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Division of Public Utilities

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## ACTION REQUEST RESPONSE

To: Public Service Commission

From: Division of Public Utilities  
Chris Parker, Director  
Artie Powell, Manager  
Charles Peterson, Technical Consultant

Date: September 12, 2012

Re: **Docket No. 09-035-20**, Amendment to Power Purchase Agreement—RMP/US  
Magnesium LLC.

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### RECOMMENDATION (Approve)

The Division of Public Utilities (Division) recommends that the Commission approve the proposed Amendment to the Electric Service Agreement between Rocky Mountain Power and US Magnesium, LLC.

### ISSUE

On August 14, 2012 Rocky Mountain Power (Company) made an errata filing requesting approval of an Amendment to an August 2009 Electric Service Agreement (ESA, or Agreement) between itself and U.S. Magnesium, LLC (US Mag). On August 15, 2012, the Commission issued an Action Request to the Division requesting response by September 13, 2012. This memorandum is the Division's response to the Action Request.

## **DISCUSSION**

The Company had filed for approval of a contract amendment on July 17, 2012. The Division's review of that application and proposed Amendment revealed several discrepancies and inconsistencies between and with the Application and the proposed Amendment. The Division informally brought these items to the attention of the Company. The Company indicated that it planned to re-file the Application and proposed Amendment correcting the problems that have been brought to its attention, including, among other things, making the filing in a different docket, specifically Docket No. 09-035-20. The Company had previously filed under the US Mag qualifying facility Docket No. 11-035-182. The Company filed its corrected Application on August 14, 2012. The Division has reviewed the errata Application and the answers to its and the Office of Consumer Service's data requests.

Under the existing agreement US Mag essentially is required to prepay 50 percent of its estimated monthly electric usage on the first and middle of each month, with periodic true-ups. US Mag must make the payments by wire transfer. US Mag must maintain a deposit with Rocky Mountain Power in an amount equal to 15 days of average electric usage. By contrast the Amendment provides for no deposit and no prepayments. Furthermore, US Mag is to pay its electric bill once per month and may do so by "check, EDI, or wire transfer." The Company states that the proposed Amendment brings the terms of US Mag's ESA contract in line with similarly situated customers.

In one sense, having more stringent payment requirements protects other Rocky Mountain Power customers from the potential credit problems of one relatively large customer. On the other hand, the Division does not believe it is in the public interest to burden and discriminate against a particular utility customer unless there is a clear public interest for doing so. In this case it appears that there is no reasonable basis for continuing to treat US Mag differently than other similarly situated customers. Therefore, the Division recommends that the Commission approve the proposed Amendment to the US MAG contract.

CC:

Dave Taylor, Rocky Mountain Power

Michele Beck, Office of Consumer Services