



1407 W. North Temple, Suite 330
Salt Lake City, UT 84116

August 11, 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 In the Matter of the Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Wildfire Claims**
Rocky Mountain Power's Statement of Position

Pursuant to the Scheduling Order dated July 17, 2023 in the above referenced matter, Rocky Mountain Power, a division of PacifiCorp, ("Rocky Mountain Power" or the "Company"), submits its statement of position addressing the Company's proposed process for its Application.

The Company 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
carla.scarsella@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,

A handwritten signature in blue ink that reads "Joelle Steward".

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

cc: Service List Docket No. 23-035-30

Carla Scarsella
Ajay Kumar
Rocky Mountain Power
1407 W North Temple, Suite 320
Salt Lake City, UT 84116
Telephone: (503) 813-6338
Facsimile: (801) 220-3299
Email: carla.scarsella@pacificorp.com
ajay.kumar@pacificorp.com

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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

STATEMENT OF POSITION

Pursuant to the Scheduling Order dated July 17, 2023 (“Scheduling Order”), Rocky Mountain Power, a division of PacifiCorp, (“Rocky Mountain Power” or the “Company”), submits its statement of position as to the procedure the Public Service Commission of Utah (“Commission”) should follow for the Company’s application for deferred accounting order that initiated the above referenced docket and the Company’s request to continue the matter for six months. Rocky Mountain Power respectfully requests that the Commission continue the scheduling conference until February 2024 at which time a schedule be set in this proceeding. Good cause exists to grant a continuance as it will allow the costs and the impact on the financial stability of the Company as it relates to the third party wildfire claims at issue to be more fully known. No party will be harmed by such a continuance.

I. BACKGROUND

At the beginning of September 2020, a historic wind event resulted in a number of wildfires to 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.

In *James v. PacifiCorp*, in June 2023, a jury 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. In addition, there is other 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.

Following the *James* court proceeding, the Company filed applications for authorization to defer the incremental costs associated with the Company's third-party claims for the wildfires that occurred in September of 2020 in each of the six jurisdictions in which it operates. In each jurisdiction except California, the Company requested that each state commission delay consideration of the application because there is still significant uncertainty about the legal outcome of these cases.²

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

² See, *In the Matter of the Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Wildfire Claims*, Idaho Public Utilities Commission Case No. PAC-E-23-16, Application at 1, 3, and 5; *In the Matter of the Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Wildfire Claims*,

On June 30, the Commission held a scheduling conference in this proceeding, where the Company provided more context regarding its request for a delay in the schedule, which the Division of Public Utilities and Office of Consumer services opposed. The parties agreed to file statements of position as to the procedure for the Commission should follow in this proceeding and RMP's request to continue the matter for six months.

II. THERE IS GOOD CAUSE TO CONTINUE THE SCHEDULING CONFERENCE UNTIL FEBRUARY 2024

Upon the filing of an application, the Commission typically conducts a scheduling conference to set a procedural schedule. The Company recognizes that a request for continuance to set a schedule in this proceeding is not typical procedure for the Commission but there are unique circumstances supporting such a request.

As explained above, following the *James* court proceeding, in each of its jurisdictions, the Company filed an application requesting to account for and track the costs associated with the outcomes of this litigation and did not seek recovery of these costs from customers at this time. In fact, the Company does not expect to determine if it will seek recovery until the appeals process has concluded. However, at this point, much of the litigation and the assessment of liabilities related to the 2020 wildfires remains unresolved. Additional process regarding the class action aspect of the lawsuit and the Company's appeals, along with additional ongoing proceedings are expected to result in a materially different amount. Therefore, this proceeding

Oregon Public Utilities Commission Docket No. UM 2292, Application at 1, 4, and 6; *In the Matter of the Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Wildfire Claims*, Washington Utilities and Transportation Commission Docket No. UE-230495, Application at 4-5; *In the Matter of the Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Wildfire Claims*, Wyoming Public Service Commission Docket No. 20000-644-EA-23, Application at 1, 3-4, and 5. The California Public Utilities Commission has granted similar requests to establish deferral balancing accounts for third-party wildfire claims for Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Liberty Utilities. The Company's filing at the California Public Utilities Commission is Application 23-06-017.

would benefit from a reasonable delay to allow some of the appeal process to move forward that will provide better information to the Commission and the parties on the magnitude of the costs involved and financial impact to the Company.

Any delay in setting the schedule in this proceeding does not harm parties. The Company has already agreed and responded to discovery that included questions concerning the *James* court proceeding and provided documents related to that case. The delay will also allow for the efficient use of Commission, party and Company resources. Further, as noted in the Scheduling Order, parties maintain the right to file any motion, dispositive or otherwise, at any time as allowed under Commission rules.

WHEREFORE, Rocky Mountain Power respectfully requests that the Commission continue the scheduling conference until February 2024 at which time the Commission set a schedule in this proceeding to consider the approval of the Company's application. Good cause exists for the delay and no parties are harmed.

DATED: August 11, 2023

Respectfully submitted,



Carla Scarsella
Ajay Kumar

Attorneys for Rocky Mountain Power

CERTIFICATE OF SERVICE

Docket No. 23-035-30

I hereby certify that on August 11, 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

Assistant Attorney General

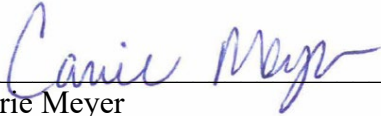
Patricia Schmid pschmid@agutah.gov
Robert Moore rmoore@agutah.gov
Patrick Grecu pgrecu@agutah.gov

Utah Association of Energy Users

Phillip J. Russell prussell@jdrslaw.com
Kevin Higgins khiggins@energystrat.com
Neal Townsend ntownsend@energystrat.com

Rocky Mountain Power

Data Request Response Center datarequest@pacificorp.com
Jana Saba jana.saba@pacificorp.com
utahdockets@pacificorp.com
Carla Scarsella carla.scarsella@pacificorp.com
Ajay Kumar ajay.kumar@pacificorp.com



Carrie Meyer
Adviser, Regulatory Operations