

**Lawrence C. Rezentes, CPA**  
**Comments at December 15, 2009, City Commission Meeting**

**Comments on Motion to Accept/Reject the FY 2008-2009  
Comprehensive Annual Financial Report Inclusive of the Special  
Emphasis**

I will read my statement in the interest of time and provide a copy of my statement to the City Clerk.

1. If the City Commission chooses to accept the CAFR, it should do so **EXCLUSIVE** of the ECP "Special Emphasis"; representing the performance by its independent accountants of procedures specified by the city.
2. I note before speaking further that the ECP "Special Emphasis" entailed the performance of agreed-upon procedures by the city's independent accountants, **as requested by the city**. It does **not** constitute an audit and the accountants state that "they make no representation regarding the sufficiency of the procedures either for which the purpose of this report has been requested or for any other purpose."
3. The procedures that the city requested be performed by the city's independent accountants in their conduct of the "Special Emphasis" are deficient in that they did not include testing the city's assumptions in the context of their "review (of) the procedures used in the deferred charges process and ensure the process and balances appear reasonable". Acceptance of the statement made in their report that "The imbalance factor used is based on judgment and is what the fund could bear and still have a positive bottom line from January through June, 2009.", without their having tested the assumptions used in calculating the imbalance factor, leaves their "Special Emphasis" in this area meaningless. Further, deferral of the energy imbalances inherently gives the city an open-ended license for manipulation of ECP's results of operations and compliance or non-compliance with Ordinance 2925 under which it currently operates in violation; that is illegally. In a series of e-mail exchanges in response to questions raised on

this issue this Summer, City Finance Director Balzarini stated "The methodology used for the deferral is similar to the NWE deferral practice which is demonstrated in their recent Application for Approval of Electric Supply Deferred Cost Account Balance and Projected Electric Supply Cost which is before the Public Service Commission, Docket No. D2009.5.62. Appendix C." The issue here is one of accurate accounting as the basis for economic analysis of the results of operation of ECP, not what is acceptable at the margin to present a biased, best possible representation of results for ECP.

4. Finding 4 of their "Special Emphasis" report speaks to issues surrounding the "Blended Rate" (actually, currently the "Transitional Rate"), but correctly states that "The contract also notes that to fund the deposit the city will continue to pay the amount that would have been paid using the prior payment contract and any amount paid over the new contract rate will be applied towards the deposit." This is a point that I have emphasized repeatedly that, with recognition of the full cash paid, out-of-pocket, cost of power purchases, ECP continues to lose taxpayers money through its operation and remains in violation of Ordinance 2925 under which it operates. The issue of collectability of the deposit posted by the city is seriously in doubt given issues in litigation; both with Yellowstone Valley Electric Cooperative challenging the availability of this rate to ECP; and the issue under appeal before the Montana Supreme Court to overturn the zoning of the land owned by SME and the resultant conversion of farm land to heavy industrial use. Should the justices conclude that the zoning was improper, the HGS project itself, even as currently configured as gas-fired, would fail leading to unanswered questions of repayment of sums owed to and recoverable from SME. The potential shutdown of ECP is currently under consideration and this, in and of itself, leaves questionable, in combination with all the other uncertainties, the recognition of these amounts as deposited and the associated reduced recognition of the cost of power by ECP. With a stretch of the imagination, such reporting may fall within the limits of Generally Accepted Accounting Principles, but in the reality of the ins and outs of cash receipts and disbursements from the taxpayers pocket, such does not

conform to reality. The “Special Emphasis” procedures requested by the city are deficient in that they do not include the consideration of issues of deposit recoverability that would be obligatory of consideration if an audit had been conducted of the financial statements of Electric City Power.

5. Finding 7 in the “Special Emphasis” report deals with the issue of the “water credit” liability to SME in the amount of \$1,186,062 and its repayment by ECP. Finding 7 inappropriately contains a gratuitous comment that it “... will begin to decrease when a generating facility comes online and begins to consume water purchased from the city.” As a coal-fired power plant, the HGS will not be built, and, in the recently published report by consultants Burns and McDonnell, engaged by the city to review the operations of ECP it is stated that “it has not yet been established how ECP or the city would repay SME for unused “water credits”. As I stated a moment ago, the zoning of the land to be used for HGS, owned by SME, is currently in dispute under appeal before the Montana Supreme Court to overturn the resultant conversion of farm land to heavy industrial use. Should the justices conclude that the zoning was improper, the project itself, even as currently configured as gas-fired, would fail. There is no reasonable assurance that the consumption of water will be the source of repayment for this liability that resulted from the initial provision of subsidized pricing for ECP’s primarily business customers in the interest of securing customers for Highwood.
6. Finding 8 in the “Special Emphasis” report confirms violation by the city of Ordinance 2925 under which ECP operates. This allowed continued violation underscores the selective enforcement of its laws by the city. Who in the city has responsibility for the enforcement of these laws and why has enforcement not occurred? Given ordinance 2925’s requirement that ECP be self-sustaining at all times (that is, to make money), continued operation of ECP is in fact illegal, and a violation of the public trust. Finding 8 inappropriately includes, however, a gratuitous statement that “According to the city...”increased rates paid by customers along with proposed rate decreases offered by Southern pending commission

approval, will cause the deficit balance to decline and be eliminated over time." For reasons I stated a moment ago, this has not occurred and there is no assurance that this will occur. The city continues to squander scarce taxpayer resources by its illegal operation of this failed venture.