



State of Utah

Department of Commerce  
Division of Public Utilities

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## Action Request Response

**To:** Public Service Commission of Utah

**From:** Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Brenda Salter, Utility Technical Consultant Supervisor

Jeff Einfeldt, Utility Technical Consultant

**Date:** January 26, 2021

**Re:** **Docket No. 20-035-47**, Rocky Mountain Power Application for Approval of Electric Service Agreement and Operating Reserves Agreement Between PacifiCorp and US Magnesium LLC.

### Recommendation (Approve)

The Division of Public Utilities (“Division”) recommends the Utah Public Service Commission (“Commission”) approve the Electric Service Agreement and Operating Reserves Agreement between PacifiCorp and US Magnesium LLC (“US Mag”) and the accompanying one-year extension through December 31, 2021. As discussed below, the Agreement is just, reasonable, and in the public interest.

### Issue

On December 23, 2020, Rocky Mountain Power (“RMP”), a division of PacifiCorp, filed an Application for Approval of a one-year extension<sup>1</sup> of an Electric Service Agreement and

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<sup>1</sup> Application of Rocky Mountain Power for Approval of Electric Service Agreement and Operating Reserves Agreement Between PacifiCorp and US Magnesium LLC, paragraph 5, dated December 23, 2020.

Operating Reserves Agreement (“Agreement”) with US Mag to expire on December 31, 2021. PacifiCorp is currently providing electric service to US Mag pursuant to the Agreement executed on December 29, 2017 approved by the Commission in Docket No. 17-035-71, which was extended through December 31, 2020.

A Scheduling Conference was held on January 5, 2021 and a Scheduling Order was issued on January 11, 2021 requesting comments from the Division by January 26, 2021. This memorandum serves as the Division’s comments and recommendations in this matter.

## **Analysis**

### General

The most recent Agreement was approved by the Commission in Docket No. 17-035-71 and expired on December 31, 2020. The application filed by RMP in this Docket seeks to extend the Agreement for one additional year with an expiration date of December 31, 2021. The Agreement remains substantially the same, with some clarifying language added to Section 1.8 and Section 1.12 of the accompanying Operating Reserves Agreement. The Agreement makes no substantive changes to the pricing terms.

Under the Agreement, PacifiCorp will continue to provide interruptible electric service to US Mag’s plant located in Tooele County, Utah. PacifiCorp promises to provide US Mag with up to 125 MW of power,<sup>2</sup> but under certain conditions it may provide additional power upon US Mag’s request.<sup>3</sup> The Division understands the primary reason for a special contract between PacifiCorp and US Mag is PacifiCorp may interrupt service to US Mag under the terms set forth in the Agreement.<sup>4</sup> For this ability to interrupt or curtail service, PacifiCorp pays US Mag an Operating Reserve Credit.<sup>5</sup> Except for the Operating Reserve Credit and the pricing terms, which will be discussed below, the remaining terms of the Agreement reflect the technical electrical

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<sup>2</sup> Agreement, Article I, section 1.25, page 5.

<sup>3</sup> Agreement, Article VII, section 7.1, page 19.

<sup>4</sup> Agreement, Article IV. See also “Operating Reserve Interruption Agreement between PacifiCorp and US Magnesium, LLC” attached to the Electric Service Agreement and filed concurrently in Docket No. 17-035-71

<sup>5</sup> Ibid.

services to be provided—tailored to US Mag—or otherwise appear to be mostly generic contractual terms.

### Pricing Terms

The Agreement makes no significant changes to the existing pricing terms of the current expiring contract. The pricing components are dealt with primarily in Article III (pages 9-13) of the original Agreement. PacifiCorp represents in its application that US Mag’s rates will be adjusted uniformly by the average percent change for total Utah retail customers to comply with the Commission Order in the most recently concluded general rate case.<sup>6</sup>

The Agreement explicitly provides that US Mag will be subject to the EBA, STEP and RBA adjustments and that US Mag will be subject to “the same Schedule 91 and Schedule 196 rate applied to Schedule 9 customers.”<sup>7</sup> However, there is no explicit provision for the DSM programs. US Mag does not contribute to the DSM account because, like other companies with electric service agreements, it has its own internal DSM programs and is not eligible to receive DSM funding.<sup>8</sup>

The Agreement anticipates US Mag developing an on-site solar generation project and provides for termination of the Agreement upon commercial operation of the solar project. US Mag must notify PacifiCorp at least 210 days prior to the expected commercial operation of the solar project so the parties can negotiate a replacement agreement. The replacement agreement will also be subject to Commission approval. The development by US Mag of a solar generation project is still under study.

The Agreement remains an improvement over preceding contracts in that it brought US Mag’s pricing closer to being in-line with other large industrial customers, i.e. those customers on Schedule 9.

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<sup>6</sup> Rocky Mountain Power application, paragraph 6. Also see Agreement Article III, paragraph 3.4, page 10.

<sup>7</sup> Agreement, Article III, par 3.12, pages 12-13.

<sup>8</sup> Ibid, par 3.13.

In the years since the prior rate case, data provided by PacifiCorp suggested cost of service of the various customer schedules, including special contracts, have changed their relative positions. Special contract customers' rates may now be further below their cost of service than they were previously. PacifiCorp's prior cost of service analyses have always been contested by various parties in past general rate cases, and there is no reason to believe that will change in the future. The Commission's order issued December 30, 2020 in the most recent rate case (Docket No. 20-035-04) declined to accept RMP's proposed changes to Cost of Service ("COS") methodologies and "...found wisdom in the recommendations of several parties to establish a collaborative process that will commence after the conclusion of this docket."<sup>9</sup> The Division expects those discussions will include consideration of special contracts to some degree.

#### Operating Reserve Credit Terms

As compensation for PacifiCorp's right to curtail and interrupt service to US Mag under the terms set forth in the Agreement, PacifiCorp provides US Mag a monthly Operating Reserve Credit. The pricing in the proposed Agreement extension remains unchanged.

### **Conclusion**

Based on the forgoing analysis, the Division recommends the Commission approve the Agreement and its extension through December 31, 2021 as just, reasonable, and in the public interest.

Cc: Michele Beck, Office of Consumer Services  
Bela Vastag, Office of Consumer Services  
Jana Saba, PacifiCorp  
Kyle Moore, PacifiCorp

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<sup>9</sup> Docket No. 20-035-04, RMP General Rate Case, Commission Order, page 62. For a more complete discussion of Cost of Service, see pages 61 through 72 of the Order.