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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

PACIFICORP, dba UTAH POWER & LIGHT CO.,	:	
	:	
	:	
	:	
	:	Docket No. 04-035-20
	:	
Petitioner,	:	
	:	
	:	REQUEST FOR AGENCY ACTION
vs.	:	
	:	
	:	
US MAGNESIUM LLC,	:	
	:	
	:	
Respondent.	:	
	:	

Pursuant to Utah Code Ann. § 63-46b-3 and Utah Admin. Code R746-100-3, PacifiCorp,
doing business as Utah Power & Light Co. (“PacifiCorp”), hereby complains against US
Magnesium LLC (“US Mag”) as follows:

PARTIES

1. PacifiCorp is an Oregon corporation and a public utility doing business in the
state of Utah, subject to the jurisdiction of the Public Service Commission of Utah
 (“Commission”)
2. US Mag is a Delaware limited liability company with a place of business in
Tooele County, Utah.

JURISDICTION

3. Jurisdiction properly lies with the Commission pursuant to Utah Code Ann. §§ 54-4-1, et seq., and 54-7-11.

REQUEST FOR RELIEF

4. PacifiCorp seeks a Commission order finding that US Mag has, contrary to the Commission's November 13, 2003 order in Docket No. 01-035-38 (the "2003 Order"), failed to pay amounts properly owed for electric service provided by PacifiCorp. The amounts owed by US Mag in accordance with the 2003 Order are \$431,469.43, plus \$4,361.46 for each month of service since and including February 2004.

FACTS AND REASONS FORMING THE BASIS FOR RELIEF

5. PacifiCorp and US Mag's predecessor in interest, Magnesium Corporation of America ("Magcorp"), were parties to a special electric service agreement, and amendments ("Magcorp Agreement"), pursuant to which PacifiCorp provided electric service to Magcorp. That agreement terminated on December 31, 2001.

6. In a final order issued on May 24, 2002 in Docket No. 01-035-38, *In the Matter of the Application of PacifiCorp, dba Utah Power & Light Company for Approval of Provisions for the Supply of Electric Service to Magnesium Corporation of America* ("2002 Order"), the Commission set a \$21 per megawatt-hour rate for PacifiCorp's service to Magcorp.

7. PacifiCorp and US Mag entered an Electric Service Agreement, dated May 15, 2003 ("US Mag Agreement"), pursuant to which PacifiCorp is currently providing electric service to US Mag. The US Mag Agreement incorporated the \$21 per megawatt-hour rate for PacifiCorp's service.

8. In the 2003 Order, the Commission determined that the \$21 per megawatt-hour rate should apply to service provided by PacifiCorp to the US Mag facility from January 1, 2002 (the day after the Magcorp Agreement expired) until May 24, 2002 (the “Disputed Period”).

9. Pursuant to the terms of the 2003 Order, US Mag has underpaid PacifiCorp the monthly amortized amount of \$4,361.46 for each month since, and including, February 2004. Pursuant to the 2003 Order, such amounts are to be paid by US Mag through December 2004 (the remaining term of the US Mag Agreement).

10. US Mag has also underpaid PacifiCorp \$431,469.43 for electric service provided subsequent to the Disputed Period, based on US Mag’s position that, assuming a rate of \$18 rather than \$21 per MWh during the Disputed Period, it was entitled to a billing credit.

WHEREFORE, PacifiCorp respectfully requests a Commission order finding that US Mag has failed to pay for electric service provided by PacifiCorp in accordance with this Commission’s orders, and determining that PacifiCorp is entitled to payment from US Mag in the amount of \$431,469.43, plus the monthly amortized amount of \$4,361.46 for each month since and including February 2004 and continuing through December 2004.

RESPECTFULLY SUBMITTED THIS 5th day of April 2004.

By _____
Edward A. Hunter
David L. Elmont
STOEL RIVES LLP

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April 2004, I caused to be served, via U.S. mail, postage prepaid, a true and correct copy of the foregoing **REQUEST FOR AGENCY ACTION** on the following:

Gary Dodge
Hatch James & Dodge
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Lee Brown
Magnesium Corporation of America
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