

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the
Application of Rocky Mountain Docket No. 14-035-143
Power for Approval of an
Electric Service Agreement
between PacifiCorp and US
Magnesium, LLC,

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HEARING PROCEEDINGS  
CONFIDENTIAL PORTIONS PAGE 37, LINES 6 THROUGH 16  
ARE REDACTED AND FILED UNDER SEPARATE COVER  
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TAKEN AT: Public Service Commission
Hearing Room 403
160 East 300 South
Salt Lake City, Utah

DATE: Wednesday, December 17, 2014

TIME: 10:00 a.m.

REPORTER: Nancy A. Fullmer, RMR

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PAUL CLEMENTS
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PROCEEDINGS

THE HEARING OFFICER: Good morning. So the time and place noticed for the Commission consideration of the Application of Rocky Mountain Power for Approval of an Electric Service Agreement between PacifiCorp and U.S. Magnesium, LLC in Docket No. 14-035-143.

My name is Jordan White and I'll be acting as the presiding officer for this hearing. Let's go ahead and take appearances starting over here with Mr. Olsen.

MR. JETTER: Rex Olsen on behalf of the Office and Cheryl Murray will be our witness.

MR. JETTER: Justin Jetter on behalf of the Utah Division of Public Utilities. And with me at the table here is Justin Christensen, the utility analyst for the Division.

MR. SOLANDER: Good morning. Daniel Solander on behalf of Rocky Mountain Power. And I have with me at counsel table, Paul Clements, senior marketer/originator, Rocky Mountain Power.

MR. DODGE: Gary Dodge on behalf of U.S. Magnesium, LLC, along with Roger Swenson as our witness.

THE HEARING OFFICER: Okay, thank you.

1 Before we begin, in terms of
2 housekeeping, I recognize there's a lot of yellow
3 paper with respect to the issue at hand and the
4 agreement itself, so we will not be streaming
5 today. But with respect to the record, if
6 parties, especially U.S. Mag, if there's issues
7 we're delving into, obviously, that are
8 confidential, we need to mark the record
9 appropriately and make sure that we have the right
10 folks.

11 For those of you who are not familiar
12 with the process, the Office, Division, and
13 Commission, and, certainly, the Company and U.S.
14 Magnesium who has information that's confidential,
15 they do not need to sign a nondisclosure
16 agreement, et cetera. But if you are not one of
17 those folks, we would probably have to ask you to
18 leave if you're not either part of the Company,
19 Division, or Office, et cetera. So just let us
20 know if we're getting into that area and we will
21 deal with it accordingly.

22 So with that, any other housekeeping
23 matters before we begin? Okay. Hearing then this
24 is PacifiCorp's application, so I'll go ahead and
25 ask Mr. Solander to proceed first.

1 MR. SOLANDER: Rocky Mountain Power would
2 call Paul Clements as our witness.

3 THE HEARING OFFICER: Would you go ahead
4 and raise your right hand? Do you solemnly swear
5 that the testimony you're about to give is the
6 whole truth and nothing but the truth?

7 MR. CLEMENTS: Yes.

8 THE HEARING OFFICER: Thank you.

9 PAUL CLEMENTS,
10 having been first duly sworn, was
11 examined and testified as follows:

12 EXAMINATION

13 BY-MR.SOLANDER:

14 Q. Could you please state your name and
15 business address for the record.

16 A. Yes. My name is Paul Clements,
17 C-L-E-M-E-N-T-S. My business address is 201 South
18 Main Street, Suite 2300, Salt Lake City, Utah
19 84111.

20 Q. And what is your current position within
21 PacifiCorp?

22 A. My current position is Senior Power
23 Marketer/Originator for PacifiCorp.

24 Q. And as part of the responsibilities in
25 that position, did you--were you involved with any

1 negotiation of the amended and restated electric
2 service agreement between Rocky Mountain Power and
3 U.S. Magnesium?

4 A. Yes, I was.

5 Q. And have you prepared a summary of the
6 Company's position regarding that agreement?

7 A. I have.

8 Q. Please proceed.

9 MR. CLEMENTS: Thank you. I present
10 today for Commission approval electric service
11 agreement between U.S. Magnesium, LLC, or U.S.
12 Mag, and Rocky Mountain Power, also known as the
13 Company. I'll try to be thorough yet brief at the
14 same time and provide an overview of the
15 agreement.

16 In an application dated November 7, 2014,
17 Rocky Mountain Power filed for approval of an
18 electric service agreement with U.S. Mag. On
19 December 8th, the Company filed, via letter,
20 notice that an amended and restated electric
21 service agreement with the intent that the amended
22 and restated agreement will supersede and replace
23 the original ESA that was filed in this docket.
24 The Company, therefore, seeks approval of this
25 amended and restated ESA today.

1 The effective date of this new agreement
2 is January 1, 2015 and the Company requests the
3 Commission approves this new ESA prior to the
4 expiration of the current agreement, which is
5 December 31, 2014.

6 U.S. Mag has been a customer of the
7 Company since the late 1960s. The specific
8 structure and terms of the electric service
9 agreements between the parties have varied
10 somewhat over the years, but the interruptible
11 nature of the contract has been constant. The
12 structure and terms of this new ESA are very
13 similar to those found in the existing agreement,
14 which was approved by this Commission on
15 December 23, 2009 in Docket No. 09-035-20.

16 The new electric service agreement has a
17 three-year term covering calendar years 2015,
18 2016, and 2017. The initial rates in the new ESA
19 are based on a cost of service study resulting
20 from the Company's most recently decided general
21 rate case, which was Docket No. 13-035-184.
22 Consistent with the settlement stipulation in that
23 docket, which included rate changes in two steps,
24 U.S. Mag will have one rate change effective at
25 the start of this new ESA, which is January 1,

1 2015. And they will have a second rate change
2 effective on September 1, 2015, which coincides
3 with step two in rate case outcome or the
4 settlement stipulation in the last rate case.

5 Further rate changes for U.S. Mag will
6 occur after September 1, 2016. Again, that's
7 consistent with the timing from the settlement
8 stipulation in the rate case. And those changes
9 will be tied to the average percent change for all
10 Utah retail customers.

11 Now, one change from previous contracts,
12 any future rate change for U.S. Mag will occur
13 concurrently with changes for all of Utah
14 customers instead of January 1st of each year,
15 which is how it's done in the current electric
16 service agreement.

17 The cost of service study is to set U.S.
18 Mag's rates. Accounts for the interruptible right
19 is set forth in the contract for the purpose of
20 reducing peak demand. This new agreement includes
21 interruptible provisions that are similar to the
22 existing agreement in which the Company is allowed
23 to curtail or interrupt U.S. Mag's load in the
24 summer months based on the attempts to forecast
25 and in the winter months regardless of

1 temperature. For the winter months of December
2 and January, the Company has the right to curtail
3 U.S. Mag for a certain amount of time in two
4 blocks. And in the summer, the Company has the
5 right to curtail U.S. Mag in one block depending
6 on temperature triggers. The Company could also
7 bank curtailment hours, which can be used at a
8 later date.

9 At a meeting between the Office of
10 Consumer Services, the Division of Public
11 Utilities, U.S. Mag, and the Company on
12 November 20, 2014, certain items were identified
13 in the ESA that required correction or
14 modification due to clerical error and drafting of
15 the document or due to additional issues that were
16 raised and then resolved by mutual consent to the
17 parties. Therefore, U.S. Mag and the Company
18 subsequently executed the amended and restated
19 ESA, which is before the Commission for approval
20 today. I'll briefly touch on those changes.

21 The first change was to change the
22 measurement of energy in Section 1.29 from
23 kilowatt hours to megawatt hours. This was a
24 clerical error that needed to be corrected. The
25 second is also a clerical error where we changed

1 the seller to buyer in Section 1.23. And then the
2 last clerical error was in Section 9.2 where we
3 had a reference to Section 9.1. That was
4 incorrectly stated as a reference to Section 8.1.
5 So those were three clerical errors that we fixed.

6 There were two other modifications to the
7 agreement that resulted from that meeting. The
8 first we added language in Section 3.12 requiring
9 U.S. Mag to pay the low income surcharge.

10 THE HEARING OFFICER: Can I just stop you
11 for a second? We're still in nonconfidential
12 area, right? Okay.

13 MR. SOLANDER: Yeah.

14 MR. CLEMENTS: I don't believe I'll have
15 any confidential information.

16 THE HEARING OFFICER: Okay, thank you.
17 Please continue. I apologize.

18 MR. CLEMENTS: The second point was--or
19 second change that was made, we added language in
20 Section 3.13 stating that U.S. Mag will provide
21 energy efficiency reports by December 1st of each
22 year.

23 On December 5, 2014, the DPU issued its
24 report in which it recommends approval of the ESA
25 with no conditions. We support this

1 recommendation. On December 5, 2014, the Office
2 of Consumer Services issued its report in which it
3 recommends approval with certain conditions. And
4 I will address each of those conditions for the
5 benefit of the Commission.

6 First condition requests that the Company
7 provides the Office and DPU, U.S. Mag's annual
8 report on energy efficiency projects. The ESA
9 requires U.S. Mag to provide this to the Company
10 and the Company commits to provide it to the
11 Office and the Division upon request.

12 The second condition speaks to what
13 details will be included in that report. And it's
14 the Company's understanding that U.S. Mag has
15 committed to provide the level of detail that's
16 been requested by the Office.

17 The third condition requests that U.S.
18 Mag be subject to the lifeline program surcharge.
19 As I just mentioned, the amended and restated
20 electric service agreement includes a provision in
21 Section 3.12 that states that U.S. Mag shall pay
22 the surcharge in the amount applicable to schedule
23 nine customers.

24 I believe the items that I've just
25 discussed related to these three conditions

1 demonstrate that those conditions have been met
2 either through contract terms in the amended and
3 restated electric service agreement or through
4 commitments made by U.S. Mag or the Company.

5 The final condition is related to the
6 Utah Solar Incentive Program. The Office
7 recommends that U.S. Mag be subject to the solar
8 incentive surcharge. U.S. Mag is not subject to
9 the surcharge in the current electric service
10 agreement and was, therefore, not included in the
11 original rate spread design for the program. U.S.
12 Mag filed comments on this matter on December 12,
13 2014, in which they state--and I'll quote directly
14 from their comments--quote, it is difficult to
15 propose a reasonable means of assigning a solar
16 subsidy in assigning solar subsidy cost to U.S.
17 Mag based on cost of service principles and QF
18 rate payer neutrality contracts, end quote.

19 U.S. Mag then proposed as options for a
20 level of payment or an amount that they would pay
21 that would be applicable to them should the
22 Commission determine that U.S. Mag should pay the
23 surcharge. The Company does not have a strong
24 position on whether or not U.S. Mag should pay the
25 surcharge and will follow whatever direction is

1 provided by the Commission in its order. That
2 said, if the Commission determines that U.S. Mag
3 should pay the surcharge, the Company believes
4 that the proposed amount set forth by U.S. Mag or
5 the range that they have set forth in their
6 comments, appears to be reasonable to the Company.

7 The Company further notes that any solar
8 incentive surcharge that is paid by U.S. Mag will
9 simply go into the balancing account for that
10 program. It will not be incremental revenues to
11 the Company or incremental general revenues. It
12 will strictly be an offset or included in the
13 balancing account for that program.

14 The Company represents that the terms and
15 conditions in the U.S. Mag ESA and the additional
16 terms that I've discussed today and have been
17 agreed to by the parties are just and reasonable
18 and in the public interest. And, therefore, the
19 Company recommends and requests the Commission
20 approve the electric service agreement. That
21 concludes my summary.

22 MR. SOLANDER: Thank you. Mr. Clements
23 is available for questions by the parties or the
24 Commission.

25 THE HEARING OFFICER: Mr. Olsen?

1 MR. OLSEN: Oh, none, Your Honor. I'm
2 sorry.

3 THE HEARING OFFICER: Mr. Jetter?

4 MR. JETTER: No questions, Your Honor.

5 THE HEARING OFFICER: Mr. Dodge?

6 MR. DODGE: No questions.

7 THE HEARING OFFICER: I probably have
8 some further questions probably after the panel
9 further questions, but one initial question that
10 might help, in fact, what you just said about the
11 offset of the program, the balancing account, I'm
12 looking at the tariff and it might be helpful to
13 refresh my understanding on how the solar
14 incentive program is funded. I'm looking at the
15 tariff sheet. It just shows a per kilowatt hour
16 charge based upon the rate schedule you're on. Is
17 it a set budgeted amount that's offset by--help me
18 understand a little bit, Mr. Clements, if you can.

19 MR. CLEMENTS: Sure. I can give you a
20 high level overview and if we delve too deep into
21 the details, we can call Mr. Taylor.

22 THE HEARING OFFICER: Yeah, I see he's in
23 the audience.

24 MR. CLEMENTS: But I should be able to
25 cover your questions. So the program is intended

1 to collect a certain amount of money over the life
2 of the program, which is intended to be, I
3 believe, nine years. It's supposed to collect
4 approximately \$55 million, which is \$50 million
5 program and approximately \$5 million of
6 administrative costs. The rates were established
7 in an attempt to match the payouts. And so rates
8 have been established for the program now in
9 attempt to collect the money that matches the
10 payouts that occur in the next couple of years.

11 The Company anticipates that over this
12 nine-year life of the program, it will have to
13 adjust the surcharge to match the payout rate.
14 The reason the payout rate changes is residential
15 and small commercial customers get a one-time
16 incentive that's paid immediately. Industrial
17 customers get paid their credit over the course of
18 five years. And so the payouts that occur change
19 over the nine-year life of the program. But the
20 rates were initially set to try to match the
21 payouts for the first couple of years. So the
22 Company anticipates that it will have to modify or
23 change the surcharge rates a couple of times over
24 the life of the program.

25 THE HEARING OFFICER: So, for example,

1 understanding that U.S. Mag under the current
2 contract is now--does not have a charge associated
3 with their contract, if, for example, they were to
4 have that charge, you're saying that would
5 essentially offset and so there would be a
6 reduction to other customers or how would
7 that--and, again, feel free if you need to--

8 MR. CLEMENTS: Yeah, that's correct.
9 It's a balancing account. And the surcharge is
10 collected as an energy charge, so it varies
11 depending on how much customers use. So if we
12 have a hot summer or a cold summer, it may change
13 the amount that's collected in the balancing
14 account.

15 And so the Company will monitor the
16 balancing account and determine if a change in the
17 surcharge is required to increase or decrease the
18 amount that's being collected. And so if U.S.
19 Magnesium pays the surcharge, it will strictly go
20 into the balancing account and will be taken into
21 account when the Company evaluates whether the
22 surcharge needs to be increased or decreased for
23 all customers.

24 THE HEARING OFFICER: In that evaluation
25 the ultimate change in the surcharge would occur,

1 I assume, in the next general rate case or when
2 would that actually be achieved?

3 MR. CLEMENTS: I don't believe that needs
4 to be tied to the general rate case. That would
5 probably be a separate filing to update.

6 THE HEARING OFFICER: Okay. All right.
7 Well, like I said, I may have more questions. It
8 was helpful to have a little bit more background.

9 MR. CLEMENTS: Okay.

10 THE HEARING OFFICER: So in terms of
11 process here, what I'm thinking, unless parties
12 object, I know typically we kind of have an order,
13 you know, Division, Office, but why don't we go
14 ahead, unless parties have another notion that
15 might be better, but I thought why don't we go
16 ahead and have U.S. Mag proceed with their
17 witness.

18 MR. JETTER: I think that makes more
19 sense.

20 THE HEARING OFFICER: Okay. That sounds
21 great. Okay. Mr. Dodge.

22 MR. DODGE: Yeah, that's fine. Thank
23 you. U.S. Mag calls Roger Swenson.

24 THE HEARING OFFICER: Raise your right
25 hand. Do you solemnly swear the testimony you're

1 about to give is the whole truth and nothing but
2 the truth?

3 MR. SWENSON: Yes, I do.

4 THE HEARING OFFICER: Okay. Thank you.

5 ROGER SWENSON,
6 having been first duly sworn, was
7 examined and testified as follows:

8 EXAMINATION

9 BY-MR.DODGE:

10 Q. Mr. Swenson, would you state your name
11 and your address.

12 A. My name is Roger Swenson with E-Quant
13 Consulting, LLC. My address is 1592 East 3350
14 South, Salt Lake City, Utah. In this matter, I am
15 here representing U.S. Magnesium, LLC today.

16 Q. Mr. Swenson, on December 12th, there's
17 some comments--reply comments that U.S. Magnesium,
18 LLC were submitted. Do those comments represent
19 your testimony in this proceeding today?

20 A. Yes, they do.

21 Q. And do you have any changes you would
22 like to make to any of those--any of those
23 comments or the exhibits?

24 A. Just one to perhaps Exhibit 3. Exhibit 3
25 probably should have been marked confidential in

1 the information that we sent you. That exhibit
2 itself has some confidential information on it and
3 we would rather have it marked so.

4 THE HEARING OFFICER: Can I stop you here
5 for a second?

6 MR. SWENSON: Sure.

7 THE HEARING OFFICER: For purposes of the
8 process--and I know we haven't talked about
9 admitting into evidence documents, but can I
10 impose on you, Mr. Dodge, to refile that with the
11 proper markings indicating such?

12 MR. DODGE: Absolutely.

13 THE HEARING OFFICER: If you give us a
14 heads up, we can make sure that--as it stands now,
15 it is on our website. We could switch it out and
16 do it accordingly and we'll treat that information
17 confidential for purposes of this hearing.

18 MR. DODGE: We will do that.

19 THE HEARING OFFICER: Thank you. Please
20 proceed.

21 MR. DODGE: Given that, I would request
22 that the reply comments of U.S. Magnesium, LLC be
23 admitted into the record as Mr. Swenson's sworn
24 testimony.

25 THE HEARING OFFICER: Any objection,

1 Mr. Olsen?

2 MR. OLSEN: No.

3 MR. JETTER: No.

4 THE HEARING OFFICER: They're received.

5 BY MR. DODGE:

6 Q. Mr. Swenson, do you have a summary of
7 your comments or testimony you would like to
8 provide?

9 A. Yes.

10 MR. SWENSON: U.S. Magnesium appreciates
11 the efforts and the willingness of the parties to
12 look at this agreement and to recommend its
13 approval with certain conditions. As stated in my
14 testimony, we accept all of the conditions that
15 were imposed by parties or suggested by parties
16 except one condition. And that has to do with the
17 solar program that Mr. Clements went into in some
18 detail.

19 U.S. Magnesium was not part of that
20 determination as to how those charges got
21 calculated for very large customers and it didn't
22 have any input into how that program either
23 provided benefits or cost to specific large
24 customers. So we would prefer after looking at
25 the data in more detail to not be part of the

1 solar incentive program. We don't believe there's
2 a benefit to U.S. Magnesium to be in the program.
3 And we would rather not pay into a program that we
4 see as simply a subsidy. The subsidy that we
5 believe in the future adds more costs to what U.S.
6 Magnesium will see down the road with self
7 generation customers not paying for fixed costs
8 along the way. So the main thrust of what we said
9 in our testimony was we prefer not to be in that
10 program. We prefer not to pay the charges in that
11 program.

12 BY MR. DODGE:

13 Q. And in light of comments that have been
14 filed by others, do you have any other--has U.S.
15 Mag taken the position on whether it's willing to
16 pay the surcharge?

17 A. In discussions with other parties, U.S.
18 Mag has put a range of a charge in the testimony
19 that if the Commission so desires us to be part of
20 this, we would pay. I indicated to the committee
21 that had this--not committee, sorry--the Office of
22 Consumer Services that U.S. Magnesium is willing
23 to pay the high end of the range that we put in
24 the comments that were filed on December 12th.

25 Q. And can you briefly describe how that

1 range was calculated and how it would adjust over
2 time?

3 A. The range was calculated based on what an
4 average schedule nine customer would pay. The
5 upper end of the range was two times that average
6 customer's payment per year divided by the U.S.
7 Magnesium usage. So what we'd expect over time as
8 to that rate change as it followed schedule nine's
9 charges for the average customer multiplied by two
10 divided by U.S. Magnesium usage.

11 MR. DODGE: Thank you. I have no further
12 questions. Mr. Swenson's available for cross.

13 THE HEARING OFFICER: Mr. Olsen?

14 MR. OLSEN: No cross, Your Honor.

15 MR. JETTER: No questions from the
16 Division.

17 THE HEARING OFFICER: Rocky Mountain
18 Power?

19 MR. SOLANDER: No questions.

20 THE HEARING OFFICER: I have one question
21 again. That's what I said I may need to come
22 back. Unless this is confidential and I do have
23 the reply comments filed in terms of the high end,
24 what would be the approximate actual, you know,
25 dollar charges, I guess, for yearly, I guess, for

1 the high end based upon the--

2 MR. SWENSON: Depending on U.S. Mag's
3 usage, it will vary just a little bit. But we
4 would expect that number to be about \$12,000 per
5 year.

6 THE HEARING OFFICER: Okay. That's all
7 I've got for now. Thank you.

8 Okay. With that, Mr. Jetter?

9 MR. JETTER: Thank you, Your Honor. The
10 Division would like to call and have sworn in
11 Justin Christensen.

12 THE HEARING OFFICER: Go ahead and raise
13 your right hand. Do you solemnly swear that the
14 testimony you're about to give is the whole truth
15 and nothing but the truth?

16 MR. CHRISTENSEN: Yes.

17 THE HEARING OFFICER: Thank you. Please
18 be seated.

19 JUSTIN CHRISTENSEN,
20 having been first duly sworn, was
21 examined and testified as follows:

22 EXAMINATION

23 BY-MR.JETTER:

24 Q. Mr. Christensen, would you please state
25 your name and occupation for the record.

1 A. Yes. My name is Justin Christensen,
2 C-H-R-I-S-T-E-N-S-E-N. I'm a utility analyst with
3 the Division of Public Utilities.

4 Q. Thank you. And in the course of your
5 employment, have you had the opportunity to review
6 the application and--both the original and the
7 amended energy service agreement filed by Rocky
8 Mountain Power in this docket?

9 A. Yes.

10 Q. And did you prepare any memorandum filed
11 by the Division on December 5th of this year?

12 A. Yes.

13 Q. Do you have any corrections that you
14 would like to make to that now?

15 A. Yes, I do. On page 2 of the Division's
16 memo under the analysis, I would like to strike
17 out the sentence the ESA is more tied electric
18 service schedule nine all the way to previously,
19 so strike out that whole sentence from the memo.

20 THE HEARING OFFICER: And just for
21 purposes of the record, I'll just go ahead and
22 read that entire--this is on page 2 of the
23 comments filed by the Division of Public
24 Utilities. The sentence begins, the ESA is more
25 specifically tied to electric service schedules

1 No. Nine, parens, large industrial customers,
2 large parens, and 31, parens, backup power, end
3 paren, that it has done--than it has been
4 previously.

5 BY MR. JETTER:

6 Q. And do you have any other edits or
7 changes you would like to make to that?

8 A. No, not on the memo.

9 MR. JETTER: Thanks. With that, I would
10 like to move to enter this memo into the record at
11 the hearing.

12 THE HEARING OFFICER: Is there any
13 objection?

14 MR. OLSEN: No objection.

15 THE HEARING OFFICER: It's received.

16 MR. JETTER: And I would just like to
17 make a note on the record that that's a
18 confidential memo for what it's worth.

19 BY MR. JETTER:

20 Q. Have you prepared a summary of the
21 Division's position at this time?

22 A. Yes, I have.

23 Q. Would you please go ahead and proceed
24 with that?

25 A. Yes.

1 MR. CHRISTENSEN: Good morning. Thank
2 you for the opportunity to address some remarks.
3 The present issue on behalf of the Division, I
4 will provide a statement in support of the ESA
5 between the Company and U.S. Magnesium. I will
6 also address a few short remarks regarding the
7 issue of U.S. Magnesium's obligation to contribute
8 to the solar incentive program.

9 In relation to Rocky Mountain Power's
10 electric service agreement with U.S. Magnesium,
11 LLC, in general, the Division finds the contract
12 terms and pricing appear to be just, reasonable,
13 and in the public interest.

14 In its comments, the Office condition and
15 approve a recommendation on four conditions. In
16 U.S. Magnesium's reply comments, U.S. Magnesium
17 accepted the first three. The Division is not
18 opposed to the first three conditions. And the
19 fourth requirement the Office recommended that
20 U.S. Magnesium be subject to the solar incentive
21 program surcharge.

22 In Docket No. 11-035-104, the Commission
23 chose not to reach a conclusion on whether a
24 schedule 195 applies to special contract
25 customers, but rather review the matter on a case

1 by case basis. Specifically, the Commission chose
2 to, quote, place the Company, U.S. Mag, and other
3 special contract customers on notice that we will
4 examine the applicability of schedule 195 as we
5 act on future applications to approve special
6 contracts. In particular, we will examine the
7 contract terms addressing the applicability of
8 schedule 195 and other surcharges for their extent
9 on the public interest. We invite the Office and
10 other interested parties to express their
11 positions in the dockets where the merits of their
12 arguments can be analyzed in the context of the
13 terms of a specific contract under review, end
14 quote.

15 Clearly, electric service Schedule No.
16 195 states the collection of costs related to the
17 solar incentive plan from customers paying
18 contract rates shall be governed by the terms of
19 the contract. In other words, the tariff
20 contemplates that the surcharge could apply to
21 special contracts. However, U.S. Mag rates are
22 different from what otherwise would be the
23 applicable tariff rates. Therefore, the
24 Commission, if it chooses to require U.S. Magnesium
25 to contribute to the solar incentive program, the

1 Commission need not apply a specific tariff rate
2 to schedule 195. Therefore, the Division is not
3 opposed to U.S. Magnesium's offer to have it pay
4 the average schedule nine contribution.

5 Alternatively, if the Commission chooses
6 to exempt U.S. Magnesium at this time for this
7 contract on the solar incentive surcharge, the
8 Commission should make clear that U.S. Magnesium
9 is ineligible to participate in the program. The
10 Division knows that its treatment is consistent
11 with the application or treatment of DSM
12 surcharges to U.S. Magnesium's contract.

13 Historically, U.S. Magnesium has not been
14 eligible to participate in DSM programs and
15 receive benefits from these programs and does not
16 contribute to the programs for the tariff
17 surcharge. U.S. Mag has economic incentives to be
18 efficient in its use of electricity.

19 In conclusion, the Division finds that in
20 general the proposed contract results in just and
21 reasonable rates and is in the public interest.
22 The Division is not opposed to U.S. Magnesium's
23 proposal to have it contribute the average
24 schedule nine amount to the solar incentive
25 program. The Division recommends that the

1 Commission approve the ESA between the Company and
2 U.S. Mag. That concludes my summary.

3 MR. JETTER: Thank you. I have no
4 further questions. The witness is available for
5 cross-examination.

6 MR. OLSEN: No questions.

7 MR. SOLANDER: No questions.

8 MR. DODGE: No questions.

9 THE HEARING OFFICER: I have a couple
10 questions. I think I may circle back. So if I
11 heard you correctly, you said that it's the
12 Division's opinion or recommendation that the
13 amended and restated contract, essentially, the
14 one that included three conditions, but not one is
15 just, reasonable, and in the public interest. You
16 said something in particular about, you know, the
17 review on a case by case basis. I understand,
18 again, these are bilateral contracts, special
19 contracts, that were to, you know, have gives and
20 takes, different terms. And so each one is
21 evaluated on its own merits, essentially, to
22 determine whether it's just and reasonable, in
23 public interest. Is there anything in particular
24 from the Division's perspective that would weigh
25 in favor of that recommendation? In other words,

1 is there anything in particular about the terms
2 and conditions of this contract in particular that
3 would allow it to be in the public interest and
4 just, reasonable, if it included or not included,
5 the surcharge?

6 MR. CHRISTENSEN: We really are not
7 opposed either way. We will agree with whatever
8 the Commission decides. We do--if the Commission
9 does want the solar incentive program surcharge
10 that the Division does not opposed U.S.
11 Magnesium's recommendation. So, in other words,
12 the Division does not oppose either way whatever
13 the Commission decides.

14 THE HEARING OFFICER: Okay. I think
15 that's fine for now because I'm going to come
16 back. But that's all the questions I have for
17 now.

18 Mr. Olsen.

19 MR. OLSEN: Thank you. We would like to
20 call Cheryl Murray. Ms. Murray, would you state
21 your name for the record, please, and describe
22 what your--

23 THE HEARING OFFICER: Why don't we go
24 ahead and swear in Ms. Murray. Do you solemnly
25 swear the testimony you're about to give is the

1 whole truth and nothing but the truth?

2 MS. MURRAY: Yes.

3 THE HEARING OFFICER: Okay, thank you.

4 CHERYL MURRAY,
5 having been first duly sworn, was
6 examined and testified as follows:

7 EXAMINATION

8 BY-MR.OLSEN:

9 Q. Could you state your name and position
10 for the record, please.

11 A. My name is Cheryl Murray. I'm a utility
12 analyst.

13 Q. As part of your job, did you have an
14 opportunity to review the original and the amended
15 submission by U.S. Mag in this matter for the
16 contract?

17 A. I did review the--both contracts you
18 referenced that were submitted by the Company.

19 Q. And did--as part of that review, did you
20 submit comments on behalf of the Office?

21 A. I did.

22 Q. Do you wish to make any modifications to
23 those comments at this time?

24 A. No, I do not.

25 MR. OLSEN: Your Honor, I would ask that

1 they be accepted into the record.

2 THE HEARING OFFICER: Is there any
3 objection if they're received in evidence?

4 They're received.

5 BY MR. OLSEN:

6 Q. Ms. Murray, based on subsequent
7 developments as they've come forth since you
8 originally submitted those comments, do you have a
9 summary of the Office's current position regarding
10 this contract?

11 A. Yes.

12 Q. Could you submit that, please?

13 A. Okay.

14 MS. MURRAY: Good morning. The Office of
15 Consumer Services is responsible for assessing
16 impacted utility rate changes and regulatory
17 actions upon residential and small commercial
18 customers. In reviewing the proposed U.S.
19 Magnesium electric service agreement, the Office's
20 primary concern is that the ESA did not result in
21 cost shifts for U.S. Magnesium to other retail
22 customers of Rocky Mountain Power.

23 In our memo filed on December 5, 2014,
24 the Office recommended approval of the proposed
25 U.S. Magnesium ESA with four conditions. The ESA

1 is confidential in its entirety, but U.S.
2 Magnesium has responded to the Office's
3 recommendation in a nonconfidential manner so--and
4 based on what has been said this morning, unless
5 there is an objection, I will address them now as
6 public information.

7 The four conditions recommended by the
8 Office are, one, the Company will provide to the
9 Office and the Division, U.S. Magnesium's annual
10 report on energy efficiency projects. Two, the
11 aforementioned report will include a description
12 of each energy efficiency project and the
13 estimated demand and energy savings associated
14 with each project. Three, U.S. Magnesium is
15 subject to the lifeline program surcharge. And,
16 four, U.S. Magnesium is subject to the solar
17 incentive program cost adjustment.

18 The Office appreciates U.S. Magnesium's
19 willingness as stated in reply comments dated
20 December 12th to comply with the Office's first
21 three recommendations. We would also note that
22 the amended and restated ESA includes the
23 provision regarding the lifeline surcharge.

24 Regarding recommendation No. 1 that the
25 Company provide to the Office and the Division a

1 copy of the energy efficiency project report, I
2 believe that Mr. Clements this morning said the
3 Company was amenable to that upon request. It's
4 our position that it should be provided as a
5 matter of course and that we should not have to
6 submit a specific request for those reports. If I
7 misunderstood what he was saying, then I
8 apologize. But we think it should just be a
9 requirement as part of the approval of the ESA.

10 Regarding the fourth recommendation, U.S.
11 Magnesium argues that it should not be subject to
12 the fifth cost adjustment, but suggested the
13 Commission orders participation. The rate it pays
14 should be limited to that of an average schedule
15 nine customer or perhaps a small multiple of that
16 amount and then they offer a range.

17 As we stated in Docket 11-035-104,
18 investigation into extending and expanding solar
19 incentive program, the Office believes that a
20 special contract customer should contribute to the
21 fund. In that docket, the Commission determined
22 that the program is expected to generate
23 system-wide benefits. If the benefits are
24 system-wide, then a portion of those benefits
25 accrue to U.S. Magnesium.

1 Further, the Commission stated we placed
2 the Company, U.S. Mag, and other special contract
3 customers on notice that we will examine the
4 applicability of schedule 195 as we act on future
5 applications to approve special contracts. That
6 being said, the Office recognizes that this ESA is
7 different than a standard schedule nine tariff.
8 And for this ESA, we do not object to U.S.
9 Magnesium's CIP payment proposal.

10 Since U.S. Magnesium is larger than the
11 typical schedule nine customer, the Office asserts
12 that the upper range of their proposal is
13 appropriate. And I would also note that as
14 Mr. Clements provided in his summary, this is not
15 incremental to the amount that has been previously
16 approved by the Commission for, the CIP program,
17 but it will be included in the balancing account
18 as an offset to all payments that are going into
19 that account.

20 I do have one paragraph that is
21 confidential and I would like to say it because I
22 think it's an important thing to note here.

23 THE HEARING OFFICER: Okay. Why don't we
24 go ahead and begin confidential. Are there any
25 folks in the gallery, et cetera--I don't--I

1 apologize. I'm not sure if I recognize--okay.
2 Oh, Company, okay. So it looks like we're all
3 either with the Commission, Division, or Office,
4 the Company, or U.S. Magnesium, so this will be
5 marked confidential, but go ahead and proceed.

6 ***BEGIN CONFIDENTIAL TESTIMONY***

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16 ***END CONFIDENTIAL TESTIMONY***

17 THE HEARING OFFICER: Thank you.

18 MS. MURRAY: And then back to public?

19 THE HEARING OFFICER: Okay. Back to
20 public.

21 MS. MURRAY: Ready?

22 THE HEARING OFFICER: Uh-huh.

23 MS. MURRAY: The Office appreciates the
24 efforts of the Company and U.S. Magnesium over the
25 years that have brought about this improved

1 performance. The Office recommends that the
2 Commission approve the ESA with the conditions and
3 recommendations identified above, including
4 ordering that U.S. Magnesium is subject at some
5 levels to the solar incentive program cost
6 adjustments. That concludes my summary.

7 THE HEARING OFFICER: Thank you. You
8 looked like you were about to say something.

9 MR. OLSEN: No. We'll submit that, Your
10 Honor. There was a follow-up on a question I
11 believe you asked regarding whether this is in the
12 public interest as a general matter. I mean, I
13 don't want to put words in your mouth, but I would
14 reference you to the order in docket No.
15 08-035-104 on page 8. There is a discussion,
16 findings, and conclusions. And it says the
17 allocation of recovery program cost is just and
18 reasonable and reflective of the systemwide
19 benefits the program is expected to generate. So
20 that Commission statement that I ask so you can
21 make your considerations.

22 THE HEARING OFFICER: Okay. Thank you.
23 Is there any cross from--

24 MR. JETTER: No questions from the
25 Division.

1 MR. SOLANDER: No questions.

2 MR. DODGE: No questions.

3 THE HEARING OFFICER: Let me follow up on
4 the statement you just made. So if I heard the
5 Office's testimony correctly, and in light of what
6 Mr. Olsen said, it sounds like based upon--the
7 Office would recommend--or it's their opinion that
8 the amended and restated contract with the
9 inclusion of the proposal at the high end of the
10 two averages, which was kind of clarified by
11 Mr. Swenson, it's the Office's opinion that the
12 Commission approval of that with that caveat would
13 be just, reasonable, and public interest?

14 MR. OLSEN: It would be just and
15 reasonable, Your Honor. I don't mean to quibble,
16 but our responsibility is somewhat different than
17 the Division's.

18 THE HEARING OFFICER: Okay.

19 MS. MURRAY: My testimony is that the
20 result would be just and reasonable.

21 THE HEARING OFFICER: Okay, thank you.
22 That's helpful. With that, recognizing that we
23 have a--I'm assuming that without having you
24 ask--let me ask you this: I understand there may
25 be a clarification.

1 MR. SOLANDER: I've got a couple short
2 redirects.

3 THE HEARING OFFICER: Redirect? Yeah.

4 EXAMINATION

5 BY-MR.SOLANDER:

6 Q. Mr. Swenson testified earlier regarding
7 tying U.S. Magnesium's rate to schedule nine.
8 Were you here for that testimony?

9 A. Yes.

10 Q. How would the Company implement that if
11 so ordered?

12 A. Sure. And just to clarify, tying the
13 proposal that Mr. Swenson provided today, I
14 believe, is that for the solar incentive
15 surcharge, U.S. Magnesium would pay two times
16 whatever the schedule nine average surcharge is
17 per customer, per year. And so U.S. Mag would pay
18 two times the average schedule nine surcharge per
19 customer, per year.

20 The Company would implement that
21 immediately or upon effectiveness of this new
22 agreement, and then that charge would remain in
23 place until the Company changes the solar
24 incentive surcharge for all customers. As I
25 mentioned previously, the solar incentive

1 surcharge program or solar incentive program will
2 likely last over the course of nine years and the
3 Company will be collecting money and paying out
4 money over this nine-year period.

5 The payouts grow in the middle of those
6 nine years. So they start small, as the program
7 started last year. They grow in the middle years.
8 And then they start to decrease in the back years.
9 And so the Company anticipates and originally
10 expected around 2016 that it would be filing to
11 change the surcharge so that it matches the
12 payouts.

13 The Company has tried to match the
14 surcharge for the payouts to eliminate carried
15 costs for customers. And so the Company
16 anticipates that it is likely over the course of
17 the U.S. Mag agreement that they will be filing to
18 change the solar surcharge rates for all customer
19 classes.

20 So if the Commission were to order that
21 U.S. Magnesium's proposal is accepted or adopted
22 and that they would pay two times the average
23 schedule nine rate per customer, per year, when
24 the Company goes to do the rate spread for their
25 proposed changes to the surcharge for all

1 customers, U.S. Magnesium would be included in
2 those calculations and they would be included at
3 two times whatever the proposed schedule nine
4 surcharge would be--average surcharge would be
5 when the rates are recalculated. And so the
6 Company would implement that as a formula or
7 methodology for subsequent surcharge changes
8 unless ordered otherwise by the Commission. But
9 that would be the Company's proposal as how to
10 implement that over time.

11 THE HEARING OFFICER: So that would be--I
12 don't mean to interrupt. That would be
13 implemented, it sounds like, when the next filing
14 change in surcharge would happen, which
15 potentially could be 2016?

16 MR. CLEMENTS: Yes. Not committed to
17 that date in particular, but when the program was
18 designed, it was expected that in 2016 the filing
19 might be required. It may be later. Some of the
20 projects are coming on late and so the payouts are
21 occurring later. But if it occurs in 2016 or '17,
22 yes, the Company would just include the
23 anticipated revenues from U.S. Magnesium as two
24 times the schedule nine average and include that
25 in a rate spread. To clarify, two times whatever

1 is proposed for schedule nine in the change. And
2 that would be included in the rate spread.

3 THE HEARING OFFICER: Okay. So it's not
4 a set dollar amount? It's a proposed calculation
5 that would be--that would change potentially based
6 on what the filing was?

7 MR. CLEMENTS: Yeah. The Company would
8 recommend we implement Mr. Swenson's proposal that
9 we do it as a methodology where it would be two
10 times the then current--or the then proposed
11 schedule nine rate.

12 THE HEARING OFFICER: Let me ask a
13 process question because it sounds like there's,
14 you know, potential agreement among the parties
15 today that this would be just and reasonable and
16 in the public interest for many of the parties.
17 But what--how would you propose proceeding
18 with--would this require a contract amendment
19 refiling or would this just be an agreement
20 memorialized pursuant to the record here today?
21 Or help me understand how that would look. Maybe
22 this is a question for Mr. Dodge.

23 MR. DODGE: Yeah. We would anticipate
24 that it would be in the Commission's order. I
25 don't think the agreement has to be amended, per

1 se. If it's in the order, then obviously we're
2 required to comply with it.

3 THE HEARING OFFICER: Did you have
4 further redirect?

5 MR. SOLANDER: Just one.

6 THE HEARING OFFICER: Okay.

7 BY MR. SOLANDER:

8 Q. Does the Company have any objection to
9 providing to the energy efficiency annual report
10 as a matter of course as suggested by Ms. Murray?

11 A. No. The Company suggested that it would
12 be upon request and that was strictly to hedge a
13 bad memory as I approach 40 years old this
14 month--get that on the record. The Company would
15 agree to do that in due course. Make best
16 efforts.

17 MR. SOLANDER: Thank you. And the
18 Company would move that the application and the
19 amended and restated electric service agreement be
20 entered into the record.

21 THE HEARING OFFICER: Is there any
22 objection?

23 MR. JETTER: No objection.

24 MR. OLSEN: No objection.

25 THE HEARING OFFICER: It's received.

1 Thank you.

2 Mr. Jetter, do you have a question?

3 MR. JETTER: Can I request a brief recess
4 where we can discuss one matter off the record
5 before the conclusion of this hearing?

6 THE HEARING OFFICER: Yeah, that's fine.
7 What do you--

8 MR. JETTER: I just need three minutes.

9 THE HEARING OFFICER: Okay. Why don't we
10 go ahead and go off the record.

11 (Recess taken.)

12 THE HEARING OFFICER: Okay. Let's go
13 back on the record. When we last left, there was
14 a request for a recess, so I'll turn it back to
15 Mr. Jetter.

16 MR. JETTER: Thank you. I just had a
17 clarification that I needed to make with some of
18 the parties. And the Division is still in support
19 of the proposal made by the Office and then
20 offered by U.S. Mag for their contributions to the
21 solar incentive program.

22 THE HEARING OFFICER: Okay. Is there any
23 more redirect or clarification? Again, I don't
24 want to put words in Mr. Solander's mouth, but I'm
25 assuming the request is for a bench ruling today.

1 MR. SOLANDER: That would be our
2 preference.

3 THE HEARING OFFICER: I hate to take
4 another recess, but I just want to mention before
5 I go back we'll go ahead and take a recess.
6 Before I do that, is there anything else that
7 needs to be addressed? And, again, one final
8 quick clarification just for my own understanding.
9 This is for Mr. Clements.

10 You mentioned that the program was going
11 to run for another nine years. Do you mean the
12 actual charge will actually only run till '17,
13 right? The actual funding will continue for that
14 long? Is that--just so I understand. That just
15 confused me a little bit. Sorry, let's go ahead
16 and go off the record.

17 (Discussion off the record.)

18 THE HEARING OFFICER: Let's go back on
19 the record.

20 MR. CLEMENTS: It's the Company's intent
21 that the surcharge will continue for nine years.
22 And the reason is payouts occur over the course of
23 nine years.

24 THE HEARING OFFICER: Okay.

25 MR. CLEMENTS: But the incentives or the

1 lottery, so to speak, occurs over a five-year
2 period. But in year five, industrial customers
3 who are awarded a credit receive that credit over
4 the course of five years. So they would receive
5 it in year five and then six, seven, eight, and
6 nine.

7 THE HEARING OFFICER: Okay.

8 MR. CLEMENTS: And so payouts will occur
9 over nine years.

10 THE HEARING OFFICER: So the balancing
11 account will actually continue for nine years just
12 to match the payouts?

13 MR. CLEMENTS: Right. And the Company's
14 intent is to try to match--have the surcharge
15 match the payouts as closely as possible. So
16 since the payouts occur over nine years, the
17 surcharge will occur over nine years as well.

18 THE HEARING OFFICER: Okay. That's
19 helpful. Thank you.

20 With that, why don't we go ahead and take
21 a brief recess. Thank you.

22 (Recess taken.)

23 THE HEARING OFFICER: Let's go ahead and
24 go back on the record. I appreciate everyone's
25 patience and their participation today. Having

1 considered PacifiCorp's application, the comments
2 filed in the docket, and the testimony presented
3 today, the Commission finds that approval of the
4 application and the amended--the amended and
5 restated agreement filed with the Commission on
6 December 8th as modified by the discussions and
7 has been explained more precisely by Mr. Clements
8 is just and reasonable and in the public interest
9 includes approval and it's consistent with the
10 relevant statutes, rules, and Commission orders,
11 and, therefore, the Commission approves the
12 application in Docket No. 14-035-143 and the
13 amended and restated agreement as modified with
14 the discussions today effective with an effective
15 date of January 1, 2015.

16 This bench order will be confirmed--this
17 bench order has been approved and confirmed by the
18 Commission and a written memorialization of this
19 decision will be filed. Before we adjourn today,
20 is there any further matters before the Commission
21 or housekeeping issues? Okay. With that, we're
22 adjourned. Thank you very much.
23 (Hearing concluded at 11:03 a.m.)

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CERTIFICATE

This is to certify that the foregoing proceedings were taken before me, NANCY A. FULLMER, a Registered Merit Reporter and Notary Public in and for the State of Utah;

That the proceeding was reported by me in stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages;

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the result thereof.



Nancy A Fullmer

Nancy Fullmer, RMR