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COLORADO RIVER COMMISSION

Public Meeting of the )  
Colorado River Commission of )  
Nevada )  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Taken on Tuesday, June 10, 2014

At 1:02 p.m.

At Colorado River Commission  
555 E. Washington Avenue, Suite 3100  
Las Vegas, Nevada 89101

Reported by: Cynthia L. Gloe, RPR, CCR No. 607

A P P E A R A N C E S

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COMMISSIONER GEORGE F. OGILVIE III, Chairman

COMMISSIONER PUOY PREMSRIRUT

COMMISSIONER BRIN GIBSON

COMMISSIONER BERLYN D. MILLER

COMMISSIONER DUNCAN R. MCCOY

COMMISSIONER BOB COFFIN

COMMISSIONER STEVE SISOLAK

JAYNE HARKINS, Executive Director

ANN PONGRACZ, Special Counsel to the Colorado River  
Commission of Nevada and the Governor's  
Office of Economic Development

## P R O C E E D I N G S

\* \* \* \* \*

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3 CHAIRMAN OGILVIE: Okay. It's 1:02. This is the  
4 time and place for the June 2014 meeting of the Colorado  
5 River Commission of Nevada. Everyone please join me in the  
6 Pledge of Allegiance.

7 (Pledge of Allegiance)

8 CHAIRMAN OGILVIE: Before we start today's agenda,  
9 our community was marred by a senseless act of violence the  
10 other day, and I would just like to take a moment and  
11 observe in memory the two police officers and innocent  
12 bystander who were killed on June 8th.

13 (Moment of silence)

14 CHAIRMAN OGILVIE: Jayne, are we in conformance  
15 with the Open Meeting Law?

16 MS. JAYNE HARKINS: Yes, this meeting has been  
17 noticed and posted in conformance with Nevada's Open Meeting  
18 Law.

19 CHAIRMAN OGILVIE: Item D on today's agenda is a  
20 public hearing on proposed regulations of the Colorado River  
21 Commission of Nevada contained in Nevada Administrative Code  
22 Chapter 538. We will have an -- the general public will  
23 have an opportunity to comment on the proposed regulations.  
24 I would invite any member of the public that would like to  
25 speak during that hearing to sign the attendance sheet at

1 the back of the room. Also, those planning to speak during  
2 the public hearing must sign the speaker's list near the  
3 attendance sheet at the back of the room. So if anyone  
4 plans to speak, I would ask you to go back prior to the  
5 opening of the public hearing and sign -- and complete a  
6 speaker's list form.

7 With that, if there are any members of the general  
8 public that would like to address the Commission, any  
9 general topics, I would ask you to come forward.

10 Seeing and hearing none, we will resume with the  
11 rest of the agenda. I will entertain a motion for approval  
12 of the minutes of the May 13, 2014, meeting.

13 COMMISSIONER STEVE SISOKAK: So moved.

14 COMMISSIONER BRIN GIBSON: Second.

15 CHAIRMAN OGILVIE: A motion and a second. All in  
16 favor say aye.

17 (Aye)

18 CHAIRMAN OGILVIE: Any opposed?

19 (No response)

20 CHAIRMAN OGILVIE: Motion carries.

21 Jayne, why don't you introduce Item D.

22 MS. JAYNE HARKINS: Agenda Item D is the public  
23 hearing on proposed regulations --

24 THE REPORTER: Excuse me. I need you to speak --  
25 I need to hear you. So if you could speak in that mike.

1 Thank you.

2 MS. JAYNE HARKINS: Okay. Agenda Item D is the  
3 public hearing on proposed regulations of the Colorado River  
4 Commission of Nevada contained in Nevada Administrative Code  
5 Chapter 538, Legislative Counsel Bureau File No. R148-13.

6 Staff is recommending the Commission in this  
7 Agenda Item D conduct a hearing on the proposed regulations  
8 in conformance with the Administrative Rule Making  
9 Requirements of Nevada's Administrative Procedures Act,  
10 Nevada Revised Statute 233B and Nevada's Open Meeting Law  
11 contained in NRS 241.

12 CHAIRMAN OGILVIE: Okay. At this time, I will  
13 open the public hearing. The purpose of the hearing is to  
14 receive comments on the proposed regulations of the Colorado  
15 River Commission of Nevada contained in Nevada  
16 Administrative Code 538.

17 Jayne, can you confirm that notice and intent to  
18 act upon regulation has been noticed and posted in  
19 conformance with the appropriate Nevada law?

20 MS. JAYNE HARKINS: Yes. This public hearing  
21 has -- the notice of hearing for the adoption, amendment,  
22 repeal of permanent regulations of the Colorado River  
23 Commission of Nevada contained in Nevada Administrative Code  
24 538, LCB File No. R148-13 has been posted in accordance with  
25 NRS 233B.060 and that the public hearing agenda has been

1 posted in accordance with the Open Meeting Law and  
2 NRS 233B.061(5), and that this public hearing is being  
3 conducted in accordance with NRS 233B in the Open Meeting  
4 Law.

5 CHAIRMAN OGILVIE: Can you explain the substance  
6 of the proposed adoption, amendment, and repeal of the  
7 regulations?

8 MS. JAYNE HARKINS: There's numerous changes that  
9 we are making to the Nevada Administrative Code Chapter 538.  
10 They fall under five broad headings. There's the rules of  
11 practice and procedure before the Commission. There's a  
12 number of items on how documents are to be received by the  
13 Commission. Maintaining service lists. How the Commission  
14 may appoint one or more presiding officers to conduct  
15 hearings. Another broad category is the allocation of  
16 Schedule D, power from the Boulder Canyon Project Act.  
17 These amendments incorporate the Hoover Power Allocation Act  
18 of 2011 and Assembly Bill 199 from the last legislative  
19 session.

20 We also have various amendments about the various  
21 provisions governing the marketing of electric power by the  
22 Commission. Some of those include defining Schedules A and  
23 C power, describing the steps the Commission will take to  
24 reallocate power, describing how the Commission will offer  
25 new Hoover Power contracts to existing Schedule A and B

1 contractors, and then describing the Post 2017 contract  
2 provisions for Schedule A, B, and D contractors. Provisions  
3 describing the eligibility of -- for contractors and  
4 explaining how the power will be marketed within the seasons  
5 that the Western Area Power Administration sets.

6           The last broad category that we have is -- or one  
7 more broad category, other matters addressed, is metering  
8 the risk management procedures. We are requiring the  
9 end-use retail contractors to provide the Commission with  
10 metered data for billing, using meter equipment that meets  
11 the standards approved by the executive director, providing  
12 physical access to metering equipment, and providing the  
13 access to physically disconnect power.

14           We also have reduced the -- in these regulations  
15 the notification period from six months to 90 days when the  
16 Commission can provide notice of a change in administrative  
17 charge. And we also have provided that the Commission has  
18 the ability to review the creditworthiness of all  
19 contractors and to in the future implement prepayments of  
20 its bills to all contractors and/or to establish a cash  
21 working capital fund.

22           We also provide for the ability to reallocate  
23 hydropower on a short-term basis in the event one of our  
24 current contractor's allocation of hydropower has been  
25 suspended. And then there's two sections that we are

1 repealing.

2 CHAIRMAN OGILVIE: I understand that staff held a  
3 workshop on April 21st of this year. Can you provide us  
4 with a report of the comments submitted at that workshop?

5 MS. JAYNE HARKINS: Sure. We received written  
6 comments -- received oral comments at the workshop, and we  
7 received written comments from eight entities. They  
8 included Nevada Power Company, Southern Nevada Water  
9 Authority, the State of Nevada Office of the Attorney  
10 General, Bureau of Consumer Protection, Basic Power Company,  
11 City of Henderson, City of Mesquite, Olin Corporation, and  
12 Valley Electric Association.

13 In the binder that you were given about the  
14 hearing, you received full copies of all of the comments.  
15 That's in Tab I. In H you received a matrix where we took  
16 the comments apart.

17 There were specific comments related to Schedule A  
18 and B, as has been allocated to Nevada Power Company, and  
19 whether that should go to -- all to residential customers or  
20 A to all customers and B to residential customers. We  
21 received numerous other comments, many of which we  
22 incorporated into them. If we did not, we explained in the  
23 matrix why we didn't.

24 The other note I would make is we are offering two  
25 other amendments to what's in the notice of hearing



1 document. They are in your agenda Item E on the second  
2 page. Those changes would be to Section 324, which we would  
3 recommend going back to what we had (inaudible)

4 THE REPORTER: Excuse me. I need you to -- I  
5 can't hear you.

6 MS. JAYNE HARKINS: Sorry. Section 32.4, we're  
7 recommending an additional change that Nevada Power Company  
8 shall pass through to its residential class of rate pay  
9 economic benefits of power from Schedule B.

10 And then in 34.5, one of our customers requested  
11 that we insert "or their agents" when we talk about each  
12 contractor or their agents that obtains all its electric  
13 power from the Commission must provide the Commission the  
14 ability to physically disconnect the contractor's power for  
15 failure to pay a power invoice from the Commission in a  
16 timely manner without adversely impacting the delivery of  
17 power to other contractors, and we're recommending that you  
18 insert "or their agents."

19 CHAIRMAN OGILVIE: Okay. To be clear, with  
20 respect to the change of -- to Section 32.4, whereas the  
21 proposed amendment to the regulation that we originally  
22 received in our briefing books included a pass through of  
23 Schedule A to residential customers of Nevada Power. The  
24 change is that essentially to leave that section of the  
25 regulation the same, such that Schedule B would be passed

1 through, but there would be no pass through of Schedule A;  
2 is that correct?

3 MS. JAYNE HARKINS: That's correct.

4 CHAIRMAN OGILVIE: Subsequent to the issuance of  
5 staff's response to the comments, have we received any  
6 further comments, oral or verbal, by anyone?

7 MS. JAYNE HARKINS: We have not received any other  
8 written comments from entities. In the notice of hearing,  
9 we did allow for folks to send comments in to us. None were  
10 received.

11 CHAIRMAN OGILVIE: Do any Commissioners have  
12 questions of the comments or seek clarification of comments?  
13 Commissioner Gibson?

14 COMMISSIONER BRIN GIBSON: Yes. Ms. Harkins,  
15 could you explain why this Sub 4 in 32, the rationale behind  
16 allowing the economic benefit pass through just for  
17 Schedule B?

18 MS. JAYNE HARKINS: Well --

19 COMMISSIONER BRIN GIBSON: What's the reasoning  
20 behind it?

21 MS. JAYNE HARKINS: Well, the -- so the  
22 Schedule B, passing that through to residential customers  
23 has been in place for the last 27 years about; so that was  
24 done in the '80s by the Commission to pass it through. The  
25 rationale at that time was that the Hoover Power would be

1 used primarily for load following and that it was the  
2 residential customers that caused that load following, and  
3 so they would get the benefit of that.

4 We have been able to get some data from Nevada  
5 Power. The PUC checked that data for us. And we did  
6 provide you in your handouts a white paper on the  
7 Schedule A and B issue. So we looked at 2013 and that the  
8 residential customers, based on that Schedule B benefit, on  
9 average got a benefit of \$4.30 per year. But then we've  
10 looked at -- no, the residential customers also get a  
11 benefit from Schedule A, where PUC has currently calculated  
12 the benefits to customers, the degeneration, the cost of it  
13 goes to all customers. So they do get a benefit from  
14 Schedule A.

15 And then the nonresidential customers paid an  
16 average of about \$27 more than they would have if that  
17 Schedule B benefit was not limited to the residential  
18 customers. So there was a rationale at the time to give to  
19 residential customers. I don't know if we would consider  
20 that to be the same. We're not recommending to change that.  
21 We just thought we would keep the same as what we had  
22 previously and continue that into the future.

23 CHAIRMAN OGILVIE: As a matter of policy, as I  
24 understand the -- the effect of Schedule A being included in  
25 the pass through of Schedule B, for 2013 the residential

1 customers would have realized approximately \$3.50, maybe \$4  
2 more on an annual basis in savings, and the nonresidential  
3 customers, commercial customers, would end up paying higher  
4 energy costs of approximately \$22.50, \$23 on an annual  
5 basis; is that correct?

6 MS. JAYNE HARKINS: Yes.

7 CHAIRMAN OGILVIE: Are there questions of the  
8 Commission?

9 At this time, if there are any members of the  
10 general public who have signed speaker cards, I will ask you  
11 to come forward and provide them to me.

12 Seeing none, let me just ask are there any members  
13 of the general public that would like to provide oral  
14 comments at this time?

15 MS. JAYNE HARKINS: We received comments from the  
16 Bureau of Consumer Protection, Tab I. But the Public  
17 Utilities Commission, though they've checked numbers with us  
18 and we've talked to them, they did not send us any  
19 particular comments. There was no written or oral comments  
20 that they gave us.

21 CHAIRMAN OGILVIE: Any further comments?

22 Hearing none -- or Commissioner Miller?

23 COMMISSIONER BERLYN MILLER: Jayne, I was looking,  
24 and I couldn't find it, the comments that were made on the  
25 exit fees and where Nevada Power is saying that they would

1 not impose exit fees, and I'm trying to remember, was that  
2 only to those who had previously paid exit fees or on the  
3 Schedule D for any new ones that they would not charge?  
4 Would you clarify that for me, please?

5 MS. JAYNE HARKINS: In their comments they did  
6 have concerns regarding how we had laid out 16 -- I have too  
7 many notebooks and too many pieces of paper. So in the  
8 regulations, it was 16.2, we have E and F, and the way the  
9 tariffs would be set up. We've had discussions with them  
10 about how we would do that and we've come to an agreement  
11 with them of what that looks like.

12 So we put into 2-F the -- provided that the  
13 contractor has not previously paid such rates and charges.  
14 So those current customers, SNWA member agencies who have  
15 exited, if they would get a Schedule D allocation, they  
16 would not have to pay any further exit fees because they  
17 have already exited. So we have come to an agreement on  
18 that with this language that we have.

19 COMMISSIONER BERLYN MILLER: But any of the ones  
20 that were issued under Schedule D will still be under the  
21 NRS regulation on the exit fees and be required to pay exit  
22 fees; is that correct?

23 MS. JAYNE HARKINS: Well, we've been working with  
24 NV Energy on that and talking to them about how to implement  
25 that tariff. And we think we have an understanding that

1 they would not have to. We will continue to work on that.  
2 Because those who get Schedule D allocations and are still  
3 within NV Energy service area will not -- will still be a  
4 customer of NV Energy. They will stay a customer of NV  
5 Energy. They will not fully exit being a customer of  
6 theirs, like some of the entities have. So there will be  
7 two different tariffs in place. One if you're going to exit  
8 completely and one if you're not.

9 COMMISSIONER BERLYN MILLER: All right. Thank  
10 you.

11 CHAIRMAN OGILVIE: Commissioner Coffin?

12 COMMISSIONER BOB COFFIN: Thank you, Mr. Chairman.  
13 I think if I could take -- ask for your indulgence for a  
14 second here and read into the record one paragraph from the  
15 Consumer -- Bureau of Consumer Protection, which is in the  
16 Attorney General's office. It used to be a stand-alone  
17 department, but a few sessions ago Governor Gibson --  
18 Gibbons, excuse me -- the issue is their opinion -- the  
19 comments are signed by the Attorney General's  
20 representative. Obviously, Paul Stuhff speaks for the  
21 Attorney General: The Bureau of Consumer Protection  
22 appreciates the opportunity to file comments on the proposed  
23 regulations. Specifically, for the reasons detailed below,  
24 BCP is supportive of the CRC's proposed amendment to  
25 Section 32, Paragraph 4, of NAC 538.540, to pass through the

1 full benefits and costs of power from both Schedule A and  
2 Schedule B to Nevada Power Company's residential customers.  
3 Further, the BCP would note, there is no statutory or  
4 regulatory ratemaking prohibition that would keep the CRC  
5 from adopting a regulation that would fully allocate  
6 Schedule A to the residential class of NCP. Such an  
7 approach is consistent with what was done in 1987 with  
8 Schedule B and it causes the benefit of Schedule A to have a  
9 positive impact on the approximately 750,000 residential  
10 customers of Nevada Power Company.

11 So I think that out of eight or ten pages, their  
12 introductory comment is the most important and indicates  
13 support for this.

14 CHAIRMAN OGILVIE: Other questions or comments?

15 Hearing none, seeing none, at this time I will  
16 close the hearing, and we will move to the next agenda item,  
17 which I understand, Jayne, is consideration of and possible  
18 action on the proposed regulations.

19 MS. JAYNE HARKINS: Agenda Item E is consideration  
20 of and possible action to adopt new, amended, and repeal of  
21 permanent regulations of the Commission contained in Nevada  
22 Administrative Code, Chapter 538, Legislative Counsel Bureau  
23 File No. R148-13, with the proposed revisions.

24 Staff is recommending the Commission following the  
25 conclusion of the hearing conducted Agenda Item D approve

1 the adoption of the new, amended, and repealed permanent  
2 regulations of the Commission contained in Nevada  
3 Administrative Code, Chapter 538, Legislative Counsel Bureau  
4 File No. R148-13, with the proposed revisions attached to  
5 this briefing document.

6 CHAIRMAN OGILVIE: If there are no questions or  
7 comments by the Commission, I will entertain a motion.

8 COMMISSIONER BOB COFFIN: I move to adopt.

9 (Discussion off the record)

10 COMMISSIONER BOB COFFIN: Withdraw the motion.

11 MS. ANN PONGRACZ: Excuse me. If I could ask that  
12 the Commission consider voting on the two amendments to the  
13 regulations first.

14 CHAIRMAN OGILVIE: Okay. So we vote to adopt --  
15 to incorporate the amendments into the proposed  
16 regulation -- regulations that we're amending?

17 MS. ANN PONGRACZ: Yes. Thank you.

18 CHAIRMAN OGILVIE: Okay. I will entertain a  
19 motion on that.

20 COMMISSIONER BOB COFFIN: I make that motion,  
21 Mr. Chairman.

22 COMMISSIONER BRIN GIBSON: Second.

23 CHAIRMAN OGILVIE: I have a motion and a second to  
24 incorporate the amendments set forth under Agenda Item E  
25 into the proposed regulations that we will entertain a



1 motion on in a moment. Is that correct, Ms. Pongracz?

2 MS. ANN PONGRACZ: Yes, sir.

3 CHAIRMAN OGILVIE: All in favor say aye.

4 (Aye)

5 CHAIRMAN OGILVIE: Any opposed?

6 (No response)

7 CHAIRMAN OGILVIE: Motion carries.

8 Now we will entertain a motion for the adoption of  
9 the proposed regulations outlined in the public hearing that  
10 we just --

11 COMMISSIONER BOB COFFIN: Move for adoption.

12 COMMISSIONER BERLYN MILLER: Second.

13 CHAIRMAN OGILVIE: A motion and a second. All in  
14 favor --

15 COMMISSIONER STEVE SISOKAK: -- clarification.

16 Just so I understand, the motion is for the regulations as  
17 amended; correct?

18 CHAIRMAN OGILVIE: Correct.

19 COMMISSIONER STEVE SISOKAK: I thought you said  
20 the motion was just to adopt the regulations. I just want  
21 to make sure it's amended, because we amended the two  
22 amendments.

23 CHAIRMAN OGILVIE: Fair point.

24 COMMISSIONER STEVE SISOKAK: I want to make sure  
25 it's done right.

1           CHAIRMAN OGILVIE: Let me just clarify with the  
2 party making the motion. Is that consistent --

3           COMMISSIONER BOB COFFIN: Yes, sir.

4           CHAIRMAN OGILVIE: Is that --

5           COMMISSIONER BOB COFFIN: (inaudible)

6           THE REPORTER: I'm sorry. I cannot hear you,  
7 Mr. Coffin.

8           COMMISSIONER BOB COFFIN: I'm sorry. I didn't  
9 turn on my microphone for the record. Forgive me. I moved  
10 to adopt as the regulations.

11          COMMISSIONER BERLYN MILLER: Second.

12          COMMISSIONER MCCOY: There's a mike somewhere up  
13 here, isn't there, that they pick up conversations --

14          THE REPORTER: No.

15          CHAIRMAN OGILVIE: No. I think she (inaudible)  
16 We have a motion and a second. All in favor say aye.

17                 (Aye)

18          CHAIRMAN OGILVIE: Any opposed?

19                 (No response)

20          CHAIRMAN OGILVIE: Motion carries. Let me just  
21 say to staff: Very, very nice job.

22          MS. JAYNE HARKINS: Thank you. And I also want to  
23 make a thank you to LCB staff Brian Fernley and to Ms. Debra  
24 Corp in the Carson City office. They have helped us a lot  
25 get through this and get the right formats. We're on

1 schedule to be on the Legislative Commission's June 23rd  
2 meeting date; so we appreciate them helping us get through  
3 this.

4 CHAIRMAN OGILVIE: Thank you.

5 (Whereupon the proceedings were concluded at  
6 1:29 p.m.)

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REPORTER'S DECLARATION

STATE OF NEVADA     )  
                                  ss:  
COUNTY OF CLARK    )

I, Cynthia L. Gloe, CCR No. 607, declare as follows:

That I reported the taking of the proceedings commencing on Tuesday, June 10, 2014, at 1:02 p.m.

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said proceedings is a complete, true, and accurate transcription of said shorthand notes taken down at said time.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in this action.

Dated at Las Vegas, Nevada, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Cynthia L. Gloe, RPR, CCR 607

	<b>Allegiance (2)</b> 3:6,7	<b>Attorney (4)</b> 8:9;14:16,19,21	<b>bystander (1)</b> 3:12	<b>15:22;16:3</b>
<b>\$</b>	<b>allocate (1)</b> 15:5	<b>Authority (1)</b> 8:9	<b>C</b>	<b>Coffin (10)</b> 14:11,12;16:8,10, 20;17:11;18:3,5,7,8
<b>\$22.50 (1)</b> 12:4	<b>allocated (1)</b> 8:18	<b>average (2)</b> 11:9,16		<b>calculated (1)</b> 11:11
<b>\$23 (1)</b> 12:4	<b>allocation (4)</b> 6:15,17;7:24;13:15	<b>aye (6)</b> 4:16,17;17:3,4; 18:16,17	<b>can (4)</b> 5:17;6:5;7:16;8:3	<b>comment (2)</b> 3:23;15:12
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<b>\$3.50 (1)</b> 12:1	<b>allow (1)</b> 10:9		<b>back (4)</b> 4:1,3,4;9:3	<b>capital (1)</b> 7:21
<b>\$4 (1)</b> 12:1	<b>allowing (1)</b> 10:16	<b>based (1)</b> 11:8	<b>cards (1)</b> 12:10	<b>Commission (27)</b> 3:5,21;4:8;5:4,6, 15,23;6:11,13,13,22, 23,24;7:9,16,17;9:13, 13,15;10:24;12:8,17; 15:21,24;16:2,7,12
<b>\$4.30 (1)</b> 11:9	<b>amended (5)</b> 15:20;16:1;17:17, 21,21	<b>Basic (1)</b> 8:10	<b>carries (3)</b> 4:20;17:7;18:20	<b>COMMISSIONER (25)</b> 4:13,14;10:13,14, 19;12:22,23;13:19; 14:9,11,12;16:8,10, 20,22;17:11,12,15, 19,24;18:3,5,8,11,12
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<b>ability (3)</b> 7:18,22;9:14	<b>amendment (4)</b> 5:21;6:6;9:21; 14:24	<b>BCP (2)</b> 14:24;15:3	<b>cash (1)</b> 7:20	<b>Commission's (1)</b> 19:1
<b>able (1)</b> 11:4	<b>amendments (7)</b> 6:17,20;8:25; 16:12,15,24;17:22	<b>behind (2)</b> 10:15,20	<b>category (3)</b> 6:15;7:6,7	<b>community (1)</b> 3:9
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