

October 10, 2025

Via Electronic Mail to [psc@utah.gov](mailto:psc@utah.gov)

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

Re: Docket No. 25-R318-01 – Reply Comments on Proposed Rules Implementing S.B. 132

Enchanted Rock, LLC (“Enchanted Rock”) respectfully submits these reply comments regarding the revised proposed rules that Rocky Mountain Power (“RMP”) filed on October 1, 2025. Enchanted Rock appreciates the Commission’s leadership and the constructive collaboration among stakeholders in implementing Senate Bill 132 (2025 Gen. Sess.) (“S.B. 132”). The October 1 draft introduces several procedural improvements, including confidentiality provisions and defined timelines for registration review. However, it also imposes new obligations and approval requirements, expanding Commission and utility control in ways that conflict with the statute’s intent to enable competitive, flexible, non-utility service options for large-load customers.

These comments address key issues that directly affect co-located and independent large-scale generation providers, particularly those operating closed or grid connected private systems under Utah Code §54-26-504 and §54-26-505.

#### **Private Generation Contracts and Closed Systems (R746-XX6)**

Utah Code §54-26-504(2) clearly states that a closed private generation system and a large-scale generation provider serving through such a system do not fall under commission oversight or regulation as a public utility. Despite this directive, the October 1 draft requires the Commission to approve private generation contracts and mandates that the utility declare separation from the grid (R746-XX6-2). This requirement contradicts the statute, which exempts closed private generation systems from Commission oversight.

Stakeholders, including the Utah Association of Energy Users (UAE), NRG Energy and Tract Capital Management (NRG/Tract), and Interwest Energy Alliance (Interwest) all state that the Commission should not require approval or utility certification for private generation contracts<sup>1</sup>.

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<sup>1</sup> UAE Initial Comments at 3-4 (8-27-25); NRG/Tract Joint Comments at 14-15 (8-28-25); Interwest Initial Comments at 3-5 (8-28-25)

#### Recommended Revisions:

1. Require closed private generation systems to submit only an informational notice, without adjudication or formal approval;
2. Limit Commission review to verification that the system is closed and imposes no costs on retail ratepayers; and
3. Remove the requirement that a Qualified Electric Utility (“QEU”) provide a declaration as a precondition for project operation.

S.B.132 intentionally distinguished closed systems from connected systems to encourage private investment in self-sufficient energy infrastructure. The revised rule removes the distinction between closed and connected systems granting utilities an effective veto power over independent projects. More closely aligning the rules with the statute will preserve competitive neutrality and regulatory clarity.

#### **Connected Generation Systems (R746-XX5)**

The new provision requiring a utility declaration verifying “no electric services” or “complete separation” introduces procedural delay and utility gatekeeping. As NRG/Tract noted in their joint comments, nothing in Utah Code § 54-26-505 authorizes the utility to certify or approve connected generation arrangements<sup>2</sup>. This requirement conflicts with the nondiscriminatory access principles embodied in § 54-26-503.

#### Recommended Revisions:

1. Replace the declaration requirement with a simple notice and opportunity to comment, giving the utility a defined window—such as 20 days—to raise reliability or safety concerns;
2. Clarify that failure to comment within the window constitutes concurrence; and
3. Limit Commission review to issues of safety, reliability, and compliance with statutory thresholds.

By ensuring timely notice without requiring formal utility consent, the Commission can uphold § 54-26-402(1), which authorizes customers to contract directly with large-scale generation providers when utility service is unavailable or uneconomic.

#### **Registration of Large-Scale Generation Providers (R746-XX4-2)**

Enchanted Rock supports the addition of a 60-day deadline for Commission action on registration applications and the 90-day cure period for deficiencies. These modifications respond directly to UAE’s recommendation that defined timelines are necessary to provide business certainty<sup>3</sup>. However, the revised rule still treats registration as a docketed adjudication with broad Commission discretion to impose “reasonable conditions.” As Interwest observed, the statutory term “registration” implies a ministerial

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<sup>2</sup> NRG/Tract Joint Comments at 18–19 (8-28-25)

<sup>3</sup> UAE Initial Comments at 5–6 (8-27-25)

filing rather than a licensing process<sup>4</sup>. Excessive discretion or open-ended conditions will discourage investment and delay project development.

#### Recommended Revisions:

1. Define registration as a notice filing that becomes effective automatically unless the Commission issues a deficiency notice within 30 days.
2. Limit review to the statutory criteria in § 54-26-501(1): technical and financial qualifications and use of qualifying generation resources.
3. Specify that suspension or revocation may occur only for verified statutory non-compliance under § 54-26-502.

#### **Contract Filing and Expedited Review (R746-XX2-2 and -3)**

The October 1 draft retains a 15-day filing deadline following contract execution and leaves expedited review entirely to Commission discretion. Given the complexity of large-load contracts involving multiple counterparties, this timeline is unrealistic and may force unnecessary amendments or duplicative filings. Enchanted Rock recommends extending the filing deadline to 30 days following execution and adopting objective criteria for expedited review consistent with Utah Code § 54-26-302(5).

#### **Confidentiality and Data Handling**

Enchanted Rock supports the addition of provisions allowing non-confidential versions of filings and designating sensitive materials under Utah Admin. Code R746-1-601. To further protect commercially sensitive information: (1) utilities should not access confidential contract terms without a protective order, and (2) applicants should be allowed to redact pricing and operational data not relevant to compliance or cost-allocation<sup>5</sup>.

#### **Utility Duty to Serve and Backup Service (R746-XX4-3)**

The revised rule removes any standby-service obligation, declaring that the Qualified Electric Utility “has no duty to serve” customers contracting with a Large-Scale Generation Provider. While the intent to clarify cost responsibility is reasonable, complete elimination of standby or backup options risk’s reliability issues. Enchanted Rock recommends reinstating a voluntary, cost-based standby-service option under transparent Commission-approved tariffs. Such a provision would protect system reliability, address emergency contingencies, and reflect the Office of Consumer Services’ concern that customers receive clear written notice of service limitations<sup>6</sup>.

Enchanted Rock raises concerns under R746-XX4-3(c) about whether a co-located generation provider can reliably bridge to firm grid interconnection or support flexible, non-firm connections. The updated language, “Except as explicitly provided in a Large Load Contract...,” is an improvement over the previous

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<sup>4</sup> Interwest Initial Comments at 3–4 (8-28-25)

<sup>5</sup> NRG/Tract Joint Comments at 12–13 (8-28-25); UAE Initial Comments at 7 (8-27-25)

<sup>6</sup> Office of Consumer Services Comments at 2–3 (8-28-25)

version. Unfortunately, this section is contingent upon the utility's willingness to negotiate with large load customers or between the QEU, customer, and service provider. We recommend the addition of requirements for good-faith negotiations in subsections (c) and (d), to enable unique power delivery arrangements.

### **Conclusion and Requested Actions**

Enchanted Rock respectfully requests that the Commission revise the draft rules as follows: (1) Remove Commission-approval and utility-declaration requirements for private generation contracts; (2) Modify connected-generation provisions to establish notice-and-comment rather than declaration procedures; (3) Define registration as a ministerial filing with automatic effectiveness absent deficiency notice; (4) Extend contract-filing deadlines to 30 days and codify clear expedited-review standards; and (5) Reinstate a transparent, optional standby-service mechanism under cost-based tariffs.

S.B. 132 created a statutory pathway to attract private investment, increase reliability, and protect existing ratepayers. The final rules should honor that legislative balance by ensuring nondiscriminatory access, predictable timelines, and proportionate oversight.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I certify that on October 10, 2025, a true and correct copy of the foregoing was served upon the following as indicated below:

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