BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power to Implement Community Clean Energy Program Authorized by the Community Clean Energy Act	**Docket No. 25-035-06**

SURREBUTTAL TESTIMONY AND EXHIBIT OF

CHRISTOPHER THOMAS

On Behalf of the

Community Renewable Energy Agency

December 11, 2025

SURREBUTTAL TESTIMONY OF CHRISTOPHER THOMAS

Introduction

Q. Please state your name and business address.

A. My name is Christopher Thomas. My business address is 451 South State Street, Salt Lake City, Utah 84111.

Q. By whom are you employed and in what capacity?

A. I am employed by the Salt Lake City Sustainability Department as a Project Coordinator. In that capacity, I support the City's clean energy efforts, including the Utah Renewable Communities Program.

Q. On whose behalf are you testifying in this proceeding?

A. I'm testifying on behalf of the Community Renewable Energy Agency ("Agency").

Q. Are you the same Christopher Thomas that submitted Direct and Rebuttal Testimony in this docket?

A. Yes. I am.

Overview of Testimony

Q. What is the purpose of your testimony in this proceeding?

A. My testimony responds to rebuttal testimony filed by Rocky Mountain Power ("RMP") witness Craig Eller, Division of Public Utilities ("Division") witness Timothy M. Lennell, and Office of Consumer Services ("OCS") witness Anthony Sandonato. I provide a response to several proposals regarding administrative costs and the Administrative Reserve Fund and respond to separate proposals offered by the witnesses named above.

<u>Fixed Charge for Residential Program Customers</u>

Q. In your Direct Testimony, you proposed that residential Program customers receive a fixed charge for Program participation, rather than a rate that fluctuates with energy usage. Have other witnesses responded?

A. Yes. RMP witnesses Craig Eller and Kenneth Elder, DPU witness Timothy Lenell, and OCS witness Anthony Sandonato each disagree with my proposal. Each of these witnesses have asserted that an energy charge will more closely align with cost causation and will send price signals for Program customers to be more efficient.

Q. How do you respond to this testimony?

A. I continue to recommend that residential Program customers be charged a fixed charge rather than an energy charge. All Program customers are RMP customers and they will continue to pay their base rates, which include energy charges for electricity usage. These base rates send a much stronger signal to residential customers about their electricity consumption than will Program participation. Schedule 1 customers pay block rates in winter months of 8.2477 cents per kWh, increasing to 10.6309 cents per kWh for usage above 400 kWh per month. In the summer, Schedule 1 customers pay 9.3199 cents per kWh, increasing to 12.0130 cents per kWh for usage above 400 kWh per month. The initial program rate of

0.5683 cents per kWh proposed in Mr. Elder's rebuttal testimony[1] represents only a small fraction of the average energy charges for residential customers. The underlying base rate provides a strong incentive for customers who want to reduce their electricity consumption to do so. Charging a flat rate to residential customers for Program participation will not undermine the strong underlying incentive to be efficient. Imposing an energy charge on residential Program customers will not create any more meaningful incentive to be efficient than already exists. As such, I continue to recommend that residential Program customers be charged a flat rate for Program participation.

Administrative Costs

Q. RMP has indicated that the Administrative Reserve Fund should recover three years of administrative costs, rather than its initial proposal of five years.[2] How do you respond?

A. In my rebuttal testimony, I indicated that the Agency does not oppose DPU witness Timothy Lenell's proposal that the Administrative Reserve Fund be structured to collect two years of administrative costs.[3] The Agency continues not to oppose the DPU's two-year proposal and support it over RMP's proposal. While I appreciate RMP's revision from a five-year proposal to a three-year proposal, I recommend that the Commission reject the proposal to recover a target

[1] *See* Rebuttal Testimony of Kenneth L. Elder, Exhibit RMP ___ (KLE-2).
[2] *See* Rebuttal Testimony of Craig M. Eller at lines 173-176 ("The Company would support a three-year fund to pay for Program PPA termination events should they occur, provided the fund receives priority replenishment as described above.").
[3] *See* Rebuttal Testimony of Christopher Thomas at lines 64-66.

of three years of administrative costs in the fund. RMP has not shown that three years' worth of administrative costs will be incurred in the event of Program termination.

Q. How do you respond to RMP's proposal that administrative costs be prioritized in Program rates?

A. In connection with its proposal to recover three years of administrative costs in the Administrative Reserve Fund, RMP also proposes that replenishment of administrative costs be prioritized over other costs in Program rate collections. The Agency does not oppose this proposal.

Q. Mr. Eller asserts that the Company must hire a full-time employee dedicated only to the Program on the grounds that "[t]he Company cannot employ an administrator that balances his or her duties with other administrative responsibilities because the statute requires the structure of the Program to not shift costs or benefits to non-participants or employees."[4] How do you respond?

A. The Act's provisions barring the shifting of costs or benefits to non-participants does not bar a PacifiCorp employee from working on Program and non-Program matters, so long as the employee adequately accounts for his or her time spent on Program administration and charges the Program for that time.

As noted in my earlier testimony, the Program will have customized software that automates certain Program responsibilities, which should reduce

[4] Rebuttal Testimony of Craig M. Eller at lines 250-254.

Program administrative burdens, in particular the reporting requirements cited in Mr. Eller's rebuttal testimony.

The Agency continues to believe that RMP has not demonstrated the need to include approximately $150,000 per year in the Administrative Reserve Fund target for a separate, full-time employee for Program administration purposes.

Q. Mr. Eller recommends that, for customers not enrolled in electronic billing, the Commission should require that RMP provide separate mailed confirmations when such customers exit the Program.[5] How do you respond?

A. Our understanding is that RMP supports email exit confirmations for customers enrolled in electronic billing. Mr. Sandonato from the OCS also supports email confirmations for such customers, as does the Agency. There is disagreement with respect to customers not enrolled in electronic billing. RMP proposes that such customers should receive a mailed confirmation separate from their customer bills. I indicated in my direct testimony that, in the event such a customer exits the Program, RMP should include a confirmation on the customer's bill rather than send a separate mailed confirmation, as RMP had proposed.[6] RMP opposes this recommendation, asserting that this will lead to customer uncertainty and could increase workload at Program-funded call centers. RMP has not explained why including an exit confirmation on the customer's bill will fail to inform the customer that he or she is no longer enrolled in the Program. The Program

[5] *See id*. at lines 272-285.
[6] *See* Direct Testimony of Christopher Thomas at lines 192-195.

customers will also fund the workload at Program customer call centers, so to the extent that customers remain uncertain after receiving exit confirmation along with their bill, any customer emails or calls will be funded by Program administrative costs. RMP has not demonstrated that an additional, separately mailed exit confirmation would be less expensive for the Program as compared to the Agency's proposal. The Commission should not require separately mailed exit confirmations.

Q. Mr. Eller proposes that the Commission reject the Agency's proposal for competitive solicitation for administrative functions, asserting that such a solicitation would "cause[] redundancies in program efficiency and increase[] costs incurred by Program participants."[7] How do you respond?

A. The assertion that competitively procured administrative services somehow increases costs is not supported by RMP's testimony. The Agency is concerned that if RMP does not competitively procure administrative services for the Program, that there can be no assurance there RMP will provide the "least cost" service to Program participants for those services. The Agency reserves the right to recommend disallowance of RMP's costs incurred in administering the Program if RMP incurs higher than necessary costs for administrative services.

Q. Mr. Eller proposes that the Commission decline to order that the Program be reimbursed if the customer service system modifications funded by the

[7] Rebuttal Testimony of Craig M. Eller at lines 301-303.

Program are subsequently used for other RMP customers.[8] How do you respond?

A. I have spoken with personnel in RMP's customer solutions group regarding the contemplated upgrade to software that will be used to administer the Program. In those conversations, RMP personnel have indicated that some of the functionality being developed for the Program could potentially be used for other purposes by PacifiCorp in the future—specifically the functionality used to facilitate and track customer opt-outs.

The Agency agrees that it must pay the costs associated with upgrading RMP's customer service software system to administer the Program. That upgraded software system is a benefit of the Program. To the extent the upgraded software system is utilized for other purposes unrelated to the Program, the benefits of the Program would be shared with non-participating customers. In such an event, the Program must be reimbursed to avoid violating the Act's requirements that the benefits of the Program should be shared only with Program participants.

Q. Mr. Eller requests that communication by electronic conference fulfill the requirement of an "in person" meeting with customers over 1 Megawatt for purposes of Program noticing.[9] How do you respond?

[8] *Id*. at lines 305-326.
[9] *Id*. at lines 357-359.

A. The Agency supports RMP's proposal to utilize electronic conferencing for the purpose of providing opt-out notices to customers over 1 Megawatt when it is reasonable to do so.

Q. Mr. Eller indicates that REC retirement costs should be added to the annual ongoing cost of the Program.[10] How do you respond?

A. I have several responses to Mr. Eller's testimony on this point. First, REC retirement is a topic of dispute among the parties and any administrative costs associated with it is subject to the outcome of that dispute.

Second, Mr. Eller's testimony assumes RMP will incur the costs of REC retirement, but that may not be the case. The Agency would prefer that the developer of the Program resource transfer the RECs directly to the Agency. I expect that this issue will be addressed in contract negotiations with the developer of the Program resource.

Third, even in the event that RMP would incur REC retirement costs, those costs would not be incurred until after the resource reaches commercial operation and begins producing energy. That would not occur until some time after the Program commencement date when participating customers begin paying the Program rate. As such, it does not make sense to include REC retirement costs as an annual Program cost to be collected in the Administrative Reserve Fund at this time.

[10] *Id*. at lines 327-337.

Q. With your rebuttal testimony you filed Agency Exhibit 5.1, which sets forth an updated proposal for Program startup costs and the Administrative Reserve Target. Have your recommendations set forth in that exhibit changed?

A. No. My recommendations regarding the startup costs and Administrative Reserve Fund target have not changed since my rebuttal testimony.

<u>**Retirement of System RECs for the Program**</u>

Q. Mr. Eller states that the Commission should decline to adopt the Agency's recommendation that system RECs be retired for Program participants.[11] How do you respond?

A. The Agency's proposal that participating customers' share of system RECs be retired for the Program was based on discussions between the Agency and RMP on this point, which pre-dated RMP's proposal to this Commission for the adoption of Schedule 74. The Agency had hoped that Schedule 74 could be expanded to include Program participants. Mr. Eller notes that "[t]he Company believes it is more appropriate to establish the Program using only new dedicated resources *at this time*."[12] The Agency is hopeful that Schedule 74 (or something like it) can be expanded in the future to include Program participants but we do not believe the Commission needs to address this issue at this time.

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[11] *Id*. at lines 418-449.
[12] *Id*. at lines 439-441 (emphasis added).

Program Termination Issues

Q. What has the Agency proposed regarding the treatment of the Program resource PPA in the event the Program is terminated?

A. The Agency recommends that the Commission decline to terminate the Program as long as sufficient funds remain in the Resource Reserve Fund. However, in the event the Commission does terminate the Program for whatever reason, the Agency's recommendation is that funds raised from participating customers and held in the Resource Reserve Fund for a Program resource should be used to cover the Program's assigned share of that resource's cost and that the Program resource PPA should not be terminated until the Resource Reserve Fund is exhausted.[13]

Q. How has RMP responded to this proposal?

A. Mr. Eller recommends that the Commission reject this proposal and that, in the event the Commission terminates the Program, RMP should be permitted to terminate a Program resource PPA immediately and pay the guaranteed Resource Reserve Fund balance to the project developer.[14]

Q. How do you respond to Mr. Eller's testimony on this point?

A. I recommend that the Commission reject Mr. Eller's proposal. Customers participating in the Program will be required to raise funds sufficient to cover 12.5 years of PPA costs for the Program resource to be built. Those customers should reasonably expect to receive the benefits of the 12.5 years of PPA performance

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[13] *See* Direct Testimony of Christopher Thomas at lines 493-528.
[14] *See* Rebuttal Testimony of Craig M. Eller at lines 497-525.

that they will have paid for in advance. Similarly, a clean energy developer will rely on these 12.5 years of contracted output to be able to secure financing. For a tax-advantaged clean energy project using production tax credits especially, being able to utilize production tax credits (PTCs) for the first ten years could be an essential element of the financing stack. My understanding is that all six of the shortlisted bids currently being evaluated by the Agency rely on PTCs. Mr. Eller's proposal that RMP simply terminate the PPA and pay the Resource Reserve Fund amount to the developer would mean that the developer would receive up to 12.5 years of PPA funds to *not* produce energy. Further, it could chill developer interest in building a resource for the Program from the outset. The Agency's proposal would require that the resource continue to produce for the system for so long as the funds in the Resource Reserve fund are sufficient to pay for the Program's assigned share of the output from the project.

Q. How do you respond to Mr. Eller's assertion that requiring RMP to utilize the Resource Reserve Fund to pay for the output of the resource after Program termination places additional risk on non-participants?[15]

A. The Agency's proposal shields RMP and non-participating customers from the risks claimed by Mr. Eller and the Commission should reject RMP's proposal. As proposed by the Agency, RMP would have a right to terminate the Program resource PPA in the event that a) the Program is terminated, and b) the Resource Reserve Fund is exhausted. The Agency is not proposing that RMP take on the

[15] *See id*. at lines 507-516.

risk of paying the Program's assigned share of the PPA amount using its own funds or funds recovered from any non-participating customers. The Agency is also not proposing that the Resource Reserve Fund be transferred to RMP upon termination, which Mr. Eller testifies would trigger an income tax assessment. Rather, the Resource Reserve Fund will be an escrow account established by a local government who is a member of the Agency during the Program operation and after termination. Consistent with the Agency's proposal, the Resource Reserve Fund would simply continue to make required payments until it is exhausted and the Program is terminated.

Ultimately, Agency wants to see Program dollars spent the way they were intended, which is for the acquisition of clean energy; if the Commission terminates the Program, the Resource Reserve Fund should be used to the fullest extent possible to pay for the Program resource to continue to produce energy.

Mr. Eller's citation to testimony by DPU witness Mr. Lenell[16] does not support RMP's position. The Agency understands Mr. Lenell's point to be a more general one about whether the concept of the Resource Reserve Fund can operate as intended when the Program resource is Company-owned, rather than a third-party PPA.[17] Mr. Lenell's point is not offered in response to the Agency's position and does not support RMP's proposal. RMP has indicated that it does not at this time seek to own Program resources and so the concern raised by Mr. Lenell is not applicable to the Program solicitation currently underway.

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[16] *See id*. at lines 517-525.
[17] *See* Rebuttal Testimony of Timothy Lenell at lines 673-683.

<u>Program Implementation Timing</u>

Q. Have parties offered recommendations regarding the timing of Program implementation in relation to the approval of a Program resource PPA?

A. Yes. The OCS recommended in its direct testimony that the Program should not be implemented until after this Commission approves a resource valuation methodology and approves a Program resource. I responded to that testimony in my rebuttal testimony.[18] In its rebuttal testimony, RMP has responded by endorsing the concept of "waiting until a resource PPA has been executed with a developer and approved by the Commission before beginning the initial notification process."[19]

Q. How do you respond to Mr. Eller's support for the OCS proposal?

A. My response is no different than what I indicated in my rebuttal testimony. The proposal raises procedural implications that may prevent a Program resource from receiving PTCs, which would result in a materially more expensive resource for Program customers.[20] Mr. Eller's testimony acknowledges this point when he states that "[t]he downside to waiting is that the length of time to collect sufficient funds to fund the resource reserve fund in order to trigger the "Notice to Proceed" that is a condition precedent in the resource PPA for the Program is reduced with a delayed start time to start Schedule No. 100 and has higher potential risk of

[18] *See* Rebuttal Testimony of Christopher Thomas at lines 282-394.
[19] Rebuttal Testimony of Craig M. Eller at lines 583-586.
[20] *See* Rebuttal Testimony of Christopher Thomas at lines 282-394.

project delay that could in turn impact the resource PPA pricing potentially."[21] This is a significant concern.

The Agency recently provided a response to a data request from the OCS on this point about these timing concerns. That response provides details about the timing of tax credit eligibility and is attached hereto as Agency Exhibit 7.1. In short, delaying the start of Program revenue collection could prevent the Program from raising sufficient reserves to trigger effectiveness of a Program PPA for a tax-advantaged resource in time for that resource to meet the timelines for tax credit eligibility. For this reason, the Agency asks that the Commission approve the Program and an initial rate that is at the upper-boundary of the Board's position of not more than $3-$4 per month for the average residential customer. This would be equivalent to a per kilowatt-hour charge of $0.00609 and a low-income bill credit subsidy of $0.12 per month, for a monthly bill impact of $4.00 for the average program-eligible residential customer using 637 kWh per month.

Q. If the Commission adopts the OCS's proposal, what do you recommend it do to mitigate delays that could harm the success of the Program?

A. The delays associated with waiting to implement the Program until after a Program resource is approved may be too significant to overcome. As such, the Agency's primary recommendation is that the Commission reject the OCS proposal. However, if the Commission elects to adopt the OCS's proposal to wait to approve the Program and the initial Program rate until after approving a

[21] *Id*. at lines 586-590.

Program resource, the Agency offers the following alternative proposals to mitigate the impact to the Program.

First, in any docket before the Commission seeking approval of a Program resource, the Commission should decline to extend a procedural schedule beyond the time period provided in Commission Rule R746-314-401(7)(b), which creates a 75-day period for Commission review of a resource acquired pursuant to a Program solicitation.

Second, if one or more member communities of the Agency elect to sign an agreement with the Company to cover the software upgrade costs prior to Program approval, we ask that the Company be permitted to begin work on the "Prep period for noticing/billing system"[22] step prior to Program approval. This would eliminate some portion of the proposed delay to Program implementation. Of course, this outcome would also require the communities to underwrite this significant expense prior to Program approval, which may be untenable for some or all communities.

Q. Mr. Sandanato, on behalf of the OCS, requests that the Commission direct the Company to file a comprehensive "Program Implementation and Valuation Plan" detailing the process and timeline for addressing items including RFP bid evaluation, resource valuation calculations and comment opportunity, and final approval of a Program resource.[23] How do you respond to this proposal?

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[22] *See* June 4, 2025 Program Application at p. 7.
[23] *See* Rebuttal Testimony of Anthony Sandonato at lines 72-99.

A. A Program Implementation and Valuation Plan as described by the OCS would be helpful. The Agency recommends that this plan be filed with the docket requesting approval of a Program resource. The Agency reiterates its request that this docket not require any more than 75 days to complete and that it occur after approval of the Program and the initial Program rate, to allow the Resource Reserve Fund the maximum time to begin accumulating funds.

<u>Cancelation Period</u>

Q. Please re-state the Agency's proposal regarding the cancelation period.

A. The cancelation period is the period during which a participating customer may opt out of the Program without incurring a termination fee. In my direct testimony, I discussed the Agency's proposal "to extend the initial cancelation period from the required minimum three-month period to a six-month cancelation period. Commission rules state that the cancelation period for eligible customers as of the implementation date must be 'at least three billing cycles immediately following the applicable commencement date.'"[24] This proposal applies only to those customers located in participating communities as of the implementation date of the Program. The proposal does not affect the "commencement date" for such customers, which is the date that the customer begins paying Program rates.[25]

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[24] Direct Testimony of Christopher Thomas at 554-558 (quoting Utah Admin. Code R746-314-101(3)).
[25] *See* Commission Rule R746-314-101(4)(a).

Q. Have any parties responded to your proposal that the Cancelation Period for Program customers as of the Implementation Date be six months, rather than the minimum three-month period set forth in Commission Rules?[26]

A. Yes. OCS witness Mr. Sandonato supports my proposal.[27] Mr. Eller responded to my proposal in rebuttal testimony and indicated that RMP conditionally supports it.

Q. On what condition does Mr. Eller indicate RMP supports the proposal?

A. Referencing my direct testimony quoted above, Mr. Eller states that "[t]he Company assumes that the Agency's reference to 'implementation date' in its cancellation period extension request is meant to refer to the 'commencement date' of the Program as per Utah R746-314-101(4)."[28] The reference to "implementation date" in my testimony was intentional and was not intended to be a reference to "commencement date." Commission rules distinguish between customers located in participating communities as of the implementation date, on the one hand and, on the other hand, to "new" and "annexed" customers that locate to participating communities after the implementation date.[29] For customers as of the "implementation date," the "commencement date" is 60 days after the implementation date and is the date that Program rates apply.[30] These periods are helpfully illustrated in Figure 1 of Mr. Eller's Direct Testimony.[31]

[26] *See* Direct Testimony of Christopher Thomas at lines 550-568.
[27] *See* Direct Testimony of Anthony Sandonato at lines 418-422.
[28] Rebuttal Testimony of Craig M. Eller at lines 342-348.
[29] *See* Utah Admin. Code R746-314-101(3) & (4).
[30] *See id*. R746-314-101(4)(a).
[31] *See* Direct Testimony of Craig M. Eller at p. 8.

The "commencement date" for new customers or customers annexed into a participating community after the implementation date begins the day the first opt-out notice is sent to such customers.[32]

My proposal for a six-month cancelation period was only intended to apply to customers in participating communities as of the "implementation date". It was not intended to apply to new customers that locate to participating communities after the "implementation date."

Q. Has your recommendation changed from your direct testimony?

A. No. I continue to recommend that the cancelation period for customers located in participating communities as of the implementation date be extended to six months from the minimum three-month period described in Commission rules. It is unclear why Mr. Eller conditions RMP's support for the proposal on its understanding that the Agency had intended for the six month period to apply to all customers as of the "commencement date." If RMP's concerns are based on a reduction to administrative burdens or some other reasonable metric, the Agency would not oppose acceptance of RMP's condition—so long as doing so is consistent with the Act and Commission Rules.

[32] *See* Utah Admin. Code R746-314-101(4)(b).

<u>Overview and Conclusions</u>

Q. Please summarize your surrebuttal testimony.

A. Without limiting any of the foregoing, I offer the following summary of my surrebuttal testimony:

- I continue to recommend that the Commission approve a fixed charge for residential Program customers, rather than an energy charge;
- I continue to support the Division's proposal that the Administrative Reserve Fund target be set to recover two years' worth of costs;
- I do not oppose RMP's proposal to prioritize the recovery of administrative costs in Program rates;
- I continue to recommend that the Commission reject RMP's proposal to include approximately $150,000 per year in the Administrative Reserve Fund target for a separate, full-time employee for Program administration purposes;
- The Commission should not require separately mailed exit confirmations for customers that have not enrolled in electronic billing and, instead, should order that any such exit confirmation be printed on the monthly bill;
- The Agency continues to recommend that RMP acquire Program administrative services at competitive prices and that the Agency should be allowed to competitively solicit Program administrative services if it so chooses;
- The Agency continues to recommend that if Program customers fund upgraded software or other enhanced services, and such services are used for other customers, then the Program should be reimbursed to ensure that Program customers receive commensurate benefits;
- The Agency supports RMP's proposal to utilize electronic conferencing for the purpose of providing opt-out notices to customers over 1 Megawatt when it is reasonable to do so;
- REC retirement costs should not be included in annual costs to be recovered for the Administrative Reserve Fund target at this time;

- The Agency requests that in a future proceeding, the Commission consider whether Program customers may participate in Schedule 74 or another mechanism in which system RECs may be retired on behalf of Program customers, but it need not address that question at this time;

- The Commission should approve an initial Program rate at this time of not more than \$3 to \$4 per residential customer (equivalent to \$0.00609 per kilowatt-hour of consumption) and should reject proposals to delay Program approval until after it approves a Program resource;

- The Agency wants to see Program dollars spent for their intended purpose, so if the Commission terminates the Program, the Resource Reserve Fund should be used to the fullest extent possible to pay for the Program resource to continue to produce energy;

- The Commission should adopt a six-month cancelation period for customers located in participating communities as of the "implementation date" of the Program.

Q. Does this conclude your surrebuttal testimony?

A. Yes, it does.