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<b>BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH</b>	
Request of Rocky Mountain Power for Approval of a Utah Fire Fund	Docket No. 25-035-61  Reply Brief

Pursuant to UTAH ADMIN. CODE r. 746-1, Utah Code § 54-10a-101, and the Public Service Commission of Utah’s (PSC) January 30, 2026, Order Vacating Scheduling Order and Setting Deadlines, the Office of Consumer Services (OCS) submits this Reply Brief responding to Rocky Mountain Power’s (RMP) February 13, 2026 Initial Brief—which argues that the term “rate case” in Utah Code § 54-24-301(3)(a) cannot be read to mean “general rate case.” This argument must be rejected for the reasons set out in the OCS’s Initial Brief, and the briefs of all non-RMP parties, and because RMP’s own arguments are either legally incorrect or irrelevant to the tasks of interpreting section 54-24-301(3)(a).

### **Argument**

In its Initial Brief, the OCS argues that the term “rate case” in section 54-24-301(3)(a) must be read to be synonymous with “general rate case.” This argument is based on the facts that to interpret “rate case” as any case where a rate is set, such as a proceeding under the fire fund statutes, runs into structural problems within the statutes themselves that impermissibly

renders provisions in sections 54-24-301(3)(a) and 54-24-302(4)(a) surplusage. *Croft v. Morgan County*, 2021 UT 46, ¶ 15, 496 P.3d 83 (“every word and every provision of a statute is to be given effect”); *State v. Jeffries*, 2009 UT 57, ¶ 9, 217 P.3d 265 (same); see OCS Initial Br. at 3-5. The Utah Association of Energy Users (UAE) and the Utah Large Customer Group (UTLCG) provided similar if not identical arguments in their briefs. UAE Initial Br. at 3-6; UTLCG Initial Br. at 4-5. These arguments need not be repeated here but it should be noted that RMP has yet to address these contentions and the surplusage arguments themselves are sufficient to reject RMP’s contrary interpretation.

In addition, OCS’s initial brief argues that the terms of a statute must be read in context and harmonized with other terms in the statute and related statutes. *Still v. Hart*, 2007 UT 45, ¶ 7, 162 P.3d 1099, 1102 (the PSC must read “the plain language of a statute as a whole and interpret its provisions in harmony with other provisions in the same statute and with other statutes under the same and related chapters”); *Croft*, 2021 UT 46, ¶ 32 (same). Here, because the term “rate case” is used as synonymous with the term “general rate case” throughout Title 54 and related statutes, to harmonize the term in section 54-24-301(3)(a) with the rest of the Utility Code, it is necessary to interpret “rate case” in section 54-24-301(3)(a) to mean “general rate case.” OCS Initial Br. at 3-10. Again, near identical arguments are made by the Division of Public Utilities (DPU), UAE and the UTLCG. DPU Initial Br. at 6-8; UAE Initial Br. 6-10; UTLCG Initial Br. at 4-5.

Conversely, RMP argues that two canons of statutory construction support its interpretation. One, like all parties, RMP asserts that the terms of the statute must be read in context with other terms in the statute and related statutes. Two, when there is a conflict between a specific statute (the fire fund statutes) and a general statute (the general rate statute),

the specific statute governs. RMP's Initial Br. at 10-12. As applied by RMP, both canons are unavailing.

RMP's "context" argument is based on its contention that "when the Utah Legislature intends for the Commission to consider a particular matter only in a general rate case, or after it has conducted one, the Legislature directs the Commission using that specific language." RMP Initial Br. at 8. This assertion is simply incorrect. As set out in the briefs on the non-RMP parties, the term "rate case" is used as a synonym of "general rate case" throughout the Utility Code. OCS Initial Br. at 3-10; DPU Initial Br. at 6-8; UAE Initial Br. at 6-10; UTLCG Initial Br. at 4-5. Thus, RMP's argument that the legislature uses the term "general rate case" exclusively when referencing a general rate case cannot survive a review of the relevant statutory scheme.

Nevertheless, RMP argues otherwise in its context argument, citing to two statutes in the Utility Code that use the term "general rate case or other appropriate proceeding," two statutes that use the term "general rate case," one statute the terms "rate increase or decrease case under Section 54-7-12" and one statute that provides for a surcharge but does not reference a "general rate case" or a "rate case." RMP Initial Br. at 7, 8 & n. 27, 28, 31, 32; *see also*, Utah Code §§ 54-17-303(1)(a); 54-17-403(1)(a); 54-7-13.5; 54-7-12.9(2)(a); 54-7-13.6(6)(c). RMP makes various arguments contending that read in context these statutes support the contention that the term "rate case" in section 54-24-301(3)(a) cannot mean general rate case. RMP Initial Br. at 7, 8 & n. 27, 28, 31, 32. In addition, RMP makes the argument that because the fire fund statutes use both the terms "rate case" and "general rate case," the terms should have different meanings. RMP Initial Br. at 6-7. Finally, RMP argues that because the fire fund statutes and the general rate case are dissimilar, this somehow supports the contention that "rate case" in section 54-24-301(3)(a) does not mean "general rate case." *Id.* at 9. All these arguments fail.

Again, all arguments that the statutory context or the fire fund statutes supports the contention that “rate case” in section 54-24-301(3)(a) does not mean “general rate case” are completely thwarted by the fact that the legislature uses the term “rate case” to mean “general rate case” throughout Title 54 and related statutes. *See* Utah Code §§ 54-7-12(4)(a)(iii); 54-17-403(1)(c)(iii); 54-17-502(6)(d); 54-17-605(3)(a); 54-24-301(3)(a); 54-24-302(3)(a); 54-26-602(4); 63N-1a-304; OCS Initial Br. at 3-10; DPU Initial Br. at 6-8; UAE Initial Br. at 6-10; UTLCG Initial Br. at 4-5. RMP’s disregard of the numerous provisions in Title 54 that use the term “rate case” to unambiguously refer to a general rate case renders their arguments based on a small number of statutes inapposite. Moreover, RMP does not cite to any statute, and the OCS is aware of none, that unambiguously provides that the term “rate case” means something different than “general rate case.”

Similarly, the fact that the Utility Code uses the terms “rate case” and “general rate case” interchangeably counters the argument that because both terms are used in sections 54-24-301(3)(a) and in section 54-24-302(3)(b), they must have distinct meanings. RMP Initial Br. at 6-7. Since the legislature used the terms interchangeably throughout Title 54, it is unremarkable that the legislature used these terms interchangeably in the fire fund statutes.

While there is a presumption that when the legislature uses the same term in statutes the terms should be interpreted to have the same meaning, and conversely different terms should have different meanings, this “presumption is by no means irrebuttable. When context indicates, the same term can be understood to be used in different ways in the same body of law.”

ANTONIN SCALIA & BRYAN A GARNER, *READING THE LAW: THE INTERPRETATION OF LEGAL TEXT* 172-73 (2012). Utah courts have long recognized this principle. *Bishop v. Parker*, 134 P.2d 180, 182 (Utah 1943) (identical terms carry the same

meaning “unless a manifest difference requires a different meaning to be attached”); *see also*, *Carranza v. United States*, 2011 UT 80, ¶ 22 n. 5, 267 P.3d 912 (“Statutory terms may have different meanings in different statutes”). Here, the presumption is rebutted. Because of the terms “rate case” is used to mean “general rate case” throughout Title 54 and giving different meanings to “rate case” and “general rate case” impermissibly renders portions of section 54-24-301(3)(a) and 54-24-302(3)(b) superfluous, any ambiguity created by RMP’s argument must be resolved in favor of interpreting “rate case” to mean general rate case. *See* OCS Initial Br. at 5 n.2; *Croft*, 2021 UT 46, ¶ 12 (“multiple interpretive tools all point to the same resolution, they provide strong support in favor or disfavor a certain interpretation of a statute.”)

Finally, while it is true that the fire fund statutes are dissimilar to the general rate statute, this fact does not argue for the proposition that the term “rate case” in section 54-24-301(3)(a) means something different than “general rate case.” RMP does not argue that a fire fund proceeding cannot take place within a general rate case. Nor does RMP cite to any conflict between the fire fund statute and the general rate statutes that would prevent them from being litigated together. Thus, the fact that the general rate statute is dissimilar to the fire fund statutes has no bearing on whether the fire fund surcharge must be approved in a general rate case.

RMP’s second statutory construction argument is based on the canon that when two statutes conflict, the more specific statute (the fire fund statutes) governs over the more general statute (the general rate case statute). RMP’s Initial Br. at 11-12. This is a correct statement of the law. However, this canon has no application in the instant docket. This rule is only applicable when two statutes conflict. Both cases cited by RMP for this position clearly provide that the rule is limited to conflicting statutes. *Taghipour v. Jerez*, 2002 UT 74, ¶11, 52 P3d 1252 (“when two statutory provisions **conflict** in their operation, the provision more specific in

application governs over the more general provision”) (emphasis added) (cleaned up); *Biddle v. Washington Terrace City*, 1999 UT 110, ¶14, 993 P2d 875 (“where the operation of two statutory provisions is in **conflict**, the more specific provision will govern over that which is more general”) (emphasis added). RMP Initial Br. at 11, 12, n. 42-45. Where there is no conflict between statutes, this rule has no application.

It is axiomatic that when two statutes cover the same subject matter but have no conflicting provisions, both statutes must be followed. For example, the Utility Code has several specific statutes providing for the imposition of a rate, including the general rate statute section 54-7-12. However, the Code also contains a general statute covering the increase or decrease of a rate, Utah Code § 54-4-4 (Classification and fixing of rates after a hearing). Because the specific statutes don’t conflict with the general provisions of section 54-4-4, both the specific and general statutes govern. Here, RMP make no attempt to demonstrate that the fire fund statutes conflict with the general rate statute—which they do not—therefore the second rule of construction relied on by RMP is irrelevant to the interpretation of section 54-24-301(3)(a).

Finally, though admittedly not a statutory construction argument, RMP also asserts “a determination that this proceeding should be jettisoned in favor of different procedural vehicle is inconsistent with the Commission’s statements recognizing ‘the public policy underlying Utah Code § 54-24-301’ and its strong preference ‘to avoid any needless delay in consideration of RMP’s Request to implement a Utah fire fund.’” RMP Initial Br. at 12 (quoting Order Vacating Scheduling Order and Setting Deadlines, at 4, 6 (Jan. 30, 2026)). RMP argues that it has already expended significant time and resources in the development of this docket and that to wait to complete the docket until the next general rate case would result in the “needless delay the Commission expressed concern about in its previous orders.” *Id.* However, the delay is

necessitated by the dictates of the statute and RMP's impudent decision to bring this case as a stand-alone filing.

Moreover, the work that RMP has performed to develop this docket does not need to be discarded. As discussed in the OCS's initial brief, and the briefs of the DPU and UTLCG, this case need not be dismissed. OCS Initial Br. at 10-12; DPU Initial Br, at 9; UTLCG Initial Br. at 12-13. The docket can continue to allow the parties to further develop the record to address and, if possible, resolve preliminary issues to alleviate the problems caused by an overloaded rate case. OCS Initial Br. a 10-12; DPU Initial Br, at 9; UTLCG Initial Br. at 12-13. The work that RMP has already performed can lay the groundwork for this process.

### **Conclusion**

The OCS's initial brief, indeed the briefs of all non-RMP parties, establish that the term "rate case" in section 54-24-301(3)(a) must be read as referring to a general rate case. To read section 54-24-301(3)(a) as referring to any case where a rate is set, including the fire fund statutes, impermissibly renders provisions in sections 54-24-301(3)(a) and 54-24-302(4)(a) superfluous. This alone is sufficient reason to reject RMP's arguments. Moreover, the fact that Title 54 and related statutes use the term "rate case" and "general rate case" interchangeably counters RMP's "context" statutory construction arguments. Finally, the remaining arguments put forward by RMP are irrelevant to the interpretation of section 54-24-301(3)(a). However, this case need not be dismissed. Rather, the docket should remain open to conduct preliminary matters concerning the creation of a fire fund. Nevertheless, the approval of a fire fund and the imposition of a fire fund surcharge must wait until RMP's next general rate case.

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