
Application of Rocky Mountain Power to Implement Community Clean Energy Program Authorized by the Community Clean Energy Act	<u>DOCKET NO. 25-035-06</u> <u>ORDER APPROVING PROGRAM WITH MODIFICATIONS</u>
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ISSUED: March 4, 2026

1. PROCEDURAL HISTORY

On January 24, 2025, Rocky Mountain Power (RMP) filed its initial Application to Implement Community Clean Energy Program Authorized by the Community Clean Energy Act¹ (“Initial Application”), requesting the Public Service Commission (PSC) approve the Community Clean Energy Program (the “Program”). RMP represented in the Application that it filed the Initial Application “to begin seeking approval of the Program” and that it intended to file a “two-part application” with a forthcoming filing to include additional detail and supporting testimony.²

On June 4, 2025, RMP filed the second part of its application (“Supplemental Application”).³ The Supplemental Application “propos[es] the rest of the Program’s

¹ Utah Code § 54-17-901, et seq. [hereafter, the “Act”].

² Initial Application at 4. The Application includes the following exhibits: a list of eligible communities as Attachment A; maps of eligible communities as Attachment B; proposed community ordinance language as Attachment C; and the proposed tariff as Attachment G. Additionally, RMP included with the Application a report on the number of customers by rate schedule for eligible communities as Attachment D1, a monthly load profile by customer class for communities as Attachment D2, and a ten-year load forecast by sector as Confidential Attachment D3.

³ Hereafter, this order does not distinguish between the Initial Application and the Supplemental Application except where necessary and refers to both, collectively, as the “Application.”

structure”⁴ and includes proposals for a balancing account to defer and track revenues and costs of the Program, Program customer rates, a proposed periodic rate adjustment filing procedure, projected Program implementation dates, and customer informational materials.

The PSC held a scheduling conference on June 20, 2025, during which the parties stipulated to an adjudication schedule. The PSC issued a Scheduling Order, Notice of Hearing, and Notice of Public Witness Hearing on July 1, 2025, adopting the stipulated schedule.

The following parties submitted several rounds of written testimony prior to hearing: RMP; the Community Renewable Energy Agency (“Agency”); the Division of Public Utilities (DPU); the Office of Consumer Services (OCS); Sierra Club; and Western Resource Advocates (WRA). While most of these parties regularly or semi-regularly appear in the PSC’s dockets, the Agency exists primarily to establish a program under the Act and its role in the proceeding should be properly understood.

The Act allows RMP to acquire renewable generation resources to serve customers within the geographic boundaries of local governments that have worked with RMP to establish a clean energy program. Here, the Program that RMP asks the PSC to approve would serve customers in 19 communities (“Communities”).⁵

⁴ Supplemental Application at 2.

⁵ The 19 communities are Grand County, Salt Lake County, Summit County, Town of Alta, Town of Castle Valley, Coalville City, Cottonwood Heights, Emigration Canyon Township, Francis City, City of Holladay, Kearns Metro Township, Midvale, Millcreek,

The Agency collectively represents these Communities in this proceeding. The Utah Administrative Code contemplates that local governments that intend to become participating communities in a program under the Act will enter a governance agreement that “establishes a decision-making process” to facilitate their ability “to reach a single joint decision on any necessary program issues.”⁶ The Communities have executed such an agreement, which establishes the Agency for the purpose of implementing a clean energy program that will serve customers residing in the Communities.⁷

The PSC conducted a hearing from December 16 to 17, 2025, and a public witness hearing on December 16, 2025. At hearing, RMP, the Agency, DPU, OCS, WRA, and Sierra Club appeared and testified.

2. APPLICATION AND BACKGROUND

RMP did not provide any single document that summarizes or explains its proposed Program’s terms, elements, and parameters; instead, these must be garnered from its Initial Application, Supplemental Application, supporting written testimony, and exhibits attached to its filings. The PSC will not attempt to fully summarize them here.

Moab City, Oakley City, Ogden City, Park City, Salt Lake City, and Springdale City. See, e.g., Direct Test. of D. Dugan at 7:132-35.

⁶ Utah Admin. Code R746-314-101(9).

⁷ Direct Test. of D. Dugan at 5:95-6:110.

Broadly, the Application proposes to establish a “Schedule 100” in RMP’s tariff to govern the Program with initial prices of 0.6132 cents per kWh plus a \$0.11 per month surcharge. Based on a forecast model that examined a 24-year-period, RMP proposes to break the Program into three phases: (i) a build-up phase between 2026 and 2029 when reserve balances will be collected to support acquisition of Program resources; (ii) a maintenance phase from 2030 to 2042, during which the incremental cost of the Program’s resources are funded; and (iii) a draw-down phase from 2043 to 2049 when reserve balances will be returned to participants.

To determine the costs and benefits of a Program resource (“Resource Valuation”), the Application proposes a multi-step valuation process (“Proposed Method”) modeled after the current method for determining avoided cost prices under Schedule 38 with four primary modifications concerning interconnection costs, transmission service costs, REC valuation, and valuation estimates for the life of the contract beyond the product cost model study horizon.

RMP asserts its Proposed Method is an adequate “one-time analysis” to establish Resource Valuation “at [the time of] contract execution.”⁸ While RMP’s proposal expects annual updates to Schedule 100 rates may be necessary due to changes in certain factors (e.g., administrative costs),⁹ it largely relies on the analysis

⁸ Rebuttal Test. of D. MacNeil at 8:169-70.

⁹ RMP identifies the following factors that may necessitate updates to Schedule 100 prices: actual load participation; actual generation from Program resources; the number of low-income customers in the Program; actual administrative costs

its Proposed Method renders at the time it executes a Power Purchase Agreement (PPA) to establish the costs and benefits of a Program resource over all three phases of the Program.

All other parties object to the Proposed Method. As OCS put it, “[t]he testimony filed by other parties in this docket including the Agency, [DPU], [WRA], and Sierra Club make it clear that RMP has not yet provided a complete or reviewable process for [R]esource [V]aluation.”¹⁰ Though each of the parties propose a different mechanism or process to correct the Proposed Method, all argue that RMP’s Proposed Method will improperly allocate the costs and benefits of the Program’s resources.

Under the umbrella of Resource Valuation, the disputed issues include, at least, the following: (i) whether the Preferred Method relies on faulty assumptions in RMP’s 2025 Integrated Resource Plan (“2025 IRP”) and should instead rely on the 2025 Utah IRP; (ii) whether the present value revenue requirement differential (PVRR(d)) method should be used instead of reference to an integrated resource plan; (iii) whether annual reconciliation of costs and benefits is necessary; (iv) whether levelized transmission and interconnection costs are consistent with the Act; (v) whether the Proposed Method wrongly includes costs pertaining to lost production tax credits

incurred; actual interest earned; and significant changes in the forecast or anticipated values of any of the foregoing. Direct Test. of R. Meredith at 5:109-6:120.

¹⁰ Rebuttal Test. of A. Sandonato at 2:32-35.

(PTCs); (vi) whether the Proposed Method wrongly assumes that Program resources will not be curtailed; and (vii) whether the Proposed Method's inclusion of costs related to lost renewable energy credits (RECs) is proper and whether the Agency should retain the right to decline to retire RECs.

In addition to concerns about Resource Valuation, parties have recommended numerous other changes to RMP's proposed Program related to its administration, implementation, rate design, reporting requirements, and the treatment of Program resources in the event the Program terminates. Rather than summarizing these issues and the parties' positions here, the PSC addresses those necessary in the findings and conclusions below.

3. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Act charges the PSC with evaluating applications to establish a community clean energy program and determining whether to approve them. The PSC may approve an application where (i) the application meets all requirements under the Act and applicable administrative rules; and (ii) the PSC finds the program is in the public interest.¹¹

The Act requires an Application to include: (i) the names of the local governments participating in the program and a map of their respective geographic boundaries; (ii) the number of customers the utility serves in those geographic

¹¹ Utah Code § 54-17-904(3).

boundaries, (iii) the statutorily required agreement between the local governments and the utility; (iv) a proposed plan to address low-income programs and assistance; and (v) a proposed solicitation process for the acquisition of clean energy resources.¹² Additionally, the utility's Application must include "projected rates" for participating customers that "take into account" the estimated number of participating customers, the quantifiable costs and benefits to the utility and all of its customers in their capacity as ratepayers, and the utility's ongoing costs. Collectively, this order refers to these as the "Act's Requirements."

The PSC's administrative rule contains a significantly longer itemized list of requirements ("Rule's Requirements") for an application that generally mirrors the Act's requirements but with greater specificity.¹³

Importantly, the Act unequivocally requires that the rates the PSC ultimately approves for participating customers "may not result in any shift of costs or benefits to any nonparticipating customer."¹⁴ However, the PSC must "take into account any quantifiable benefits" to the utility and its customers that directly affect the utility's

¹² *Id.* at § 54-17-904(2).

¹³ See Utah Admin. Code R746-314-401(3)(a) through (o). The PSC notes it approved a solicitation process for the Program in a prior docket. See *Application of RMP for Approval of Solicitation Process for the Community Renewable Energy Program*, Docket No. 24-035-55, Order issued May 13, 2025.

¹⁴ Utah Code § 54-17-904(4)(b).

costs of service.¹⁵ We refer to these statutory mandates as the “Act’s Cost Allocation Requirements.”

1. The Record Does Not Support a Finding that RMP’s Proposed Method Would Comply with the Act’s Cost Allocation Requirements, but Approval of a Comprehensive Methodology for Valuing Future Program Resources is Not a Requirement for Approval of a Program.

- 1.1. *The record cannot support a finding that RMP’s Proposed Method or any parties’ proffered alternative would comply with the Act’s Cost Allocation Requirements.*

No party supports RMP’s Proposed Method though their respective criticisms and recommended modifications meaningfully differ.

DPU and OCS object to a one-time, up-front evaluation of a Program resource’s costs and benefits, arguing this “static approach may result [in] misalignment” that violates the Act’s Cost Allocation Requirements.¹⁶ RMP emphasizes that rates will not remain static under its proposal and will be updated annually based on numerous factors (e.g. actual participation and generation), but RMP insists that annual updates to the Resource Valuation modeling are costly, administratively burdensome, and unnecessary. The Agency similarly objects to annual updates of the Resource Valuation modeling, arguing such updates are fundamentally incompatible with RMP’s proposal to use a modified version of the modeling done for Schedule 38.¹⁷

¹⁵ *Id.* at § 54-17-904(4)(c).

¹⁶ See Dec. 17, 2025, Hr’g Tr. at 68:5-8.

¹⁷ Specifically, the Agency argues that “[t]he displaceable resource cannot be a ‘moving target’ that changes from year to year for a project under contract ...

Meanwhile, WRA argues RMP should not use a modified “Schedule 38” method in the first instance. WRA’s “main concern with using the Schedule 38 avoided cost method for Program resource valuation is that the method leads to extremely volatile results that may not realistically reflect the system’s avoided costs[,]” explaining it is “heavily dependent on the timing and technology of proxy resources” identified in RMP’s integrated resource plan.¹⁸ Further, WRA argues serious issues exist with respect to the 2025 IRP, which “render the 2025 IRP unusable” for valuing Program resources.¹⁹ For example, noting the PSC is presently considering whether to acknowledge the 2025 IRP, WRA argues that its bifurcated nature (i.e. being split into the 2025 IRP and 2025 Utah IRP) renders it unusable because “the timing and location of proxy resources for displacement were hand-selected rather than determined from a system-wide optimized model run.”²⁰ WRA concludes “[t]he 2025 IRP requires a significant overhaul, far beyond updating input assumptions.”²¹ WRA recommends RMP should “instead perform a [PVR(d)] analysis using project-specific information received by the Agency for its resource solicitation.”²²

otherwise the Schedule 38 method is rendered meaningless.” Rebuttal Test. of K. Higgins at 19:407-20:410.

¹⁸ Direct Test. of K. Boothman at 10:160-63.

¹⁹ *Id.* at 11:182-83.

²⁰ *Id.* at 11:187-89.

²¹ *Id.* at 11:189-90.

²² *Id.* at 5:73-75.

For its part, the Agency similarly objects to RMP's Proposed Method. The Agency's paramount concern appears to be that RMP's model assumes a displaced proxy resource will qualify for PTCs, which the Agency contends is empirically false and leads to dramatic reductions to the value of Program resources. The Agency also objects to RMP's inclusion of lost REC values and its assumption that Program resources cannot be curtailed.

The Agency, however, showed some ambivalence regarding how RMP's Proposed Method should be corrected. The Agency offers an alternative analysis that relies on the 2025 Utah IRP to select displaced proxy resources, but the Agency also testified that “[g]iven the well-documented problems associated with the 2025 IRP assumptions and portfolios, it may be necessary to rely on the PVR(d) method as a fallback.”²³ Additionally, the Agency suggested late in the docket that “[a]nother possible alternative is for the avoided cost of the Program resource to be considered on an energy-only basis, *i.e.*, without assuming the displacement of a proxy resource[,]” whereby “the Program resource would not receive a credit for displacing capital costs, but neither would costs be attributed to it for lost PTCs” or the lost value of RECs.²⁴

On this record, the PSC simply cannot find that substantial evidence exists showing that RMP's Proposed Method will accurately assign costs and benefits in a

²³ Surrebuttal Test. of K. Higgins at 16:335-36.

²⁴ *Id.* at 2:49-3:55.

manner consistent with the Act's Cost Allocation Requirements. Other parties' criticisms regarding the bifurcated and "hand-selected" nature of the 2025 IRP are well taken. Similarly, serious questions exist as to whether RMP's model contains erroneous assumptions about the eligibility of proxy resources for expiring PTCs that significantly affect their value.

Yet, substantial evidence does not exist, on this record, to support adopting an alternative model for Resource Valuation. RMP and the Agency both seek to establish a Resource Valuation that will be largely fixed and based on a one-time, up-front evaluation of the costs and benefits associated with Program resources, which DPU and OCS both argue amounts to a violation of the Act's Cost Allocation Requirements. Regardless, even if the Act permits relying on a single, up-front valuation, the relative permanence of such an approach demands that the valuation be as accurate and well supported as possible.

RMP argues WRA's proposed PVRR(d) method is ill-suited to evaluating small scale procurements, like those for Program resources, and even in larger procurement contexts must be supplemented with variant analysis. Additionally, conducting endogenous portfolio selection under the PVRR(d) method "is time-consuming" and requires "testing of possible alternatives ... to find more optimal solutions" in a manner that is "not very transparent."²⁵ RMP further suggests making

²⁵ Rebuttal Test. of D. MacNeil at 6:116-17.

isolated, individual changes to the assumptions in its Proposed Method (e.g. removal of PTCs and/or REC values) will render the model an unreliable measure of Resource Valuation.²⁶

In sum, we find the record does not contain substantial evidence to support RMP's Proposed Method or any parties' recommended alternative.

- 1.2. *The PSC concludes the Act does not require the PSC to approve a Resource Valuation methodology as a prerequisite to approving the Program.*

Though the Agency strongly opposes RMP's Proposed Method for Resource Valuation, the Agency also stresses the PSC should approve the Program without delay. The Agency's urgency stems from its aim to qualify Program resources for federal PTCs that will only be available if the projects commence construction in the summer of 2026 and achieve commercial operation by the end of 2030. The Agency testified that bidders in the Program resource solicitation "have provided assurances that they will satisfy the timing requirements for beginning construction, but reaching commercial operation will require an enforceable PPA."²⁷ The "template PPA," included in the solicitation, "does not become enforceable until [the Program] has raised a resource reserve fund sufficient to cover 12.5 years of PPA production."²⁸ The Agency testified "[i]t is unknown how long it will take for the Program to raise the

²⁶ See, e.g., *id.* at 12:252-56 (testifying "it is not appropriate to modify assumptions in the ... methodology without a broader consideration of cost-effectiveness").

²⁷ Rebuttal Test. of C. Thomas at 17:347-50.

²⁸ *Id.* at 17:351-53.

funds necessary” to trigger enforceability but urges “[a]ny delay to the implementation of the Program may ultimately delay the commercial online date” thereby forfeiting eligibility for the PTCs.²⁹

Consequently, at hearing, the Agency testified “the best path forward is for the [PSC] to approve an initial program rate at the upper boundary” of its Board’s “proposed [maximum] [\$]3 to \$4 per month average residential bill impact so that the program can be afforded” time “to meet the resource reserve threshold.”³⁰ The Agency contends that approval of a Resource Valuation methodology or particular resource is not “a statutory requirement of the [A]ct for program approval.”³¹

The Act requires an application to approve a program must include “projected rates” that consider, among other things, “the quantifiable costs and benefits” of the Program. Similarly, Utah Admin. Code requires inclusion of “projected program rates ..., including workpapers that provide[,]” among other things, “projected quantifiable costs and benefits of the program.”³²

We locate nothing in the law that renders approval of a comprehensive methodology that determines how costs and benefits of a program’s resources are to be calculated a condition of approving a program. Market and regulatory conditions are ever evolving, as are the methods and technology for modeling the impacts of

²⁹ *Id.* at 17:353-18:357.

³⁰ Dec. 16, 2025, Hr’g Tr. at 235:15-22.

³¹ *Id.* at 235:22-25.

³² Utah Admin. Code R746-314-401(3)(e).

changes to the system's resource portfolio. It is difficult to imagine how a program might ever be approved if the costs and benefits of program resources, which are not yet acquired and may be acquired years after a program's approval, had to be determined at the program's inception.

Moreover, to require such a determination would unreasonably prejudice the Agency, which is largely dependent on RMP for information and modeling. The Agency concedes that it ideally would have "vetted" a method with the OCS and DPU "prior to filing," but explains it was "unable to get to the point in [its] collaboration [with RMP] where a specific illustrative calculation was endorsed by [RMP]." ³³ But for the expiring PTCs, the Agency may not be so prejudiced. Given, however, that time is of the essence for the Agency, the PSC will not read requirements into the Act in a manner that would deny it the opportunity to attempt to qualify Program resources for expiring, substantial tax advantages.

As discussed *infra* at 16-17, we find the information included in the Application is sufficient to meet both the Act's and Rule's Requirements. We conclude that we need not approve a method for Resource Valuation to approve the Program.

³³ Direct Test. of K. Higgins at 10:232-35.

- 1.3. *The PSC will consider the issue of Resource Valuation in a later proceeding, and the PSC encourages parties to be as proactive and collaborative as possible given the Agency's time constraints.*

RMP and the Agency both emphasize that the PSC will have an opportunity to review the costs and benefits associated with a particular Program resource when the PPA is submitted for approval. The Agency also stresses that it hopes to see such a proceeding resolve in as little as 75 days. Whether these issues can be fairly and reasonably adjudicated under such an accelerated time frame is not clear.

Therefore, the PSC advises the parties to work as proactively as possible, in advance.

First, legal questions exist that did not receive meaningful argument in this docket, including: (1) which actual costs and benefits, if any, does the Act require to be reconciled in future years; (2) which actual costs and benefits, if any, does the Act allow to be reconciled on an annual basis; and (3) are the Act's Cost Allocation Requirements meaningfully different from the legal standards governing the determination of avoided cost prices for qualifying facilities. The PSC asks the parties to present their legal arguments and positions, with citations to controlling and/or persuasive authorities, on these questions and any others they believe to be pertinent as early as possible in the next proceeding.

The PSC also encourages the parties to work collaboratively to the fullest extent possible to determine whether a consensus can be reached on a Resource

Valuation method, and to identify which, if any, issues preclude such a consensus so the issues can be concisely and clearly presented to the PSC for expedient resolution in the next proceeding.

To the extent it appears unlikely that the PSC will be able to fully adjudicate the issues surrounding Resource Valuation in a sufficiently expedient manner to qualify Program resources for expiring PTCs, the PSC encourages the parties to explore whether some agreement might be reached to set post-acquisition Program rates for a limited duration until the PSC decides the issue.

2. The PSC Approves the Program with Certain Modifications.

2.1. *The PSC finds the Application and Program, as modified in this order, satisfy the requirements of both the Act and Rule.*

No party objects to the PSC's approval of the Application on the basis that RMP failed to submit any information necessary to comply with the Act's Requirements or the Rule's Requirements. Having reviewed the Initial Application, the Supplemental Application, and all supporting exhibits and written testimony, the PSC finds RMP's Application contains information sufficient to comply with the requirements of the Act and Rule.

Similarly, while disagreements exist regarding particulars of the Program and the manner in which Resource Valuation is to be determined, no party asks the PSC to flatly deny the Application and underlying Program. Provided costs are ultimately

allocated in a manner consistent with the Act; a consensus generally exists that the Program is in the public interest.

The PSC finds the Program, as modified in this order and subject to future determinations that ensure the Program resources' costs are allocated consistently with the Act, will facilitate the Agency's constituent Communities obtaining access to renewable resources without shifting costs to non-participating customers. We find the Program to be in the public interest.

Accordingly, the PSC approves the Program with the following modifications and subject to future determinations regarding allocation of the Program's costs and benefits.

2.2. The PSC approves certain modifications to RMP's Program.

Aside from concerns about Resource Valuation, parties recommended numerous other changes related to the Program's implementation and administration. We do not here discuss every change suggested by every party. Any requested changes that are not addressed in this order are denied. The approved Program is as articulated in RMP's Application and supporting testimony except as expressly stated otherwise in this order.

- 2.2.1. The PSC approves a target balance in the administrative reserve equal to two years of forecast cost, annual reconciliation of administrative costs, and RMP's request to prioritize funding the administrative reserve.

RMP initially proposed Program rates be used to fund a reserve equivalent to five years of forecast administrative costs associated with the Program. The Agency proposed a single year would be sufficient. DPU, in turn, recommends a target balance reserve equal to two years of forecast administrative costs.

DPU argues the Program is designed with an annual true-up of Program administration costs, which corrects for forecast deviations and enrollment changes within one rate-setting cycle. DPU, therefore, argues a two-year reserve is adequate to guard against large deviations in Program participation and for RMP to recover short-term costs associated with termination should the Program cease.

RMP amended its initial proposal from five to three years in response to DPU's testimony. The Agency indicated that it does not oppose DPU's recommendation to establish a reserve sufficient to cover two years of administrative costs.

Based on the testimony and evidence in the record, we find a target balance equal to two years of forecast administrative costs to be sufficient to protect RMP and other ratepayers. We adopt and approve DPU's recommendation with respect to the target balance of the administrative reserve fund.

The PSC notes the Agency opposes RMP's proposal to hire a full-time Program administrator. The PSC finds that hiring a full-time Program administrator is

reasonable and appropriate as RMP will likely require a full-time employee devoted to implementing the nascent Program. The PSC declines to make any adjustments to RMP's proposed administrative costs save for the target balance of the reserve.

Finally, given that the PSC has reduced RMP's requested target balance in the administrative reserve from five to two years of forecast administrative costs, the PSC approves RMP's request that it be allowed to prioritize funding the administrative reserve fund before the resource reserve fund.

Per RMP's proposal, the PSC expects administrative costs to be reconciled in RMP's annual rate adjustment filing.

2.2.2. The PSC approves the Agency's proposed initial rates, including a fixed rate for residential customers.

RMP recommends initial rates of \$0.006132 per kWh plus a \$0.11 per month surcharge to fund low-income assistance credits. RMP's proposed volumetric rate is the same for all customer classes, and RMP testified that residential customers using 675 kWh would see a \$4.14 or 4.8 percent increase to their monthly bills.

Based on the need to rapidly collect startup costs and build reserves, RMP proposes this initial rate for the first two years of the build-up phase. As discussed above, RMP proposes a three-phase structure for the Program: a build-up phase (lasting 4 years) to fund startup costs and accumulate sufficient reserves; a maintenance phase (lasting 13 years) to collect the ongoing incremental cost of Program resources, and a draw-down phase (lasting 7 years) during which reserve

balances will be returned to participants. RMP's proposal has rates dropping to \$0.003040 per kWh for the final two years of the build-up phase. RMP's projected maintenance phase rates are lower, \$0.000515 per kWh, and RMP projects Program rates to be negative during the draw-down phase, as reserves are returned to participants.

The Agency has requested that residential customers be assessed a "fixed charge equal to the average number of kilowatt-hours multiplied by a Program rate for residential customers only."³⁴ The Agency believes that "having a fixed monthly Program charge is critical to the Program's overall affordability."³⁵ The Agency contends customers will be best poised to determine whether they can afford to participate, if they know the cost in advance. Moreover, a fixed charge allows the Agency to "more easily advertise the Program, communicate its financial impact for Program participants, and provide a means for enrolled participants to ... check their bills to verify that they are being charged correctly."³⁶

RMP and OCS oppose a fixed charge for residential customers, stressing that a fixed charge is inconsistent with principles of cost causation, discourages efficient consumption, leads to low-use customers subsidizing high-use customers, and may ultimately discourage participation in the Program.

³⁴ Rebuttal Test. of C. Thomas at 20:399-401.

³⁵ *Id.* at 20:402-03.

³⁶ *Id.* at 20:406-08.

The Agency counters that, at least with respect to the initial rates, these concerns are misplaced because the initial rates are designed to raise startup costs and fund the administrative and resource reserves. The Agency contends these categories of costs do not directly relate to the amount of energy a customer consumes. Therefore, the Agency “ask[s] that the [PSC] defer to the Agency’s judgment in this regard, especially for the initial Program rate.”³⁷

The PSC acknowledges that, in most ratemaking contexts, RMP’s and OCS’s arguments present valid and compelling bases to charge volumetric rates. However, the Program the PSC is here considering is meaningfully different from typical ratemaking contexts. The Agency is not an investor-owned utility or an advocate for a particular customer class seeking to minimize its class’s share of costs. Rather, the Agency represents the interests of 19 local governments that seek to implement a community clean energy program consistent with their authority under the Act.

That is, the Agency speaks for the elected representatives of its 19 constituent Communities. The residents of these communities, through their elected representatives, have decided to invest in renewable generation resources. Insofar as the Program stems from these local governments’ policy choices, the PSC concludes the particulars of the Program should reflect the Agency’s preferences to the extent those preferences are reasonable, lawful, and permissible under the Act. Here, the

³⁷ *Id.* at 21:422-24.

Agency insists that a fixed monthly charge for residential customers will better facilitate the Program's successful implementation and provide their residents with more transparent, easily discernible information.

The PSC finds that accommodating the Agency's preference on this issue is reasonable and consistent with the Act. To be clear, we do not conclude the PSC must show deference to the Agency's judgment with respect to any issue committed to the PSC's jurisdiction. However, the PSC recognizes it is not the PSC's role, generally, to protect residents from the decisions of their local elected leaders. The PSC has no jurisdiction, for example, over municipal utilities. Therefore, as regards the allocation of costs among participants in the Program, the PSC declines to substitute its judgment for that of the local governments speaking through the Agency as regards their preference for a fixed rate for residential customers. The PSC's more vital role is, of course, to ensure the Program does not shift costs to other ratepayers, particularly those who reside in non-participating communities.

Consistent with the Agency's request, the PSC approves an initial fixed rate for residential customers of \$4.00 per month, inclusive of the low-income surcharge in RMP's proposal. For all other (non-residential) customer classes, the PSC approves a volumetric rate of \$0.00609 per kWh and a low-income surcharge of \$0.12 per month, as the Agency requests.³⁸

³⁸ Surrebuttal Test. of C. Thomas at 14:282-83. The PSC notes this initial rate is not widely divergent from RMP's proposed initial rate, approximately one-tenth of a cent

Finally, RMP agreed in rebuttal testimony to unbundle the charges in Schedule 100 to provide “a breakout of the resource reserve, administrative costs, and low-income components of Schedule 100 charges” and “to add explicit maximum and minimum bounds of the low-income surcharge language in the Low-Income Assistance section of the tariff.”³⁹ The PSC finds disclosing the Program costs, by component, in Schedule 100 and non-residential customers’ bills is reasonable and in the public interest and approves the change. Given that we approve the Agency’s request to establish a fixed rate for residential customers, bills for residential customers need not unbundle the fixed charge by component. The PSC also approves adding the explicit maximum and minimum bounds of the low-income surcharge to Schedule 100. The tariff should unambiguously indicate that residential customers’ total initial rate to participate in Schedule 100 reflects the fixed \$4.00 per month we approve above, notwithstanding the disclosure of the individual cost components.

2.2.3. The PSC’s approval of the Program is effective as of the date of this order.

As discussed above, the Agency ardently requests the Program be implemented as soon as possible because it hopes to qualify Program resources for soon expiring PTCs, and the PPAs will not be enforceable until the Program accumulates sufficient resource reserves to pay for 12.5 years of generation. The

less per kWh, stemming presumably from the Agency’s hope to accumulate sufficient reserves to render the PPAs enforceable in time to qualify for expiring PTCs.

³⁹ Surrebuttal Test. of C. Eller at 7:135-40.

Agency urges, therefore, the Program must commence as soon as practicable so that it can begin accumulating the necessary reserve balances.

RMP, DPU, and OCS all recommend the Program not commence until the parties execute a PPA and/or the PSC approves it. Generally, they argue that waiting until a PPA is finalized will provide more transparent and reliable information for ratepayers to inform their decisions about whether to opt-out of the Program.

While customers would certainly be best served by having as much information as possible prior to the Program's implementation, the Agency's testimony suggests that eligibility for the expiring PTCs is an "essential element" in financing the Program resources.⁴⁰ The PSC also notes that, under RMP's proposal, Program rates are highest in the first two years when reserve balances and other startup costs are accumulating. While future Program rates may diverge from those under RMP's proposal contingent on later determinations regarding Resource Valuation and changes to other underlying variables, no evidence in the record suggests that Program rates are likely to meaningfully increase from the initial rates approved in this order. Instead, under RMP's proposal, they would decrease rather significantly after the first two years. At the Program's inception, customers will be deciding whether to opt-out with reference to rates that are likely to be higher than rates charged later, after the reserve balances are sufficiently established.

⁴⁰ Surrebuttal Test. of C. Thomas at 11:210-14.

Given the exigent circumstances with respect to the expiring PTCs and the relatively low risk to participants that rates will meaningfully exceed the initial rates approved here, the PSC approves the Program, as modified herein, effective immediately.⁴¹

2.2.4. The PSC approves a six-month cancellation period.

Utah Admin. Code R746-314-101(3) defines “cancelation period” as “the period during which a participating customer may opt-out of the program without incurring a termination fee.” The cancellation period must extend through “at least three billing cycles immediately following the applicable commencement date.”⁴²

The Agency requested the Program’s cancellation period be extended such that “Program-eligible customers on the date the Program is implemented will have six months from the date the first initial opt-out notice is sent to exit the Program without incurring a termination fee.”⁴³ The Agency clarifies that this extended cancellation period should only apply to existing customers on the date the Program is implemented. The Agency recommends new customers who later move to a participating community have a 60-day cancellation period as the administrative rules presently contemplate.

⁴¹ Note, the actual implementation date will be the date “on which the first opt-out notice is sent to any eligible customer.” Utah Admin. Code R746-314-101(10).

⁴² *Id.* at R746-314-101(3).

⁴³ Direct Test. of C. Thomas at 28:561-29:563.

The Agency argues the initial extended cancellation period is appropriate because it will provide existing customers time to discover how the Program will affect their bills within the cancellation period. RMP supports the Agency's requested extension of the initial cancellation period.

The PSC approves the Agency's recommendation to extend the cancellation period for existing customers, meaning those who are customers residing within a participating community on the date the first opt-out notice is sent, to six months.

2.2.5. The PSC approves RMP using video conferencing as a form of opt-out notice for customers of Schedule 8 or Schedule 9.

Utah Code § 54-17-905(1)(c) requires RMP to provide notice to customers within a participating community and specifies it must provide such notice "in person to each customer with an electric load of one [MW] or greater"

The Agency recommends that this in-person communication constitute the PSC's approved form of opt-out notice for customers on Schedule 8 or Schedule 9. RMP supports the Agency's request, and further asks the PSC to approve RMP to utilize electronic video conferences as a form of in-person communication.

The PSC finds allowing electronic video conferencing as a form of in-person communication, where reasonable and appropriate, is likely to be less costly and more convenient for RMP and affected customers. Therefore, we approve RMP's request to use electronic video conferencing as a form of opt-out notice for customers on Schedule 8 or Schedule 9.

- 2.2.6. The PSC declines to preclude RMP from terminating a PPA in the event the Program terminates.

In the event the Program is terminated, “for whatever reason, the Agency’s recommendation is that funds ... held in the Resource Reserve Fund ... 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.”⁴⁴

RMP strongly objects and initially took the position that, should the Program terminate, RMP “will seek to terminate the PPA.”⁴⁵ RMP explained that “the purpose of the resource reserve fund [is] to provide a security or financial backstop to developer(s) for executed [PPAs].”⁴⁶ RMP argues that declining to terminate a PPA after the Program terminates would create additional risk for RMP and non-participating customers. RMP specifically points to increased “credit exposure imputed by credit agencies[,]” increased cost of debt, and taxes.⁴⁷

OCS suggests the PSC simply require RMP to reevaluate the PPA in the event of Program termination to determine whether continuing to purchase energy from the resource would provide benefits to all customers.

⁴⁴ Surrebuttal Test. of C. Thomas at 10:193-99.

⁴⁵ Rebuttal Test. of C. Eller at 25:503-04.

⁴⁶ Rebuttal Test. of C. Eller at 25:501-03.

⁴⁷ Rebuttal Test. of C. Eller at 25:509-26:515.

In written surrebuttal testimony, RMP stated it “does not object to evaluating if the Program resource should be retained for all customers at Program termination as long as [RMP] is allowed to make an independent valuation to determine if the resource is beneficial to all customers independent of the Program at that time.”⁴⁸

The PSC declines to adopt the Agency’s strict requirement that would preclude RMP from terminating a PPA for a Program resource in the event of Program termination. The PSC finds such a requirement would create unreasonable and unjust risks for RMP and its other customers. However, in the event the Program terminates, the PSC directs RMP to responsibly evaluate whether ratepayers will be best served by terminating the PPA or by continuing to purchase energy from the former Program resource and to act in a manner that RMP reasonably believes will result in the least cost and least risk to ratepayers. The administrative costs associated with such a review are properly attributable to the Program. Additionally, if the balance of the resource reserve contains a surplus above the total sum necessary to make the counterparty whole under the PPA, the PSC directs RMP to use the surplus to purchase energy under the PPA until such time as the remaining balance will equal the amount necessary to cover all costs associated with early termination.

The PSC also notes DPU’s concern that allowing customers to enroll in the Program during the draw-down phase (i.e. when rates are low or negative) would be

⁴⁸ Surrebuttal Test. of C. Eller at 31:625-28.

unfair to other participating customers who shouldered the Program's costs in earlier phases. At hearing, the Agency asked the PSC to refrain from addressing this question now, noting it can be addressed in a future proceeding. The PSC commends DPU's foresight with respect to this issue, however, the PSC declines to impose such a requirement at this time. The PSC encourages the Agency and other stakeholders to consider the issue, collaborate, and determine whether some additional rules or Program conditions are appropriate to mitigate cost-shifting among participants over time.

2.2.7. As DPU requests, the PSC will issue a separate notice to convene a workgroup to explore reporting requirements.

DPU recommends the PSC convene a workgroup to develop an annual reporting template. Specifically, DPU seeks to ensure "[f]uture reporting provide[s] adequate accounting details to enable parties to review whether the Program is prudent and in the public interest, [and is] avoiding cost and benefit shifting to non-participating customers."⁴⁹ Generally, the other parties express a willingness to participate in such a workgroup though they have different views as to the scope of necessary reporting.

The PSC concludes annual reporting will be necessary for stakeholders to review the Program's actual performance and evaluate whether the Program is

⁴⁹ Direct Test. of R. Davis at 4:70-72.

shifting cost or benefits to non-participating customers. The PSC approves DPU's request to establish a workgroup and will issue a separate notice that establishes the workgroup and sets the matter for a scheduling conference.

As discussed *supra* 15-16, the PSC also strongly encourages the parties to collaborate on developing a Resource Valuation model, and the workgroup established to develop annual reporting requirements may provide a useful forum to explore that issue and to facilitate informal information sharing and/or discovery. The PSC's notice will ask stakeholders to come to the first scheduling conference prepared to discuss whether inclusion of Resource Valuation issues in the docket is appropriate.

4. ORDER

The PSC approves the Application and Program, as expressly modified in this order, effective immediately.

DATED at Salt Lake City, Utah, March 4, 2026.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#344166

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on March 4, 2026, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

Data Request Response Center (datareq@pacificorp.com), (utahdockets@pacificorp.com)
PacifiCorp

Ashley M. Walker (walker.ashley@dorsey.com)
Dorsey & Whitney LLP
Max Backlund (max.backlund@pacificorp.com)
Katherine Smith (katherine.smith@pacificorp.com)
Rocky Mountain Power

Stephanie Altman (stephanie.altman@westernresources.org)
Karl Boothman (karl.boothman@westernresources.org)
Sophie Hayes (sophie.hayes@westernresources.org)
Nancy Kelly (nancy.kelly@westernresources.org)
Jessica Loeloff (jessica.loeloff@westernresources.org)
Western Resource Advocates

Phillip J. Russell (prussell@jdrslaw.com)
JAMES DODGE RUSSELL & STEPHENS, P.C.
Kevin Higgins (khiggins@energystrat.com)
Energy Strategies, LLC
Christopher Thomas (christopher.thomas@slc.gov)
Emily Quinton (equinton@summitcountyutah.gov)
Luke Cartin (luke.cartin@parkcity.org)
Dan Dugan (dan.dugan@slc.gov)
Community Renewable Energy Agency

Rose Monahan (rose.monahan@sierraclub.org)
Thomas Phillips (thomas.phillips@sierraclub.org)
Sierra Club

Lauren R. Barros (LRB@LaurenBarrosLaw.com)
Lauren Barros Law
Counsel for Utah Clean Energy

Sarah Wright (sarah@utahcleanenergy.org)
Logan Mitchell (logan@utahcleanenergy.org)
Jenn Bodine (jbodine@utahcleanenergy.org)
Josh Craft (josh@utahcleanenergy.org)
Jennifer Eden (jennifer@utahcleanenergy.org)
Utah Clean Energy

Patricia Schmid (pschmid@agutah.gov)
Patrick Grecu (pgrecu@agutah.gov)
Robert Moore (rmoore@agutah.gov)
Assistant Utah Attorneys General

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Alyson Anderson (akanderson@utah.gov)
Cameron Irmis (cirmas@utah.gov)
Asami Kobayashi (akobayashi@utah.gov)
Jennifer Ntiamoah (jntiamoah@utah.gov)
Bela Vastag (bvastag@utah.gov)
Alex Ware (aware@utah.gov)
(ocs@utah.gov)
Office of Consumer Services

/s/ Melissa R. Paschal
Lead Paralegal