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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Application of Rocky Mountain Power for Approval of Electric Service Agreement and Operating Reserves Agreement between PacifiCorp and US Magnesium LLC	Docket No. 17-035-71 REPLY COMMENTS OF US MAGNESIUM LLC REGARDING ESA
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US Magnesium LLC (“US Mag”) hereby files these Reply Comments in this docket. In comments filed on March 12, 2018, the Division of Public Utilities (“Division”) concluded that the Electric Service Agreement (“ESA”) executed by Rocky Mountain Power (“RMP”) and US Mag and before the Commission in this docket for approval is just and reasonable and in the public interest and should be approved. US Mag appreciates the Division’s analysis and supports its conclusions.

The Office of Consumer Services (“Office”) filed comments on March 12, 2018 also recommending approval of the ESA, with one proposed condition. US Mag also

appreciates the Office's analysis and conclusions and does not object to the Office's proposed condition.

One other issue has recently come to the attention of US Mag that it believes must be addressed in this docket. When the ESA was executed on December 28, 2017, the final resolution of legislative efforts to reduce the U.S. corporate tax rates, and the potential impacts of the same on customer rates, were far from understood. US Mag had discussed the possibility of such tax reform with RMP, as well as potential rate impacts for US Mag. However, given that rate implications of tax reform were unknown and would not be known for some time, US Mag relied upon the following language in Section 3.12 of the ESA to cover the tax reform rate reduction contingency:

Purchaser shall be subject to other surcharges, credits or balancing accounts only if the Commission determines that Purchaser will be subject to the same on a prospective basis in an appropriate proceeding. Such surcharges and credits will change consistent with the effective date in the applicable tariff. Unless otherwise specified in the tariff adjustment schedule or herein, the surcharges or credits applicable to Purchaser will be set to collect or credit the same percent of Purchaser's base revenue as corresponds to the average percentage collected or credited with respect to the total Utah retail base tariff revenues for the effective period.

Based on this language (and similar language in its existing agreement), it is US Mag's belief and expectation that any future refund or credit, including any that may result from corporate tax rate reductions, will be available to US Mag, assuming the Commission approves the same on its merits in an "appropriate proceeding."

In late 2017, the Commission opened Docket 17-035-69 ("Tax Docket") to address the impacts of corporate tax reductions. It is US Mag's understanding that the Tax Docket is the "appropriate proceeding" contemplated in the ESA in which the level of rate relief appropriate for US Mag as a result of reduced corporate tax rates should and

will be determined on their merits. That understanding, however, become somewhat confused when the Division filed comments on February 23, 2018 in the Tax Docket, recommending that special contracts be excluded from credits or refunds associated with tax reduction, and suggesting: "Special Contracts are negotiated independently and any benefits from the Tax Act will be realized when contracts are renegotiated." US Mag's concern over this issue was then amplified when, in its Application filed in the Tax Docket on March 16, 2018, RMP stated:

The Division also recommended excluding special contract customers from this refund. The Company agrees with this recommendation. As the Division noted, special contract rates are negotiated independent from the revenue requirement used to set other retail rates. Any consideration of the impact of the Tax Reform Act in the Company's negotiations with special contract customers would need to be made in light of each special contract customer's contract provisions and unique circumstances.

These statements by the Division and RMP in the Tax Docket create uncertainty as to the proper forum in which US Mag's entitlement to rate relief stemming from tax reform should be addressed. If the proper forum is in the negotiations of an ESA—that is, if US Mag is expected to negotiate for specific rate reductions stemming from tax reform in its ESA rather than relying upon the general ESA Section 3.12 language quoted above—then US Mag respectfully asks the Commission to refrain from approving the ESA as written and direct US Mag and RMP to negotiate regarding tax-reform rate impacts, subject to later Commission approval or Commission resolution of any disputes in this docket.

If, on the other hand, as US Mag understands, US Mag's entitlement to credits or benefits resulting from tax reform can and should be addressed on their merits in the Tax Docket, regardless of the presence or absence of any specific ESA language addressing

tax reform impacts, then US Mag asks the Commission to (i) approve the ESA now, as written, and (ii) confirm that any impacts of tax reform on US Mag's rates—both under its current contract, and under the ESA up for approval in this docket—will be resolved on their merits in the Tax Docket, and need not be specifically addressed in the ESA.

DATED this 5th day of April 2018.

HATCH, JAMES & DODGE



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 5th day of April 2018 on the following:

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