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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Proposed Rulemaking Concerning Utah Code §§ 54-26-101 to -901, Large-Scale Electric Service Requirements	Docket No. 25-R318-01

COMMENTS OF THE UTAH ASSOCIATION OF ENERGY USERS

On April 28, 2026, the Utah Public Service Commission ("Commission" or "PSC") issued a Notice of Comment Period which, among other things, solicited stakeholder input regarding whether the rule adopted in this docket and established as Utah Admin. Code R746-318 ("New Rule") should be amended and directing stakeholders to propose amendments to the New Rule by June 16, 2026. The New Rule was adopted as contemplated by Senate Bill 132, passed during the Utah Legislature's 2026 general session and enrolled at Title 54, Chapter 26 of the Utah Code and titled "Large-Scale Electric Service Requirements" ("Act").

The Utah Association of Energy Users ("UAE") recommends that the PSC modify the New Rule as set forth below.

PROPOSED AMENDMENTS TO UTAH ADMIN. CODE R746-318

I. The New Rule Should Be Modified to Eliminate the Declaration Requirement in R746-318-601(2)(d) for Closed Private Generation Systems

A large-scale generation provider seeking to serve a large load customer through a closed private generation system must obtain PSC approval of a private generation contract before it may provide service to the customer. Before it may seek PSC approval of the contract, however, R746-318-601(2)(d) requires the provider to obtain "a declaration from the qualified electric utility, including a summary of supporting evidence, that the closed private generation system will operate with complete separation from the qualified electric utility's system." Utah Admin. Code R746-318-602(2)(d) (hereafter the "Declaration Requirement"). The Declaration Requirement essentially requires a large-scale service provider to obtain Rocky Mountain Power's ("RMP") permission to file a private generation contract with the PSC for approval. This requirement is flawed and should be eliminated for at least the following reasons.

RMP views itself as being in competition with large-load service providers to serve large loads in Utah, and regulatory requirements intended to facilitate service to large loads should not place RMP in a position to gain a competitive advantage.[1] In Docket No. 26-035-05, RMP submitted and received approval of a private generation contract. In that docket, UAE sought access to information that RMP had marked "regulator access only" pursuant to R746-318-103 and filed a motion to compel RMP to produce that information. UAE sought those documents to ensure that the RMP's use of system generation and transmission resources to serve the large load customer would not shift costs to regulated RMP ratepayers. RMP opposed the motion, asserting that it should not be required to provide the requested information on the grounds that it is in competition with large-scale service providers for the business of serving large loads and providing the information could put it at a competitive disadvantage.

For example, RMP noted that SB 132 "creates competition that does not ordinarily exist in this space and creates a possibility that Rocky Mountain Power will be in a position to negotiate

[1] *See Union Trust Co. v Simmons*, 211 P.2d 190, 191 (Utah 1949) (ruling statute was an unconstitutional delegation of authority when it prohibited bank commissioner from approving an application to establish a new bank unless competing banks in the community gave the commissioner written consent to consider the application).

contracts and to lose out on business to other service providers."[2] RMP further argued that being obligated to provide information to stakeholders "even [in] this more limited way proposed by UAE . . . will place Rocky Mountain Power in a competitive disadvantage." The UAE representatives who sought access to the information in Docket No. 26-035-05 are not large-load service providers and are not in competition with RMP. If requiring RMP to provide information to UAE representatives would put RMP at a competitive disadvantage, then requiring large-load service providers to submit information to RMP before seeking PSC approval of a private generation contract clearly places the large-load service provider in a competitive disadvantage.[3]

The New Rule articulates no limit to the information RMP may demand from the large-load service provider or any standard for determining whether RMP's information demands are reasonable. R746-318-501(3) provides that a large-load service provider, "after making a reasonable and good faith effort" to obtain the declaration, may submit a petition to the PSC to require RMP "to show cause as to the basis for withholding the required declaration" and that the PSC may waive the Declaration Requirement if it determines that RMP "fails to demonstrate a reasonable basis for withholding."[4] While this provision provides some guidance as to how a large-load service provider is to proceed when it thinks RMP has improperly failed to provide the declaration, it offers no guidelines for RMP's standard of conduct to determine how the PSC will determine whether RMP has acted improperly.

Moreover, this provision does not solve one of the major concerns about the Declaration Requirement, which is the passage of time. One of the major reasons that the Act was adopted

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[2] *Application of Rocky Mountain Power for Approval of a Large-Load Service Contract Between PacifiCorp and a Large-Load Customer*, Docket No. 26-035-05, March 14, 2026 Hearing Transcript at 14:22-15:4.
[3] To be clear, UAE does not agree with RMP's stated concerns. RMP is not obligated to serve large load customers. When RMP elects to serve a large load customer using system resources included in rate base, any concerns RMP has about competitive disadvantaged are outweighed by the need for ratepayers to have access to information essential to ensuring the costs of RMP's service to the large load customer are not shifted to other ratepayers.
[4] Utah Admin. Code R746-318-501(3).

was to speed up the process of providing electric service to new large loads and any entity seeking to provide electric service to large loads must demonstrate that it can do so in a timely manner to win business. A private generation contract likely will contain provisions stating that the contract only becomes effective if PSC approval of the contract is granted by some date certain. The deadline in the New Rule that requires a PSC order within 60 days of the filing date of the application provides guidance as to how long the process before the PSC will take. But there are no guidelines for how long it will take to obtain the declaration from RMP before the PSC approval process can begin and, if the provider believes RMP has delayed unreasonably, no guidelines for how long a PSC process may take to obtain the waiver of the Declaration Requirement. RMP should not be placed in a position where it can competitively disadvantage a large-scale service provider through delay.

RMP may participate as a party to any proceeding under the New Rule and, in that context, may contend that the contemplated project does not qualify as a closed private generation system. The PSC can then weigh RMP's arguments and evidence along with all others advanced in the docket and issue a decision. The Declaration Requirement essentially grants this decision-making authority to RMP and requires a large-scale service provider to convince RMP to bless a project before it can seek PSC approval. UAE believes this is inappropriate and, for all of the reasons set forth herein, proposes that the Declaration Requirement be removed from the New Rules.

II. The New Rule Should Protect Confidential Information While Ensuring that Stakeholders Have Access to Needed Information That May Affect Subsequent Ratemaking Determinations

RMP must demonstrate that its provision of service to a large load customer will not shift costs to retail customers, and the information it submits to make this showing should not be hidden from ratepayers. R746-318-201(6) requires that when RMP seeks approval of a large load contract, it "shall include a methodology for how the qualified electric utility will maintain separate accounting records with sufficient detail to demonstrate that costs will be directly assigned to the large load customer." This provision goes on to affirmatively state that "[t]his methodology will be provided by the qualified electric utility."[5] When the PSC approves RMP's application for a large load contract, it also approves the accounting method RMP proposes to use to ensure that service to the large load customer does not impose costs on retail customers.[6] Given the importance of ensuring that the costs associated with service to a large load customer are borne by that customer and not by retail ratepayers,[7] UAE recommends that the PSC modify the New Rule to require that the information submitted by RMP in support of its accounting methodology may not be designated "regulator access only."

RMP's costs and revenues from serving large load customers may not be considered in ratemaking determinations for RMP's regulated retail customers.[8] At the same time, SB 132 does not bar RMP from using generation resources or transmission facilities included in retail customer rate base to serve large load customers. For this reason, SB 132 contains accounting requirements ensuring that the "costs for the provision of electric service from [RMP] to a large load customer will be excluded from rates paid by retail customers."[9] Ratepayers must be able to review and assess the methodology that is intended to protect them from the costs RMP incurs to serve large

[5] Utah Admin. Code R746-318-201(6).
[6] *See* Utah Code § 54-26-302(2)(b)-(c) ("The commission shall approve a large load contract . . . if the commission finds . . . that: (b) the large load customer bears all just and reasonable incremental costs attributable to receiving the requested electric service; and (c) existing ratepayers do not bear costs justly and reasonably attributable to providing electric service for the large load customer.").
[7] *See, e.g.*, *id*. § 54-26-602(4)(c) (requiring RMP to provide in a general rate case or other appropriate proceeding "the method by which costs for the provision of electric service from a qualified electric utility to a large load customer will be excluded from rates paid by retail customers.").
[8] *See* Utah Code § 54-26-602(3) ("All revenues and large load incremental costs associated with a large-scale service request shall be excluded from any rate determinations by the commission.").
[9] *Id*. § 54-26-602(4)(c).

load customers and the New Rule should ensure that ratepayers have access to the methodology to be approved by the PSC.

RMP has a legitimate interest in protecting the confidentiality of commercially sensitive information regarding its provision of service to large load customers, including pricing and credit terms. The New Rule includes special protections for such information[10] and UAE does not propose to modify those protections. However, ratepayers have a legitimate interest in the accounting methodology that RMP will employ to ensure that retail ratepayers do not bear costs associated with RMP's provision of service to large load customers, and the New Rule should bar such information from being designated as "regulator access only." RMP could continue to designate the information included in the methodology as "confidential" or "highly confidential" as appropriate under Utah Admin. Code R746-1-601 to -603, and to place appropriate protections on such information within those frameworks. Alternatively, RMP could develop an accounting methodology that does not rely on commercially sensitive information, such as using locational marginal prices or wholesale transmission rates to allocate costs and credits rather than proprietary commercial pricing terms. Regardless of the methodology that is used, however, ratepayers should not be barred from reviewing the methodology, which is the result of allowing RMP to designate the information as "regulator access only."

For the foregoing reasons, UAE recommends that the New Rule be modified such that the methodology referenced in R746-318-201(6) may not be designated as "regulator access only."

CONCLUSION

UAE appreciates the opportunity to submit comments and recommend revisions to the New Rule. The above amendments will improve the New Rule and the PSC's administration of

[10] *See* Utah Admin. Code R746-318-103(7).

applications seeking approval of private generation contracts and large load contracts and UAE recommends that the PSC modify the New Rule consistent with these comments.

DATED this 16th day of June 2026.

Respectfully submitted,

By: ______________________________

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Certificate of Service
Docket No. 25-R318-01

I hereby certify that a true and correct copy of the foregoing was served by email this 16th day of June 2026 on the following:

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