
Request of Rocky Mountain Power for Approval of a Utah Fire Fund	<u>DOCKET NO. 25-035-61</u> <u>NOTICE OF LEGAL CONCLUSION AND VIRTUAL SCHEDULING CONFERENCE</u>
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ISSUED: March 10, 2026

1. Procedural Background.

On November 26, 2025, Rocky Mountain Power (RMP) filed its Notice of Creation of Utah Fire Fund and Request for Commission Approval (“Request”). The same date, the Public Service Commission (PSC) issued a Notice of Virtual Scheduling Conference. On December 4, 2025, the PSC held a virtual scheduling conference during which the parties in attendance stipulated to a schedule. On December 17, 2025, the PSC issued its Request for Comments and Scheduling Order and Notice of Hearing (“Scheduling Order”). The Scheduling Order tentatively approved the parties’ stipulated schedule and asked the parties to submit comments related to the scope of information necessary for the PSC to approve RMP’s Request.

On January 16, 2026, the following parties submitted responsive comments: the Office of Consumer Services (OCS), the Division of Public Utilities (DPU); Utah Large Customer Group (ULCG); Utah Association of Energy Users (UAE and collectively, with DPU, OCS, and ULCG, the “Other Parties”), and RMP.

In these comments, all the Other Parties questioned or challenged the PSC’s authority to approve RMP’s Request outside the context of a general rate case (GRC). They cited Utah Code § 54-24-301(3)(a), which provides a Utah fire fund shall consist

of “a reasonable and prudent fire surcharge ... as approved by the [PSC] in a *rate case*.”¹

Consequently, on January 30, 2026, the PSC issued its Order Vacating Scheduling Order and Setting Deadlines (“Prior Order”), vacating the Scheduling Order and asking the parties to file legal briefs to support their respective arguments regarding whether the PSC may lawfully approve a Utah fire fund outside of a GRC. The Prior Order set a deadline of February 13, 2026, for initial briefs and February 20, 2026, for reply briefs. The Prior Order also directed RMP to supplement its Request with certain information enumerated in the Order and indicated the PSC would set another scheduling conference for March 12, 2026, at 10:00 a.m.

All the Other Parties and RMP timely filed legal briefs and reply briefs. In conjunction with its legal brief, ULCG also submitted a Motion to Dismiss or, in the Alternative, to Strike (“ULCG’s Motion”).

2. The PSC concludes it may not lawfully approve RMP’s implementation of a Utah fire fund outside of a GRC.

As an initial matter, the PSC commends and appreciates all parties’ well-researched legal briefs and replies.

The Other Parties each emphasize that Utah Code § 54-24-301(a) [hereafter, “301(a)"] expressly provides that a Utah fire fund shall consist of “a reasonable and

¹ Emphasis added.

prudent fire surcharge that a large-scale electric utility may charge to the large-scale electric utility customers, as approved by the [PSC] in a *rate case*.”²

The Other Parties argue the terms “rate case” and “general rate case” are, effectively, synonymous throughout Title 54. They argue that where the legislature intends to allow a rate change outside of a GRC, it refers to “a rate case *or other appropriate proceeding*[,]” pointing to another example in Chapter 24 and others throughout Title 54.³ The Other Parties urge that 301(a)’s reference only to “a rate case” demonstrates the legislature intended that a fire fund surcharge may be implemented solely within the context of a GRC. Had the legislature intended otherwise, they argue, it would have included “or other appropriate proceeding,” consistent with the language throughout Title 54.

RMP argues that if the legislature intended that a fire fund surcharge may only be implemented through a GRC, it would have expressly said so. RMP urges the PSC to read the reference to “a rate case” in 301(a) as referring to some broader set of proceedings, emphasizing that the PSC has authority “to conduct an abbreviated proceeding to adjust a utility rate or charge.”⁴

All parties present thorough arguments, offering analyses through the lenses of various canons of statutory construction. As the PSC wishes for the parties to have

² Emphasis added.

³ See, e.g., Utah Code §§ 54-24-302(4)(a); 54-26-602(4); 54-17-303(1); 54-17-605(3)(a); 54-17-403(1)(a).

⁴ RMP’s Legal Br. at 9 (quoting *Utah Dep’t of Bus. Reg. of Pub. Utils. v. PSC*, 614 P.2d 1242, 1249-50 (Utah 1980)).

notice of its legal conclusion in advance of the scheduling conference to be held March 12, 2026, the PSC's discussion here must be succinct and cannot thoroughly discuss the parties' well-presented arguments.

Mindful of the significant pressures RMP faces with respect to wildfire related costs, candidly, the PSC would prefer to implement a surcharge at the earliest possible opportunity provided RMP provides substantial evidence to support both its Request and the underlying rate for the surcharge. We cannot, however, exercise authority that the statute expressly denies us. Having considered all the arguments, we cannot conclude the reference to "a rate case" in 301(a) means anything other than a GRC. No party cites any authority, and we are aware of none, wherein a Utah court or the PSC has construed one of Title 54's numerous references to "a rate case" to mean anything other than a GRC. Neither "rate case" nor "general rate case" are statutorily defined, and reading Chapter 24, along with the entirety of Title 54, as a whole, we conclude that "rate case" in 301(a) means a GRC. The PSC concludes, therefore, it may not authorize RMP to implement a surcharge for a Utah fire fund outside the context of a GRC. Had the legislature used broader language to indicate that the PSC could establish a surcharge in "an appropriate proceeding" before the PSC, we would have had some basis on which to proceed differently. It did not do so.

The PSC will provide a more detailed discussion of its analysis that duly considers the parties' respective arguments in its final order. RMP represents it intends to prosecute this docket regardless of the PSC's conclusion regarding its

authority to approve a surcharge because it may still provide a “forum for making all the other findings and determinations the [PSC] must make to establish a fire fund.”⁵ As discussed below, the PSC does not dismiss the Request and any conclusion of law rendered here will not be subject to review until the PSC issues a final order. We give notice of our legal conclusion so that this docket may proceed with focus on the issues that we may lawfully decide here.

3. The PSC Denies ULCG’s Motion.

As mentioned, though the PSC has concluded it cannot implement a surcharge through this docket, RMP asks the PSC not to dismiss because it prefers to use this forum to adjudicate all other issues underlying its Request.

OCS concurs, urging “this case need not be dismissed” and “should remain open to [evaluate other] preliminary matters concerning the creation of a fire fund.”⁶ OCS stresses that, while the statute “requires that the fire fund surcharge be approved in a [GRC,] ... it is statutorily permissible to leave the instant docket open to conduct preliminary procedures for the approval of a fire fund.”⁷

For its part, ULCG recognizes in its Motion “that the rate case restriction appears in the statute with reference to only establishing ‘a reasonable and prudent fire surcharge that a large-scale electric utility may charge to [its] customers[,]”

⁵ RMP’s Reply Br. at 13.

⁶ OCS’s Reply Br. at 7.

⁷ OCS’s Legal Br. at 10.

therefore, “to the extent the [PSC] desires to resolve non-surcharge issues in this proceeding, other aspects of establishing a fire fund may be considered outside of a rate case.”⁸

As the PSC has recognized on numerous previous occasions, GRCs are extremely complex proceedings that require adjudicating a litany of complicated issues. Generally, when an appropriate and lawful opportunity exists to adjudicate fact-intensive questions in advance of a GRC, it is in all stakeholders’ interest to do so such that the parties and the PSC may devote fully their attention and resources to examining those questions.⁹

We conclude nothing in Chapter 24 of Title 54 or other applicable law precludes the PSC from hearing evidence and making findings and conclusions pertaining to RMP’s Request, notwithstanding our inability to authorize implementation of a surcharge. We further find adjudicating all issues in this docket except for the surcharge is likely to lead to a more comprehensive and thorough record than adjudicating those questions later in a GRC. Given RMP’s and OCS’s expressed desire to use this forum to adjudicate these issues, the PSC denies ULCG’s Motion.

⁸ ULCG’s Motion at 12.

⁹ See e.g., *Application of RMP for a Deferred Accounting Order Regarding Insurance Costs*, Docket No. 23-035-40, Order on Review issued May 29, 2024, at 20.

4. Notice of Scheduling Conference.

Consistent with its Prior Order, the PSC gives notice its designated Presiding Officer will conduct a virtual scheduling conference in this docket on **Thursday, March 12, 2026, at 10:00 a.m.** The conference will be held via Google Meet at the following link: (meet.google.com/drz-ppyo-qzm). Parties should come prepared to discuss a schedule for adjudicating any remaining issues in this docket.

In the event of unresolvable technological problems related to the scheduling conference's video conferencing, parties should use the following audio-only participation information: 401-594-2734 PIN: 475 396 666#.

Individuals needing accommodations during the conference should notify the PSC at 160 East 300 South, Salt Lake City, Utah, 84111, (801) 530-6716, as soon as possible.

DATED at Salt Lake City, Utah, March 10, 2026.

/s/ Michael J. Hammer
Presiding Officer

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#344254

CERTIFICATE OF SERVICE

I CERTIFY that on March 10, 2026, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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