

# City has no authority to run Electric City Power program

By LARRY REZENTES

At the April 21 City Commission meeting work session, City Manager Greg Doyon presented plans to engage a consultant to assess the city's Electric City Power program and to recommend a course of action for the city.

The fact is, however, that the city is currently operating Electric City Power without authority to do so, as has been acknowledged by the city attorney and city manager, and confirmed by the city's auditors. The city is in violation of ECP's founding ordinance 2925, that requires it at all times to be self sustaining. Instead, the city has lost from inception \$1.8 million of taxpayer money through its operation, and incurred \$4 million in long-term debt; in knowing violation of the ordinance that established it.

Because the city has no operating authority, the only valid use of a consultant is to conduct an orderly shutdown of ECP and to advise how to best do so. Any other use of a consultant requires a vote by the City Commission to take a stand publicly and amend the ordinance *ex post facto*, or, more correctly, to submit the matter to a vote by the citizenry.

Questions exist, however, as to whether the cost to engage a consultant is justified. What is the expected cost? Taxpayers must now take another financial hit as a consequence of the cost to bring aboard a consultant, while sustaining

reductions in services, proposed increases in charges for recreational facilities, and requests for approval of additional taxation through a proposed mill levy.

Why, five years after inception of the Electric City Power program, do we still not know enough to make basic decisions and determinations about this business? This need demonstrates that this is a business that the city should never have gotten into.

I must also mention that statements made by City Commissioner Bill Bronson and City Finance Manager Coleen Balzarini in interviews televised April 12 by KFBB Television on the subject of the financial results of operation of Electric City Power, and the cause of the large losses sustained by it, are misleading.

First, each of them references an ECP deficit of \$1 million. In fact, the deficit is \$1.2 million; shown by the most recent Statement of Net Assets of Electric City Power (essentially, the balance sheet of Electric City Power) released by Ms. Balzarini by the date of those interviews.

More important, this deficit does not provide an accurate representation of the losses sustained by the taxpayers as a result of operation of this money losing venture. The from-inception losses that are indicated by the deficit shown in that Statement of Net Assets is approximately \$1.7 million. The calculation of the deficit is this amount net of \$418,000 in investment and

"reserves" the city reports that it has made in the program.

An example would be if I invest \$500,000 in cash in a business, and the business loses from its inception \$1.7 million; the balance sheet will show a deficit of \$1.2 million (showing, incidentally, that the business is insolvent), but the business will have lost \$1.7 million from its operation. The difference is that entrepreneurs who are out of cash and have lost \$1.7 million (resulting in a negative net worth) will no longer be in business. ECP is still in business because the city has funded these losses from borrowings that will ultimately have to be repaid on the backs of the taxpayers.

Second, the statement by Commissioner Bronson that the loss results can be attributed to state government's refusal to allow ECP to gain a larger customer base is further misleading and deflects criticism from where it belongs: on poor decisions made by the city. ECP is simply a retailer of electric power; buying from Southern Montana Electric and selling to a small group of approximately 20 customers; including some current and past employees and elected officials of the city, and some local and national (e.g. Fed Ex) businesses.

The largest portion of cumulative losses resulted from the sale of power for many months to these customers at lower than prevailing market rates, with the goal of enticing them into becoming

customers of a future Highwood Generating Station. The further result, is a large \$1.1 million debt to Southern Montana Electric resulting from the need to fund these subsidies. A more recent cause has been commitments made for the purchase of power in support of these customers beyond what proved to be the customers' actual needs.

As an additional note, Electric City Power is relying on a "blended rate," through which it is theoretically achieving lower cost of its power purchases to bring it to profitability.

But note this:

1. The blended rate is not available to it today, but only a "transition rate," the benefits from which will remain on "deposit" at Southern Montana Electric at least until Dec. 31, 2010; and

2. The availability of this presumed favorable cost at which it is to buy power is a seminal issue in Yellowstone Valley Electric Cooperative's lawsuit against Southern Montana Electric and Electric City Power and, should Yellowstone Valley prevail, this "blended rate" will disappear, with additional exposure of Electric City Power to a potentially large damage assessment.

It is highly questionable to calculate current Electric City Power operating results using cost of power reflected in these rates.

The statements I cite by city officials continue a history by the city of attempting to keep

hidden from the public the true magnitude of losses sustained as a result of operation of Electric City Power, and the cause of these losses.

Now the city wishes to hire a consultant to recommend a course of action in regard to ECP. It is critical that any consultant so-employed provide an objective assessment and analysis and not be used to justify past actions, to whitewash the results of the Electric City Power program, nor to support, without a valid basis for doing so, its continuation.

Any consultant engaged to do other than wind down Electric City Power (following approval by the voters to allow its continued operation) should be accountable to an appointed independent committee, to assure that we obtain an unbiased and objective analysis and recommendation.

Further, any assessment of current Electric City Power financial results by the consultant employed, and in fact published by the city, should be made excluding the impact of the "transition rate" and supposed "blended rate", until uncertainties regarding the realizability and receipt of those savings are resolved.

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