

June 16, 2020

***VIA ELECTRONIC FILING***

Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84114

Attention: Gary Widerburg  
Commission Secretary

RE: Docket No. 20-R315-01  
Proposed Rulemaking Concerning Utah Code Ann. §§ 54-24-101 to -203, Wildland Fire  
Planning and Cost Recovery Act – Rocky Mountain Power’s Initial Comments.

On May 12, 2020, the Public Service Commission of Utah (“Commission”) issued its notice of proposed rulemaking and request for comments (“NOPR”) in the above referenced proceeding. The Commission is required to create rules pursuant to House Bill 66, Wildland Fire Planning and Cost Recovery Amendments (“HB 66”), which was passed by the Utah Legislature during the 2020 Utah General Session and signed into law by Governor Herbert on March 28, 2020. The bill created the Wildland Fire Planning and Cost Recovery Act, codified at UTAH CODE § 54-24-101 *et seq.* (the “Act”). The bill also amended certain provisions in UTAH CODE ANN. § 65A-3-4 and § 78B-6-1002. In the NOPR, the Commission requested comments from interested parties to aid it in the rulemaking process, and Rocky Mountain Power (“Company”) welcomes this opportunity to provide the following comments.

**General Comments**

The Act establishes a formal planning process for Utah’s electric utilities to submit plans designed to reduce the risk of wildland fire (“Wildland Fire Protection Plans”), which are to be filed with the Commission for approval every three years. The Act creates a cost recovery mechanism, outside of general rate cases, for costs incurred pursuant to an approved Wildland Fire Protection Plan. The Act also clarifies an electric utility’s potential liability to a third party in relation to the utility’s Wildland Fire Protection Plan.

Many aspects of the Act are comprehensive, meaning that Commission rules are likely unnecessary to provide guidance to utilities and other interested parties as to what is required for compliance. The statute specifically directs the Commission to make procedural rules related to the review and approval of the utilities’ formal wildland fire protection plans, and review and approval of the annual wildland protection plan expenditures. The Act also permits the Commission to make rules on other elements to the extent necessary to protect the public interest.

In these comments, and in the high-level draft rule language attached as Exhibit A, the Company proposes procedural rules as required by the Act. In addition to these procedural rules, the

Company believes that the public interest will be best served by additional procedural rules to address the Commission's consideration and approval of cost recovery for utility expenditures under their approved Wildland Fire Protection Plans.

### **Procedures for Review and Approval of Wildland Fire Protection Plans**

Section 54-24-201(3) of the Act requires that subject utilities file a Wildland Fire Protection Plan initially on June 1, 2020, and then every third year thereafter on October 1, 2020. The Company made its initial filing pursuant to this requirement on June 1, 2020, in Docket No. 20-035-28. Because § 54-24-201(2) provides a very detailed list of what a utility's plan must include, detailed rules providing the same are unnecessary. Instead, the rules need to allow sufficient time for the Commission to adequately review the filing and consider input from the State Division of Forestry, Fire, and State Lands and, potentially, other interested parties, as contemplated in § 54-24-201(3)(b)(ii). Accordingly, the Company has proposed high-level draft rules that establish a timeframe of approximately 120 days, while preserving the Commission's authority to extend that period should the public interest require it. This timeframe balances the need of the utility to have some reasonable certainty surrounding the timing for acceptance of its Wildland Fire Protection Plan, against the Commission's need for sufficient time to solicit needed input, review the plan and reach an approval decision. This timeframe also provides interested parties sufficient time to review the plan and to provide comments or testimony with regard to it.

### **Procedures for Annual Review and Approval of Wildland Fire Protection Plan Expenditures**

Section 54-24-103(2) requires that the Commission create rules to establish procedures for the review and approval of annual expenditures for the implementation of a Wildland Fire Protection Plan. Section 54-24-201(4) requires that each subject utility submit a report detailing the utility's compliance with its Wildland Fire Protection Plan beginning on June 1, 2021, and then annually thereafter. Under § 54-24-202(1) a subject utility is allowed to recover its prudently incurred investments and expenditures made to implement its Wildland Fire Protection Plan. To recover, the utility is required by § 54-24-202(2) to file an annual report with the Commission that identifies investments and expenses incurred in the prior year and a forecast of the same for the then current year. Subsection (3) also enables the utility to defer and collect the incremental revenue requirement for Wildland Fire Protection Plan capital investments and expenses to the extent they are not included in base rates. The Company believes that all of these elements of the Act can be addressed in a single annual filing, and proposes high-level draft rules to accomplish this in the attached Exhibit A. Unlike the process to review and approve the Wildland Fire Protection Plan, which is on a three year schedule, the Company anticipates that the annual filing will not require the same depth of review, and therefore proposes a procedural rule with a 90 day timeframe. This should be sufficient under most circumstances, and the Company proposes to preserve the Commission's authority to extend that period should the public interest require it.

Rocky Mountain Power - Wildland Fire Protection Plan Rule Comments

June 16, 2020

Page 3

The Company appreciates the opportunity to provide comments and looks forward to collaborating with the Commission and other intervenors in the process.

Sincerely,

A handwritten signature in blue ink that reads "Joelle Steward". The signature is written in a cursive style with a large, looped "J" and "S".

Joelle Steward  
Vice President, Regulation

# EXHIBIT A

**R746-\*\*\*-1. Wildland Fire Protection Plans Definitions.**

- (1) “Wildland Fire Protection Plan” is defined at UTAH CODE § 54-24-102(4).
- (2) “Qualified Utility” is defined at UTAH CODE § 54-17-801.
- (3) “Cost and Compliance Report” is the annual report submitted by a Qualified Utility under an approved Wildland Fire Protection Plan as further described under R746-\*\*\*-3(1).

**R746-\*\*\*-2. Wildland Fire Protection Plan Filing and Approval.**

- (1) A qualified utility shall submit a Wildland Fire Protection Plan that includes the items required by UTAH CODE § 54-24-201(2)(a) through (i) to the Commission for approval on June 1, 2020 and each October 1 every third year thereafter.
- (2) The Commission shall provide public notice of the Wildland Fire Protection Plan filing, solicit input on such plan from State Division of Forestry, Fire, and State Lands, and hold a scheduling conference allow time for a Commission decision within 120 days of a Qualified Utility’s submittal of a Wildland Fire Protection Plan, unless the Commission determines that additional time is warranted and is in the public interest.
  - (i) The Commission shall enter any input received from the State Division of Forestry, Fire, and State Lands into the record after 45 days, or indicate on the record that no such input was received.
  - (ii) Within the 30 days following entry of input from the State Division of Forestry, Fire, and State Lands into the record, or entry that no such input was received, interested parties may file comments on the Qualified Utility’s Wildland Fire Protection Plan.
  - (iii) The Qualified Utility shall have 15 days to respond to any comments.
  - (iv) Unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will issue an order within 120 days of a Qualified Utility’s submittal of a Wildland Fire Protection Plan.
- (3) The Commission shall approve a Qualified Utility’s Wildland Fire Protection Plan to the extent that the evidence in the record establishes that it:
  - (i) is reasonable and in the public interest; and
  - (ii) appropriately balances the costs of implementing the plan with the risk of a potential wildland fire.

**R746-\*\*\*-3. Wildland Fire Protection Plan Annual Cost and Compliance Report.**

- (1) No later than June 1, 2021, and each year after 2021, a qualified utility shall submit a Cost and Compliance Report:
  - (i) detailing the qualified utility's compliance with the qualified utility's approved Wildland Fire Protection Plan;
  - (ii) identifying the actual capital investments and expenses made in the prior calendar year and a forecast of the capital investments and expenses for the present year to implement the Wildland Fire Protection Plan approved under R746-\*\*\*-2; and
  - (iii) requesting the deferral and collection of the incremental revenue requirement for the capital investments and expenses to implement its approved Wildland Fire Protection Plan that is not included in base rates.
- (2) The Commission shall provide public notice of a Qualified Utility's filing of its Cost and Compliance Report.
- (3) Within the 30 days following such public notice, interested parties may file comments on the Qualified Utility's Cost and Compliance Report.
- (4) The Qualified Utility shall have 15 days to respond to any initial comments filed with the Commission.
- (5) Within 90 days of a Qualified Utility's submittal of its Cost and Compliance Report, unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will issue an order regarding the Qualified Utility's Cost and Compliance Report, and, to the extent requested by the Qualified Utility, approving any deferral and collection of the incremental revenue requirement reasonably demonstrated by such report.

**CERTIFICATE OF SERVICE**

Docket No. 20-R315-01

I hereby certify that on June 16, 2020, a true and correct copy of the foregoing was served by electronic mail to the following:

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**Rocky Mountain Power**

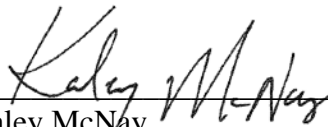
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