

Phillip J. Russell (10445)
JAMES DODGE RUSSELL & STEPHENS P.C.
545 East Broadway
Salt Lake City, Utah 84102
Telephone: (801) 363-6363
Email: prussell@jdrsllaw.com

Attorney for the Utah Association of Energy Users

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Request of Rocky Mountain Power for Approval of a Utah Fire Fund	Docket No. 25-035-61
---	----------------------

CONFIDENTIAL COMMENTS OF THE UTAH ASSOCIATION OF ENERGY USERS

The Utah Association of Energy Users Intervention Group (“UAE”) hereby submits the following comments in response to the Request for Comments and Scheduling Order and Notice of Hearing (“Request for Comments”) issued by the PSC on December 17, 2025. In its Request for Comments, the PSC sought comments from all interested parties regarding the scope of this docket and whether the schedule required modification to properly adjudicate that scope. Specifically, the PSC notes the expiration of the 2020 Protocol and ongoing efforts to establish a new interjurisdictional cost allocation method in Docket No. 25-035-47 (“IJCA Docket”), as well as other costs that Rocky Mountain Power (“RMP” or “Company”) may incur related to wildland fire liability risk, and then invites comments on the following three questions:

- (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;

- (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; 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.¹

UAE addresses these questions and other relevant issues below:

UAE COMMENTS

I. The PSC May Not Approve a Fire Fund in this Docket because a Fire Surcharge May Only be Approved in a Rate Case.

The Request for Comments seeks input from stakeholders as to whether sufficient information has been provided in this docket for the PSC to “reasonably and responsibly evaluate whether the statutory criteria for the approval of a Fire Fund have been met.”² UAE will address those questions below, but first notes that the PSC may not approve a Fire Fund in this docket because a Fire Fund surcharge, which is a necessary component of an approved Fire Fund, may only be approved in a rate case. The Utah statutes authorizing the creation of a Utah Fire Fund identify the Fire Funds’ required components, which include “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.”³ Since a fire surcharge is a necessary component of a Fire Fund, and a fire surcharge may only be approved in a rate case, a Fire Fund may not be approved in this docket or in any other proceeding outside of a rate case.

As set forth in Section III, below, UAE does not recommend dismissal of this docket. While the PSC cannot approve a fire surcharge and cannot ultimately approve a Fire Fund in this

¹ Request for Comments at 5.

² *Id.*

³ Utah Code § 54-24-301(3)(a) (emphasis added).

docket, other aspects of a Fire Fund may best be addressed in this docket rather than in the context of a rate case. For example, UAE expects stakeholders to address the appropriate target size for the Fire Fund and administration of the Fire Fund, which are issues that may be more efficiently litigated outside the context of a rate case. Such issues can be addressed in this docket while the appropriate fire surcharge and ultimately approval of the Fire Fund can be delayed until RMP's next rate case.

II. All of RMP's Costs Related to Wildland Fire Liability Risk will be Presented in its Next Rate Case, at which Time the PSC May Consider All Relevant Evidence to Determine Whether to Approve a Fire Fund.

In its Request for Comments, the PSC asks whether it “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.”⁴ As an initial matter, UAE believes the issue of cost allocation of RMP's wildland fire liability risk has been at least partially addressed in RMP's confidential testimony in this docket. RMP witness Joelle Steward states at lines 221-225 that [REDACTED]

[REDACTED] If RMP's actions are consistent with this testimony, and if RMP incurs no other costs associated with wildland fire risk, then additional information regarding inter-jurisdictional cost allocation of such costs would not be necessary for the PSC to address issues associated with the Fire Fund.

⁴ Request for Comments at 5.

⁵ Direct Testimony of Joelle R. Steward at lines 221-225.

UAE interprets the PSC's questions as a concern about whether stakeholders will assert that the full scope of costs Utah ratepayers may be asked to pay for wildland fire liability costs must be presented before the PSC can determine whether the Fire Fund surcharge is in the public interest. As noted above, the Fire Fund surcharge can only be approved within the context of a rate case where all other costs, including all costs associated with wildland fire liability risks, will be presented for approval and where the public interest determination can be made.

III. The PSC Can Use this Docket to Address Certain Fire Fund Issues that are Not Required to be Addressed Only in a Rate Case.

While this docket cannot result in the approval of the Fire Fund or the adoption of a fire surcharge, it can be used to address certain Fire Fund issues and addressing those issues here would be preferable to addressing them within the context of a broader rate case.

Issues that could be addressed in this docket include the following:

- the target amount to be raised for the Fire Fund;
- reporting obligations such as those expressly contemplated in Utah Code § 54-24-302(1)(d);
- cost allocation among Utah customers;
- Fire Fund administration issues; and
- any other issue that may implicate whether the Fire Fund supports RMP's financial health and/or that the Fire Fund maintains or improves RMP's ability to deliver safe and reliable services.

UAE believes it is preferable to address in this docket those issues that are unique to the Fire Fund and that are not specifically required by Utah law to be determined in a rate case. While approval of a fire surcharge and the ultimate determination of whether a Fire Fund is in the public interest must await a rate case filing, the PSC can address certain Fire Fund issues now and issue preliminary rulings to be confirmed upon approval of a fire surcharge in a rate case. Proceeding in this manner would allow parties to focus exclusively on certain issues specific to the Fire Fund

in this docket. The alternative would be to dismiss this docket and require that all Fire Fund issues be addressed in the next RMP rate case, in which parties' focus would be divided among the multitude of cost of capital, revenue requirement, cost allocation, and rate design issues that arise in a rate case, all of which demand the in-depth attention of the parties. The Fire Fund is a unique, statutorily created mechanism with standards and factual and legal issues that will require the focus of the parties and the PSC. As such, UAE would prefer to address in this docket those issues that can be addressed now.

IV. Schedule Modifications Would Likely Benefit the Process in this Docket.

The Request for Comments seeks input from stakeholders as to whether additional information is necessary to adjudicate this docket and, if so, whether schedule modifications are necessary to incorporate that additional information. As set forth above, UAE does not believe that inter-jurisdictional cost allocation information is relevant to the specific issues that can be adjudicated in this docket. As noted above, however, UAE believes that the PSC can address, at least on a preliminary basis, an appropriate target amount to be raised by a Fire Fund, if one is to be approved in a subsequent rate case. UAE presumes that the target amount to be raised by a Fire Fund will be affected by an assessment of the risk of loss in the event of a fire in Utah, the amount of that potential loss that would be prudent for the Fire Fund to cover, the amount of commercial insurance coverage available to cover the loss before the Fire Fund may be utilized, and other factors. RMP has indicated that the [REDACTED]

[REDACTED]

[REDACTED] Pointedly, RMP indicates that it [REDACTED]

⁶ Direct Testimony of Joelle Stewart at lines 216-225.

[REDACTED]

[REDACTED]

RMP asserts in this docket that “the Fire Fund should be large enough to cover (along with insurance) total Utah wildland fire losses of at least \$1 billion.”⁸ Since UAE expects that parties in this docket may dispute the total amount of potential loss that the Fire Fund combined with insurance should be designed cover, it would seem that information about available commercial insurance coverage is highly relevant to the size of the Fire Fund. That information, at least for the upcoming policy term, will be known by mid-February of 2026.⁹ Pursuant to the current schedule, the deadline for intervenor direct testimony is February 11, 2026. It would be preferable for intervenors to have access to the cost and coverage information for the upcoming policy terms before filing testimony about the proper target size for the Fire Fund. To this end, UAE suggests that RMP be required to produce wildfire liability coverage information as soon as it is available and that the deadlines for intervenor direct testimony and those that follow be pushed back to allow parties to consider this information before filing. UAE suggests that deadlines should be pushed back at least a month, but notes that the most efficient mechanism for modifying the current schedule would be for the PSC to set a new scheduling conference during which the parties and PSC can discuss appropriate modifications to the schedule.

⁷ *Id.* at lines 227-229.

⁸ Direct Testimony of Marshall Nadel at lines 313-314.

⁹ *See* Direct Testimony of Joelle Steward at lines 211-215.

V. Recommendations

Based on the foregoing, UAE recommends that the PSC take the following actions:

- Find that it is precluded from establishing a fire surcharge or approving a Fire Fund in this docket;
- Assert that it will address certain other issues specific to the Fire Fund in this docket and that it will issue preliminary rulings on those issues, with final determinations to be made in a rate case;
- Direct RMP to file and/or distribute to stakeholders cost and coverage information related to wildland fire insurance products acquired for the coverage period beginning February 15, 2026, as soon as such information is available; and
- Establish a scheduling conference to modify the scheduling order in this docket to allow parties to review the wildland fire coverage information provided by RMP before filing intervenor direct testimony.

DATED: January 16, 2026.

Respectfully submitted,



By:

Phillip J. Russell
JAMES DODGE RUSSELL & STEPHENS P.C.

Attorney for UAE

Certificate of Service
Docket No. 25-035-61

I hereby certify that a true and correct copy of the foregoing was served by email on January 16, 2026 on the following:

ROCKY MOUNTAIN POWER

Carla Scarsella	carla.scarsella@pacificorp.com
Max Backlund	max.backlund@pacificorp.com
	utahdockets@pacificorp.com
	datarequest@pacificorp.com

DIVISION OF PUBLIC UTILITIES

Chris Parker	chrisparker@utah.gov
Madison Galt	mgalt@utah.gov
Patricia Schmid	pschmid@agutah.gov
Patrick Grecu	pgrecu@agutah.gov
	dpudatarequest@utah.gov

OFFICE OF CONSUMER SERVICES

Michele Beck	mbeck@utah.gov
Alyson Anderson	akanderson@utah.gov
Robert Moore	rmoore@agutah.gov
	ocs@utah.gov

WESTERN RESOURCE ADVOCATES

Sophie Hayes	sophie.hayes@westernresources.org
Karl Boothman	karl.boothman@westernresources.org
Jessica Loeloff	jessica.loeloff@westernresources.org
Nancy Kelly	nancy.kelly@westernresources.org

UTAH LARGE CUSTOMER GROUP

Michelle Brandt King	mbking@hollandhart.com
Austin W. Jensen	awjensen@hollandhart.com
Adele Lee	aclee@hollandhart.com

NUCOR-STEEL UTAH

Peter J. Mattheis	pjm@smxblaw.com
Eric J. Lacey	ejl@smxblaw.com
Jeremy R. Cook	jcook@ck.law

/s/ Phillip J. Russell