

Katherine T. Smith
Tiffanie Ellis-Burke
Rocky Mountain Power
1407 W. North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone: (435) 776-6980
E-mail: katherine.smith@pacificorp.com
tiffanie.ellis-burke@pacificorp.com

Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Rocky Mountain Power for Approval of Large-Load Service Contract between PacifiCorp and a Large-Load Customer	Docket No. 26-035-05
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**Rocky Mountain Power’s Objection to the Utah Association of Energy Users’
Motion for Access to Materials Marked “REGULATOR ACCESS ONLY”**

Pursuant to Utah Administrative Code R746-1-301 and R746-318-103, PacifiCorp dba Rocky Mountain Power (“Rocky Mountain Power” or the “Company”) objects to the Motion for Access to Materials Marked “REGULATOR ACCESS ONLY” (“Motion”) filed by Utah Association of Energy Users (“UAE”). The information UAE seeks to access (the “Designated Information”) is commercially sensitive and appropriately designated as “Regulator Access Only – Highly Confidential – Subject to Utah Public Service Commission Rule R746-318-103.” Because UAE’s Motion fails to overcome the rebuttable presumption that regulator access is appropriate, as required by R746-318-103(7), or to identify additional protections reasonably calculated to protect the Company’s and its customer’s commercially sensitive information, the Motion should be denied.

BACKGROUND

1. On February 10, 2026, the Company filed with the Public Service Commission of Utah (“Commission”) its Application pursuant to Utah Code § 54-26-301 and Utah Administrative Code R746-318-201, and sought Commission approval of a large load service contract being entered into by PacifiCorp to serve a large load customer in Utah (the “LLSC”). Rocky Mountain Power’s Application and the supporting testimonies of Craig M. Eller, Ramon J. Mitchell, and Thomas R. Burns included information regarding pricing and credit information, as well as other terms necessary to implement the LLSC’s pricing provisions. The Company designated this information “Regulator Access Only – Highly Confidential – Subject to Utah Public Service Commission Rule R746-318-103” and filed redacted and highly confidential copies of all materials.

2. UAE is not permitted access to the Designated Materials, which are only available to the Commission, the Division of Public Utilities (“DPU”), and the Office of Consumer Services (“OCS”).¹

3. On March 3, 2026, UAE filed the direct testimony of Justin Bieber, in which UAE did not oppose the Commission approving the LLSC.² Mr. Bieber’s testimony stated that UAE recommended the Commission not approve the proposed accounting treatment for the LLSC until UAE has the opportunity to obtain access to details sufficient to allow UAE to examine whether the “proposed accounting treatment will protect existing customers from subsidizing the new large load.”³

¹ Utah Admin. Rule 746-318-103(5).

² Direct Testimony of Justin Bieber at 9:189.

³ *Id.* at 9:193-10:201.

4. As UAE's Motion states, the Company and UAE met and conferred regarding the Designated Materials in late February, before Mr. Bieber filed his testimony, and again in early March.

5. During these discussions, the Company explained: (1) that the information requested would reveal pricing and other competitively sensitive information, placing the Company and its customer at a competitive disadvantage in future contract negotiations with third parties; and (2) that the information sought is not necessary to establish that the Company will not pass incremental costs associated with the LLSC on to existing customers. As Mr. Mitchell's testimony explains, the Company will exclude all costs associated with serving the large load customer by excluding certain costs and revenues from the Company's cost of service and net power cost determinations and applying credits greater than or equal to the incremental cost of serving the large load customer to other Utah customers. In particular, the Company will provide credits to net power costs based on the actual costs of the energy required to serve the large load customer.⁴ The Company explained that the evidence of the way the Company will credit existing customers is the relevant detail for determining impact to existing customers, not the price that the Company will receive for serving the large load customer. For these reasons, the Company did not agree to change its Regulator Access Only designations.

6. By its Motion, UAE asks the Commission to allow its counsel and Mr. Bieber, unredacted access to the Designated Information, which includes the following:

- Direct Testimony of Craig Eller, lines 60, 80-89, 132, 140-141, 180, 196-234, 267-270, 278-279, and 338;
- Direct Testimony of Ramon Mitchell, lines 67-71, 114-115 and 120-132;
- Direct Testimony of Tom Burns, lines 104-108;
- Exhibit RMP___(CME-2);
- RMP Eller Workpapers; and

⁴ Direct Testimony of Ramon J. Mitchell ("Mitchell Direct") at 5:76-6:99.

- RMP Burns Workpapers.

ARGUMENT

A. The Materials UAE Identified are Properly Designated Regulator Access Only

On January 1, 2026, the Commission issued rules (the “Large Load Rules”) to implement newly enacted Large-Scale Electric Service Requirements, codified at Utah Code 54, Title 26 (the “Act”).⁵ After receiving comments in the Large Load Rulemaking docket, including from UAE,⁶ regarding the need for care in handling confidential commercial information to protect competition, the Commission promulgated rules that allow applicants to designate “commercially sensitive” information within their applications as “Regulator Access Only – Highly Confidential – Subject to Utah Public Service Commission Rule 746-318-103.”⁷ The Large Load Rules also create a rebuttable presumption that “the following categories of information are commercially sensitive and appropriate designated for regulator access only: credit terms, pricing terms, and other commercial terms related to implementing pricing and credit term.”⁸ An intervening party may challenge this designation and propose alternatives “adequate to protect the commercially sensitive information,”⁹ but those protections should not be approved if the Company demonstrates that, even with those protections, sharing the commercially sensitive information would put it at a competitive disadvantage.¹⁰

1. The Designated Information is Commercially Sensitive

Here, the Designated Information is commercially sensitive, as it relates to the price the

⁵ See Proposed Rulemaking Concerning Utah Code §§ 54-26-101 to -901, Large-Scale Electric Service Requirements (“Large Load Rulemaking”), Docket No. 25-R318-01, Notice of Proposed Rule (Oct. 31, 2025) and Notice of January 1, 2026 Effective Date (Dec. 29, 2025).

⁶ See Large Load Rulemaking, Initial Comments of the Utah Association of Energy Users (Aug. 27, 2025).

⁷ Utah Admin. Rule 746-318-103(2)(c).

⁸ Utah Admin. Rule 746-318-103(3)(7).

⁹ Utah Admin. Rule 746-318-103(6).

¹⁰ *Id.*

large load customer will pay the Company under the terms of the LLSC and the implementation of those pricing terms, including the contract term. Any access to this information by UAE or its representatives, regardless of whether they sign nondisclosure agreements, could be used to the Company's competitive disadvantage. For example, UAE requests access to several passages in Company witness Craig Eller's Direct Testimony.¹¹ This information includes the reserve and energy charges that collectively make up the price provision of the LLSC.¹² Similarly, UAE requests testimony excerpts and workpapers from Company witnesses Eller and Burns that contain the same and related information, including the amount of the reserve charge and the precise methodology for calculating the variable energy charge.¹³ The workpapers of Witnesses Eller and Burns are particularly sensitive, as they provide the precise method for calculating the variable payments under the LLSC.

UAE recognizes the need to protect such commercially sensitive information. As it contended in its Initial Comments in the Large Load Rulemaking docket last year, "[c]ommercial terms of Large Load Contracts should not be made public or shared with entities that could use such information in a way that commercially disadvantages the parties to the contract."¹⁴ Therefore, in that proceeding, UAE asked the Commission not to allow the Company access to confidential or highly confidential portions of large load contracts to which the Company is not a

¹¹ Direct Testimony of Craig Eller, lines 60, 80-89, 132, 140-141, 180, 196-234, 267-270, 278-279, and 338.

¹² *See, e.g.*, Direct Testimony of Craig M. Eller ("Eller Direct") at lines 60 (providing the term of the agreement); Eller Direct at lines 80-89, 132, 196-215, 219-222, 228-234, 278-279 (explaining the Energy Charge and the method for calculating it); Eller Direct at 140-141 (explaining the Reservation Charge); Eller Direct at lines 267-270 (providing estimated revenue that will be collected during the term of the LLSC, pursuant to the Reservation Charge and estimated Energy Charges); Eller Direct at line 338 (quantifying the large load customer's cost for shared facilities pursuant to Rule 12).

¹³ Mitchell Direct at lines 67-71 and 114-115 (regarding the Energy Charge and the Company's proposed method for calculating it); Mitchell Direct at lines 120-132 (regarding application of the Energy Charge to transmission costs); Direct Testimony of Thomas R. Burns ("Burns Direct") at lines 104-108 (discussing the method for calculating the Energy Charge).

¹⁴ Large Load Rulemaking, Initial Comments of UAE at 7.

party.¹⁵ Here, UAE has not attempted to rebut the presumption that the information in the Designated Information is commercially sensitive.

2. UAE Has Not Identified a Legitimate Need for the Information

Instead of contesting the sensitivity of the Designated Information, UAE argues its need for the information justifies allowing it access, through its counsel and expert witness. UAE contends that access is necessary to allow UAE to ensure that the Company's "proposed accounting treatment associated with the LLSC . . . does not result in other customers subsidizing the large load."¹⁶

The Company agrees that a key purpose of the large load contract review process is to verify that existing customers will not bear any portion of the incremental costs incurred to serve the new large load.¹⁷ The Designated Information is not, however, necessary to verify compliance with this statutory requirement.

First, as previously discussed,¹⁸ the Designated Information relates to pricing and pricing implementation, including the contract term, not how the incremental costs of serving the large load customer will impact existing customers. As Mr. Mitchell has explained, existing ratepayers are protected from subsidizing any portion of the incremental costs of this LLSC through the credits he describes in his testimony.¹⁹

Second, even if this information were relevant, the Commission, the DPU, and OCS can assess the Designated Information and evaluate whether the Act's requirements are satisfied. Inherent in the Commission's adoption of this new Regulator Access Only designation is the

¹⁵ *Id.*

¹⁶ Motion at 1-2.

¹⁷ Utah Code § 54-26-302(2); Utah Admin. Rule 746-318-202(2).

¹⁸ Background at ¶ 5.

¹⁹ Mitchell Direct at 5:76-6:99.

possibility that some intervenors may not be entitled to all information regarding a transaction, even if that information would help them better understand the full transaction. That does not mean, however, that the interest of other customers and the law are not upheld through review and analysis by the Commission, DPU, and OCS. In fact, the DPU and OCS have reviewed the record, including the Designated Information, for this purpose; have submitted testimony explaining that the Application meets the requirements of the Act and that Utah ratepayers will not be harmed by the LLSC; and have recommended the Commission approve the Application.²⁰

B. UAE Has Not Identified Alternative Protective Measures “Adequate to Protect” the Designated Information

The alternative protections UAE proposes are inadequate to protect the Designated Information.²¹ UAE proposes that its counsel and retained expert witness be permitted to access the Designated Information subject to a nondisclosure agreement.²² The nondisclosure agreement signed by UAE’s counsel and expert prohibits the use and disclosure of confidential information,²³ but it does not (nor could it) require that the information be irradiated from the signatory’s memory. UAE is a trade organization representing industrial energy users, including potentially customers who may meet the Act’s definition of a large load. As a result, there is a real likelihood that recipients of the Designated Information will be in a position to advise with respect to a future large load contract with the Company. Without violating their disclosure obligations in this case, they could plausibly make recommendations in future proceedings or negotiations that are informed by what they learn and infer as a result of seeing the pricing and other competitively

²⁰ Direct Testimony of Matt Pernichele at 16:368-369; Rebuttal Testimony of Matt Pernichele at 1:9-14; Direct Testimony of Cameron Irmas at 3: 55 – 5:91 and 13:262-268.

²¹ Utah Admin. Rule 746-318-6(a); Utah Admin. Rule 746-1-601.

²² Motion at 4.

²³ Utah Admin. Rule R746-1-603.

sensitive information in this LLSC. That would inherently put the Company at a competitive disadvantage in future transactions.

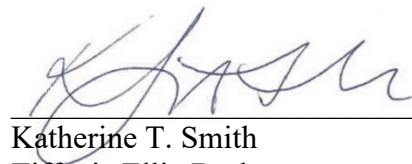
The limitations of the nondisclosure agreement process outlined in the Commission's previously existing rules seems to be precisely why the Commission established the Regulator Access Only designation in the Large Load Rules. If the restrictions UAE proposes were adequate, there would be no need for the Regulator Access Only designation. But as UAE contended in the Large Load Rulemaking, the commercial terms of these large load agreements are not relevant and would be competitively damaging to the contracting parties if viewed by competitors, potential customers, or potential third-party service providers.

CONCLUSION

Because UAE has not rebutted the presumption that the Designated Information is appropriately marked Regulator Access Only and has not presented alternative protective measures that will adequately protect the Company or its large load customer, the Designated Information should continue to be treated as Regulator Access Only consistent with Utah Administrative Code R746-318-103.

DATED this 13th day of March, 2026.

Respectfully submitted,
ROCKY MOUNTAIN POWER



Katherine T. Smith
Tiffanie Ellis-Burke
1407 West North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone: (435) 776-6980
katherine.smith@pacificorp.com
tiffanie.ellis-burke@pacificorp.com

Attorneys for Rocky Mountain Power

CERTIFICATE OF SERVICE

Docket No. 26-035-05

I hereby certify that on March 13, 2026, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services

Michele Beck mbeck@utah.gov
ocs@utah.gov

Division of Public Utilities

dpudatarequest@utah.gov

Assistant Attorney General

Patricia Schmid pschmid@agutah.gov
Robert Moore rmoore@agutah.gov
Patrick Grecu pgrecu@agutah.gov

Utah Association of Energy Users

Phillip J. Russell (C) prussell@jdrslaw.com
Kevin Higgins khiggins@energystrat.com
Neal Townsend (C) ntownsend@energystrat.com
Justin Bieber (C) jbieber@energystrat.com
Keirsten Ignjatovic (C) keirsten@energystrat.com

Utah Clean Energy (C)

Lauren R. Barros LRB@LaurenBarrosLaw.com
Sarah Wright sarah@utahcleanenergy.org
Logan Mitchell logan@utahcleanenergy.org
Jenn Bodine jbodine@utahcleanenergy.org
Josh Craft josh@utahcleanenergy.org
Jennifer Eden jennifer@utahcleanenergy.org
Sierra Goodridge sierra@utahcleanenergy.org

Rocky Mountain Power

Data Request Response Center datarequest@pacificorp.com
Jana Saba jana.saba@pacificorp.com
utahdockets@pacificorp.com
Max Backlund max.backlund@pacificorp.com
Katherine Smith Katherine.smith@pacificorp.com
Tiffanie Ellis-Burke Tiffanie.ellis-burke@pacificorp.com



Carrie Meyer
Manager, Discovery & Regulatory Operations