



State of Utah

DEPARTMENT OF COMMERCE

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DIVISION OF PUBLIC UTILITIES

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Memorandum

To: Public Service Commission

From: Division of Public Utilities
Irene Rees, Director
Energy Section
Judith Johnson, Energy Manager
Laura Nelson, Consultant, LSN Consulting

Date: May 13, 2004

Subject: Docket 04-035-20: *PacifiCorp Request for Agency Action, PacifiCorp vs US Magnesium, LLC*

I. ISSUE

On April 5, 2004, PacifiCorp filed a complaint against US Magnesium (US Mag) asserting that US Mag had failed to pay in full amounts owed for the provision of electric service. Specifically, PacifiCorp argued that such payments were due under the terms of the Commission's Order in Docket No. 01-035-38 dated November 13, 2003 (2003 Order).

US Mag filed its "Response and Opposition" on May 5, 2004, asserting that the PacifiCorp Request misrepresented the issue of missed payments. US Mag states in its filing that the issue is over the timing and application of payments. US Mag further states that these disputes are unrelated to the Commission's 2003 Order and request that the issue should be dealt with in Docket No. 03-035-19, in which US Mag is seeking determination of long-term economic development rates.

II. RECOMMENDATION

The Division believes that the billing calculations represented in PacifiCorp's Request are derived from the application of the Commission's 2003 Order. The Division also interprets that the intent of Docket 03-035-19 is to develop future rates for US Mag and not to evaluate past rate determination or disputes. Thus, the Division recommends

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that the issue should not be addressed in Docket 03-035-19 but should remain in Docket No. 04-035-20 as a separate docket.

While it appears that the billing calculations are the result of applying the 2003 Order, staff has not yet determined that the calculations are accurate. Additionally, staff believes that the nature of the dispute, including analysis of any agreements jointly entered into by PacifiCorp and US Mag in the context of the MagCorp bankruptcy proceeding, needs to be explored. The Division recommends that a Technical Conference and Scheduling Conference be set in this docket in order to explore these issues and the appropriate process going forward to address this complaint.

CC: Committee of Consumer Services
Gary Dodge, Attorney for US Magnesium
Edward Hunter, Attorney for PacifiCorp

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