

1 **Q. Please state your name and business address for the record.**

2 A. David T. Thomson. My business address is Heber M. Wells Building 4th Floor,
3 160 East 300 South, Salt Lake City, Utah 84117-6751.

4 **Q. For which party will you be offering testimony in this case?**

5 A. I will be offering testimony on behalf of the Utah Division of Public Utilities
6 (Division).

7 **Q. Please describe your position and duties with the Division of Public Utilities?**

8 A. I am a Utility Analyst II. Among other things, I serve as an in-house consultant
9 on issues concerning the terms, conditions and prices of utility service; industry
10 and utility trends and issues; and regulatory form, compliance and practice
11 relating to public utilities. I examine public utility financial data for
12 determination of rates; review applications for rate increases; conduct research,
13 examine, analyze, organize, document and establish regulatory positions on a
14 variety of regulatory matters; review operations reports and ensure compliance
15 with laws and regulations, etc.; testify in hearings before the Public Service
16 Commission; assist in analysis of testimony and case preparation; and participate
17 in settlement conferences, etc.

18 **Q. What do you see as the primary matters in need of investigation in this case?**

19 A. I see two primary matters in this case. The first is whether US Magnesium LLC
20 (US Mag) owes PacifiCorp for unpaid electrical services of \$47,976.01 which is
21 PacifiCorp's proposed amount of underpaid power provided to Magnesium
22 Corporation of America (Magcorp) for the period from May 1, 2002 through June
23 24, 2002, and, if so, then when such payment should be made in light of

1 Magcorp's bankruptcy. The second matter is whether US Mag owes PacifiCorp,
2 dba Utah Power & Light Co., (PacifiCorp) \$431,469.43 of proposed unpaid
3 billings for electrical services for the period from June 25, 2002 through July 31,
4 2002.

5 **Q. Have you conducted an investigation in these matters?**

6 A. I have.

7 **Q. Please describe your investigation.**

8 A. I have thoroughly reviewed all filings in this case. I have reviewed Direct
9 Testimony filed by PacifiCorp and US Mag. I attended a technical conference
10 about this matter on September 26, 2004. I have reviewed the exhibits and
11 information provided in the testimony and at the technical conference. I have
12 reviewed information provided by PacifiCorp to the Division in response to
13 formal and informal data requests regarding the primary matters that needed to be
14 investigated as stated above. I have reviewed PacifiCorp's request for Agency
15 Action and US Mag's response to the request for Agency Action. I have reviewed
16 certain correspondences between PacifiCorp and US Mag in the form of letters
17 and emails. I have reviewed two Orders dated May 24, 2002 and November 13,
18 2003 under Docket No. 01-035-38 which had to do with the approval of
19 provisions for the supply of Electric Services to Magnesium Corporation of
20 America. I have reviewed the Electric Service Agreement between PacifiCorp and
21 US Mag made May 15, 2003 and which was effective June 25, 2002 and running
22 from that date through December 31, 2004. I have also reviewed a Bankruptcy

1 Stipulation between PacifiCorp, US Mag and the trustee for MagCorp dated
2 March 25, 2004 regarding Utah PSC action and post petition utility services.

3 **Q. What conclusion have you reached in the first matter?**

4 A. As to the \$47,976.01 claimed owing for electrical services provided to US
5 MagCorp for the period May 1, 2002 to June 24, 2002, PacifiCorp has entered
6 into an agreement with US Mag, approved by the US Bankruptcy Court
7 overseeing the MagCorp bankruptcy in New York, which specifies if and when
8 the proposed payment for the above amount is to be paid. It is my conclusion that
9 PacifiCorp should adhere to that agreement which specifies that payment is due
10 within ten (10) business days of a final determination of the appropriate rate
11 properly chargeable by PacifiCorp for electricity sold by PacifiCorp to MagCorp
12 during the disputed period. PacifiCorp entered into an agreement and should live
13 with the terms of that agreement. PacifiCorp has already agreed to a resolution
14 and should not now seek to change the process.

15 **Q. What conclusion have you reached in the second matter?**

16 As to the \$431,469.43 claimed owing for electrical services provided to US Mag
17 for the period June 25, 2002 to July 31, 2002, it is my conclusion that this amount
18 is owed by US Mag to PacifiCorp. My conclusion is based upon the following.
19 In my review of the information provided for my investigation, and in listening to
20 verbal testimony at the technical conference on September 26, 2004, it appears to
21 me that US Mag has not disputed the underlying billing documentation and
22 amounts as provided by PacifiCorp in support of its bills to US Mag for electrical
23 services provided, but has concerns as to the timing of certain billing transactions.

1 If certain billing amounts were disputed than that could affect the final amount
2 owing after final analysis was concluded. But since that was not the case I have
3 tried to understand how timing may affect the amount of \$431,469.43. I looked at
4 timing by reviewing the major billing amounts between PacifiCorp and US Mag
5 and tracked how and when they were posted to US Mag's monthly billings. The
6 major monthly amounts on the PacifiCorp bills to US Mag are increases for the
7 following: electrical service, a energy profiler charge, a pump amount, and if
8 applicable a true up amount, with decreases for the following: pre payments on
9 the 1st and 15th of the month, PacifiCorp QF payments, credits such as interest
10 owed to US Mag and if applicable a true up amount. True up amounts are
11 required because of shortfalls or overages in prepayments net of QF payments and
12 credits to actual electrical services usage as determined on a monthly basis.

13 As is normal in business, the gathering of some information pertaining to
14 monthly activity, especially as to billing, can take place in the month after the
15 services have been provided. After the information is gathered then exact
16 electrical usage can be computed along with applicable credits and QF amounts.
17 PacifiCorp bills these amounts, as they are determined. Such determination may
18 be outside of PacifiCorp normal billing cycle and thus certain prior months billing
19 increases or decreases may show up on current billing thus generating a timing
20 difference between the month the amount was associated with as compared to
21 when it was posted to the account (usually the following month). It appeared to
22 me however, that the billing cycle is such that monthly electrical usage is always
23 in the proper month. This timing of posting amounts to the account does provide

1 a running monthly total that is a mixture of current and previous billing increases
2 and decreases. Based on discussions at the technical conference on September 26,
3 2004, I noted that there is communication between personnel of each company
4 about specifics of the monthly billings. It appeared that those who review
5 PacifiCorp's billings to US Mag understand what I described above about the
6 mechanics of PacifiCorp's monthly billing.

7 Timing differences can be reconciled to determine a correct amount at
8 month end. An example of reconciling a timing difference that is experienced by
9 almost everyone is the reconciling of an individual's checkbook to a bank
10 statement. Outstanding checks and deposits are reconciled from the checkbook
11 register to the bank and these items are timing differences between the individuals
12 recording of checkbook items with those recorded at the bank between months.
13 Using the bank statement and adding in or subtracting from the statement
14 transactions that have not cleared the bank until next month but are on the check
15 register this month determines whether the individual's checkbook balance is
16 correct and what was the proper balance at the end of the month. This
17 reconciliation is done on a monthly basis.

18 I have reviewed data provided in my investigation that reconciles timing
19 differences with the PacifiCorp statements by moving all billing increases and
20 decreases shown on monthly statements provided to US Mag by PacifiCorp to the
21 proper month. During the period from June 25, 2002 through July 31, 2002 this
22 reconciliation shows that PacifiCorp was underpaid for this period in the amount
23 of \$431,469.43. Further reconciliation shows that for monthly periods beyond

1 July 31, 2002 to August 31, 2004 that all billing increases and decreases zero out
2 when reconciled to the proper month. Thus from July 31, 2002, the running
3 amount owed to PacifiCorp through August 2004 is \$431,469.43 further
4 evidencing an amount owing being carried forward from a shortfall that came
5 about during the period June 25, 2002 through July 31, 2002.

6 I agree that timing differences do exist and that at certain times during the
7 monthly cycle of increases and decreases that US Mag may be ahead in payment
8 of electrical services provided but after all is said and done and the account is
9 reconciled to place all increases and decreases into the proper monthly period they
10 owe PacifiCorp \$431,469.43 at each month's end from July 31, 2002 forward.

11 I would like to note that from June 25, 2002 to March 2003 PacifiCorp has
12 had a deposit from US Mag in the amount of \$485,000 which went up to
13 \$575,000 in April 2003 and then to \$665,000 in May of 2003 and has remained at
14 \$665,000 to date. The \$665,000 amount was agreed upon under the May 2003
15 contract mentioned above. Electric Service Regulation No. 9 paragraph 1 (a)
16 provides that "PacifiCorp may require at any time from any Non-Residential
17 Customer a security deposit intended to guarantee payment of bills. Such deposit
18 shall not exceed the amount of an estimated average 90 days bill at the premises."
19 Such statement appears to make the deposit a matter of security and payment
20 guarantee and thus I have ignored this amount in my analysis, as it does not
21 pertain to billings, payments and adjustments under the May 2003 contract. It is
22 my opinion that any issues as to security are outside the matters to be investigated
23 under Docket 04-035-20 and would be addressed in any Docket having to do with

1 contract negotiations for future Electric Service Agreements between PacifiCorp
2 and US Mag after the current agreement expires. However, I would like to point
3 out that the non-payment of the amount due has in effect reduced the deposit to
4 \$53,530.57 from July 31, 2002 to March 2003, \$143,503.57 for the month of
5 April 2003 and \$233, 530.57 from May 2003 forward.

6 **Q. What is the Division's recommendation concerning these two matters?**

7 A. The Division recommends that PacifiCorp should adhere to the Bankruptcy
8 Stipulation it agreed to which specifies that payment is due within ten business
9 days of a final determination of the appropriate rate properly chargeable by
10 PacifiCorp for electricity sold by PacifiCorp to MagCorp during the disputed
11 period. The payment talked about in the Stipulation relates to the \$47,976.01 that
12 PacifiCorp is currently trying to collect.

13 The Division recommends that US Mag should pay the \$431,469.43
14 owing for electrical services provided by PacifiCorp that it has not paid for from
15 the period June 25, 2002 to July 31, 2002.

16 **Q. Does this conclude your testimony?**

17 A. It does.