
Rocky Mountain Power's 2023 Wildland
Fire Protection Plan

DOCKET NO. 23-035-44

ORDER FOR ADDITIONAL TIME AND
PROCESS

ISSUED: June 27, 2024

1. Procedural History

On September 25, 2023, Rocky Mountain Power (RMP) filed its Utah Wildfire Mitigation Plan for 2023–2025 (“2023 Plan”). After holding a scheduling conference, the Public Service Commission (PSC) issued a Scheduling Order on October 5, 2023, establishing an adjudication schedule with all reply comments due on December 15, 2023.

The Utah Division of Forestry, Fire and State Lands (“Division”) submitted comments on November 9, 2023, identifying certain issues with the 2023 Plan and emphasizing that RMP had relied on outdated datasets. Shortly after, on November 17, 2023, RMP filed a Motion to Vacate Schedule and Request for Expedited Treatment, requesting the PSC vacate the schedule to allow RMP an opportunity to work with the Division to revise the Plan and address its concerns. The PSC granted RMP’s motion on November 21, 2023, and RMP filed its Revised 2023 Utah Wildland Fire Protection Plan on February 28, 2024 (“Revised Plan”).

After holding another scheduling conference, the PSC issued a Second Scheduling Order on March 20, 2024, establishing deadlines for the Division and others to submit comments on the Revised Plan.

The Division filed comments on April 15, 2024. The Division of Public Utilities (DPU) and Office of Consumer Services (OCS) each filed comments on May 10, 2024. RMP filed reply comments on May 24, 2024.

2. Stakeholder Comments on the Revised Plan

The Division's comments, filed April 15, 2024, indicate the Revised Plan addresses its major concerns and represent the Division has no additional input concerning the Revised Plan.

DPU's comments express concern that the Revised Plan substantially increases "System Hardening" costs (i.e. line rebuilds), and DPU questions whether these would be efficient investments because the historic primary risk drivers of wildfires are object contacts and equipment failures. DPU asserts vegetation management and equipment inspection and correction are mitigation measures more directly aimed at mitigating these primary risk drivers, yet, DPU argues, the Revised Plan proposes relatively minor increases in these risk mitigation measures. DPU suggests the increased System Hardening costs stem from changes RMP made in its modeling to identify areas for inclusion in its Fire High Consequence Area (FHCA), noting the FHCA has become significantly larger. DPU is concerned "expansiveness of the new FHCA areas ... does not balance the costs of implementation versus the risk of a potential

wildland fire” and asserts “[t]he projected costs should not outweigh the potential benefits.”¹

DPU recommends the PSC consider retaining an independent contractor “to evaluate the scope of RMP’s Wildland Fire program to appropriately balance the costs of implementing the plan with the risk of potential wildland fire to achieve optimal program benefits while protecting Utah ratepayers.”²

OCS expresses similar concerns, noting RMP’s dramatic increase in capital costs that appear to stem from the expanded FHCA. OCS argues the Revised Plan appears to implement a “broad ‘shotgun’ approach” and the plan should “target funding more efficiently in reducing risk.”³ OCS acknowledges the importance of investing in wildfire risk mitigation, but it urges “that if spending is not optimized to achieve the most cost-effective fire risk reduction, wildfire mitigation efforts can lead to almost unlimited levels of spending, which cannot be supportable in this current environment” where multiple issues are already placing significant upward pressure on rates.⁴ OCS concludes “more analysis is needed to justify the expenditure of these funds.”⁵

The DPU and OCS both suggest the PSC provide a qualified acknowledgment of the Revised Plan. OCS recommends the PSC approve the Revised Plan “contingent on”

¹ DPU Comments at 6.

² *Id.* at 1.

³ OCS Comments at 4.

⁴ *Id.* at 4-5.

⁵ *Id.* at 4.

RMP providing certain analysis to demonstrate it is “optimizing risk spend efficiency” and updating the Revised Plan “to include more cohesive information on ... how [the Revised Plan]” balances costs and risks.⁶ DPU recommends acknowledging the Revised Plan “as complying with Utah Code § 54-24-201” notwithstanding its recommendation the PSC hire an independent contractor to evaluate whether RMP is appropriately balancing costs and risks.⁷

In reply, RMP asserts the Wildland Fire Planning Cost and Recovery Act (“Act”)⁸ “does not require that a utility’s [plan] itself affirmatively prove an appropriate balancing of the costs of implementation with potential wildland fire risk ... [r]ather the Act requires that the [PSC] render such a finding in approving a plan submitted under the Act.”⁹ Nevertheless, RMP argues, the Revised Plan “provides sufficient information for the [PSC] to find the costs of the Plan are justified in light of the present risk.”¹⁰ RMP disputes certain other contentions of the DPU and OCS. For example, RMP asserts its “line rebuild program primarily addresses two key ignition risks — equipment risk and contact-by-object risk — through the targeted replacement of equipment with upgraded equipment that [is] more resilient to contact by object.”¹¹

⁶ *Id.* at 8.

⁷ DPU Comments at 1.

⁸ Utah Code Ann. § 54-24-101, *et seq.*

⁹ RMP Reply Comments at 6.

¹⁰ *Id.*

¹¹ *Id.* at 2.

RMP concedes “[u]pdating the FHCA drove a substantial portion of the cost variances noted by the DPU and OCS[,]” but RMP stresses that focusing its mitigation efforts on the FHCA allows it to address “wildfire concerns in an efficient and cost-effective manner.”¹² RMP contends performing mitigation measures in the FHCA is, in fact, “a surgical approach.”¹³

Finally, RMP states it “is not opposed to the idea of the [PSC] using an independent evaluator for the [Revised] Plan[,]” noting the California Public Utilities Commission and Oregon Public Utility Commission use independent evaluators to review wildfire mitigation plans in those states.¹⁴

3. Discussion, Findings, and Conclusions

a. Legal Standard and Process

Pursuant to the Act, enacted in 2020, RMP must submit a wildland fire protection plan “on or before October 1 of every third year after calendar year 2020.” Utah Code § 54-24-201(3). The Act requires the PSC to approve a wildfire protection plan “if the plan: (i) is reasonable and in the public interest; and (ii) appropriately balances the costs of implementing the plan with the risk of a potential wildland fire.” *Id.* § 54-24-201(3)(c). Significantly, the Act also requires the PSC to “authorize the deferral and collection” of all capital investments and expenses RMP incurs to

¹² *Id.* at 2, 4.

¹³ *Id.* at 4.

¹⁴ *Id.* at 5.

implement an approved plan provided these costs are not already included in base rates. *Id.* at § 54-24-202(3). That is, if the PSC approves the Revised Plan, then RMP will be entitled to defer and later collect all costs it accrues to implement the approved plan.

The Utah Administrative Code provides certain presumptive deadlines for adjudicating the PSC's approval of a wildland fire protection plan and contemplates the PSC will issue an order within 120 days after a utility files its plan "unless the [PSC] determines that another process or additional time is warranted and is in the public interest." Utah Admin. Code R746-315-2.

b. The PSC Cannot Find, at this Time, the Revised Plan Appropriately Balances Costs and Risks or that it is Reasonable and in the Public Interest.

The Revised Plan proposes dramatic increases in both capital investment and O&M expenses over those the PSC approved in 2020 under RMP's 2020 Utah Wildland Fire Protection Plan ("2020 Plan").¹⁵ For example, for the years 2023 through 2025, the Revised Plan proposes more than quadruple the amount approved in the 2020 Plan for capital investment and more than five times the amount the 2020 Plan proposed for O&M over the same period.

The parties generally agree the cost increases largely stem from RMP's significant expansion of the FHCA. The issue before the PSC is whether the record

¹⁵ See *RMP's Utah Wildland Fire Protection Plan*, Docket No. 20-035-28, Order Approving Wildland Fire Protection Plan issued Oct. 13, 2020.

supports our finding the Revised Plan appropriately balances costs and risks and is otherwise reasonable and in the public interest.

As RMP notes, in approving RMP's 2020 Plan, the PSC reasoned "[t]he Act does not require the Plan itself to expressly discuss and demonstrate that costs and risks are appropriately balanced" so long as "the PSC [can] make such a finding, based on its review"¹⁶ There, the OCS expressed concern that RMP did not include an analysis of risks and costs, but the DPU affirmatively represented it "did not identify [any] problems with the [2020] Plan's costs."¹⁷ Emphasizing the 2020 Plan was "the first wildland fire protection plan RMP has created pursuant to the statute," the PSC relied on the DPU's comments in conjunction with the Division's "representation that the [2020] Plan will result in fewer wildfire ignitions and smaller, less expensive wildfires" to support its finding the 2020 Plan appropriately balanced risks and costs.¹⁸ The PSC added it "expect[ed] RMP will learn much from its implementation and will utilize its experience in designing plans for subsequent plan years, including any reasonable opportunities to make the plans more cost effective."¹⁹

We are now presented with a plan that proposes costs tremendously greater than those contemplated in the 2020 Plan, and no party, save for RMP, represents it appropriately balances risks and costs. RMP has provided no analysis to demonstrate

¹⁶ *RMP's Utah Wildland Fire Protection Plan*, Docket No. 20-035-28, Order issued Oct. 13, 2020 at 4-5.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 4-5.

¹⁹ *Id.* at 5.

any assessment of cost relative to risk. The DPU and OCS are expressly concerned the plan “does not balance the costs of implementation” with the risk of potential wildland fires and that “projected costs” might “outweigh the potential benefits.”²⁰

In sum, the only party contending the Revised Plan appropriately balances costs and risks is RMP, and it offers only conclusory statements without any analysis to support its representation. On the record before us, the PSC simply cannot find the Revised Plan appropriately balances the costs of implementing the plan with the risk of potential wildland fires.

Moreover, the PSC is mindful that several factors are likely to place substantial upward pressure on rates soon with the most immediate being RMP’s recent request to increase rates to recover its historically unprecedented increase in net power costs (through its energy balancing account). Given this and other dockets likely to result in significant rate increases, we cannot find it is reasonable and in the public interest to approve RMP spend hundreds of millions more than previously forecast on wildland fire mitigation absent any analysis indicating that the expenditures will be an efficient use of ratepayer money relative to the wildfire risks those expenditures are intended to mitigate.

For the foregoing reasons, the PSC declines to approve the Revised Plan at this time.

²⁰ DPU Comments at 6. *See also* OCS Comments at 7-8.

c. The PSC Finds Additional Time and Process are Warranted and in the Public Interest.

As we have previously stated, the PSC recognizes “the essential public interest in curtailing wildland fires” and that “RMP’s prudent investments ... that reduce the risk of wildland fires are imperative.”²¹ While the record before us cannot support a finding the Revised Plan appropriately balances costs and risks, it similarly could not support a finding the plan fails to do so. The PSC simply requires more information.

Accordingly, pursuant to R746-315-2, the PSC finds additional time and process are warranted and in the public interest.

The PSC is presently seeking to retain an independent evaluator to offer an opinion on the Revised Plan, including whether it appropriately balances costs and risks. As of the date of this Order, the PSC does not yet know precisely how long the independent evaluator will require to evaluate the Revised Plan and provide a written report. When the PSC determines a date by which the independent evaluator’s report will be due, it will issue a Notice of Independent Evaluator’s Deadline.

Upon receiving the independent evaluator’s report, the PSC will issue a Notice of Filing and Comment Period, post the document to this docket on the PSC’s website, and solicit comments from the parties and any other interested person.

²¹ *RMP’s 2023 Wildland Fire Cost and Compliance Report*, Docket No. 23-035-27, Order issued Nov. 9, 2023 at 6.

Should RMP, DPU, or OCS believe a different process is necessary or appropriate, the PSC will set a scheduling conference to discuss the matter upon the request of any party.

In the interim, the PSC emphasizes that RMP must continue to make reasonable and responsible efforts to mitigate wildfire risk consistent with its 2020 Plan and its duties under all applicable law.

DATED at Salt Lake City, Utah, June 27, 2024.

/s/ Michael J. Hammer
Presiding Officer

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#334440

CERTIFICATE OF SERVICE

I CERTIFY that on June 27, 2024, a true and correct copy of the foregoing was served upon the following as indicated below:

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