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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH	
Rocky Mountain Power’s 2023 Wildland Fire Cost and Compliance Report	Docket No. 23-035-27 Motion to: Deviate from R746-315-3(3)-(6) Pursuant to R746-1-109, Vacate the Existing Notice of Filing and Comment Period, Request for a Scheduling Conference and for expedited treatment of this Motion.

Pursuant to UTAH ADMIN. CODE r. 746-1, the Office of Consumer Services (“OCS”) hereby moves the Public Service Commission of Utah (“PSC”) for an Order: giving this Motion expedited treatment, granting a deviation from Rule 746-315-3 (3)-(6), vacating the existing Notice of Filing and Comment Period, and Noticing a Scheduling Conference.

FACTS

On June 1, 2023, Rocky Mountain Power (“RMP”) filed its 2023 Wildland Fire Cost and Compliance Report (“2023 Report”). The 2023 Report’s supporting data are more extensive than those presented in previous years and seeks an increase in rates through the operation of the Wildfire Mitigation Balancing Account (RMP Electric Service Schedule No. 97). On June 5, 2023, the PSC, in accordance with the scheduling procedure set out in Rule 746-315-3 (3)-(5),

set a schedule for initial comments on July 5, 2023, and for reply comments on July 20, 2023. The OCS asserts that the schedule for comments and an order setout in Rule 746-315-3 (3)-(6) leaves insufficient time to grapple with the more extensive supporting data contained in the 2023 Report and to hold a hearing, which is required for all proceedings increasing rates.

ARGUMENT

Rule 746-315-3 (3)-(5) provides that initial comments on a Wildland Fire Annual Cost and Compliance Report are due 30 days after the PSC issues a Notice of Filing and reply comments are due 15 days after initial comments. However, Rule 746-1-109 provides for the deviation from the requirement of any rule upon a showing that the rule imposes hardships that outweigh the benefits of the rule. Here, complying with the Rule 746-315-3 (3)-(5)'s comment period imposes significant hardship on the parties seeking to analyze the extensive data submitted with the 2023 Report, uncover additional data from RMP, and prepare for a hearing—which as discussed below is a requirement for any order raising rates—all within this truncated schedule provided for in Rule 746-315-3 (3)-(5). Accordingly, any efficiency gained by the abbreviated schedule in Rule 746-315-3 (3)-(5) is significantly outweighed by the need for sufficient time to properly litigate the recovery of costs sought in RMP's 2023 Report. Thus, a deviation from Rule 746-315-3(3)-(5) is appropriate.

The need for additional time to litigate this docket is driven by two factors, (1) the fact that RMP is seeking an Order increasing rates and (2) the fact that the 2023 Report contains more extensive data than reports of previous years. First, more time is needed for the parties to gather evidence and prepare for a hearing, which is a prerequisite to any order raising rates. Specifically, Utah Code § 54-7-12(2)(e) provides “a proposed rate increase . . . is not effective

until after completion of the hearing and the issuance of a final order by the commission”

Compare Utah Code § 54-7-12(5)(a) (“any schedule, classification, practice or rule *that does not result in a rate increase* shall take effect 30 days after filing,” (emphasis added). Moreover, the statutes and rules governing wildland fire protection plans call for a prudence review, an inherently factual determination which necessitates a hearing. Utah Code § 54-24-202(1) (“A qualified utility shall recover in rates all *prudently* incurred investments and expenditures”) (Emphasis added); UTAH ADMIN. CODE r. 746-315-3(6) (the PSC will issue an order “provided the Commission finds the cost and compliance report satisfies statutory requirements and that the reported costs were *prudently* incurred.”) (Emphasis added).

Second, a motion for additional time is contemplated by Rule 746-315-3(6) which provides for an Order on the Wildland Fire Cost and Compliance Report within 90 days of the submission of the Report “unless the Commission determines that another process or additional time is warranted and is in the public interest.” Here, as set out above, the need for a hearing and the amount of data to review warrants more time and an extension of the 90-day schedule is in the public interest. The 90-day schedule may be appropriate in cases where the Report does not result in a rate increase or the data is clear-cut enough to allow review and conduct a hearing within 90 days, this is not the case with the instant report.

Accordingly, the PSC should issue an Order granting a deviation from the scheduling deadlines contained in Rule 746-315-3 (3)-(5), vacate the comment schedule in the existing Notice of Filing and Comment Period, and order a scheduling conference. A scheduling conference where the parties can agree on a more appropriate schedule given the need for a hearing and the complexity of the case. Also, because there is insufficient time to brief this

motion within the time limits set out in UTAH ADMIN. CODE r. 746-1-301, the OCS requests that the PSC handle this Motion on an expedited basis. The Division of Public Utilities has indicated that it supports this motion.

CONCLUSION

For the reasons outlined above, the OCS request that the PSC issue an Order granting a deviation from Rule 746-315-3 (3)-(5), vacating the schedule in the Notice of Filing and Comment Period, noticing a scheduling conference, and granting expedited treatment.

Respectfully submitted, June 22, 2023

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CERTIFICATE OF SERVICE
DOCKET NO. 23-035-27

I certify that on June 22, 2023, a true and correct copy of the Utah Office of Consumer Services' Motion was filed with the Public Service Commission and served electronically via email to the following:

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/s/ *Béla Vastag*

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Utah Office of Consumer Services