

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Request of Rocky Mountain Power for Approval of a Utah Fire Fund	<u>DOCKET NO. 25-035-61</u> <u>ORDER VACATING SCHEDULING ORDER AND SETTING DEADLINES</u>
--	---

ISSUED: January 30, 2026

On November 26, 2025, Rocky Mountain Power (RMP) filed its Notice of Creation of Utah Fire Fund and Request for Commission Approval (“Request”). On 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 regarding several issues. Specifically, the PSC asked parties to opine as to whether (i) the PSC can approve the Request in the absence of information regarding the additional costs RMP will incur related to wildland fire liability risk (“Fire Risk”); (ii) what, if any, additional kinds or categories of information are necessary to allow the PSC to make the statutorily required findings to approve RMP’s request to establish a Utah Fire Fund (“Fire Fund”); and (iii) given the foregoing, whether the schedule and process established in the Scheduling Order will be sufficient for the PSC to reasonably and responsibly evaluate the 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 “Intervening Parties”), and RMP.

**1. All the Intervening Parties Endorse a Reading of the Statute that is Dispositive and Would Preclude the PSC, as a Matter of Law, from Granting RMP’s Request in this Docket.**

DPU, OCS, ULCG, and UAE all question or challenge the PSC’s authority to approve RMP’s Request outside the context of a general rate case. They cite 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*.”<sup>1</sup> (Emphasis added). As UAE succinctly argues, a “surcharge is a necessary component of a Fire Fund, and a [] surcharge may only be approved in a rate case.” Therefore, “a Fire Fund may not be approved in this docket or in any other proceeding outside of a [general] rate case.”<sup>2</sup>

Given that RMP plainly intends its Request to authorize it to begin collecting a surcharge,<sup>3</sup> it almost certainly would offer a different reading of the statute.

While all parties, save RMP, raise this issue, none of them offer substantive argument beyond citing this single subsection of the statute, e.g., they offer no

---

<sup>1</sup> UAE Comments filed Jan. 16, 2026, at 2.

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., RMP’s Comments filed Jan. 16, 2026, at 9 (arguing approval of its Request would “authorize[] [RMP] to begin to build the ‘fund’” over a period of ten years pursuant to the statute).

arguments premised on precedent or statutory construction. The PSC appreciates the Intervening Parties offer these observations and arguments in the context of responding to the PSC's questions concerning the scope and schedule of this docket. However, the PSC will not decide a potentially dispositive legal question without proper argument and, of course, allowing RMP an opportunity to respond.

**2. All Intervening Parties Agree RMP Must Provide Additional Information to Allow Them and the PSC to Reasonably Evaluate the Request.**

While RMP contends that its Request, supporting written testimony, and information it will provide through the discovery process will be sufficient, under the existing schedule, to allow the PSC to make the findings necessary to approve its Request, the Intervening Parties each contend, to one degree or another, that RMP's Request fails to provide information that is foundational and essential. For example, DPU highlights the following categories of necessary information:

- (i) RMP's excess liability insurance (ELI) premiums and terms (including coverage limits) for, at least, the next policy term;
- (ii) The target amount to be raised for RMP's Fire Fund;
- (iii) A copy of the final master trust agreement ("Trust") that RMP intends to govern its Fire Fund;
- (iv) The supporting data underlying RMP's actuarial analysis; and
- (v) "[M]ore granular performance data about the effectiveness of [RMP's wildfire mitigation plan] in mitigating [Fire Risk] and information

concerning insurance costs that could potentially be reduced through [RMP's mitigation] efforts.”<sup>4</sup>

### **3. Order Vacating Scheduling Order and Establishing Legal Issue Briefing Schedule**

As the PSC indicated in the Scheduling Order, it “recognizes the public policy underlying Utah Code § 54-24-301 and strongly prefers to avoid any needless delay in its consideration of RMP’s Request to implement a Utah fire fund.”<sup>5</sup> The PSC further notes that the existing schedule, however, was rather aggressive. In fact, the PSC is somewhat perplexed, given their concerns, that the Intervening Parties stipulated to the deadlines tentatively established in the Scheduling Order.

Regardless, under the existing Scheduling Order, the Intervening Parties’ written direct testimony is due in less than two weeks, on February 11, 2026. The PSC finds that a potentially dispositive, preliminary legal question exists and that RMP’s Request lacks essential information such that adhering to the existing schedule would be wasteful, inefficient, and deny the Intervening Parties an adequate opportunity to prepare informed written direct testimony.

The Intervening Parties are plainly entitled to review the Trust well in advance of preparing their written direct testimony and, given that RMP has represented its ELI rates and terms for the forthcoming period will be finalized within about two weeks,

---

<sup>4</sup> DPU Comments filed Jan. 16, 2026, at 6.

<sup>5</sup> Scheduling Order at 6.

the PSC can discern no persuasive justification for denying them an opportunity to review that information prior to submitting their written direct testimony.

Accordingly, the Scheduling Order is vacated. To make the most efficient use of the parties' and the PSC's resources, the PSC will decide the preliminary legal issue as soon as is practicable. While the Intervening Parties raised the issue in their respective comments, none of them offered legal arguments to support their reading of the statute nor have they moved the PSC for summary relief. Accordingly, the PSC directs RMP and any party that wishes to challenge the PSC's legal authority to approve the Request, to file a brief on or before **Friday, February 13, 2026** addressing the following legal issue: Whether this proceeding to establish a fire fund surcharge can be determined to be a "rate case" consistent with the statutory language in Utah Code § 54-24-301(3)(a) and adjudicated prior to RMP's next "general rate case" whenever such may be filed. All parties may file reply briefs by **Friday, February 20, 2026**.

The PSC directs RMP to provide the Intervening Parties, provided appropriate confidentiality agreements are in place, with the information DPU identified above, *supra* at 3-4, as soon as practicable. The PSC further directs RMP to supplement its Request with, at minimum, the rates and terms (including coverage limits) for the ELI coverage RMP has represented it will finalize in mid-February 2026, within five days of the rates and terms becoming final. The PSC also directs RMP to include with the

DOCKET NO. 25-035-61

- 6 -

ELI rates and terms a final copy of the Trust that it intends to govern its Fire Fund or, if it is not yet completed, the date on which the Trust will be provided to the parties.

The next scheduling conference in this docket will take place on **Thursday, March 12, 2026 at 10:00 a.m.** A formal notice detailing the matters to be considered will be issued in conjunction with our ruling on the legal issue.

DATED at Salt Lake City, Utah, January 30, 2026.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#343628

CERTIFICATE OF SERVICE

I CERTIFY that on January 30, 2026, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Data Request Response Center ([datareq@pacificorp.com](mailto:datareq@pacificorp.com)), ([utahdockets@pacificorp.com](mailto:utahdockets@pacificorp.com))  
*PacifiCorp*

Max Backlund ([max.backlund@pacificorp.com](mailto:max.backlund@pacificorp.com))  
Carla Scarsella ([carla.scarsella@pacificorp.com](mailto:carla.scarsella@pacificorp.com))  
*Rocky Mountain Power*

Phillip J. Russell ([prussell@jdrslaw.com](mailto:prussell@jdrslaw.com))  
JAMES DODGE RUSSELL & STEPHENS, P.C.  
Kevin Higgins ([khiggins@energystrat.com](mailto:khiggins@energystrat.com))  
Neal Townsend ([ntownsend@energystrat.com](mailto:ntownsend@energystrat.com))  
Justin Bieber ([jbieber@energystrat.com](mailto:jbieber@energystrat.com))  
Keirsten Ignjatovic ([keirsten@energystrat.com](mailto:keirsten@energystrat.com))  
Energy Strategies, LLC  
*Utah Association of Energy Users*

Michelle Brandt King ([mbking@hollandhart.com](mailto:mbking@hollandhart.com))  
Austin W. Jensen ([awjensen@hollandhart.com](mailto:awjensen@hollandhart.com))  
Adele Lee ([aclee@hollandhart.com](mailto:aclee@hollandhart.com))  
Tracy Friel ([tlfriel@hollandhart.com](mailto:tlfriel@hollandhart.com))  
*Utah Large Customer Group*

Peter J. Mattheis ([pjm@smxblaw.com](mailto:pjm@smxblaw.com))  
Eric J. Lacey ([ejl@smxblaw.com](mailto:ejl@smxblaw.com))  
STONE MATTHEIS XENOPOULOS & BREW, P.C.  
Jeremy R. Cook ([jcook@ck.law](mailto:jcook@ck.law))  
COHNE KINGHORN  
*Nucor Steel-Utah, a Division of Nucor Corporation*

Sophie Hayes ([sophie.hayes@westernresources.org](mailto:sophie.hayes@westernresources.org))  
Karl Boothman ([karl.boothman@westernresources.org](mailto:karl.boothman@westernresources.org))  
Nancy Kelly ([nancy.kelly@westernresources.org](mailto:nancy.kelly@westernresources.org))  
Jessica Loeloff ([jessica.loeloff@westernresources.org](mailto:jessica.loeloff@westernresources.org))  
*Western Resource Advocates*

Lauren R. Barros ([LRB@LaurenBarrosLaw.com](mailto:LRB@LaurenBarrosLaw.com))  
Lauren Barros Law  
Sarah Wright ([sarah@utahcleanenergy.org](mailto:sarah@utahcleanenergy.org))  
Logan Mitchell ([logan@utahcleanenergy.org](mailto:logan@utahcleanenergy.org))  
Jenn Bodine ([jbodine@utahcleanenergy.org](mailto:jbodine@utahcleanenergy.org))  
Josh Craft ([josh@utahcleanenergy.org](mailto:josh@utahcleanenergy.org))  
Jennifer Eden ([jennifer@utahcleanenergy.org](mailto:jennifer@utahcleanenergy.org))  
Sierra Goodridge ([sierra@utahcleanenergy.org](mailto:sierra@utahcleanenergy.org))  
*Utah Clean Energy*

Patricia Schmid ([pschmid@agutah.gov](mailto:pschmid@agutah.gov))  
Patrick Grecu ([pgrecu@agutah.gov](mailto:pgrecu@agutah.gov))  
Robert Moore ([rmoore@agutah.gov](mailto:rmoore@agutah.gov))  
*Assistant Utah Attorneys General*

Madison Galt ([mgalt@utah.gov](mailto:mgalt@utah.gov))  
*Division of Public Utilities*

Alyson Anderson ([akanderson@utah.gov](mailto:akanderson@utah.gov))  
Cameron Irmis ([cirmas@utah.gov](mailto:cirmas@utah.gov))  
Asami Kobayashi ([akobayashi@utah.gov](mailto:akobayashi@utah.gov))  
Jennifer Ntiamoah ([jntiamoah@utah.gov](mailto:jntiamoah@utah.gov))  
Bela Vastag ([bvastag@utah.gov](mailto:bvastag@utah.gov))  
Alex Ware ([aware@utah.gov](mailto:aware@utah.gov))  
([ocs@utah.gov](mailto:ocs@utah.gov))  
*Office of Consumer Services*

/s/ Melissa R. Paschal  
Lead Paralegal