculation must be determined as part of program design
579 at issue in this docket. In the circumstance where the Schedule 38 methodology
580 may assign the RECs to the Program, RMP should retire them on behalf of the
581 Program. However, it is important to note that the PPA pricing is not governed by
582 Schedule 38.

583 **Q. WHAT IS YOUR RESPONSE TO THE AGENCY'S PROPOSAL TO BE ABLE TO**
584 **"ELECT" TO HAVE ALL PARTICIPANT'S RECEIVE A SHARE OF THE**
585 **SYSTEM'S ENVIRONMENTAL ATTRIBUTES RETIRED?**

586 A. The Agency's proposal is too vague to be acted upon at this time and is beyond
587 the scope of the docket. There is currently no mechanism for the Agency to make
588 any type of election on behalf of individual customers, regardless of whether they
589 are participants in the Program. The implications of giving that decision making
590 authority to a third party should be carefully considered before pursuing this
591 proposal. Schedule 74 allows large customers to make such an election but it is
592 currently in pilot form and only available to certain customer classes. Until more
593 information is known about the costs and performance of the Schedule 74 pilot
594 program, including any unintended consequences, it would not be justified to be
595 expanded solely for purposes of the Program in this docket.

596 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

597 A. In this testimony, I have addressed three areas of dispute between RMP and the
598 Agency. OCS' recommendations are as follows:

- 599 1. For the projected program rates for each customer class, OCS recommends
600 the use of a per kWh charge for all Participants and RMP retains ownership
601 of the RECs and retiring them on behalf of the Participants.
- 602 2. For the schedule for implementation of the program, OCS recommends two
603 opt-out notifications should be sent by U.S. mail with the second notification
604 sent electronically if it is the customer's preferred method of contact, and
605 Participants should not be required to pay an opt-out fee if the Participants
606 out-out during the first six-months after the commencement of the Program.
- 607 3. For the methodology to ensure that non-participating customers and RMP
608 will not be subjected to any Program liabilities or costs, OCS recommends
609 the use of a five year Administrative Reserve Fund, which can be adjusted
610 through the proposed annual proceeding.

611 In addition to addressing the three key areas of disagreement, OCS has
612 further recommendations for consumer protections, as follows:

- 613 1. No noticing or charging Participants should take place until after there is a
614 specific PPA that has been executed by RMP and approved by the PSC.
- 615 2. Participants should be permitted to opt-out via a clear and simple automated
616 process if they choose to call the dedicated customer service line during the
617 initial Opt-out period.
- 618 3. Additional notices should be sent when future tranches of renewable
619 resources are procured, as the Agency works towards its goal of achieving
620 100% net renewable energy.

- 621 4. RMP should be required to publish the per kWh charges of the Program
622 Resources, the Resource Reserve and Administrative Reserve funds, and
623 the per month Surcharge to fund Low Income Assistance credits on the
624 Schedule 100 tariff.
- 625 5. RMP should be required to reevaluate the PPA in the event of Program
626 termination to determine if continuing to purchase energy from the resource
627 would provide benefits to all customers.
- 628 6. RMP and the Agency should finalize, request and receive PSC approval of
629 the adjustments that will be made to Schedule 38 (Qualifying Facility
630 Procedures) for pricing the costs associated with Schedule 100 (Proposed
631 Program) prior to the beginning of the notification process.
- 632 7. RMP retains ownership of the RECs and retires them on behalf of the
633 Participants, and the Program should reimburse the system to account for
634 the lost value of RECs under certain circumstances.

635 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

636 A. Yes.