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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

REPLY BRIEF OF THE UTAH ASSOCIATION OF ENERGY USERS

The Utah Association of Energy Users Intervention Group ("UAE") hereby submits this reply brief in response to the Order Vacating Scheduling Order and Setting Deadlines issued January 30, 2026 ("Jan. 30 Order") by the Utah Public Service Commission ("PSC").

BACKGROUND & INTRODUCTION

In response to the PSC's Jan. 30 Order, UAE, the Division of Public Utilities ("DPU"), the Office of Consumer Services ("OCS"), the Utah Large Customer Group ("UTLCG") and Rocky Mountain Power ("RMP") all filed legal briefs on February 13, 2026. Each of UAE, DPU, OCS, and UTLCG submitted arguments asserting that the PSC is not authorized to approve a fire fund surcharge in this docket. Specifically, UAE, DPU, OCS, and UTLCG each cite to Utah Code § 54-24-301(3)(a), which states that a Utah fire fund must consist of a "fire surcharge . . . approved by the commission in a rate case," and argue that this docket is not a "rate case" as that term is used in the statute. By contrast, RMP argued that the term "rate case" as used in section 54-24-301(3) is distinguishable from the term "general rate case" used elsewhere in the Utah Code and

that this docket is a "rate case" because the PSC is considering the adoption of a surcharge that would apply to Utah customers. Given the general agreement among UAE, DPU, OCS, and UTLCG, this reply brief will focus on and respond to the arguments submitted by RMP.

ARGUMENT

I. The Utah Legislature Uses the Term "Rate Case" and "General Rate Case" Interchangeably.

As set forth in UAE's initial brief, the legislature uses the term "rate case" throughout Title 54 of the Utah Code to mean "general rate case,"[1] and RMP fails to demonstrate that that the reference to a "rate case" in section 54-24-301(3)(a) means something different. RMP offers several arguments in support of its claim that the term "rate case" as used in subsection -301(3)(a) has a meaning distinct from from "general rate case."[2] As set forth below, each of RMP's arguments fails to support this claim and RMP's arguments should be rejected.

First, RMP's argument that "rate case" and "general rate case" must have different meanings because the legislature "has demonstrated that it knows the difference between the terms"[3] is an argument type that has been repeatedly rejected by Utah courts. For example, in *Irving Place Associates v. 628 Park Avenue, LLC*, the Utah Supreme Court found that the term "judgment" used in a statute means "final judgment" and rejected an argument that the two terms must have different meanings simply because "final judgment" appears elsewhere in the Utah Code.[4] The Court stated that the fact that the Utah legislature *could have* used the more explicit term "final judgment" was not particularly helpful in determining the legislature's intent.[5] As the

[1] *See* UAE Legal Brief at 6-9.
[2] *See* RMP Legal Brief at 5-10.
[3] *Id*. at 5-6.
[4] *Irving Place Assocs. v. 628 Park Avenue, LLC*, 2015 UT 91, ¶ 16, 362 P.3d 1251
[5] *Id*. ("[T]he legislature's failure to speak more clearly tells us little or nothing about its intent in using terms that are less clear."); *see also id*., ¶ 17 ("[T]he appearance of clear terminology elsewhere in the code tells us nothing of consequence regarding the meaning of other, less clear terms presented for our review.").

Court noted in *Craig v. Provo City,* "[i]t is usually quite beside the point that the legislature 'knows how' to speak more explicitly. That is another way of saying that the legislature could have spoken more clearly. And typically that gets us nowhere."[6] RMP's argument that the term "rate case" as used in Utah Code § 54-24-301(3)(a) cannot mean "general rate case" because the legislature uses "general rate case" elsewhere and *could have* used it in subsection -301(3)(a) suffers from this same inadequacies as the arguments rejected in *Irving Place Associates* and *Craig*. It is not helpful in determining the legislature's intent in using the term "rate case" in subsection -301(3)(a)

Second, RMP's assumption that "rate case" and "general rate case" must have different meanings because they use slightly different words is also contradicted by Utah Supreme Court precedent and the Utah Code. In *Scott v. Wingate Wilderness Family Therapy, LLC*, the Court ruled that "marriage and family therapist" has the same meaning as "marriage and family counselor," noting that "it is clear the [Medical Malpractice] Act uses those terms interchangeably."[7] The *Scott* Court further found that "the Act repeatedly uses the terms 'medical' and 'health' interchangeably," and rejected an argument that the terms must have different meanings.[8] In *Barneck v. UDOT*, the Court ruled that "arises out of" and "proximately caused" do not create two different standards of causation but, rather, are "synonymous" based on the context in which the terms are used.[9] The *Barneck* Court noted "the premise that where a statute 'has used one term in one place, and a materially different term in another, the presumption is that the different term denotes a different idea,'" but rejected it because "this presumption is a rather weak one" that "can easily be rebutted by context."[10] RMP's argument is no different than the

[6] *Craig v. Provo City*, 2016 UT 40, ¶ 38, 389 P.3d 423 (
[7] *Scott v. Wingate Wilderness Therapy, LLC*, 2021 UT 28, ¶ 25 n.12, 493 P.3d 592.
[8] *Id*., 2021 UT 28, ¶ 39.
[9] *Barneck v. Utah Dep't of Transp.*, 2015 UT 50, ¶¶ 40, 353 P.3d 140
[10] *Id*. (quoting ANTONIN SCALIA & BRYAN A. GARNER, *Reading Law: The Interpretation of Legal Texts* 170-171 (2012) (noting that this presumption is "often disregarded").

arguments rejected in *Scott* and *Barneck*. RMP notes that the terms "rate case," "general rate case," and "rate case or other appropriate proceeding" are all used in Utah Code sections 54-24-301 to -303 and concludes that "[i]nterpreting these terms as identical would disregard the Legislature's deliberate decision to employ different terminology within the same statutory scheme"[11] Other than noting the legislature's use of slightly different terms, RMP offers no contextual argument as to why "rate case" as used in subsection -301(3)(a) has a different meaning than "general rate case." By contrast, UAE's initial brief identified numerous provisions in the Utah Code in which the legislature used "rate case" to mean "general rate case," including in the general rate case statute itself.[12] There is no use of "rate case" in Title 54 in which the term is used to refer to a proceeding other than a "general rate case" despite the fact that the PSC is authorized to establish certain rates outside of a general rate case.[13] *Scott* and *Barneck* direct courts to focus on the statutory context, and such a focus reveals that "rate case" and "general rate case" are used interchangeably throughout Title 54.

Third, RMP offers no basis in the text of the Utah Code for its preferred interpretation of "rate case." RMP proposes that "rate case" should be interpreted to mean any PSC docket in which a rate or charge is considered,[14] and for support cites only the provision requiring that the fire surcharge not impose more than a certain percentage increase over "current rates."[15] This provision requires that the comparison point for the impact of the fire surcharge is the customer rates at the time the request for approval of the surcharge is filed. Such a request would be included in the application for a general rate case, and so "current rates" means the customer rates at the

[11] *Id*. at 7.
[12] UAE Legal Brief at 6-9 (citing Utah Code provisions in which the Utah Legislature uses the term "rate case" to refer to a "general rate case").
[13] *See id*. at 9 (noting that "rate case" is not used to refer to EBA or Major Plant Addition proceedings).
[14] *See* RMP Legal Brief at 11.
[15] *See id*. (citing Utah Code § 54-24-301(4)(b)).

time the application for a general rate case is filed. The reference to "current rates" in subsection -301(4)(b) does not require "rate case" to mean something other than "general rate case." RMP offers no other contextual reason to adopt its preferred definition of "rate case." "Rate case" is used throughout Title 54 to mean "general rate case" and there is nothing in the context of the statutory provisions enabling the creation and operation of the fire fund—or in any other provision of the Utah Code—that suggests that "rate case" in Utah Code § 54-24-301(3)(a) should have a different meaning.

None of RMP's arguments supports its contention that "rate case" means something other than "general rate case." As discussed in Utah's initial legal brief, the Utah legislature consistently uses "rate case" to refer to a "general rate case." Nothing in the context of subsection -301(3)(a) or the surrounding statutes compels a different meaning. A fire surcharge may only be approved in a general rate case, and a fire surcharge may not be approved in this docket because this docket is not a general rate case.

II. RMP's Proposed Statutory Interpretation Would Render the Words "in a Rate Case" in Utah Code § 54-24-301(3)(a) to be Inoperative or Superfluous.

In addition to the fact that RMP fails to identify any statutory context to support its preferred interpretation of the term "rate case," that interpretation would render the words "in a rate case" in section 54-24-301(3)(a) to be inoperative and superfluous. The Utah Supreme Court has noted that courts "must avoid interpretations that effectively render[] parts or words in a statute inoperative or superfluous."[16] As noted in UAE's initial legal brief, if the legislature intended to authorize the PSC to approve a fire surcharge in any docket in which a request for approval of such a surcharge were filed, there would have been no need to require that such approval come "in a

[16] *Turner v. Staker & Parsons Companies*, 2012 UT 30, ¶16, 284 P.3d 600 (internal quotation marks omitted)).

rate case."[17] RMP's preferred interpretation of the term "rate case" in subsection -301(3)(a) to include any docket in which the PSC considers a request for a fire surcharge impermissibly renders the phrase "in a rate case" to be inoperative and superfluous.

RMP's argument effectively writes the words "in a rate case" out of subsection -301(3)(a). If RMP's interpretation were adopted, the provision would have the same meaning whether the words "in a rate case" are included or not. RMP's argument "undercuts the express language" of subsection -301(3)(a) and "must be rejected because we give effect to every word of a statute, avoiding any interpretation which renders parts or words in a statute inoperative or superfluous."[18]

CONCLUSION

A Utah fire fund consists of a "fire surcharge . . . approved by the Commission *in a rate case*."[19] This docket is not a "rate case" as that term is used in Utah Code § 54-24-301(3)(a) and, therefore, the PSC may not authorize a fire surcharge in this docket.

DATED: February 20, 2026.

Respectfully submitted,

By: 

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[17] *See* UAE Legal Brief at 3-6.
[18] *State v. Robertson*, 2017 UT 27, ¶ 32, 438 P.3d 491.
[19] Utah Code § 54-24-301(3)(a) (emphasis added).

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 February 20, 2026 on the following:

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