



CITY COUNCIL TRANSMITTAL


Lisa Shaffer (Oct 3, 2022 10:31 MDT)

Lisa Shaffer, Chief Administrative Officer

Date Received: 10/3/2022

Date Sent to Council: 10/3/2022

TO: Salt Lake City Council
Dan Dugan, Chair

DATE: October 3, 2022

FROM: Debbie Lyons, Sustainability Director



SUBJECT: Utah Community Renewable Energy Program Application Update

STAFF CONTACTS:

Christopher Thomas
Senior Climate & Energy Program Manager
christopher.thomas@slcgov.com | 385-228-6873

DOCUMENT TYPE: Information Item

RECOMMENDATION: The Department is requesting Council feedback to Salt Lake City's CREA Board appointees on: 1) The Draft Model Ordinance and 2) Program Approaches for affordability and accessibility, by October 28, 2022.

BUDGET IMPACT: None currently.

BACKGROUND/DISCUSSION:

The Utah Community Renewable Energy Program – Background and Status

The Utah Community Renewable Energy Program (also called the "Utah 100 Program") was enabled by the Utah legislature's passage of House Bill 411, [Utah Community Renewable Energy Act](#) (the "Act") in 2019.

The goal of the Program is to collectively acquire renewable energy to serve participating Utah communities so that by 2030, the amount of electricity used by participating customers annually will be matched by an equivalent amount of renewable energy delivered to the Rocky Mountain Power (RMP) grid annually. (Note: this annual matching between consumption and energy supply is also called "net-100%.")

The table below shows a summary of the necessary steps to Program implementation. Green steps are completed and white are remaining.



The City Council will have the ultimate authority to approve of Salt Lake City's participation in the Program by passing an ordinance after the State Public Service Commission (PSC) approves of the program. This is expected to come before Council in mid-2023, pending the process with state regulators.

Please note this written briefing is not a comprehensive summary of the entire Utah 100 Program, but will focus on the draft ordinance and the affordability and accessibility options highlighted in yellow in the table below.

Item	Impact	Decision-Making Bodies	Status
HB 411 Utah Community Renewable Energy Act. Link to HB 411	Enabling legislation	Utah State Legislature	Done (2019)
Rules Governing Community Renewable Energy Act. Link to Administrative Rules	Lays out parameters communities and RMP must follow to create Program	Utah Public Service Commission (PSC)	Done (2019)
Qualifying Resolution – net-100% renewable electricity by 2030	23 communities became eligible to participate (as required by law)	Participating community; SLC City Council passed Resolution R-23 on August 27, 2019	Done (Aug 2019)
Governance Agreement establishing interlocal cooperative undertaking called the Community Renewable Energy Agency (CREA)	18 communities signed agreement, deadline established for communities to join	Participating communities	Done (July 2021)
Utility Agreement	Communities maintain eligibility by signing agreement with RMP as required by law	Signed by all participating communities & Signed by Rocky Mountain Power	Being developed Anticipated completion - Dec 2022
CREA Board vote on Program Design Principles	The Agency Board considers and votes on whether to approve recommendations of the Program Design Committee regarding Program design principles	Recommendations formulated by Program Design Committee & Voted on by Community Renewable Energy Agency	Being developed Anticipated completion - Dec 2022
Program Application Required Components Include:	RMP files Program application on behalf of	<u>Proposal Development:</u>	Being developed



<ul style="list-style-type: none"> -Eligible community names, maps, customers, loads -Proposed ordinance language -Projected Program rates (costs & benefits) -Process for periodic rate adjustments -Proposed tariff changes to implement the Program -Utility Agreement -Governance Agreement -Approaches to address affordability and accessibility (referred to as the “plan addressing low-income programs and assistance” in the Program Rules) -Proposed solicitation process for resources -Proposed opt-out notice form (and other communication materials) -Projected implementation date -Explanation for how non-Program customers and the utility are not subject to Program costs 	the eligible communities with the Utah Public Service Commission as required by law	Community Renewable Energy Agency & Rocky Mountain Power (submitter) <u>Program Approval:</u> Utah PSC	<p>Anticipated submission - Dec 2022</p> <p>Anticipated approval by PSC – mid-2023</p>
Ordinance to Finalize Participation	Eligible communities decide whether to finalize their participation in the Program as required by law	Participating communities	Anticipated mid-2023
First new renewable energy resource acquisition, likely facilitated by RMP	Participating communities vote on whether to acquire energy from one or more renewable energy resources	RMP facilitates RFP Process; Community Renewable Energy Agency votes to approve	Anticipated 2023
Program commences after statutorily required opt-out notices	RMP customers in participating communities will be enrolled in new renewable energy billing arrangement as approved by the Utah PSC, with an	Community Renewable Energy Agency & Rocky Mountain Power (mails notices)	Anticipated 2024



	option to opt-out, cancel, or exit the Program		
Additional renewable energy resources acquired to meet Program goal, likely facilitated by RMP	Participating communities vote on whether to acquire the energy from additional renewable energy resources	RMP facilitates RFP Process; Community Renewable Energy Agency votes to approve	Anticipated 2024 - 2030

As part of the Governance Agreement, a cooperative of communities was established to work together and decide on Program design matters as contemplated in the Community Renewable Energy Act. This undertaking is called the Community Renewable Energy Agency (CREA).

Under the Governance Agreement, each community appoints a primary and, optionally, an alternative board member. Primary board members are elected officials, while alternative board members may be staff. Salt Lake City's Community Renewable Agency Board Members are Salt Lake City Council Chair Dan Dugan and Sustainability Senior. Climate & Energy Program Manager Christopher Thomas. Council Chair Dan Dugan serves as the Chair of the CREA Board and is a member of the Program Design Committee. He has been an invaluable member of the Board and we appreciate his representation of the Salt Lake City Council and Salt Lake City as a community.

Since July of 2021, the CREA Board has continued to meet monthly. There are also three committees, described below, which meet more frequently throughout each month to drive progress towards the final Program Application.

The [Communications Committee](#) updates the Utah100Communities.org website, coordinates joint press releases, hosts educational events, and advises the Board.

The [Low-Income Plan Committee](#) formulates a list of recommended low-income plan elements and acts as an advisory body to the Board.

The [Program Design Committee](#) works on Program design matters with Rocky Mountain Power, the Utah Office of Consumer Services, and the Utah Division of Public Utilities, and submits recommendations to the Board on matters such as the Utility Agreement, rate design, and projected Program rates.

The work of the Board and committees is supported by outside legal counsel and energy consultants. Members of the Program Design and Low-Income Plan Committees have engaged key stakeholders over the past several months with the goal of setting the Program up for success once the Program Application is submitted. Stakeholders include several members of the Rocky Mountain Power / PacifiCorp team, staff from the Utah Office of Consumer Services and Division of Public Utilities (representatives from organizations that implement existing low-income utility assistance programs), and more.



For additional background information on the vision of the Utah 100 Program, the process of developing the Utah 100 Program, and the work of the Agency's three committees, a Board Orientation and Update meeting was held on June 29, 2022. A [recording of the meeting is available](#) on YouTube and [slides are available](#) on the Utah Public Notice site.

The Department's goal in this briefing is to provide an update to the City Council on the yellow-highlighted items above:

- A. Proposed Model Ordinance Language
- B. Community Plans to address affordability and accessibility

The Agency is currently working on drafting a Utility Agreement, required by State law. The Department will provide an informational briefing on the Utility Agreement and anticipates sharing it with the City Council in December.

A. Proposed Model Ordinance Language

The Community Renewable Energy Act gives communities the opportunity to create a singular renewable energy Program for communities who are served by Rocky Mountain Power to achieve net-100% renewable electricity by 2030. CREA communities work together to create a proposed program in conjunction with RMP to present to the PSC. Once a Program is approved by the PSC, municipal and county governing councils and commissions may opt in to the Program by:

- 1. Adopting a qualifying resolution to become eligible for such a Program (completed in 2019); and
- 2. Adopting an ordinance to finalize participation in a Commission-approved Program within 90 days after approval.

Rocky Mountain Power is required to submit a model ordinance as part of the Program Application to the Utah Public Service Commission. **The ordinance adopted by each participating community must be substantially similar to the model ordinance. Therefore, any suggested changes to the draft model ordinance must pertain to all participating communities. Any requested changes that pertain to specific communities or that conflict with changes requested by any other community, cannot be included.**

Should the Commission approve the Program Application, each named community will have 90 days from the approval date to adopt an ordinance that is substantially similar to the model ordinance to finalize its participation in the Program.

To streamline the eventual ordinance adoption process, the Agency's Program Design Committee, outside counsel, and several participating communities' staff attorneys have developed, for your review, a proposed draft model ordinance (See: Exhibit A – Draft Model Ordinance).

The goal in sharing the draft model ordinance is to ensure Council engagement in developing the ordinance and to help minimize the time required to create a final ordinance once the 90-day approval clock starts, so those 90 days can be focused on the public input process. Sharing the draft



model ordinance also provides transparency on how customers can expect to interact with the Program while emphasizing that important Program elements such as rates and termination fees are regulated by the Utah PSC.

The draft model ordinance seeks to:

1. Establish the City's participation in the Program, as approved by the Utah Public Service Commission
2. Describe how Salt Lake City customers will interact with the Program, including:
 - a. The date on which the Program will commence
 - b. That eligible customers shall be enrolled in the Program after having had the opportunity to opt out, including by having been sent two required opt-out notices
 - c. That renewable energy resources may be acquired to meet a community's net-100% renewable electricity goal, and that recovering the cost of such acquisitions will affect Program rates
 - d. That Program rates are set, and may be adjusted, by the Utah Public Service Commission
 - e. That participating customers' Rocky Mountain Power electric bills will identify Program costs and provide notice of any Program rate changes
 - f. That eligible customers who are not participating in the Program may later decide to opt-in
 - g. That participating customers who do not opt-out by the commencement date may later exit the Program
 - h. That it is possible that customers who exit may be required to pay a termination fee, except that for some types of customers, that fee may be waived
 - i. Refer to elements of a separate agreement that is still being negotiated, called the Utility Agreement.

The City Council will have the ability to consider the entire Program as approved by the Utah PSC, including projected Program rates and approved termination fees, when the Council deliberates whether to adopt the local ordinance. Adopting this ordinance is the final approval for Salt Lake City's participation in the Program.

B. Community Plans to Address Affordability and Accessibility

By design and as described in State Law, the Community Renewable Energy Program is an "opt-out" program, which means that all customers in a participating community are automatically enrolled unless they take the below measures. The benefit of an "opt-out" design is that it maximizes the renewable energy impact of the Program.

Individual customers in participating communities will still be able to withdraw from the Program and there are three ways to do so:

- Opting out before the Program begins, which imposes no fee.
- Cancelling during the first three months after the Program commences, which is also free.



- Exiting after the first three months after the Program begins, which may entail a termination fee (see below for proposals to potentially address this)

Because of the opt-out nature of the Program, the State [Rules Governing the Community Renewable Energy Program](#) require the Program application to include “a description of a plan proposed by each eligible community addressing low-income programs and assistance*.” To assist with this requirement, CREA [created a Low-Income Plan Committee](#) to, among other things, research and compile a list of outreach practices, eligibility criteria, policy measures, or other ideas designed to protect low-income customers and formulate a list of recommended low-income plan elements.

**Please note: Salt Lake City will refer to this plan as our “Plan to Address Affordability and Accessibility.”*

The Program rules stipulate that each community needs to submit its own Low-Income Plan to the PSC; the CREA is currently developing a plan that details program elements to address affordability and recommended outreach strategies and outreach partners. Any Program-specific elements described in these plans must be the same between all communities. Therefore, the CREA Board will vote on which of the following recommended Program-specific approaches to include in the overall Program design. The City may include additional unique details in the section of the plan addressing special outreach or communication strategies.

The Low-Income Plan Committee is currently exploring the following four programmatic approaches which could supplement existing assistance programs offered through Rocky Mountain Power. These are explained in further detail below:

1. Automatic opt-out
2. Termination fee waiver
3. Enhanced monthly bill credit
4. Online donation function

At this time, we are requesting City Council feedback on the following approaches that can be taken back to the CREA Board via Chair Dugan and Christopher Thomas. The Board plans to vote in December on which of these options will be included in the overall Agency Low-Income Plan, which will then be incorporated into the City’s Plan to Address Affordability and Accessibility.

The Board may vote on one or more of the following approaches:

1. Automatic opt-out

Because all electricity customers in Salt Lake City will be automatically opted-in to the Program upon adoption of the ordinance, this option, if approved by the PSC, would automatically opt-out certain customers who may experience financial hardship if the Program is more expensive than standard offer rates.



In this case, customers who meet either of the following criteria would be automatically opted out of the Program:

- a. Residential customers already enrolled in the low-income assistance program known as “Schedule 3 – Low Income Lifeline Program – Residential Service” which provides up to a \$13.95 monthly bill credit for eligible customers
- b. Residential customers who are 60 days or more behind on payments to Rocky Mountain Power in the 60 days leading up to the Program Implementation date.

These automatically opted out customers could opt themselves into the Program at any time free of charge.

Which income limited households could be helped by this approach? Some income limited households face a daily struggle to meet their basic food and health needs. Such households may be unable to devote the time and attention required to proactively opt-out of the Program during the opt-out or cancellation periods. If the Program is more expensive than standard offer electricity rates, these households would then be subject to Program expenses they might not be able to afford. The **automatic opt-out** would protect such households from incurring any Program related expenses.

Which income limited households might be adversely impacted by this approach? Some income limited households who want to support renewable energy by participating in the Program may feel stigmatized or inconvenienced by having to take an extra step to join the Program compared to higher income households.

2. Termination fee waiver

The administrative rules governing the Program specify that individual customers shall have the ability to opt-out of the Program without a termination fee during the first three Program billing cycles, but the rules allow for the Program to include a termination, or exit fee, after that. The Program Design Committee is currently engaged in negotiations with Rocky Mountain Power and others regarding all Program design elements, including termination fees, and plans to make recommendations regarding Program design elements to the Board for its consideration in November or December.

If the Program includes a termination fee for customers, the **termination fee waiver** approach would waive the termination fee for residential Program participants who are receiving monthly bill assistance through “Schedule 3 – Low Income Lifeline Program.”

Which income limited households could be helped by this approach?

Some households may join the Program and later encounter financial struggles – for example, if an adult in the household loses a job or the household experiences unexpected expenses from an accident or illness. Such households may then find themselves extremely income limited and may decide they cannot afford to participate in the Program (if more expensive than standard- offer



service), nor can they afford to pay a termination fee to exit the Program. If such a household qualifies for and enrolls in the “Schedule 3 – Low Income Lifeline Program” then the termination fee waiver would allow this household to exit the Program without paying a termination fee.

3. Enhanced monthly bill credit

Currently, customers who are eligible for and enroll in “Schedule 3 – Low Income Lifeline Program” receive up to a \$13.95 monthly credit on their Rocky Mountain Power bill. Under the **enhanced monthly bill credit** approach, Program participants who are enrolled in Schedule 3 would receive an additional monthly bill credit designed to cover the average expected cost to participate in the Program. For example, if the average residential Program bill impact was anticipated to be \$3 per month, then the enhanced monthly bill credit could be set at \$3 with the goal that, on average, a residential customer enrolled in Schedule 3 would not see any bill increase due to participating in the Program.

Per standard practice, this additional monthly bill credit would be available only to Program participants who meet the income eligibility requirements of “Schedule 3 - Low Income Lifeline Program” and would be paid for by a small rider added on to non-low-income Program participants’ bills, likely within the \$0.16-\$0.32 per bill range.

Which income limited households could be helped by this approach?

Some income limited households may desire to support renewable energy through participating in this Program, but should Program rates be determined as higher than standard offer electricity rates, they may be unable to join the Program. An enhanced monthly bill credit, designed to offset the average Program rate impact, may allow more residents to participate in this renewable energy initiative, who otherwise would not have been able to.

Which income limited households would not be helped by this approach?

Some income limited households experience higher-than-average monthly electricity bills resulting from various factors. For example, a household living in an older single-family detached home that is not well-insulated could experience extremely high electricity consumption in the summer months due to air conditioning. For these households, the Program rate impact during those months could be much higher than the average program rate impact of, for example, \$3 per month., meaning the subsidy may not make up the difference during those high-energy months for some residents.

4. Program Donation Facilitation

Rocky Mountain Power already allows customers to donate money toward bill assistance programs like the Lend a Hand Program.



The **Program donation facilitation** strategy would similarly allow Program participants to make donations via Rocky Mountain Power to support the **enhanced monthly bill credit** effort for low-income Program participants.

These four approaches have been discussed with Rocky Mountain Power, the Utah Office of Consumer Services, the Utah Division of Public Utilities, and several community organizations who implement existing low-income assistance programs to identify potential roadblocks or red flags.

We encourage City Council Members to review and provide any feedback on these proposals to Salt Lake City's CREA Board members Chair Dugan and Christopher Thomas by October 28, 2022. They will take this feedback to the CREA Agency as it makes final determinations. CREA Board members will ultimately vote in December on which strategies to adopt for the Program's Low-Income Plan that will be included as part of the Program Application to the Utah PSC.

Summary and Next Steps

The CREA and Rocky Mountain Power are working towards submitting the Program Application to the Public Service Commission by the end of 2022. Among the many elements to the Program Application, the draft model ordinance must be included. Because this ordinance will be considered by City Council for adoption within 90 days after a successful PSC ruling, the Department intends for this written briefing to provide the City Council the opportunity to become familiar with, and provide feedback on, the draft model ordinance and the proposed Program before the Program Application is submitted. Ultimately, the PSC will approve a Program (either similar or dissimilar to the Program Application, in its discretion) and the City Council will have the final determination whether or not to participate in the Program.

In addition, the Department hopes this briefing will provide the City Council with an update on the overall program development process, as well as the strategies being contemplated by the Agency to build affordability and accessibility into the design of the Program.

The CREA Board is also currently finalizing another key document for review by the City Council and other community governing agencies: the Utility Agreement. In the coming weeks, the Department will provide another briefing with a request for the City Council to review the Utility Agreement.

Should the City Council desire, the Department would also like to present an informational briefing in December once additional Program details are known. This will include anticipated Program rates, the Utility Agreement, the final ordinance, the final selections on the affordability plan approaches, and more.

Page Break



Exhibit A - Draft Model Ordinance

[COMMUNITY]
ORDINANCE NO. _____

AN ORDINANCE OF [COMMUNITY] ENACTING TITLE ___, CHAPTER ___ TO THE
[COMMUNITY] CODE, COMMUNITY RENEWABLE ENERGY PROGRAM

Preamble

WHEREAS, in 2019, the Utah State Legislature enacted H.B. 411 that was codified at Utah Code Ann. §§ 54-17-901 to -909, and is known as the “Community Renewable Energy Act” (“Act”); and

WHEREAS, the Act authorizes the Utah Public Service Commission (“Commission”) to establish a community renewable energy program (“Program”) whereby towns, municipalities, and counties may cooperate with qualified utilities to provide electric energy for participating customers from renewable energy resources, in an amount that equals their annual consumption; and

WHEREAS, the Act provides that a customer of a qualified utility may be served by the Program if the town, municipality, or county (“Community”) in which the customer resides satisfies certain requirements, including:

(a) the Community must adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030; and

(b) the Community must enter into an agreement with a qualified utility (“Utility Agreement”):

(i) stipulating to the payment to the qualified utility of the costs of:

(A) third-party expertise contracted for by the Division of Public Utilities and the Office of Consumer Services, for assistance with activities associated with initial approval of the Program; and

(B) providing notice to the Community’s customers as provided in the Act;

(ii) determining the obligation for the payment of any termination charges under the Act that are not paid by a participating customer and not included in participating customer rates; and

(iii) identifying any initially proposed replaced asset;

(c) the Community must, within ninety (90) days after the date of the Commission’s order approving the Program, adopt a local ordinance that:

- (i) establishes participation in the Program; and
- (ii) is consistent with the terms of the Utility Agreement; and
- (d) the Community must comply with any other terms or conditions required by the Commission; and

WHEREAS, the Act further authorizes the Commission to adopt administrative rules to implement the Act and the Commission has adopted such rules as set forth in Utah Administrative Code R746-314-101 through -402 (“Rules”); and

WHEREAS, the Rules require that a customer of a qualified utility may be served by the Program if, in addition to the requirements of the Act, the Community in which the customer resides also adopts an agreement (“Governance Agreement”) with other eligible Communities to establish a decision-making process for Program design, resource solicitation, resource acquisition, and other Program issues and provides a means of ensuring that eligible Communities and those that become participating Communities will be able to reach a single joint decision on any necessary Program issues; and

WHEREAS, consistent with the requirements of the Act, on [DATE], [COMMUNITY] adopted Resolution No _____, which states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for [NAME OF COMMUNITY’s] participating customers from a renewable energy resource by 2030; and

WHEREAS, consistent with the requirements of the Rule, [COMMUNITY] entered into a Governance Agreement with other eligible Communities, thereby becoming a member of the Community Renewable Energy Agency (“Agency”), which is authorized to make certain joint decisions on behalf of Communities that participate in the Program; and

WHEREAS, consistent with the requirements of the Act, [COMMUNITY] entered into a Utility Agreement with Rocky Mountain Power, a qualified utility under the Act, effective as of [DATE], which addresses the issues required by the Act; and

WHEREAS, consistent with the requirements of the Act, on [DATE] PacifiCorp filed an application with the Commission seeking approval of the Program and the Commission opened Docket No. [] to consider the application;

WHEREAS, consistent with the requirements of the Act, on [DATE] the Commission issued an order in Docket No. [] (“Commission Order”) approving the Program; and

WHEREAS, as contemplated in the Act, the governing body desires to adopt this ordinance that satisfies the requirement of the Act; and

WHEREAS, the [COMMUNITY]’s governing body desires to take actions which it has determined promotes the health, safety and welfare of the [COMMUNITY]’s residents; and

WHEREAS, [COMMUNITY COUNCIL/COMMISSION] has determined that adoption of this ordinance will enhance the economic well-being of the [COMMUNITY] and its residents through prudent management of the [COMMUNITY]'s financial resources; and

WHEREAS, [COMMUNITY COUNCIL/COMMISSION] has determined that adoption of this ordinance will help address concerns related to poor air quality and other environmental concerns due in part to the use of fossil fuels; and

WHEREAS, the [COMMUNITY COUNCIL/COMMISSION] finds that energy sources utilized by and within [COMMUNITY] therefore can impact public health, safety and welfare; and

WHEREAS, recent advances in energy technology have made renewable energy more economically viable than in the past and, in some cases, more cost-effective than traditional energy sources; and

WHEREAS, proximity to outdoor recreation is a key economic contributor to [COMMUNITY] and one which relies on preservation of the environment and protection of natural resources; and

WHEREAS, [COMMUNITY] and its residents have shown an interest in environmental stewardship through various initiatives and activities surrounding growth and development; and

WHEREAS, [include description of Participating Community's prior sustainability actions]; and

WHEREAS, [COMMUNITY COUNCIL/COMMISSION] believes that determining and undertaking further actions designed to reduce fossil fuel dependence while appropriately balancing financial stewardship and promoting economic growth is an important component of safeguarding public health, safety and welfare; and

WHEREAS, [COMMUNITY COUNCIL/COMMISSION] met in regular session on [____], 2022 to, among other things, consider establishing renewable energy goals for [COMMUNITY]; and

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF [COMMUNITY] AS FOLLOWS:

Section 1. **Adoption.** [COMMUNITY] Code, Title __, Chapter __, Community Renewable Energy Program, which is published as a code in book form, is adopted in accordance with Exhibit A herein, copies of which have been filed for use and examination in the Office of the [COMMUNITY CLERK/RECORDER] (the "Community Renewable Energy Program Ordinance").

Section 2. **Savings Clause.** In the event one or more of the provisions of this Community Renewable Energy Program Ordinance shall, for any reason, be held to be unenforceable or invalid

in any respect under applicable laws, such unenforceability or invalidity shall not affect any other provision; and in such an event, this Community Renewable Energy Program Ordinance shall be construed as if such unenforceable or invalid provision had never been contained herein.

Section 3. **Effective Date.** This Community Renewable Energy Program Ordinance shall take effect upon publication by [COMMUNITY] in a newspaper of general circulation in [COMMUNITY], Utah.

APPROVED, ADOPTED, AND PASSED and ordered published by the [COMMUNITY COUNCIL/COMMISSION], this __ day of _____, 2022.

DRAFT

ATTEST: [COMMUNITY COUNCIL/COMMISSION]

Name: _____
[COMMUNITY CLERK/RECORDER]

Name: _____
[COUNCIL/COMMISSION CHAIR]

APPROVED AS TO FORM:

VOTING OF [COUNCIL/COMMISSION]

Name: _____
[CITY/COUNTY ATTORNEY]

DRAFT

EXHIBIT A

TITLE ____

CHAPTER ____

COMMUNITY RENEWABLE ENERGY PROGRAM

SECTION 1. [COMMUNITY'S] PARTICIPATION IN COMMUNITY RENEWABLE ENERGY PROGRAM

1.1 [COMMUNITY] hereby establishes its participation in the Community Renewable Energy Program ("Program") as approved by the Public Service Commission of Utah ("Commission").

1.2 On [DATE], the Commission issued an order in Docket No. [_____] ("Commission Order") approving the Program. The Commission Order is on file with the Commission. The Program's rates, rules, and requirements are governed by the Commission Order, and may be modified from time to time by subsequent rules and orders adopted by the Commission. To the extent that the Commission Order or any subsequent rule or order adopted by the Commission contradicts any portion of this Title, the Commission order or rule or order adopted by the Commission shall govern.

1.3 **ELIGIBLE CUSTOMERS.** Pursuant to Utah Code § 54-17-905(5), residential customers participating in the net metering program under Utah Code Title 54, Chapter 15, Net Metering of Electricity, are not eligible to participate in the Program. All other retail electric customers of Rocky Mountain Power within the current and future boundaries of [COMMUNITY], including all residential, commercial, and industrial customers, are eligible to participate in the Program ("Eligible Customer").

1.4 **COMMENCEMENT DATE.** The Program shall commence effective [DATE] ("Program Commencement Date"). Eligible Customers shall be enrolled in the Program if they receive the Notices identified in Section 2, below, and decline to opt out of participation in the Program by the date set forth in the Notices. Consistent with the Act and the Commission Order, the Notices shall be sent to each Eligible Customer before the commencement date that applies to each such customer ("Customer Commencement Date"), as set forth below.

1.4.1 For each Eligible Customer that continuously remains an Eligible Customer within [COMMUNITY] for at least 60 days prior to and through the Program Commencement Date, the Customer Commencement Date shall be the same as the Program Commencement Date.

1.4.2 For electric customers that become Eligible Customers within [COMMUNITY] after the Program Commencement Date (e.g., when a customer becomes a retail electric customer of Rocky Mountain Power

within the boundaries of [COMMUNITY] after the Program Commencement Date), the Customer Commencement Date shall be [] days after the customer becomes an Eligible Customer within [COMMUNITY].

SECTION 2. CUSTOMER PARTICIPATION IN COMMUNITY RENEWABLE ENERGY PROGRAM.

2.1 Each Eligible Customer shall be automatically enrolled in the Program unless the customer opts out of the Program prior to the customer's Customer Commencement Date.

2.2 NOTICES. As set forth in the Act and the Commission Order, before any Eligible Customer becomes a participant in the Program, Rocky Mountain Power first shall deliver to each Eligible Customer notices (collectively, the "Notices") containing content and in the form, manner, and delivery method as required by the Act and Commission Order and other orders and rules adopted by the Commission.

2.3. OPT-OUT. Each Eligible Customer may elect not to participate in the Program and to continue to pay applicable existing electric rates by giving notice to Rocky Mountain Power in the manner and within the time period set forth in the Notices.

2.3.1 FIRST OPT-OUT NOTICE. Rocky Mountain Power shall provide a First Opt-Out Notice, separate from standard monthly bills, to each Eligible Customer within [COMMUNITY], no earlier than sixty (60) days and no later than thirty (30) days before the Customer Commencement Date applicable to each customer. The First Opt-Out Notice shall, in all material respects, use the form and content of the First Opt-Out Notice as approved by the Commission.

2.3.2 SECOND OPT-OUT NOTICE. Rocky Mountain Power shall provide a Second Opt-Out Notice, separate from standard monthly bills, to each Eligible Customer within [COMMUNITY], at least fifteen (15) days after the First Opt-Out Notice was provided and at least seven (7) days before the Customer Commencement Date applicable to such customer. The Second Opt-Out Notice shall, in all material respects, use the form and content of the Second Opt-Out Notice as approved by the Commission.

2.3.3 Each Eligible Customer that receives the First Opt-Out Notice and the Second Opt-Out Notice as described herein and declines to opt out of the Program by the customer's Customer Commencement Date will be enrolled in the Program.

2.4 CUSTOMER OPTION TO OPT IN TO PROGRAM. An Eligible Customer located within [COMMUNITY] that is not enrolled in the Program may at any time elect to participate in the Program by providing notice to Rocky Mountain Power in the form and content approved by the Commission. Following such notice to opt in to the Program, the customer will be enrolled in the Program starting with the billing period following the notice in which it is reasonably practicable for Rocky Mountain Power to enroll such customer. The reasonably

practicable billing period shall be based on when the notice was received from the customer and the customer's billing cycle. Following enrollment in the Program, the customer shall be subject to all Program requirements, including exit notices and termination fees.

2.5 CUSTOMER OPTION TO EXIT PROGRAM. Customers that do not opt out of the Program by the Customer Commencement Date, or who opt in to the Program, may subsequently exit the Program by taking the steps described in the Commission Order.

SECTION 3. TERMINATION FEES

3.1 If a customer declines to opt out of the Program prior to the applicable Customer Commencement Date, but subsequently exits the Program, the exiting customer may be required to pay a termination fee, as set forth in this Section.

3.2 When applicable, the amount of the termination fee shall be based on the rate schedule of the exiting customer, is set forth in the Commission Order, and may be modified from time to time by subsequent orders of the Commission.

3.3 CIRCUMSTANCES IN WHICH TERMINATION FEE SHALL NOT APPLY: A Termination Fee shall not apply in the following circumstances:

3.3.1 Any customer that ceases to be an electric customer of Rocky Mountain Power;

3.3.2 Any customer that moves to a new location that is not within the boundaries of a community that participates in the Program;

3.3.3 Any customer that seeks protection through bankruptcy proceedings;

3.3.4 _____.

SECTION 4. ACQUISITION OF RENEWABLE ENERGY RESOURCES

4.1 For purposes of this section, "renewable energy resource" shall have the definition set forth in Utah Code § 54-17-902(14).

4.2 Rocky Mountain Power may adopt or procure one or more renewable energy resources to serve the needs and goals of the Program. The acquisition of any such renewable energy resource must follow solicitation application and evaluation criteria developed by Rocky Mountain Power and the Community Renewable Energy Agency, of which [COMMUNITY] is a member, and approved by the Commission.

4.3 Any renewable energy resource adopted or procured by Rocky Mountain Power to serve the needs and goals of the Program must be approved by the Commission based on a finding the same is reasonable and in the public interest.

4.3 The Commission shall determine the method of cost recovery for any renewable energy resource acquired to meet Program needs and goals, and the Commission's determination regarding cost recovery may affect Program rates.

SECTION 5. PROGRAM RATES AND RATE ADJUSTMENT FILINGS

5.1 Program rates will be determined by the Commission.

5.2 The initial Program rates were determined by the Commission in the Commission Order.

5.3 Program rates may be adjusted by the Commission from time to time, consistent with the procedures set forth in the Commission Order for adjusting Program rates.

SECTION 6. UTILITY BILLING FOR PARTICIPATING CUSTOMERS

6.1 Rocky Mountain Power shall bill each Participating Customer on a monthly basis and shall:

6.1.1 include information in its monthly bills to participating customers identifying the Program cost; and

6.1.2 provide notice to participating customers of any change in rates for participation in the Program.

SECTION 7. [COMMUNITY] PARTICIPATION IN PROGRAM

7.1 [COMMUNITY] is, itself, a retail electric customer of Rocky Mountain Power and is an Eligible Customer and shall elect to participate in the Program.

7.2 Through its membership in the Community Renewable Energy Agency, [COMMUNITY] participated in the design and approval of the Program and shall participate in future decisions regarding renewable energy resource solicitation, renewable energy resource acquisition, and certain other Program issues.

7.3 Consistent with Utah Code § 54-17-903(2)(c), [COMMUNITY] entered into an agreement with Rocky Mountain Power regarding the facilitation of the Program ("Utility Agreement"). Pursuant to the Utility Agreement, [COMMUNITY] agreed as follows:

- 7.3.1 [COMMUNITY] agreed to pay its proportional costs of third-party expertise contracted for by the Division of Public Utilities and the Office of Consumer Services for assistance with activities associated with initial approval of the Program. [COMMUNITY'S] portion of these costs was determined based on a formula set by the Community Renewable Energy Agency;
- 7.3.2 [COMMUNITY] agreed to pay its proportional costs associated with Rocky Mountain Power providing the Notices to the [COMMUNITY'S] customers as discussed in Section 2, above;
- 7.3.3 [COMMUNITY] agreed that any termination charges that are not paid by a participating customer shall be included in participating customer rates and shall not be paid by [COMMUNITY];
- 7.3.4 [COMMUNITY] agreed that there shall be no initially proposed “replaced asset” as that term is defined by Utah Code § 54-17-902(15).

7.4 [COMMUNITY] shall not be obligated to pay any costs of the Program other than those costs that [COMMUNITY] has agreed to pay as set forth in the Utility Agreement and any costs that [COMMUNITY] will bear as an Eligible Customer that participates in the Program.