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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION OF US
MAGNESIUM LLC FOR DETERMINATION OF
LONG-TERM ECONOMIC DEVELOPMENT RATES
AND CONDITIONS OF INTERRUPTIBLE SERVICE

DOCKET NO. 03-035-19

**PETITION FOR DETERMINATION
OF LONG-TERM ECONOMIC
DEVELOPMENT RATES AND
CONDITIONS FOR INTERRUPTIBLE
SERVICE TO US MAGNESIUM LLC**

Pursuant to Utah Code Ann. §§ 54-3-1, 54-4-1, 54-4-4 and 54-7-12, US Magnesium LLC (“US Magnesium”) hereby petitions the Commission for an Order determining just and reasonable long-term economic development rates and conditions for interruptible electric service to US Magnesium following the termination of its current contract on December 31, 2004.

US Magnesium’s predecessor in interest constructed magnesium extraction facilities in Utah as a direct result of long-term economic development rates and conditions of interruptible electric service set by the Utah Public Service Commission in 1968. Thirty-five years later, US Magnesium’s continued existence as a significant Utah manufacturer and employer remains dependent upon similar long-term economic development rates and conditions. US Magnesium respectfully petitions the Commission to establish just and reasonable rates and conditions for interruptible electric service to US Magnesium for a period of ten (10) years following the December 31, 2004 expiration of US Magnesium’s current contract, so as to enable US Magnesium to attract needed investment to continue its operations,

to preserve hundreds of jobs, and to extend US Magnesium's ability to make significant contributions towards the economies of Tooele County and the State of Utah.

In support of this Petition, US Magnesium respectfully represents as follows:

Background

1. Facilities designed to extract magnesium from concentrated salt water brines, such as those operated by US Magnesium on the western shore of the Great Salt Lake, are extremely electric energy intensive. Electricity is a direct input into the process -- large amounts of electricity are continually fed through cathodes in huge electrolytic cells into evaporated magnesium chloride brines in order to separate magnesium from chlorine.

2. US Magnesium pays livable wages to hundreds of full-time employees. US Magnesium's contribution to the economy of the State of Utah has been estimated in excess of a hundred million dollars per year.

3. Because of intense international competition, US Magnesium is the sole surviving producer of magnesium in the United States today. Absent a long-term economical source of electric supply, the US Magnesium facilities cannot be competitive or economical and will not be able to continue their operations. Moreover, US Magnesium's continued survival is also dependent upon its ability to attract significant additional investment to improve and expand its existing facilities. US Magnesium projects a need for tens of million of dollars for critical improvements and expansion over the next several years. One obvious prerequisite to the willingness of any rational investor to invest in US Magnesium is a reasonable assurance that its major cost inputs are reasonably predictable. Among the most significant cost inputs for US Magnesium is the cost of electricity. Unfortunately, its future cost of electricity is almost impossible to

predict with any degree of assurance, given current circumstances.

4. The US Magnesium facilities' dependence upon a long-term economical source of electric energy is not new. Indeed, it was a condition precedent to the construction or operation of the facilities from the beginning. A Report, Findings and Conclusions issued by this Commission in Dockets 5639 and 5640 on April 19, 1968, ordered PacifiCorp to provide long-term interruptible electric service to US Magnesium at discounted prices and under terms and conditions designed to permit the facilities to be constructed and to operate on an economical basis.

5. Based upon the Commission's 1968 Order, the parties executed a long-term power supply agreement with a rate set at less than 60% of the firm industrial rate. During the next 30 years, through at least eight successful negotiations and a myriad of different market and supply conditions, US Magnesium and PacifiCorp continued to find common ground on reasonable rates and terms for interruptible service that permitted the facilities to continue in operation. This common ground appeared to abruptly end in approximately 2000, however, around the time that ScottishPower undertook its acquisition of PacifiCorp. Perhaps unconcerned with economic conditions in far-away Utah, the ScottishPower-owned PacifiCorp has in the past three years consistently demanded rates and conditions for electric service to US Magnesium that are inconsistent with the 35-year history of their relationship, and that would not permit US Magnesium to continue its operations.

Current Circumstances

6. The stated term of the 1968 agreement, as amended, ended in December 2000. A few short weeks before the scheduled expiration date of the contract, PacifiCorp filed a petition in Docket 01-035-38 seeking to force US Magnesium to switch to firm

service at firm tariff prices -- conditions and prices that would have increased US Magnesium's rates dramatically and which were completely untenable, particularly for a company then in bankruptcy. This Commission's May 24, 2002 Order required PacifiCorp to continue to provide US Magnesium with interruptible service at discounted prices. Significantly, this Commission's Order also acknowledged the absence on the record of any workable means of valuing interruptibility provided by US Magnesium, implemented an experimental scheme of interruption for the summers of 2002 - 2004, and directed the creation of a task force chaired by the Division of Public Utilities (the "Task Force") to analyze the experimental interruption scheme and to fully explore appropriate means of valuing interruptibility.

7. The Task Force has met on numerous occasions and has discussed various means of determining how to value interruptible service. This Petition is filed in anticipation of a report being issued by the Task Force in the upcoming months. It is US Magnesium's expectation that data, analyses and information ultimately provided by the Task Force will provide the parties and the Commission with valuable information that will be useful in designing long-term rates and conditions of service that will meet the needs of US Magnesium, PacifiCorp and the public interest of the State of Utah.

8. The anticipated Task Force report may or may not provide complete analyses or recommendations. Under any circumstances, however, it is critical to US Magnesium that its long-term rates and conditions of service be addressed and resolved by the Commission in a timely manner. This filing is thus being made at this time in order to ensure that the parties, the Task Force and the Commission have sufficient time prior to the expiration of the current contract to fully analyze all issues relevant to US Magnesium's request for a 10-year economic development contract for interruptible

service.

Determination of Just and Reasonable Rates and Conditions of Service

9. While the work of the Task Force is far from complete, some important preliminary conclusions have been reached. For example, there is widespread agreement among Task Force participants that cost of service models (such as those used by most of the parties in Docket 01-035-38 in analyzing rates for US Magnesium) do not provide very useful tools for determining the value of interruption. The Task Force is currently exploring the use of the company's IRP model and/or avoided cost methodologies. These analyses, among others, should provide meaningful tools that can be used by the Commission in valuing interruptibility and in setting appropriate long-term rates and conditions of service.

Public Interest

10. US Magnesium respectfully submits that its request is in the public interest. Under Utah law, rates must be just and reasonable. Utah Code Ann. § 54-3-1. Many factors go into determining whether rates to any given customer are just and reasonable, including:

The scope of definition "just and reasonable" may include, but shall not be limited to, the **cost** of providing service to each category of customer, **economic impact** of charges on **each category of customer**, and on the **well-being of the state of Utah**; methods of **reducing wide periodic variations in demand** of such products, commodities or services, and means of **encouraging conservation** of resources and energy.

Utah Code Ann. § 54-3-1 (emphasis added). US Magnesium respectfully submits that these factors support ten-year economic development rates and conditions of interruption that will give US Magnesium a reasonable opportunity to operate economically and attract investment.

11. Like other businesses, US Magnesium needs

certainty in the costs of the major inputs into its manufacturing process. US Magnesium cannot reasonably manufacture or sell a product unless it knows what it will cost it to make the product. A rate that is short-term or not final will simply not provide US Magnesium with the knowledge and certainty required to produce and sell its products or attract investors.

12. US Magnesium requests that the Commission set a date for a scheduling conference to establish reasonable deadlines for the exchange of data and the filing of testimony, and to set dates for plenary hearings that will enable the Commission to establish long-term economic development terms and conditions for interruptible service to US Magnesium that are in the public interest.

Conclusion

US Magnesium respectfully submits that the economic health and well being of the State of Utah and Tooele County, and thus the public interest in general, will be best served by a Commission Order establishing reasonable economic development rates and conditions for interruptible service to US Magnesium for ten years in a manner that will provide US Magnesium with a reasonable opportunity to continue its operations and attract investors.

US Magnesium respectfully petitions this Commission to set a date and a time for a scheduling conference, to set dates for data requests, testimony and hearings, and thereafter to enter an Order requiring PacifiCorp to provide US Magnesium with interruptible electric service under long-term rates and conditions determined by the Commission to be in the public interest.

RESPECTFULLY SUBMITTED this ____ day of September, 2003

HATCH, JAMES & DODGE

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this ____ day of _____, 2003, to the following:

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