

September 10, 2025

VIA ELECTRONIC FILING

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

Attention: Gary Widerburg
Commission Administration

RE: Docket No. 25-R318-01 Proposed Rulemaking Concerning Utah Code §§ 54-26-101 to -901, Large-Scale Electric Service Requirements
Rocky Mountain Power Reply Comments

On August 21, 2025, the Public Service Commission of Utah (“Commission”) issued its Order Granting Joint Motion to Amend Scheduling Order (“Amended Scheduling Order”), allowing parties to file an initial set of reply comments, before the technical conference scheduled for September 17, 2025. The Utah Association of Energy Users (“UAE”), Interwest Energy Alliance (“Interwest”), Enchanted Rock, LLC (“Enchanted Rock”), Enyo Renewable Energy (“Enyo”), Calpine Energy Solutions, LLC (“Calpine”), NRG Energy (“NRG”), Tract Capital Management LP (“Tract”), and the Office of Consumer Services (“OCS”) filed initial comments on August 28, 2025. Rocky Mountain Power (the “Company”) provides these reply comments pursuant to the Amended Scheduling Order and in response to the August 28, 2025, initial comments filed by the aforementioned parties (“Initial Comments”), who the Company references collectively as the “Commenting Parties.”

In their Initial Comments, the Commenting Parties raised concerns regarding a variety of issues, some of which the Company agrees with or takes no position on, while others, the Company believes, would present significant regulatory hurdles and result in outcomes that are not just and reasonable. As a result of our review, the Company has a number of comments in response. Because of the number of initial comments provided, the Company is providing its comments in four categories: (1) comments the Company believes were addressed in its Proposed Rules, which was provided simultaneous with the Commenting Parties’ comments; (2) comments related to the Company’s case-by-case approach to the rulemaking; (3) comments related to other issues of importance; and (4) comments the Company does not dispute at this time. While we believe we address all issues identified in the Initial Comments, the Company notes that a lack of express comment should not be read to indicate the Company’s agreement.

The Company requests that the Commission adopt the version of the rules the Company proposed in its Initial Comments, with the limited changes agreed to in these comments.

Initial Comments the Company Believes Have Already Been Resolved

The Company and stakeholders held two stakeholder feedback sessions in July and August to discuss substantive and procedural issues related to the development of rules consistent with the Utah Legislature’s instruction in Utah Code Title 54 Chapter 26, “Large-Scale Electric Service Requirements.” As a part of that process, the Company prepared a draft set of rules that it presented to stakeholders as a straw proposal on August 8, 2025 (the “Straw Proposal”). The Commenting Parties provided feedback and raised concerns at the August stakeholder meeting. The Company incorporated some of those comments in the Proposed Rules we submitted as our initial comments. Because the Proposed Rules were submitted simultaneously with the Commenting Parties’ Initial Comments on the Straw Proposal, some of the issues raised likely have been resolved. On these issues, the Company believes it has addressed the Commenting Parties’ concerns and that no additional change is needed.

Notices and Warnings: OCS identified a need for rules to address Utah Code § 54-26-504(4). Although OCS references Straw Proposal R746-XX3-3, it nonetheless states that rules need to be proposed to “help protect future customers from costs associated with abrupt changes to the system.”¹ Interwest, on the other hand, commented that the Straw Proposal’s notice requirements are inconsistent with the Act.² The Company agrees with OCS that the notice and warnings called for in Utah Code § 54-26-504 are an important mechanism for protecting Large Load Customers. For this reason, the Company included Proposed Rules R746-XX3-3(2) and R746-XX5-3(1), which require a Large-Scale Generation Provider to notify its prospective customers of several key pieces of information, including that the Qualified Electric Utility will not provide electric service, that there is not backup power, and that returning to the grid would require the Large Load Customer to adhere to the processes for Large Scale Service Requests, including incurring associated costs. The Company believes these provisions fully address Utah Code § 54-26-504(4).

Expedited Review: Utah Code § 54-26-302(5) allows, but does not require, the Commission to adopt rules to expedite review of applications for approval of large load contracts. OCS rightly noted that the statutory 60-day review period is already a short time period and that expedited review may only be appropriate in a limited set of circumstances.³ OCS proposes that standards should be set to qualify applicants for expedited review and that the application should demonstrate that an adequate review can be conducted on an expedited time frame. The Company agrees that the statutory 60-day time period is already a rigorous schedule and that the circumstances justifying expedited review are likely limited. For that reason, the Company included Proposed Rule R746-XX1-5(3), which requires an Applicant seeking expedited review to demonstrate why a 60-day time frame is insufficient and requires a demonstration of good cause and public interest in an expedited schedule. The Company believes the language of the Proposed Rule accomplishes OCS’s concern. The Company also notes that Enchanted Rock proposed extending the filing period for Applications to review Large Load Contracts to 30 days and then

¹ See OCS Initial Comments at 2.

² Interwest Initial Comments at 3.

³ OCS Initial Comments at 2.

to mandate expedited review of applications.⁴ Enchanted Rock's proposal contradicts Utah Code § 54-26-301, which requires a party to a Large Load Contract to apply for Commission approval within 15 business days of execution of the contract, and places the burden on the Commission to process an Application under an unreasonably fast timeline. Therefore, Enchanted Rock's proposal should not be adopted.

Confidentiality: UAE commented that the Company should not be served a confidential copy of a Large Load Contract as a part of the Application process.⁵ Interwest also commented on the commercially sensitive information in Large Load Contracts.⁶ While the Company must be provided the opportunity to review Large Load Contracts to ensure there will be no adverse impact on the Company's system or customers, which neither UAE or Interwest appear dispute, the Company agrees that its review of the impact of a Large Load or Private Generation Agreement likely does not require it to review the commercially sensitive terms of the agreement. To that end, the Company modified R746-xx1-4(3) of the Straw Proposal in its Proposed Rules to say that it should be served a nonconfidential copy of the agreement at issue. The Company believes this satisfies the concern UAE and Interwest raised.

The Company notes, however, that NRG and Tract's position that the Company should not be a party to an application for approval of a Large Load Contract to which the Company is not a party and should be limited to the same notice as the general public⁷ is untenable. The Company cannot be shut out of these proceedings entirely, because of the need to verify there will be no impact on the Company's system and to allocate transmission costs. The Company needs to be permitted to intervene if necessary to protect its interests and the interests of its customers.

Comments Related to the Company's Proposal for a Flexible, Case-by-Case Approach to Transmission Cost Allocation and Accounting

With respect to two key issues—transmission cost allocation and accounting—the Company has proposed rules that (1) implement the Legislature's instruction while (2) ensuring the Commission has the flexibility it will need to review and approve each Large Load Contract on its individual merit and ensure customers are dealt with in just, prudent, and reasonable fashion, without any harm to the Company's retail customers.

The Company believes the Commission needs this flexibility because each Large Load Contract will have different requirements and may need very different transmission investments. Creating a restrictive framework in the rules that govern all Large Load Contracts, before any large load contract has been presented to the Commission under this framework, could prevent the Commission and the Company from ensuring that these Large Load Customers are allocated all the costs of transmission system improvements, including network upgrades, to the extent allowable under federal law, as required by Utah Code § 54-26-601(3).

⁴ Enchanted Rock Initial Comments at 3.

⁵ UAE Initial Comments at 6-7.

⁶ Interwest Initial Comments at 4.

⁷ NRG and Tract Initial Comments at 16.

Although the Company believes any changes to the Proposed Rules that would limit the Commission's consideration of transmission cost allocation would result in undesirable outcomes, UAE's recommendations provide a useful example of how such a prescriptive approach could result in improper outcomes.

In its Initial Comments, UAE suggested that the Commission's rules should include principles for allocating transmission costs, including among other things that "the Large Load Customer shall not be charged for the capital costs of projects that a Qualified Electric Utility has already included in its long-term transmission plan at the time of submission of the transmission service request related to the Large Load Customer's load request."⁸ This proposal could result in any number of circumstances that violate the Utah Legislature's express instruction to the Commission and result in unjust and unreasonable burden on the Company and its customers. For example, the Company may have included a project in its transmission plan to benefit the entire system but may now need to expedite or consume the entire availability of that project to meet a specific Large Load Customer's needs. If such a project were reallocated to a single Large Load Customer in response to a transmission service request, under UAE's proposal the Company would be required to pay for the transmission network upgrade to serve the Large Load Customer. In some instances this may require the Company to add an additional replacement project into its long-term plan due to the Large Load Customer consuming the original intent and purpose of the planned line, effectively requiring other customers to pay for two upgrades instead of one. This cannot have been the intent of the Legislature, given the emphasis it places on allocating all costs benefiting only the Large Load Customer to that customer. Additionally, the Company prepared its transmission plan without any knowledge that such planning would dictate the allocation of costs in this way. To now, after the fact, treat the transmission plan as a binding statement of the purpose of projects for cost allocation would be unfair to the Company and, by extension, the customers who would be allocated those costs.

The Company further notes its disagreement with comments from UAE that the Company will propose cost allocation terms that are in its own best interest, leaving customers or providers without a method for assessing the reasonableness of the cost allocation method.⁹ The Company has a duty to hold other customers harmless from these transmission loads, which it must prove to the Customers and parties. In order to accomplish this, the Company needs the flexibility to propose allocation for individual projects in a manner that complies with Federal Energy Regulatory Commission ("FERC") requirements and Utah law. The Company's proposal does not hinder customer visibility into the price setting process, as UAE suggests,¹⁰ nor does it limit customers' ability to provide input on cost allocation issues. Rather, the Proposed Rules merely reserve this issue to be addressed within the context of individual large load approval process, instead of being overly proscriptive without individual context.

The Company has also proposed a case-by-case approach to accounting for costs associated with Large Load Contracts. The parties do not dispute the usefulness of this approach with respect to accounting issues.

⁸ UAE Ex. 2 at 4-5.

⁹ UAE Initial Comments at 8.

¹⁰ *Id.*

Comments on Discrete Issues of Concern

The Company also objects to a variety of discrete issues raised by the Commenting Parties.

Private Generation Contracts: UAE along with NRG and Tract contend that Private Generation Contracts should not be included in the Application process identified in R746-XX1. They contend that Utah Code § 54-26-302 does not apply to private generation contracts. This reading is inconsistent with Utah Code Title 54 Chapter 26. The Utah Legislature was express in its intention that the Commission must approve private generation contracts. As Utah Code § 54-26-102 states, “procedures and standards set forth in this chapter shall govern . . . the review and approval of large load contracts and private generation contracts.” Furthermore, the Legislature demonstrated its ability and willingness to create exemptions for some regulations of Private Generation Contracts in Utah Code § 54-26-201 and -301.5, which sections exempt “customers seeking service under a private generation contract” from the requirement to submit a large-scale service request to the Qualified Electric Utility. But the Legislature included no such exemption from the Application process. In arguing to the contrary, UAE apparently disregards Utah Code § 54-26-201 when it states, without a specific reference to the statute, that the Commission lacks authority to approve private generation contracts.

Similarly, UAE’s reading of the definition of “Large Load Contracts” as a limitation on the scope of the Commission’s authority is not supported by the statute.¹¹ Utah Code § 54-26-101(4) defines “large load contract” to mean “a large load construction contract or a large load service contract.” Subsection 101(5) defines a “large load construct contract” as a “contract between a qualified electric utility or a large-scale generation provider and a large load customer.” And subsection 101(10) defines a “large load service contract” as a “contract for the provision of electric service for a large-scale service request between a qualified utility or a large-scale generation provider; and a large load customer.” UAE focuses on the “large-scale service request” requirement in the definition of a large load service contract and contends that the exemption from making a large-scale service request to the Company exempts all Private Generation Agreements from the Commission’s approval of any kind. The Company does not dispute that a party to a Private Generation Contract is exempt from submitting a Large-Scale Service Request to the Qualified Electric Utility, but it is not exempt from submitting such a request to the Large-Scale Generation Provider. Because a Private Generation Contract may still require submission of a Large-Scale Service Request to a Large-Scale Generation Provider, the Private Generation Contract could still be a large load service contract. Moreover, the definition of Large Load Service Contract should not be read to narrow the Commission’s authority to approve Private Generation Contracts, especially where the Legislature elsewhere acknowledged that authority. While the Company does not disagree that the drafting around this issue lacks clarity, UAE’s reading cannot be squared with the language of the statute and should be rejected.

¹¹ UAE Initial Comments at 3.

Changes to PacifiCorp's OATT: NRG and Tract¹² as well as Calpine¹³ commented on the need to adhere to FERC precedent and PacifiCorp's Open Access Transmission Tariff ("OATT"). They call for the Commission to go so far as to compel PacifiCorp to periodically update its OATT to ensure state and federal transmission and distribution tariffs are consistent.¹⁴ Their suggestion relies heavily on Oregon's retail choice laws, but those laws do not apply here. Instead, Utah Code Title 54 Chapter 26 includes many statements that Commission decisions must not contradict FERC precedent.¹⁵ Therefore, the Company should not be compelled to change its federally approved tariff to adhere to state law, especially where the Utah Legislature has gone out of its way to acknowledge federal primacy on this issue. If the Company determines that changes to the OATT are necessary at the conclusion of this rulemaking, the Company will propose those edits for approval with FERC, where there is already a process for other parties to weigh in.

Implementation of Processes not required by statute: Enyo provided its own proposed rules R746-XX1-4 and -5, which would impose obligations on the Qualified Electric Utility related to how it reviews Large-Scale Service Requests and transmission service requests. Enyo's proposals are not required, or invited, by statute and would impose unreasonably restrictive process on the Qualified Electric Utility. Utah Code § 54-26-202 sets out a detailed process for the review of Large-Scale Service Requests, and the Company's FERC approved OATT governs transmission requests. Those processes should govern.

Initial Comments about which the Company Makes No Objection

The Company prepared the Proposed Rules at the direction of the Commission and the agreement of the stakeholders. Although the Company believes the Proposed Rules in their entirety are the most prudent and reasonable way to implement Legislature's directives in Utah Code Title 54 Chapter 26, the Company does not dispute and/or takes no position on some of the Commenting Parties' proposals, because the proposals do not appear to impact the Company's core business, the security and operation of its electric system, or its customers or provide a reasonable alternative to the Proposed Rules. These issues include:

Registration: NRG and Tract,¹⁶ Enchanted Rock,¹⁷ and Interwest¹⁸ commented on the registration process that the Company included in Proposed Rule R746-XX3-3. In particular they call for the registration process to be an informal adjudication and not to rise to the level of an Application. The Company notes that the Commission should be able to fashion an appropriate process for Large-Scale Generation Provider registration, and believes the process set forth in the Proposed Rules accomplishes that. The Company does not, however, believe that the process it

¹² NRG Initial Comments at 6.

¹³ Calpine Initial Comments at 3.

¹⁴ Calpine Initial Comments at 3 ("As explained below, PacifiCorp's existing [OATT] on file with the [FERC] does not appear to enable this critical transmission delivery right over PacifiCorp's transmission system. Thus, the Commission should clarify through its rules that it expects PacifiCorp to make, and periodically update, the necessary revisions to its OATT and to ensure that its federal and state transmission and distribution tariffs are consistent and work together in a manner that achieves the objectives of Senate Bill 132.").

¹⁵ See Utah Code § 54-26-503.

¹⁶ NRG and Tract Initial Comments at 17-18.

¹⁷ Enchanted Rock Initial Comments at 2 and 3.

¹⁸ Interwest at 4.

proposed is the only way to accomplish this and is confident the Commission, in conjunction with the Division of Public Utilities (“DPU”), OCS, and others, will fashion an appropriate process. The Company agrees with the parties who stated the need for a time period for the Commission to review applications and agrees that 60 days is a reasonable time frame.

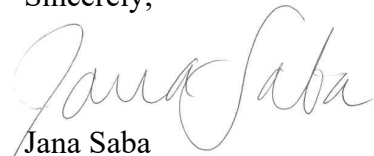
Fees: The Proposed Rules did not include a proposal for Commission fees. The Company agrees with OCS that the Commission is in the best position, in collaboration with OCS and DPU, to propose rules establishing fees.

Conclusion

The Company appreciates this opportunity to provide comments on the Proposed Rules and the Commenting Parties’ alternative proposals. The Company looks forward to the opportunity to discuss these and any other concerns the Commission may have at the September 17, 2025, Technical Conference and to provide further reply comments in October.

Informal inquiries may be made to Max Backlund at (801) 220-3121.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jana Saba".

Jana Saba

Director, Regulation and Regulatory Operations

CERTIFICATE OF SERVICE

Docket No. 25-R318-01

I hereby certify that on September 10, 2025, a true and correct copy of the foregoing was served by electronic mail to the following:

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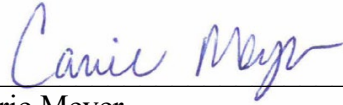
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