

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

IN THE MATTER OF APPLICATION OF ROCKY
MOUNTAIN POWER TO IMPLEMENT COMMUNITY
CLEAN ENERGY PROGRAM AUTHORIZED BY THE
COMMUNITY CLEAN ENERGY ACT

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DOCKET No. 25-035-06
Exhibit No. DPU 1.0 DIR

FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH

Direct Testimony of

Robert A. Davis

October 10, 2025

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1 **INTRODUCTION**

2 **Q: Please state your name and occupation.**

3 A: My name is Robert A. Davis. I serve in the capacity of Utility Technical Consultant at
4 the Utah Department of Commerce - Division of Public Utilities (Division).

5 **Q: What is your business address?**

6 A: My business address is 160 East 300 South, Heber Wells Building - 4th Floor, Salt
7 Lake City, Utah, 84111.

8 **Q: On whose behalf are you testifying?**

9 A: The Division.

10 **Q: Please describe your educational and professional experience.**

11 A: I have a master's degree in business administration with master certificates in
12 finance and economics from Westminster College. I hold a Certified Rate of Return
13 Analyst (CRRRA) designation from the Society of Utility and Regulatory Financial
14 Analysts. I have attended the National Association of Regulatory Utility
15 Commissioners (NARUC) Rate School, MSU/IPU Advanced Regulatory Studies
16 Program, and Depreciation Fundamentals by the Society of Depreciation
17 Professionals. I have attended several regulatory seminars and conferences either in
18 person or virtually. I have been employed by the Division since May of 2012.

19 **Q: Please describe your current position responsibilities.**

20 A: My responsibilities include financial, economic, and accounting analysis of regulated
21 utility matters.

22 **Q: Have you previously testified before the Public Service Commission of Utah**
23 **(Commission)?**

24 A: Yes. I have testified many times before the Commission. I provided testimony in
25 Docket No. 24-035-55, running concurrently with this docket on February 28, 2025.

26 **PURPOSE OF TESTIMONY**

27 **Q: What is the purpose of your testimony?**

28 A: My testimony discusses the legislative and administrative objectives set forth for the
29 Community Clean Energy Program (CCEP or Program). I'll introduce the Division's
30 other witness and offer an overview of the Division's recommendations in support of
31 the Program.

32 **Q: Please identify the Division's witnesses providing testimony and the topics**
33 **they address.**

34 A: The Division's witnesses for this docket include:

- 35 • Mr. Robert A. Davis – I offer a review of the CCEP's compliance with the
36 Community Clean Energy Act (or Act) and Commission rules pertaining to the
37 Program and a brief synopsis of the Division's understanding of the Program and
38 general recommendations.
- 39 • Mr. Timothy M. Lenell - Mr. Lenell of Daymark Energy Advisors (Daymark), on
40 behalf of the Division, provides testimony in support of the Division's review of
41 the proposed Program.

42 **SUMMARY AND RECOMMENDATIONS**

43 **Q: Please summarize the investigation that has been performed in this docket.**

44 A: In preparation for this direct filing, the Division and Daymark, through the Division,
45 have sent fifty-seven data request questions through five data request sets to Rocky

46 Mountain Power (RMP), seeking clarification on topics relating to the Program.¹ The
47 Division and Daymark have reviewed RMP's and the Community Renewable Energy
48 Board (Agency or CREA) filings, along with the numerous data requests and
49 responses to other stakeholders' questions to form its conclusions in this matter.

50 **Q: Please offer the Division's recommendation.**

51 A: Reservedly, the Division finds that at this stage approval of the Program may be in
52 the public interest. Understanding that the legislation creating the potential for a
53 program such as this clearly contemplates community customers paying a premium
54 for their energy needs, the Division is concerned with a few key matters.

55 First, given that much of PacifiCorp's recent acquisition is of renewable resources,
56 the Division worries about the dilution of value in incremental renewable resources.
57 Similarly, it is key that Program resources do not result in jeopardy to other
58 customers' least-cost, least-risk portfolio. Second, because the Program only
59 partially offsets load requirements, the Division is concerned that the Program's
60 administrative costs and the risk of inaccurate projections will be spread across
61 relatively few resources in ways that could magnify deficiencies in projections and
62 mechanisms designed to avoid cost shifting. Relatedly, customer opt-outs could
63 create a revenue spiral making an ongoing program nearly impossible to maintain.
64 While it may appear that mechanisms in the Program are designed to capture all
65 costs, parties and the Commission should retain a measure of humility about the

¹ DPU Ex 1.1.

66 likelihood that cost and benefit projections will be accurate and about whether
67 mechanisms designed to protect other customers are adequate.

68 Should the Commission approve the Program, the Division recommends that it also
69 notice a requirement for stakeholders to convene a workgroup to develop a reporting
70 template. Future reporting should provide adequate accounting details to enable
71 parties to review whether the Program is prudent and in the public interest, avoiding
72 cost and benefit shifting to non-participating customers.

73 At this time, the Division concludes, at least in concept and subject to its
74 recommendations, that the Program is likely just, reasonable, and in the public
75 interest. The Division reserves its right to offer further detail or change its opinion as
76 more information becomes available in future filings after the Program becomes
77 operational. Frequent review and alteration are likely critical to avoiding cost and risk
78 shifting mandated by the statutes.

79 **COMMUNITY CLEAN ENERGY ACT AND UTAH ADMINISTRATIVE RULES**

80 **Q: Will you briefly provide a synopsis of the background and factual framework**
81 **surrounding this docket?**

82 A: Yes. The proposed CCEP was enabled under the Community Clean Energy Act that
83 was enacted by the Utah Legislature during the 2019 Legislative session under H. B.
84 411.² The Program is an optional program for RMP customers located within the

² Utah Code Ann. § 54-17-901, Community Renewable Energy Act,
<https://le.utah.gov/xcode/Title54/Chapter17/54-17-S901.html>.

85 Utah municipality boundaries participating in the Program and provides opt-out
86 options for customers who decide not to participate in the Program.

87 In December of 2019, 23 Utah communities passed a resolution setting a goal of
88 achieving 100-percent of participating RMP customer annual load needs from
89 renewable energy resources by 2030. These 23 communities negotiated a required
90 “Governance Agreement,” titled Interlocal Cooperation Agreement Among Public
91 Entities Regarding the Community Renewable Energy Program under the Interlocal
92 required by the Rules titled Interlocal Cooperation Agreement Among Public Entities
93 Regarding the Community Renewable Energy Program under the Interlocal
94 Cooperation Act.³ The communities used the Governance Agreement to establish
95 the CREA.⁴

96 Since that time, 4 communities have withdrawn with 19 communities remaining:
97 Grand County, Salt Lake County, Summit County, Town of Alta, Town of Castle
98 Valley, Coalville City, Cottonwood Heights, Emigration Canyon Township, Francis
99 City, City of Holladay, Kearns Metro Township, Midvale, Millcreek, Moab City,
100 Oakley City, Ogden City, Park City, Salt Lake City, and Springdale City.⁵

101 **Q: Please provide an overview of the statutory framework under the Community**
102 **Clean Energy Act.⁶**

³ See Title 11, Chapter 13, Interlocal Cooperation Act, of the Utah Code.

⁴ Direct Test. of Daniel E. Dugan (July 18, 2025), at 3-7,
<https://pscdocs.utah.gov/electric/25docs/2503506/340700DirTstmnyDanielEDuganCREA7-18-2025.pdf>.

⁵ *Id.*

⁶ Utah Code Ann. §§ 54-17-901 through -909.

103 A: The Community Clean Energy Act, Utah Code sections 54-17-902 through -909,
104 provides the requirements for the Program:

105 • Sections 54-17-904 through -908 provide the framework for the Commission
106 to approve a community clean energy program including customer
107 participation options, rate adjustment modifications, and acquisition of clean
108 energy resources.

109 • Section 54-17-903 provides the requirements for municipalities or counties to
110 develop a community clean energy program.

111 • Section 54-17-909 provides the Commission with rulemaking authority.

112 **Q: Please provide an overview of Commission rules under R746-314.⁷**

113 A: Utah Administrative Code R746-314-101 through -402 provide the general
114 requirements and framework for communities or counties to develop community
115 clean energy programs.

116 Utah Administrative Code R746-314-301 through -306 provide the framework for the
117 development of program rules that properly notice customer opt-out options, notices
118 to new participants and customers in annexed areas, non-participating customers
119 who choose to opt-in or exit, and termination fees.

120 In addition, Utah Administrative Code R746-314-401 and R746-314-402 address
121 approval requirements for a clean energy program and solicitation process
122 guidelines for acquisition of Program renewable energy resources.

⁷ Utah Admin. Code R746-314, <https://adminrules.utah.gov/public/rule/R746-314/Current%20Rules>.

123 **Q: Have there been other phases in the approval of the Program?**

124 A: Yes. This docket represents Phase II of the Program. In Phase I, under Docket No.
125 24-035-55, RMP and the Agency each filed comments in support of Commission
126 approval of a solicitation process for the acquisition of renewable energy
127 resource(s). RMP asked the Commission to allow it to deviate from Utah
128 Administrative Code R746-314-402(4) to allow the use of the same solicitation rules
129 for all eligible resource types. Other stakeholders also filed comments in support of
130 the solicitation.⁸ On May 13, 2025, the Commission granted RMP's Application and
131 Motion.⁹

132 **COMMUNITY CLEAN ENERGY PROGRAM PROPOSAL**

133 **Q: Does the Division support the Community Clean Energy Program?**

134 A: As proposed, yes, but with reservations. As proposed, the Program complies with
135 the Act and administrative rules. However, there are hurdles that challenge the
136 Program's success. The Division supported Commission approval for resource
137 procurement in Phase I, Docket No. 24-035-55, but raised concerns regarding the
138 path forward for a Program largely based on hypotheticals and unknown resource
139 metrics that likely will not be known in time for parties' direct testimony in this
140 docket.¹⁰

⁸ *Application of Rocky Mountain Power for Approval of Solicitation Process for the Community Renewable Energy Program and Motion to Deviate from Utah. Admin. Code R746-314-402(4)*, Docket No. 24-035-55, November 19, 2024, <https://psc.utah.gov/2024/11/19/docket-no-24-035-55/>.

⁹ Docket No. 24-035-55, Order (May 13, 2025).

¹⁰ Docket No. 24-035-55, DPU Comments on RMP URC Resource Solicitation (Jan. 28, 2025), at 4, <https://pscdocs.utah.gov/electric/24docs/2403555/337860DPUCmnts1-28-2025.pdf>.

141 The Division is skeptical that RMP and the Agency can successfully navigate the
142 current presidential administration's timing requirements to secure favorable tax
143 treatment, equipment procurement issues, and interconnection/transmission timing
144 hurdles.

145 Mr. Lenell of Daymark Energy Advisors, on behalf of the Division, further explains
146 the Division's position in his direct testimony. While the Division is not responsible for
147 making the Program successful, it will be responsible to monitor the Program for
148 prudence in its development phase and as it becomes operational.

149 **ANNUAL PRUDENCY REVIEW**

150 **Q: Please explain the Division's expectations of the annual prudency review.**

151 A: Utah Administrative Code R746-314-401(3)(f) provides a description for the periodic
152 review of the program including at a minimum:¹¹

- 153 i. An accounting of program expenses;
- 154 ii. the projected costs and revenues for the following year of the program; and
- 155 iii. any proposed changes to program rates, termination fees, or other
156 associated program charges.

157 Utah Code subsection 54-17-904(3)(b) requires a finding that the CCEP is in the
158 public interest, and subsection 54-17-904(4)(b) does not allow any shift of costs or
159 benefits to non-participating customers, or any other customer of the qualified utility
160 beyond the participating community boundaries.¹²

¹¹ Utah Admin. Code R746-314-401(3)(f)(i)(ii)(iii).

¹² Utah Code Ann. § 54-17-904(3)(b), (4)(b).

161 The Division will likely be responsible for future prudency reviews to ensure the
162 viability of the Program and that there is no cost or benefit shifting to nonparticipating
163 customers. The Division imagines the annual reporting endeavor to be complex
164 given the impacts this Program may have to all the working components currently in-
165 place for RMP to deliver power to all its customers.¹³ If the Commission approves
166 the Program, the Division recommends that the Commission require stakeholders to
167 convene a workgroup to develop a reporting template that, at a minimum, provides
168 adequate accounting details of the Program. This reporting template must provide
169 sufficient information to enable the Division and Commission to confirm that there
170 are no costs or benefits shifting to non-participating customers, along with any other
171 data the workgroup deems necessary to determine the prudency of the Program.

172 Mr. Lenell provides additional details regarding the annual reporting of the program
173 in his direct testimony. The Division reserves the right to offer further guidance to the
174 Commission or respond to other parties' conclusions regarding the annual reporting
175 requirements in future filings.

176 **CONCLUSIONS**

177 **Q: Please provide the Division's conclusions.**

178 A: Programs like this one, where program success is largely dependent upon
179 assumptions designed around statutes, administrative rules, and an uncertain
180 regulatory landscape, warrant especially careful review. In Phase I, Docket No. 24-

¹³ For example: Energy Balancing Account (EBA) treatment, Renewable Energy Credit (REC) treatment, Schedule Nos. 37 and 38 Avoided Cost determination, Transmission/Integration cost treatment, to name a few.

181 035-55, the Commission approved a resource procurement process to inform
182 outcomes in this docket for pricing and resulting rate design, neither of which are
183 known with any certainty at the present time, for stakeholders to fully vet the
184 prudence or public interest requirement for approval of the Program.

185 The Division offers measured support for a finding that the Program is in the public
186 interest as presently contemplated. However, it will be important to frequently
187 reevaluate the Program in detail to ensure costs and benefits are not shifted as
188 resources near construction and operations, as well as during their operating life.
189 The Commission must ensure that the Program does not displace resources that are
190 part of a least-cost, least-risk portfolio for all customers, that costs actually incurred
191 are paid by Program participants, and that the Program's revenues remain sufficient
192 even if projects are limited in scope or subscription.

193 **Q: Does this conclude your testimony.**

194 **A:** Yes.