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June 21, 2023

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 Administrator

RE: Docket No. 23-035-30
Application of Rocky Mountain Power for a Deferred Accounting Order

Pursuant to Utah Code Ann. § 54-4-23, Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or the “Company”), submits this application for an accounting order authorizing the Company to record a regulatory asset associated with incremental costs associated with third-party liability due to wildfires in Oregon.

Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com
Jana.saba@pacificorp.com
utahdockets@pacificorp.com
carla.scarsella@pacificorp.com
ajay.kumar@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

Joelle Steward
Senior Vice President, Regulation and Customer/Community Solutions

CERTIFICATE OF SERVICE

Docket No. 23-035-30

I hereby certify that on June 21, 2023, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services

Michele Beck mbeck@utah.gov
ocs@utah.gov

Division of Public Utilities

dpudatarequest@utah.gov

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Rocky Mountain Power

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. 23-035-30
Rocky Mountain Power for a Deferred)	
Accounting Order Regarding Wildfire)	
Claims)	APPLICATION FOR
)	DEFERRED ACCOUNTING ORDER
)	

Pursuant to Utah Code Ann. §54-4-23, Rocky Mountain Power, a division of PacifiCorp, (“Rocky Mountain Power” or the “Company”), applies to the Public Service Commission of Utah (“Commission”) for a deferred accounting order authorizing the Company to record a regulatory asset associated with the incremental costs associated with third-party liability due to wildfires in Oregon (“Deferred Amount”). Rocky Mountain Power additionally requests that the Commission delay consideration of the approval of this deferral until the costs and the impact on the financial stability of the Company are more fully known.

In support of this Application, Rocky Mountain Power states as follows:

1. Rocky Mountain Power is a public utility in the state of Utah and is subject to the jurisdiction of the Commission with regard to its rates and service. Rocky Mountain Power also provides retail electric service in the states of Idaho and Wyoming.

2. Communications regarding this Application should be addressed to:

By e-mail (preferred): datarequest@pacificorp.com
jana.saba@pacificorp.com
utahdockets@pacificorp.com
carla.scarsella@pacificorp.com
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3. At the beginning of September 2020, a historic wind event resulted in a number of wildfires spread across Oregon causing widespread and extensive damage in and around the Company's service territory. Areas affected by the fires include western Oregon counties where the Company provides service including Josephine, Jackson, Douglas, Lane, Linn, Lincoln, Klamath, and Marion Counties. As a result of these wildfires, a number of plaintiffs filed suit against the Company alleging that the Company's facilities caused the fires, and that the Company should have shut-off service to customers in an effort to prevent the spread of the wildfires.

4. As discussed above, Rocky Mountain Power requests authorization to defer the incremental costs associated with the Company's third-party claims for the wildfires that occurred in September of 2020. Based on the best available information known in its last rate case, the Company's rates were approved to reflect a reasonable level of self-insurance and commercial insurance related to third-party claims, which is a normal part of providing electric service to customers. The costs identified in this application would account for and track the third-party

claims that may exceed the Company's insurance coverage currently in rates associated with the outcomes of this litigation due to wildfires that occurred in September 2020. As such, all costs are related to claims against the Company resulting from providing service to its customers.

5. At this point, much of the litigation and the assessment of liabilities remains unresolved. The Company is filing this application to enable it to transparently account for and track the costs associated with the outcomes of this litigation. The Company is not seeking recovery of these costs from customers at this time and does not expect to determine if it will seek recovery until the appeals process has concluded. The deferred accounting application enables the Company to preserve its ability to seek recovery in the future in the event the outcome could potentially impact the financial stability of the Company, which would result in higher costs to customers.

6. In *James v. PacifiCorp*, a jury has returned a verdict finding that the Company is liable to the named plaintiffs for over \$70 million in economic and non-economic damages and over \$18 million in punitive damages.¹ Since this has been initially certified as a class-action lawsuit, additional claims are likely, and there is additional pending litigation for wildfires that occurred in this time period. The Company maintains that its actions were appropriate, consistent with prudent utility practice, and as such, plans to appeal the verdict. While the Company files this deferral, there is still significant uncertainty about the legal outcome of these cases. As a result, PacifiCorp requests that the Commission delay consideration of the approval of this deferral application until the costs and the impact on the financial stability of the Company are more fully known.

¹ Final Verdict, *James v. PacifiCorp*, No. 20-CV-33885 (Cir. Ct. Multnomah County, Jun. 12, 2023).

7. This deferral results from the Company incurring major expense as a result of a state or federal declaration of emergency, and it is necessary to respond to a material threat to the financial stability of the Company resulting from unique and unforeseen circumstances outside the Company's reasonable control. The potential magnitude of the claims may exceed normal costs anticipated by PacifiCorp and included in its retail rates, and could also far exceed the reasonable business risk associated with these claims.

8. If this application is approved, the Company will record deferred amounts by debiting Federal Energy Regulatory Commission ("FERC") Account 182.3-Other Regulatory Assets and crediting FERC Account 925-Injuries and damages. If this application is denied, the costs will remain in FERC Account 925.

9. At this time, due to the nature of the litigation it is difficult to precisely estimate the amounts that will be recorded in this deferred account. However, in a single proceeding in Oregon, a jury has issued a verdict for more than \$90 million for the named plaintiffs in the case. Additional process regarding the class action aspect of the lawsuit and the Company's appeals of the proceeding, along with additional ongoing proceedings are expected to result in a materially different amount.

10. The Company acknowledges that the Commission's approval of deferred accounting treatment for these wildfire third-party claims will not, in itself, constitute approval of ultimate recovery of those costs. Recovery of the costs would be subject to a prudence review and a final decision on rate recovery in a future regulatory filing.

WHEREFORE, Rocky Mountain Power respectfully requests an accounting order authorizing it to record a regulatory asset to FERC Account 182.3 (Other Regulatory Assets). As noted above, the Company requests that the Commission delay consideration of the approval of

this deferral until there is a more definite on the impact of these deferrals on the Company. Recovery of the deferred wildfire-related costs will only be authorized through a subsequent regulatory filing.

DATED: June 21, 2023

Respectfully submitted,

A handwritten signature in cursive script that reads "Carla Scarsella". The signature is written in black ink and is positioned above a horizontal line.

Carla Scarsella

Ajay Kumar

Attorneys for Rocky Mountain Power