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January 16, 2026

VIA ELECTRONIC FILING

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Administrator

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

Per the December 17, 2025, Request for Comments and Scheduling Order and Notice of Hearing issued by the Public Service Commission of Utah (“Commission”) in Docket No. 25-035-61, Rocky Mountain Power hereby submits its comments regarding the scope and schedule for this docket. The confidential version of the comments has been uploaded to the Commission’s SFTP website. Confidential information is provided subject to Public Service Commission of Utah Rules R746-1-601–606.

Please direct informal questions to Max Backlund, Utah Regulatory Affairs Manager, at max.backlund@pacificorp.com.

Sincerely,

Jana Saba
Director, Regulation and Regulatory Operations

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**Request of Rocky Mountain Power for
Approval of a Utah Fire Fund**

Docket No. 25-035-61

**ROCKY MOUNTAIN POWER'S
RESPONSE TO THE COMMISSION'S
REQUEST FOR COMMENTS ON
SCOPE AND SCHEDULE**

I. INTRODUCTION

PacifiCorp d/b/a Rocky Mountain Power (the “Company”) hereby submits its Response to the Public Service Commission of Utah’s (“Commission”) “Request for Comments Regarding Scope and Schedule” issued on December 17, 2025 (the “Request for Comments”).¹

The Company shares the twin objectives for establishing the Utah Fire Fund (“Fire Fund”) stated in the Commission’s Request for Comments. As the Commission noted, it is important to “avoid any needless delay in its consideration” of the Company’s request to effectuate the “public policy underlying”² the establishment of the Fire Fund. At the same time, the Commission recognizes that this is the first request to implement the legislative policy underlying the Fire Fund, and it is important to proceed based on shared “understandings of the scope of evidence necessary

¹ Docket No. 25-035-61, Request for Comments and Scheduling Order and Notice of Hearing, at 5 (Dec. 17, 2025).

² Request for Comments at 6.

for the PSC to make the findings the law requires to approve the Request.”³ The Company appreciates the Commission’s interest to ensure both of these objectives are met in this proceeding to create the Fire Fund authorized by the Utah Legislature in S.B. 224.⁴ (“S.B. 224” or, the “Fire Fund Statute”).

As Rocky Mountain Power details in Section II of this Response, when the Company filed its request to implement the Fire Fund, it intended to provide testimony that thoroughly explained its plans for the establishment and administration of the Fire Fund, and to present the information necessary to enable the Commission to make the statutory findings called for in the Fire Fund Statute. The Company believes the evidence will support findings that the proposed Fire Fund is in the public interest and meets all of the specific criteria delineated in S.B. 224. If the Commission finds additional information is needed for it to meet its duties under the Fire Fund Statute, the Company is prepared to develop that information in the context of this proceeding.

As discussed in Section III, which specifically addresses the three questions in the Request for Comments, the Company urges the Commission allow this proceeding to move forward based on the Stipulated Schedule agreed to by the parties. Rocky Mountain Power believes that any uncertainties identified in the Request for Comments can be resolved through the discovery process and the submission of testimony contemplated in the Stipulated Schedule.

³ *Id.*

⁴ SB 224, Energy Independence Amendments, 2024 General Session (2024). The Fire Fund provisions were codified at Utah Code, Title 54, Chapter 24, Part 3 (§§54-24-301 – 303).

II. THE COMPANY'S NOTICE AND TESTIMONY PROVIDE INFORMATION NECESSARY TO SATISFY THE STATUTORY CRITERIA FOR CREATION OF THE FIRE FUND

The Request for Comments notes that the “necessary findings” the Legislature calls on the Commission to make to approve creation of a Fire Fund are “both specific ... and rather broad.”⁵ The Company provided testimony that endeavors to address both those categories of information. The Fire Fund statute directs that the Commission “shall approve a ... utility’s request to create a Utah fire fund ... if the utility demonstrates to the [C]ommission’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;

- (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.⁶

In addition, Utah Code §54-24-302(1) sets forth specific requirements for how the Company will collect, invest, report on, and maintain records of “the assets, liabilities, equity, income, and expenditures” of the Fire Fund.⁷

The Company provided detailed testimony demonstrating that its proposed Fire Fund meets the more “specific” statutory criteria regarding the upper limit of the fire surcharge and the administration of the Fire Fund. This testimony includes:

- The direct testimony of Kenneth Lee Elder, Jr., Director of Pricing and Tariff Policy for PacifiCorp. Mr. Elder’s testimony presents the Company’s proposed “Schedule 96, Fire Fund Adjustment, to collect the Utah Fire Fund ... and the corresponding rate spread and rate design for this schedule.”⁸ Mr. Elder’s testimony, and supporting Exhibit RMP__ (KLE-1), provide data demonstrating that the fire fund

⁵ Request for Comments, at 2.

⁶ Utah Code §54-24-301(4)(a) – (b).

⁷ *Id.*, Utah Code §54-24-302(1)(a) – (f).

⁸ Direct Testimony of Kenneth Lee Elder, Jr., at 1-2.

surcharge collected via Schedule 96 would result in an increase in customer rates “below the maximum impacts allowed by”⁹ the Fire Fund Statute.

- The direct testimony of Nikki Kobliha, Senior Vice President and Chief Financial Officer of PacifiCorp, confirms that the Company has or will make the necessary financial and record-keeping arrangements to ensure that “the Fire Fund proposed by the Company would be administered in a manner consistent with the standards set forth in Utah Code §54-24-302.”¹⁰

Other Company witnesses address the “broader” criteria included in the Fire Fund Statute. These include testimony that, as described in the Request for Comments, provides information regarding “additional costs RMP expects to incur related to wildfire liability.”¹¹ Rocky Mountain Power witness Kevin Benson, Managing Director of Asset Risk and Performance for PacifiCorp, documents the facts supporting the conclusion that “Utah faces significant and growing exposure to large, potentially catastrophic wildfires,”¹² and that “the risk of large wildfires in Utah will continue to increase.”¹³ It is not possible to predict exactly what amounts of liability the Company may be subject to related to future wildland fires in Utah. That would require an understanding of the extent of particular fire events, the types of damages for which the Company was alleged to be liable, and numerous other speculative factors. Mr. Benson’s testimony shows, however, that the risk of wildland fire and associated liabilities continues to increase, thus bolstering the Legislature’s finding that establishing a Fire Fund is wise policy for Utah.

In addition, the Company offered testimony regarding its plans for the acquisition and allocation of excess liability insurance (“ELI”) policies covering Utah risks. The direct testimony of Joelle Steward, Senior Vice President, Regulation for Rocky Mountain Power, reports that the

⁹ *Id.*, at 3.

¹⁰ Direct Testimony of Nikki Kobliha, at 1.

¹¹ Request for Comments, at 4.

¹² Direct Testimony of Kevin Benson, at 2.

¹³ *Id.*

Company is “currently working with insurance brokers to seek commercial ELI policies”¹⁴ that would become effective when current policies expire on February 15, 2026. The Company identified portions of Ms. Steward’s testimony as confidential because it discusses ongoing efforts to negotiate ELI policies with commercial insurance companies. Those negotiations, and the execution of successor policies, will be concluded by February 15, 2026. As Ms. Steward testifies,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Once the Company finalizes its ELI

policies covering Utah risks, it will make a filing with the Commission identifying the coverage levels and costs of the new ELI policies. Those facts will be available to the parties once the new ELI policies are finalized, well before the dates agreed to in the Stipulated Schedule for rebuttal and surrebuttal testimony, and the hearing on the Fire Fund proposal.

Rocky Mountain Power notes, however, that Commission approval to initiate the Utah Fire Fund does not require certainty of the underlying insurance coverage. While current insurance coverage and costs may be informative, commercial premiums and coverage amounts will vary year-to-year based on commercial insurance market dynamics. The Utah Fire Fund is intended to supplement other insurance for wildfire coverage to provide a liquidity fund in the event of a catastrophic wildfire event in Utah. While the Commission will have the on-going ability to

¹⁴ Direct Testimony of Joelle Steward, at 10.

¹⁵ *Id.*

¹⁶ *Id.*

evaluate the prudence of the Company's underlying wildfire coverage and costs, that should not delay approval of the ability to initiate the Fire Fund.

The Company's request to approve the Fire Fund recognizes the importance of Commission review of the Fire Fund after it is established, in part to consider "updates on market dynamics or wildland fire risks, and the level of the fire surcharge."¹⁷ To ensure that the Commission and all interested parties have a formal opportunity to engage in such a review, the Company's proposal "recommends that after five years the Commission conduct a review of the Fire Fund," which would "enable the Fund to carry out its objectives as authorized by the Commission's orders in this proceeding for a meaningful period of time, while creating a forum for a scheduled review of the Fire Fund."¹⁸

Rocky Mountain Power also filed testimony directly addressing the other "relatively broad questions regarding whether the Fire Fund will 'support the financial health' of RMP and 'maintain or improve' RMP's ability to deliver safe and reliable service to Utahns,"¹⁹ as well as the required public interest finding. Ms. Steward's testimony provides information from several sources regarding the fact that "wildfire risk has had a material impact on utility credit ratings,"²⁰ and that actions in other states to reduce wildfire liability risk that are similar to SB 224 have had positive impacts on utility financial health.²¹ Ms. Steward's testimony addresses the impact that the improved liquidity and positive credit impacts of the creation of the Fire Fund are "directly related to maintaining and improving the Company's ability to provide safe and reliable service."²² Finally, the Company's testimony supports a finding that the proposed Fire Fund is in the public

¹⁷ *Id.* at 18.

¹⁸ *Id.*

¹⁹ Request for Comments, at 5.

²⁰ Steward Direct, at 14.

²¹ Steward Direct, at 17.

²² *Id.*

interest, noting that the Company’s proposal meets all SB 224 criteria, and that “the concept of a catastrophic fire fund and associated liability limits has been endorsed in Utah law.”²³

The Company’s direct case also provides testimony and analysis from Marshall Nadel, a former insurance and actuarial executive, detailing why the Company’s proposal for the size of the Fire Fund is “consistent with measures of risk used to provide insurance coverage for the electric industry.”²⁴ Mr. Nadel’s testimony also informs the public interest determination, by addressing the need for a Fire Fund and associated surcharge, and the size of the Fire Fund proposed by Rocky Mountain Power.

Overall, Rocky Mountain Power submits that it provided, through the testimony and exhibits offered by its five witnesses, sufficient information to establish why its Fire Fund proposal is consistent with Utah law and merits approval by the Commission. The Company respectfully disagrees with the notion that its direct case is “largely devoid of information” regarding issues relevant to the Commission’s consideration of its request to create a Fire Fund.

III. RESPONSES TO QUESTIONS POSED BY THE COMMISSION

Rocky Mountain Power responds to the three questions posed by the Commission in the Request for Comments as follows:

(1) Whether the PSC can approve the Fire Fund 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.

First, as discussed above, Rocky Mountain Power has provided available information on its plans for obtaining ELI policies covering Utah wildland fire liability risks when its existing

²³ *Id.* at 13.

²⁴ Direct Testimony of Marshall Nadel, at 3.

policies expire on February 15, 2026. In addition, the Company is committed to updating its ELI policy information once it executes the successor policies, in approximately one month. If the parties contend that the information submitted is insufficient to support Commission approval of the proposed Fire Fund, the existing contested case schedule provides the opportunity for discovery, and for the filing of intervenor testimony in which parties can make those arguments.

Rocky Mountain Power believes the Commission “can approve the Fire Fund” even if the Company does not delineate additional costs it will incur “related to wildland fire liability risk and how those costs are allocated.”²⁵ First, SB 224 provides that the Fire Fund is “to serve as a resource to supplement other forms of insurance to make eligible payments” for utility wildland fire liability.²⁶ The Fire Fund is not insurance, and the Fire Fund Statute does not make approval of a Fire Fund contingent on the amount or type of ELI insurance procured by the Company. In fact, the statute makes clear that the creation of a Fire Fund “does not ... prohibit a large-scale electric utility from proposing, or the commission from approving, other mechanisms for third party liability coverage that are in the public interest.”²⁷ The Fire Fund statute thus recognizes the Commission’s authority to approve “mechanisms for third party liability coverage,” as the Commission has historically done in general rate cases (“GRC”). That power is separate from the authority the statute grants the Commission to approve the Fire Fund, and the Fire Fund statute includes specific criteria that are not dependent upon the approval of ELI mechanisms or their costs.

While the Fire Fund Statute includes a broad “public interest” determination, none of the criteria identified in statute point to a requirement for the Commission to link the initiation of a

²⁵ Request for Comments, at 5.

²⁶ Utah Code §54-24-301(1)(e) (defining the term “Utah fire fund”).

²⁷ *Id.*, §54-24-301(2)(b)(ii).

Fire Fund with ELI coverage (whether obtained through commercial policies or self-insurance). To the extent the Commission’s question is whether it “*can approve* the Fire Fund” from a legal perspective, there is nothing in the Fire Fund Statute that prevents the Commission from moving forward based on the information the Company has presented, and that the Company and intervenors will offer during the course of this proceeding, that addresses each of the statutory criteria.

Second, approval of the Fire Fund will begin a process that enables the Company to collect the “fire surcharge” contemplated by SB 224. Approval of the Fire Fund authorizes the Company to begin to build the “fund ... to serve as a resource to supplement other forms of insurance,”²⁸ and to build that fund “over a ten-year period from the date of the commission’s approval”²⁹ of the Fire Fund. The costs of ELI policies are likely to change over the next ten years (as they certainly have over the last ten years);³⁰ similarly, if a self-insurance or other mechanism is implemented, its costs will not be known until a future date.

The approval of authority to begin collecting the Fire Fund should not be dependent on attempting to nail down unknown future costs of underlying insurance, or the costs the Company may “incur related to wildfire ... liability.”³¹ Moreover, if future developments materially alter the costs of insurance or the liabilities incurred by the Company, the Commission can revisit the amount of the surcharge supporting the Fire Fund. Those variables should not, however, forestall initiation of establishing the legislatively-authorized surcharge to support the Fire Fund.

²⁸ Utah Code §54-24-301(1)(e).

²⁹ *Id.*, §54-24-301(3)(a).

³⁰ In the Company’s most recent GRC, the Commission authorized the recovery of ELI premiums in an amount that reflected a 400 percent increase over the rates approved in the 2020 GRC. *See Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*, Docket No. 24-035-04, *et seq.*, Order Granting Partial Reconsideration, at 3 (June 26, 2025) (“2024 GRC Order”).

³¹ Request for Comments, at 5.

Third, the costs the Company will incur for ELI will remain an issue in the Company's future GRC proceedings. Today, there is a Commission approved limit on the amount of ELI premiums recoverable from the Company's Utah customers.³² The Commission and stakeholders will have the ability to evaluate the prudence of ELI premiums and coverage in future GRC proceedings. The Company's future wildfire liabilities in Utah will depend on the incidence and size of future fires and the amount and types of damages that claimants seek to recover from Rocky Mountain Power. When the Legislature passed SB 224, it did not require the Commission to determine the potential "all-in" costs of managing Utah wildland fire risk before it could approve creation of the Fire Fund. The Commission can certainly consider many factors in determining whether to approve the Fire Fund as proposed by the Company, but ELI and potential liability costs should not prevent it from adjudicating the initial creation of the Fire Fund in this proceeding.

Finally, the Company's direct case identifies two issues associated with cost allocation. First, Company witness Elder's direct testimony details the charges the Company proposes be revised through a percentage adjustment to collect the fire surcharge,³³ and offers an exhibit that provides "allocation and pricing details" for the proposed implementation of the new Schedule 96 – Fire Fund Adjustment. Second, as discussed above, the Company plans to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³² See 2024 GRC Order. The Commission approved a \$6,978,587 increase in the Company's authorized recover for ELI premiums approved in the 2020 GRC (which totaled \$10,486,564).

³³ See Elder Direct, at 2: "The Company proposes to collect these Fire Fund [sic] from customers through a percentage adjustment that would be applied to all base charges including Customer Charges, Power Charges, Facilities Charges, Energy Charges, and Voltage Discounts of the Customer's applicable schedule."

Moreover, the uncertainties inherent in future ELI costs and coverage, liability claims, and development of cost allocation methodologies could be reviewed by the Commission in the five-year check-in proceeding discussed above that the Company proposes in its testimony. Rather than attempting to resolve all variables before initiating the Fire Fund, the Company recommends that the collection of the Fire Fund be allowed to get underway, subject to a planned Commission review of its progress in meeting the state's policy goals.

(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 Fire Fund.

As discussed above in Section II, the Company believes its request for approval of the Fire Fund, including the testimony of its witnesses, address each of the criteria set forth in Utah Code §54-24-301 for Commission approval of creation of the Fire Fund. The criterion for the permissible amount of the surcharge is objectively stated in S.B. 224.³⁴ Company witness Elder provided testimony that demonstrates the fire surcharge proposed by the Company meets this criteria.

The statute calls for the Company to “demonstrate to the Commission’s satisfaction” that the proposed Fire Fund “supports the financial health of the Company, and “maintains or improves” the Company’s “ability to deliver safe and reliable services.”³⁵ The Commission and the parties in various Commission proceeding regularly present evidence regarding a utility’s

³⁴ See Utah Code 54-24-301(4)(b): “The Commission shall approve ... a Utah fire fund ... if [the Company] demonstrates to the Commission’s satisfaction: (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.”

³⁵ Utah Code 54-24-301(4)(a)(ii) and (iii).

financial health and ability to deliver services.³⁶ There are not novel or unfamiliar “categories of information” that must be developed to assess whether the Fire Fund meets these criteria.

Similarly, the “public interest” criterion is also frequently addressed, and is an important factor in most Commission proceedings. There is no need to delay this proceeding to identify particular “categories of information” needed for the Commission to make its public interest determination, for two reasons. First, the contested case process itself identifies and tests the information necessary to support the Commission’s public interest findings. The Company has the burden of proof in this proceeding, and it has presented the testimony of five witnesses that it believes satisfies its burden. Intervenor parties have discovery rights in proceedings and may present direct and surrebuttal testimony that questions whether the Company has met its burden, and offer additional information they believe is necessary for a Commission decision. The Company then has an opportunity to contest or agree with the intervenors’ positions in its rebuttal and surrebuttal testimony. All parties’ factual contentions are tested during cross-examination at hearing, and legal issues are addressed in briefing.

As in other contested case proceedings, the adjudicative process itself will surface issues that are “necessary to allow the PSC to make the statutorily required findings to approve the proposed Fire Fund.”³⁷ Requiring that parties submit what additional (if any) information is needed now bypasses the purpose of the adjudicatory process reflected in the agreed-to procedural schedule.

³⁶ See, e.g., *See Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*, Docket No. 24-035-04, *et seq.*, Order, at 19-41 (discussion of cost of capital issues) and 93-112 (discussion of rate base adjustments for investments in electric plant and facilities) (April 25, 2025).

³⁷ Quoting Question (2).

The Company also notes that in this case, the questions of: (a) whether the concept or existence of a Fire Fund; and (b) whether the fund should be supported by a fire surcharge, are in the public interest was settled by the Utah Legislature.³⁸ The size of the Fire Fund, the amount of the fire surcharge that supports it, and the proper administration of the Fire Fund may be contested by parties, but the policy question of whether the Commission should approve a Fire Fund at all does not require the development of “additional categories of information.” To the extent parties believe there is outcome-determinative information that merits Commission consideration but was not addressed in the Company’s direct case, it is incumbent upon the Company, as the party carrying the burden of proof, to respond with evidence or legal argument addressing those issues.

(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.

While the parties who respond to the Request for Comments may identify concerns with the Company’s direct case in their comments, it is notable that all parties participating in the proceeding agreed to the procedural schedule reflected in the Scheduling Order. The Company does not believe there is a need to revisit the agreed schedule.

If the Commission identifies issues that it requests the parties discuss in testimony or at the hearing, the parties can accommodate that within the agreed schedule, or by developing specific agreed amendments to the current schedule. There is no need to suspend the proceeding, and delay the creation of the Fire Fund, for consideration of issues that the Company and other parties can develop (as they do in other contested case proceedings) in their testimony and legal briefing.

³⁸ The Commission recognized this point in its Request for Comments: “The PSC recognizes the public policy underlying Utah Code § 54-24-301 and strongly prefers to avoid any needless delay in its consideration of RMP’s Request to implement a Utah fire fund.” Request for Comments, at 6.

IV. CONCLUSION

For the reasons discussed above, Rocky Mountain Power respectfully requests that the Commission maintain the Stipulated Schedule included in the Scheduling Order and Notice of Hearing adopted on December 17, 2025.

Respectfully submitted this 16th day of January 2026.



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A handwritten signature in cursive script that reads "Rick Loy".

Rick Loy
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