



UTAH STATE LEGISLATURE

JUDICIARY INTERIM COMMITTEE

Utah State Senate
Utah House of Representatives

June 25, 2020

Sen. Ronald Winterton, Senate Chair

Rep. Carl R. Albrecht, House Chair

Public Utilities, Energy, and Technology Interim Committee

Utah State Capitol

RE: Referral of the Utah Supreme Court Decision, *Utah Office of Consumer Servs. v. Public Service Comm'n*, 2019 UT 26, 445 P.3d 464.

Dear Sen. Winterton and Rep. Albrecht,

In its June meeting, the Judiciary Interim Committee reviewed Utah appellate court decisions calling upon the Legislature to clarify or modify a statute. One of the cases discussed was *Utah Office of Consumer Servs. v. Public Service Comm'n*, 2019 UT 26, 445 P.3d 464. In *Public Service Comm'n*, the Utah Supreme Court considered whether the Public Service Commission had statutory authority to impose “interim rates” as part of the energy balancing account (EBA) process.

An EBA is used to track incurred net power costs by electrical corporations such as PacifiCorp. See Utah Code § 54-7-13.5. As part of the EBA process, the Public Service Commission allowed PacifiCorp to propose interim rates based on PacifiCorp’s annual EBA report, which allowed PacifiCorp to recover costs from consumers. The Utah Supreme Court determined that the Public Service Commission lacked statutory authority to impose interim rates in the EBA process. However, the Court provided that “we leave it to the legislature, if it so chooses, to reopen the governing statutes to expressly authorize an interim rate procedure as an element of the EBA process.” *Public Service Comm'n*, 2019 UT 26, ¶ 49.

The Judiciary Interim Committee moved by a majority vote that we refer this issue to the Public Utilities, Energy, and Technology Interim Committee for its consideration.

Sincerely,

Sen. Todd Weiler
Senate Chair
Judiciary Interim Committee

Rep. Karianne Lisonbee
House Chair
Judiciary Interim Committee