

**Redacted**

## Comments

**To:** Public Service Commission of Utah

**From:** Utah Division of Public Utilities

Chris Parker, Director  
Brenda Salter, Assistant Director  
Doug Wheelwright, Utility Technical Consultant Supervisor  
Jeremy Hirschi, Utility Technical Consultant  
Savannah Torman, Utility Analyst

**Date:** January 16, 2026

**Re:** **Docket No. 25-035-61**, Request of Rocky Mountain Power for Approval of a Utah Fire Fund.

## Recommendation

The Division of Public Utilities (Division) recommends that the Public Service Commission of Utah (Commission or PSC) consider Rocky Mountain Power's (RMP or Company) proposed implementation of the Utah Fire Fund<sup>1</sup> (UFF) within the broader context of RMP's Excess Liability Insurance (ELI) and general effectiveness of Wildland Fire Protection Plan or Wildfire Mitigation Plan (WMP) implementation. The UFF, ELI, and WMP are all integral pieces that must be examined to analyze how the UFF should work in the public interest. In addition, the Commission should consider including the UFF rate-setting process in a general rate case (GRC) to provide transparency and accountability. The current proceeding can be a useful exercise in structuring the collective programs even if a rate change and surcharge cannot be made outside of a GRC. Indeed, giving this matter regulatory attention outside a GRC will better allow comprehensive consideration of the UFF, insurance programs, and the WMP.

---

<sup>1</sup> Utah Code Ann. § 54-24-301(1)(e).



**Redacted**

## **Issue**

Pursuant to Utah Code section 54-24-301(2), on November 26, 2025, RMP file its Notice of Creation of Utah Fire Fund and Request for Commission Approval (Notice). On the same day, the Commission issued an Action Request to the Division to review the Notice and make recommendations. On December 4, 2025, the Commission held a scheduling conference in which parties stipulated to a schedule, memorialized in the December 17, 2025, Request for Comments and Scheduling Order and Notice of Hearing (Request and Scheduling Order), setting, among other things, April 28 and 29, 2026 as the hearing dates. In addition, the intervening parties' deadline to submit testimony is set for February 11, 2026.

The Request and Scheduling Order also invites any interested parties to submit comments by Friday, January 16, 2026, to address the following questions:

- (1) whether the PSC can approve the [UFF] in the absence of information regarding the additional costs RMP will incur related to wildland fire liability risk and how those costs are to be allocated;
- (2) what additional kinds or categories of information, if any, are necessary to allow the PSC to make the statutorily required findings to approve the proposed [UFF]; and
- (3) given the answers to the foregoing, whether the schedule and process established in this order will be sufficient for the PSC to reasonably and responsibly evaluate whether the statutory criteria are met and, if not, what changes to the process are necessary.<sup>2</sup>

## **Discussion**

Under section 54-24-301(4), the Company must demonstrate to the Commission's satisfaction that the proposed UFF: "(i) is in the public interest; (ii) supports the financial health of [RMP]; and (iii) maintains or improves [RMP's] ability to deliver safe and reliable services."<sup>3</sup> Furthermore, section 54-24-301(2)(b)(ii) clarifies that the creation of this fund does not "prohibit [RMP] from proposing, or the commission from approving, other

---

<sup>2</sup> Request for Comments and Scheduling Order and Notice of Hearing at 5 ("Request and Scheduling Order").

<sup>3</sup> Utah Code Ann. § 54-24-301(4).

**Redacted**

mechanisms for third party liability coverage,” such as commercial insurance, provided they are in the public interest.<sup>4</sup>

The Division recognizes that the UFF and ELI are not independent variables; rather, they are inextricably linked components of a broader wildfire risk management strategy. Because the UFF is statutorily designed to pay only those eligible claims that exceed RMP’s applicable insurance or self-insurance coverage,<sup>5</sup> the Commission cannot meaningfully evaluate the UFF’s impact on RMP’s financial health or whether the UFF is in the public interest in a vacuum. Separating the analysis and approval of the UFF from the costs and allocation of ELI coverage risks an incomplete record and may not serve the public interest. The Division’s responses to the Commission’s specific inquiries are below.

**Question 1 – Can the PSC approve the UFF in the absence of information regarding the additional costs RMP will incur related to wildland fire liability risk and how those costs are to be allocated?**

**Division Response:** Perhaps the Commission can do so legally, although meeting section 54-24-301’s requirement that the Commission find that the program is in the public interest may be difficult in isolation. The Division first recommends that the Commission determine whether it can grant the Company’s request to impose the UFF surcharge because section 54-24-301(3) seems to require a “rate case” for the imposition of the contemplated charge.<sup>6</sup> Whether this filing is a rate case within the statute’s meaning is not obvious.

By including the phrase “in a rate case,”<sup>7</sup> the legislature could have purposefully removed the Commission’s ability to approve this as a stand-alone docket instead of in a GRC. In a

---

<sup>4</sup> Utah Code Ann. § 54-24-301(2)(b)(ii).

<sup>5</sup> Utah Code Ann. § 54-24-301(1)(a)(i).

<sup>6</sup> Utah Code Ann. § 54-24-301(3)(a):

A Utah fire fund shall consist of:

- (a) a reasonable and prudent fire surcharge that a large-scale electric utility may charge to the large-scale electric utility customers, as approved by the commission in a rate case, to be collected over a 10-year period from the date of the commission's approval of the Utah fire fund;

<sup>7</sup> *Id.*

**Redacted**

GRC, the analysis includes a holistic look at the utility's entire financial picture (revenues, expenses, and rate of return) to set rates that are just and reasonable.<sup>8</sup>

However, because the statute provides a checklist for approval<sup>9</sup> and a specific mathematical cap,<sup>10</sup> it could possibly be interpreted to imply that a streamlined adjudicative process could be appropriate. If the analysis of the UFF were folded into a GRC, it might be possible to argue that the UFF would be buried under myriad of unrelated issues (like depreciation of plants or executive compensation).

Nevertheless, the public interest is better served by the Commission evaluating the UFF within the broader context of RMP's total costs of its wildfire liability risk, including ELI. The statutory framework anticipates this relationship; the UFF is designed to "supplement" other insurance coverage. The appropriate size of the UFF is affected by the Company's program of insurance that exists to pay claims ahead of the UFF. Therefore, while it might be legally permissible for the Commission to create the UFF without accounting for impending changes to RMP's liability insurance and WMP, the Commission likely cannot fully determine if the UFF is in the public interest or if it supports the financial health of RMP without understanding what primary insurance coverage the UFF would be supplementing.

Historically, RMP has maintained specific levels of ELI for wildfire liability. If the Company maintains high ELI levels alongside the new UFF without a coordinated review, ratepayers risk overpaying for redundant risk-mitigation structures. Conversely, if RMP were to significantly reduce ELI coverage—for example, to a nominal amount—the UFF alone might

---

<sup>8</sup> See Utah Code Ann. § 54-4-4.1.

<sup>9</sup> Utah Code Ann. § 54-24-301(4)(a):

(4) The commission shall approve a large-scale electric utility's request to create a Utah fire fund for a large-scale electric utility if the large-scale electric utility demonstrates to the commission's satisfaction:

(a) that the fund:

- (i) is in the public interest;
- (ii) supports the financial health of the large-scale electric utility; and
- (iii) maintains or improves the large-scale electric utility's ability to deliver safe and reliable services;

<sup>10</sup> Utah Code Ann § 54-24-301(4)(b):

- (b) that the fire surcharge does not result in an increase over current rates:
- (i) for all customers, more than 4.95%; and
  - (ii) for an average residential customer more than \$3.70 a month.

**Redacted**

be insufficient to support the financial health of RMP as required by section 54-24-301(4)(a)(ii). Additionally, the relative cost of ELI is important. If the cost per dollar of ELI coverage becomes especially high, coverage levels may need to drop, leaving the UFF more likely to be used.

Moreover, the types of costs covered by each mechanism may differ. While the UFF is subject to statutory exclusions (such as costs resulting from gross negligence or criminal intent), commercial ELI may provide broader coverage. As Company witness Marshall Nadel testified, the UFF "supplements a utility's insurance coverage in the event a catastrophic fire event exhausts the funds available from insurance to pay fire-related claims."<sup>11</sup> Without knowing the threshold at which insurance is exhausted, the PSC cannot assess the reasonableness of the UFF's size or the resulting surcharge.

Among other things, separating these related costs into different proceedings creates a risk of "rate shock." If ELI costs and a UFF surcharge are approved in isolation, the cumulative impact on the average residential bill may not be fully understood until both are already implemented, potentially undermining the PSC's ability to ensure that the total cost of service remains just and reasonable.

Furthermore, the Company does not provide information about the effectiveness of its WMP in this filing. This information would be useful in helping the Commission determine if the UFF cost is appropriately balanced versus the risk that is covered by ELI and mitigated by the WMP.

**Question 2 – What additional kinds or categories of information, if any, are necessary to allow the PSC to make the statutorily required findings to approve the proposed UFF?**

**Division Response:** To satisfy the requirements of section 54-24-301, the Division believes the following categories of information are essential and currently missing from the record:

---

<sup>11</sup> Direct Test. of Marshall Nadel (Nov. 26, 2025) at 3:55-58.

Redacted

- **Finalized ELI Costs and Terms:** As Company witness Joelle Steward testified, RMP is [REDACTED] [REDACTED]<sup>12</sup> Ms. Steward [REDACTED] [REDACTED] Without knowing the [REDACTED] [REDACTED] of this ELI, the Commission cannot determine if the UFF is in the public interest or if the total financial burden on ratepayers is reasonable and prudently incurred. Of course, [REDACTED] [REDACTED] may suggest the UFF should be maximized, while ELI coverage be minimized to a prudent level.
- **Aon Study Supporting Data:** While the actuarial study<sup>14</sup> and detailed analysis provided by RMP is a useful starting point for risk analysis, the Division has noted that supporting data is currently unavailable. RMP has indicated it will supplement its response once it receives this documentation from Aon. This data is critical for the PSC to verify the underlying risk assumptions that justify the UFF's creation.
- **The Master Trust Agreement:** RMP witness Nikki L. Kobliha describes what the Master Trust Agreement will do to meet the UFF requirements,<sup>15</sup> but the Company has not provided a copy of the agreement. The specific terms of this agreement are vital for the Commission to understand how the UFF will be governed, how assets will be protected, and how eligible claims will be administered in practice.
- **WMP Impact Analysis:** The Commission should require the Company to provide more granular performance data about the effectiveness of its WMP in mitigating wildfire risk and information concerning insurance costs that could potentially be reduced through the Company's WMP efforts. While the Division does not believe a third-party WMP expert is strictly necessary to approve the UFF, the Commission must have enough data to ensure the UFF supports a utility that is proactively mitigating the risks it seeks to insure. Without considering the WMP's effectiveness,

---

<sup>12</sup> Direct Test. of Joelle R. Steward (Nov. 26, 2025) at 10:216-18.

<sup>13</sup> *Id.* at 11:227-29.

<sup>14</sup> Application at 5.

<sup>15</sup> Direct Test. of Nikki L. Kobliha (Nov. 26, 2025) at 3:59-67.

**Redacted**

the Company could place more risk on the UFF, while minimizing the efforts to mitigate actual wildfire risk.

The Division further cautions that if the Commission chooses to approve the UFF without these ELI details, it should explicitly state that such approval does not constitute precedential treatment or tacit approval of RMP's ELI structure, procurement strategy, or costs, which must be fully vetted in separate or subsequent proceedings. Additionally, if the cost of commercial ELI is too great, a move to self-insurance could be prudent. If such a course is undertaken, legislative changes may be necessary to evaluate whether UFF proceeds could be used to avoid the rate shock of having ratepayers pay the costs of commercial ELI, new self-insurance, and the UFF charge simultaneously.

**Question 3 – Given the answers to the foregoing, whether the schedule and process established in this order will be sufficient for the PSC to reasonably and responsibly evaluate whether the statutory criteria are met and, if not, what changes to the process are necessary?**

**Division Response:** The sufficiency of the current schedule depends entirely on the scope of the proceeding. If the Commission decides that it must evaluate the Company's UFF request and ELI costs together to satisfy the statutory requirements, the current schedule is likely insufficient. If the Commission expands the scope of the proceeding to evaluate the Company's additional costs it will incur related to wildland fire liability risk, the Division provides the following recommendations:

- **Extension for Expert Testimony:** Anticipating that the related information about [REDACTED] the Division believes an additional **60 to 90 days** for direct testimony of intervening parties would be necessary to allow parties to retain and consult with insurance experts. These experts are essential to determining the appropriate levels of ELI and costs of coverage that the UFF is intended to supplement so that the UFF supports RMP's financial health without unnecessarily burdening ratepayers.

**Redacted**

- **Procedural Fairness:** The Division notes a significant disparity between the amount of time the Company had to gather information and make a UFF filing and the time the current schedule provides parties to review RMP's UFF request. Senate Bill 224, which authorized RMP to create a UFF, became effective on May 1, 2024. RMP did not file its Request for a UFF until November 26, 2025—a period of **574 days**. Furthermore, a primary piece of evidence—the Aon Actuarial Study—was published as early as April 2, 2024.

While RMP had over 19 months to prepare its application, the current schedule provides intervenors less than 6 months to conduct discovery, retain consultants, perform analysis, and file direct and rebuttal direct testimony. Compressing the schedule to this degree, especially when critical information regarding the [REDACTED] [REDACTED] and master trust agreement are still pending, may result in an insufficient record.

The Division recognizes that it's likely within the Commission's authority to reject the application altogether as an incomplete filing, due to the critical missing information. In addition, the Commission has the option of pushing the proceeding into a GRC. However, the Commission has expressed a desire to avoid "needless delay" while also avoiding an "insufficient record."<sup>16</sup> To balance these interests, the Division recommends that, if the Commission includes ELI costs within the scope of this docket, the schedule should be amended to account for the [REDACTED] [REDACTED] and the need for expert analysis. Conversely, if the Commission chooses to maintain the current schedule, it must explicitly defer the determination of ELI appropriateness to a future proceeding to ensure the public interest is protected. In any event, the schedule in this matter can be productively used to address the structure of the UFF and other issues. Leaving all matters for consideration in a future GRC could unnecessarily compress the available time for review.

---

<sup>16</sup> Request and Scheduling Order at 6.

**Redacted**

## **Conclusion**

The Division recognizes the public policy goals of Utah Code section 54-24-301 and the importance of establishing a UFF. However, the Commission cannot reasonably determine if the UFF is in the public interest or supports RMP's financial health without understanding the primary insurance layers the UFF is intended to supplement.

To ensure a complete and reliable record, the Division recommends that the Commission amend the current schedule to extend the filing date for Intervenor Direct Testimony and change other dates commensurately. These extensions are necessary to allow parties to [REDACTED], review the master trust agreement, and to retain the necessary experts to evaluate the complex interaction between commercial ELI and the UFF. Such an adjustment will help avoid the risks of a piecemeal adjudication and help ensure that the final implementation of the UFF is based on transparent and comprehensive financial information. Whether the Commission can approve a UFF surcharge outside of a GRC remains an open question. Nevertheless, the Division considers much of the detail of this docket important enough to proceed even if the surcharge's imposition must wait for a future GRC.

cc: Jana Saba, Rocky Mountain Power  
Max Backlund, Rocky Mountain Power  
Michele Beck, Office of Consumer Service