
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
ORDER MEMORIALIZING BENCH
RULING APPROVING
ELECTRIC SERVICE AGREEMENT

ISSUED: April 19, 2018

The Public Service Commission (PSC) approves the electric service agreement between PacifiCorp dba Rocky Mountain Power (PacifiCorp) and US Magnesium, LLC (US Mag), effective May 1, 2018.

PROCEDURAL HISTORY

On December 29, 2017, PacifiCorp filed an application for approval of an electric service agreement (ESA) between PacifiCorp and US Mag (Application). Under the ESA, PacifiCorp will provide US Mag with electric power and energy and US Mag will provide PacifiCorp with certain interruptible products.

On January 16, 2018, the PSC held a scheduling conference and, on January 17, 2018, issued a scheduling order and notice of hearing (Scheduling Order). Pursuant to the Scheduling Order, the Division of Public Utilities (DPU) and the Office of Consumer Services (OCS) filed comments on the Application on March 12, 2018. On March 29, 2018, the PSC granted intervention to US Mag and, on April 5, 2018, US Mag filed reply comments.

On April 12, 2018, the PSC's designated Presiding Officer conducted a hearing to consider the Application. As an initial matter, the Presiding Officer indicated to parties the PSC would not be signaling its intentions during the hearing related to US Mag's reply comments

seeking a sur-credit eligibility decision in Docket No. 17-035-69¹ (Tax Docket) pending before the PSC. Following a discussion among parties during a hearing recess, parties represented US Mag's concern relating to the Tax Docket had been resolved.

PacifiCorp, the DPU, and US Mag recommended the PSC approve the Application. The OCS recommended the PSC approve the Application with two conditions relating to reporting with which PacifiCorp and US Mag concurred. At the conclusion of the hearing, based on PacifiCorp's motion for a bench ruling, which the PSC granted, the Presiding Officer approved the ESA. This Order memorializes that bench ruling. The evidence supporting the Application is briefly summarized below.

DISCUSSION, FINDINGS, AND CONCLUSIONS

A. The ESA

PacifiCorp and US Mag are parties to an existing ESA² (Existing ESA), which the PSC extended through April 30, 2018 by order in a separate docket.³ The ESA term begins May 1, 2018 and expires on December 31, 2019, with an automatic one-year extension through the end of 2020, unless either party gives 180 days' notice to terminate. Under the ESA, PacifiCorp will provide US Mag with retail full requirements service of electric power and energy. US Mag will

¹ See Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018," (Docket No. 17-035-69).

² See In the Matter of the Application of Rocky Mountain Power for Approval of an Electric Service Agreement between PacifiCorp and US Magnesium, LLC, (Docket No. 14-035-143); See also *id.* (Amended and Restated Agreement, filed December 8, 2014).

³ See Application of Rocky Mountain Power for Approval of Electric Service Agreement Extension between PacifiCorp and US Magnesium LLC (Order, issued November 15, 2017; Docket No. 17-035-56).

receive an interruption credit against the rates it pays PacifiCorp in exchange for providing PacifiCorp with certain interruptible products.

B. Parties' Positions

1. PacifiCorp

PacifiCorp states, under the ESA, it will continue to provide US Mag with full requirements service of electric power and energy and US Mag will provide PacifiCorp with certain interruptible products. PacifiCorp further states the rates for full requirements service that US Mag will pay PacifiCorp and the curtailment credit and day-ahead curtailment structure to US Mag are the same as in the Existing ESA. PacifiCorp asserts that the rates for full requirements service US Mag will pay PacifiCorp under the ESA are in line with the current cost of service. Similar to the Existing ESA, US Mag's base rate charges for power and energy will be uniformly adjusted by the average percent change to Utah's total retail customers concurrently with changes in general rate cases or major plant addition cases for Utah retail tariff customers on or after May 1, 2018.

PacifiCorp represents the ESA maintains in place the terms of the Existing ESA that were recommended for inclusion by the DPU and OCS and were referenced in the PSC's January 28, 2015 Order Confirming Bench Ruling Approving Electric Service Agreement in Docket No. 14-035-143. Specifically, these terms are: 1) US Mag will continue to pay a surcharge to fund PacifiCorp's Low Income Residential Lifeline Program in the amount applicable to Schedule No. 9 customers, 2) US Mag will provide the DPU and the OCS with an annual report of its

demand-side management (DSM) activities, and 3) US Mag will continue to be subject to the Utah Solar Incentive Program Cost Adjustment through rates paid on Tariff Schedule No. 136.

PacifiCorp testified the ESA is just, reasonable, and in the public interest and recommends the PSC approve the ESA.

2. DPU

The DPU filed comments recommending approval of the ESA as being just and reasonable and in the public interest. The DPU states, the ESA explicitly provides that US Mag will be subject to the Energy Balancing Account, Sustainable Transportation and Energy Plan, and Renewable Energy Credits Balancing Account. The DPU notes, there is not an explicit provision in the ESA requiring US Mag to be subject to Schedule No. 193 DSM Cost Adjustment surcharge as US Mag has its own internal DSM programs, thus it is not eligible to receive DSM funding from PacifiCorp.

The DPU states it believed the expiring contract was an improvement over the preceding contracts in that it brought US Mag's pricing closer to being in-line with other large industrial customers. The DPU expressed its concern that special contract customers' rates may now be further below their cost of service than they were previously. The DPU notes the underlying actual rates charged to customers have not changed and there is little justification at this point to insist the rates charged a contract customer be adjusted. The DPU identified its intention to assess the cost-of-service study in the next rate case to inform its decisions regarding any future electric service agreements between US Mag and PacifiCorp.

The DPU also testified at hearing, the ESA is just, reasonable, and in the public interest and recommends the PSC approve the ESA.

3. OCS

On March 12, 2018, the OCS filed comments recommending approval of the ESA with two conditions⁴ relating to a certain revenue adjustment and reporting.

At hearing, the OCS noted PacifiCorp's and US Mag's agreement to meet the conditions presented in its testimony. OCS likewise testified the ESA is just, reasonable, and in the public interest and recommends the PSC approve the ESA.

4. US Mag

In its reply comments, US Mag references the DPU's recommendation and PacifiCorp's proposal to exclude special contract customers from a refund resulting from the Tax Docket. According to US Mag, the timing of the ESA did not allow for language to be added to the ESA specifically addressing the entitlement to credits or benefits resulting from tax reform and represents it understood the general ESA Section 3.12 language to cover the tax reform rate reduction contingency. US Mag requested the PSC refrain from approving the ESA as written and direct US Mag and PacifiCorp to negotiate regarding tax reform rate impacts, subject to later PSC approval or PSC resolution of any disputes in this docket. At the hearing, parties resolved this issue.

US Mag testified at hearing, the ESA is just, reasonable, and in the public interest and recommends the PSC approve the ESA.

⁴ See Proprietary Comments from the Office of Consumer Services, filed March 12, 2018.

C. Findings and Conclusions

Based on the Application, our review of the ESA, the comments filed in this docket, the testimony provided at hearing, and there being no opposition, we find the prices, terms and conditions of the ESA are just, reasonable, and in the public interest.

ORDER

Based on the foregoing discussion, findings and conclusions, we order:

1. The ESA between PacifiCorp and US Mag is approved, effective May 1, 2018.
2. PacifiCorp and US Mag shall comply with the two OCS conditions agreed to at hearing.

DATED at Salt Lake City, Utah, April 19, 2018.

/s/ Melanie A. Reif
Presiding Officer

Approved and Confirmed April 19, 2018, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#301427

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on April 19, 2018, a true and correct copy of the foregoing was served upon the following as indicated below:

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