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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation into Extending and Expanding the Solar Incentive Program and Possible Development of an Ongoing Program.	Docket No. 11-035-104 RESPONSIVE COMMENTS OF US MAGNESIUM LLC
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US Magnesium LLC (US Mag) files these responsive comments in this docket. US Mag has not intervened in this docket and did not participate in technical conferences, settlement discussions or other proceedings relating to it. US Mag has recently learned, however, that in comments filed in response to Rocky Mountain Power's (RMP) application in this docket for approval of a solar incentive program, the Office of Consumer Services (OCS) has recommended that the Commission enter an order in this docket to the effect that all contract customers are subject to the Schedule 195 surcharge proposed by RMP to cover the costs of the solar incentive program. The OCS comments also recommend that the Commission order in this docket that all future contracts must contain language making them subject to the proposed Schedule 195 surcharge, potentially hundreds of thousands of dollars.

US Mag is deeply troubled by these suggestions, offered at the last minute and without any notice to US Mag or any opportunity for US Mag to participate meaningfully in this docket or to ensure that its rights and interests were properly protected in the development and approval of a solar incentive program. US Mag did not participate in this process in large part because it was assured that the proposal would not be available to it and would not affect it. Also, US Mag understands that the economics of solar energy at this time do not make economic sense even with the subsidies provided from customers paying the surcharge. Based on the economics put forth in the application it is a program intended for early adopters of this technology that would generally install such systems without a subsidy, clearly for non-economic reasons. Indeed as we understand the program, US Mag is not eligible for or affected by RMP's proposal – which properly leaves to the controlling contracts the applicability of the Schedule 195 surcharge. The OCS suggestion, however, asks the Commission to ignore the language of the controlling contracts and to resolve in a preemptory manner and in this docket, issues that might arise in future contract approval dockets. This docket does not involve the required parties, adequate notice has not been provided, and acting on the OCS suggestion would violate basic due process rights.

The OCS suggestion for a pre-emptive determination of contractual terms for contracts yet to be negotiated must be rejected. To the extent a party proposes in a future contract approval docket that a solar incentive program be made available and applicable to US Mag, US Mag will participate actively to ensure that its interests are protected. US Mag has had no such opportunity in this docket or for this program. Determining that a proposed Schedule 195 surcharge will apply to US Mag under these circumstances – now or in the future – would be wholly inappropriate and unfair.

DATED this 5th day of September 2012.

US Magnesium LLC

/s/ _____
By: Roger Swenson
US Magnesium Energy Consultant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 5th day of September 2012 on the following:

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