

## Colorado River Commission of Nevada

### Public Meeting on Proposed Allocation Criteria for Marketing Nevada's Share of Hoover Schedule D Electric Power

September 11, 2014, Pahrump, Nevada

Attendees: Darrell Lacy, Director, Nye County  
Tim Sutton, Deputy District Attorney, Nye County

CRC Staff: Jayne Harkins, Executive Director  
Jim Salo, Deputy Executive Director  
Ann Pongracz, Special Counsel to the Colorado River Commission of Nevada  
Craig Pyper, Hydropower Program Manager  
Carla Miguel, Administrative Assistant  
Kaleb Hall, IT  
Sandra Fairchild, Consultant to CRC

Jayne Harkins, Executive Director with the Colorado River Commission of Nevada (CRC) explained that the purpose of the meeting was to present and request comments on the CRC's proposed allocation criteria and the draft application for Schedule D Hoover power.

Following staff introductions, Jim Salo provided a brief history of Hoover hydropower, the previous and current allocation process, including timeline, and CRC's proposed criteria and allocation process. Key points were:

- The Hoover Dam was authorized for construction by federal legislation in 1928. The actual construction occurred during the 1930's, with power customers required to pay most of the construction and maintenance costs. There is a very small contribution from the water customers. In the statutes, the purpose for the Hoover Dam is flood control, water storage, navigation purposes, and lastly for power generation.
- In the original legislation, it was contemplated that Nevada, Arizona, and California would each receive equal allocations of power, but it has never been achieved. California has always received a larger share of Hoover hydropower.
- The CRC was created in 1935 to secure and protect Nevada's interests in water and power from the Colorado River. The first contracts for power were in 1936 with Lincoln County Power District and Southern Nevada Power Company, a predecessor of NV Energy. Over the years, other contractors signed on. These first contracts expired on September 30, 1987. They were all timed to expire on the same date.
- In the late 1970's, Western Area Power Administration (Western) planned to extend CRC's Hoover power contracts beyond 1987 without increasing Nevada's share, then around 18 percent. Nevada filed a lawsuit in 1982 which was later joined by Arizona. Both Arizona and

Nevada were seeking to get up to one-third of the allocation as originally envisioned in the 1930's. In the end, all three states were involved in the lawsuit.

- On a parallel path, a major increase in capacity and available energy, known as the Hoover Upgrading Program was being constructed. The Hoover Power Plant Act of 1984 allocated most of the additional capacity and energy to Arizona and Nevada. However, even with the increased allocation, Arizona and Nevada allocations were less than the one-third allocation originally envisioned. In the end, the availability of the increased capacity due to the Upgrading Program and the additional allocations to Arizona and Nevada, allowed the States to settle the lawsuit. The new power from the Upgrading Program was called Schedule B power and was made primarily to Arizona and Nevada. Schedule A power was the original power allocated in the 1930's.
- In the 1980's the CRC considered and came to the following decisions on the following criteria:
  1. Allocation by population. Criterion deemed to be too mechanical and limiting.
  2. Encourage and support rural area development and diversification. The Commission supported this criterion. Deemed as being important to the State of Nevada. The Commission supported rural economic development. As a result, some of the allocations that were made went to the rural areas of southern Nevada; Overton Power District, Valley Electric Association, and Lincoln County Power District.
  3. Require Nevada Power to "pass-through" the economic benefit of Schedule B power to their residential customers. The Commission supported a "pass-through" – this criterion provided a peaking resource for the benefit of a large number of residential customers.
  4. Industrial development and diversification. This criterion, which applied to existing Basic Management Industrial complex customers (located near Henderson, NV), was supported by the Commission.
  5. Reduction of groundwater pumping as a goal. The Commission determined this criterion would not provide the "greatest possible benefit to the State."

The 1987 contracts were for a 30-year period; they expire September 30, 2017. In anticipation of the need to extend contracts beyond 2017, the existing federal Hoover customers from the three states started working jointly to discuss contracts and terms and conditions that would be applicable after 2017. There was a strong consensus to go back to Congress which resulted in the passage of the Hoover Power Allocation Act of 2011 (HPAA).

The HPAA states that existing federal Hoover customers (CRC in Nevada) would be offered contracts after October 1, 2017 at 95 percent of their current allocation for a term of 50 years. Under Nevada state law and current contracts, existing customers will be made an offer for an allocation of Hoover power at 95 percent of their current allocation for a 50 year term. The current customers have the option to accept or reject the offer. The remaining 5 percent will be made available to new allottees under Schedule D Hoover power. Under state law, the CRC will decide who gets an allocation in Nevada

and which criteria would be used to allocate to new customers. Any entity that currently receives Hoover power cannot get Schedule D.

Jim Salo discussed the timeline for CRC's proposed allocation process. The process is a two-step process. The first step was issuance of proposed criteria and a draft application form for public review and comment. The goal of the public meetings held on September 11-12 is to provide an overview of CRC's responsibilities for allocating the Schedule D Hoover power and to solicit input from interested parties regarding the criteria to be used for making allocations available to new allottees and the draft application form. Public comments are due on September 17, after which time Staff will review the comments and provide the proposed allocation criteria and recommendations to the Commission. The second step in the process is when the proposed allocations and application form will be provided to the Commission at either the regularly scheduled October 14 or November 13 meeting.

The Commission will issue a decision in either October or November. They may accept, accept with changes, or reject Staff recommendations. If the Commission accepts the proposed criteria and application, or accepts with modifications, Staff will conduct another round of public meetings to discuss the approved criteria and application with interested parties. Following the public meetings, Staff will issue a call for applications, with completed applications by the deadline specified. After receipt of all applications, Staff will review each application and determine if and how the request meets the CRC's "greatest possible benefit to this state" statutory requirement. Staff anticipates the Commission will reach a decision no later than March 2015.

The draft allocation criteria developed by Staff was derived from broad policy goals and objectives of the Governor and legislature; i.e. economic benefit, education, and support to state, local and tribal government. The overarching criterion, which is based in Nevada State statute, requires the CRC to consider those criteria that would fulfill the "greatest possible benefit to the state" mandate. However, this mandate is subject to various interpretations. Staff encourage interested parties provide other criteria that should be considered and the rationale behind their recommendation.

Craig Pyper stated that the CRC will be allocating 11.5 megawatt (MW) of Hoover Schedule D power. How the allocation will be divided up is still uncertain. Again, the over-arching criterion is allocation of Schedule D Hoover power for the greatest possible benefit to the state. Applicants will be encouraged to provide rationale as to how the receipt of this power will help the CRC achieve this goal.

On a side note, regarding the reference to tribal government; the tribes have been very active in the federal allocation process. In the initial allocations in the 1930's and the 1987 allocations, the tribes did not receive any Hoover power. Since 1987, a number of tribes, particularly in Arizona, expressed interest in receiving Hoover hydropower. When HPA was being developed, various tribes were very active in securing allocations for the tribes. As a result, a tribal preference was written into the federal law. In Western's proposed allocation list issued in August 2014, the tribes received approximately 39 MW of the total 69 MW Schedule D Hoover power to be allocated by Western.

Some of the criteria factors considered by Staff include in-state job creation, exports of made-in-Nevada products, new or expanded community or education programs, new or increased tax revenues for governmental agencies, and reduction of expenses for governmental entities.

The eligibility requirements discussed during the meeting are based on policy considerations and recently adopted rulemaking under Nevada Administrative Code 538. Eligibility considerations include whether the entity is a public entity or a for-profit or non-profit private entity; the amount of federal hydropower currently being used – directly or indirectly; the amount of actual load in 2011, 2012 or 2013; and an entity’s ability to receive delivery of Hoover Schedule D power on October 1, 2017. The entity cannot be a current Hoover Schedule A or B contractor, they must have an annual peak load of at least 1 MW, they must be able to receive energy directly or indirectly through its local utility at a delivery point authorized by the Commission, and they must be an entity to which the Commission is authorized by law to sell electricity or provide transmission or distribution service. Also, all applicants would be subject to a creditworthiness review. The CRC is a customer-funded, which means the agency does not receive any tax payer revenues (monies from the State General Fund). The CRC is a pass-through agency whereby the costs of power is directly passed on to the customer with appropriate additional costs e.g. debt service and administrative agency costs.

If an Applicant is offered a contract, they must pay a proportionate share of Nevada’s Lower Colorado River Multi-Species Conservation Program costs, debt service costs, and other repayable advances; they must participate through the CRC in the Boulder Canyon Project Implementation Agreement; they must meet the requirements for an Integrated Resource Plan or receive power through an electric utility that does; and provide collateral, if required. In the future, the CRC may create a cash working capital fund or require prepayment for power purchased in order to reduce the risk of non-payment. This requirement will be a future action considered at a Commission meeting and the CRC will seek customer input prior to that decision. In Nevada Power’s service territory, new applicants must pay their share of applicable fees, tariff rates and charges pursuant to Nevada Revised Statute (NRS) 704.787.

The Applicant would also be subject to the jurisdiction of the State of Nevada courts or U.S. courts. If a contract is offered, the Applicant must contract with the Commission within 90 days of being offered an allocation or the power may be re-allocated. Darrell Lacy and Tim Sutton discussed the fact that Nye County would need board approval to enter into a contract with the CRC. Staff indicated that although a selected allottee would have to accept the contract within 90-days of being offered a contract, the negotiation timeframe would precede the contract offering, allowing adequate time for discussions and approvals.

The CRC’s draft application is based on Western’s application, but was refined based on CRC’s requirements. Due to the CRC’s obligations under the state’s open records law, data provided to the CRC is available for public review. If this is an issue for any applicant, please contact Staff to discuss options for confidentiality. A disclaimer about the CRC’s open records obligations will be added to the final application.

### **Questions, Comments, and Responses**

**If an entity currently receives power through a host utility that receives Hoover power, how heavily will that be weighted for a CRC applicant?** At this time, Staff is not proposing the use of percentages or weighting factors to determine an allocation. However, the final decision will be made by the Commission. It is likely the Commission will want to know if an applicant or an applicant’s host utility is receiving Hoover hydropower and how much.

Darrell Lacy stated that Pahrump did not have power until 1964. In the early 1990's, the population in Pahrump was relatively low. However, over the last 20 years, the population and load requirements have grown considerably. One factor affecting load requirements is the fact that Pahrump does not have natural gas or other alternative energy backup. Staff recommended Nye County include these factors in their comments and provide rationale why the receipt of Hoover Schedule D power is important to Nye County.

Tim Sutton asked that CRC inform potential applicants early in the process if receipt of previous Hoover hydropower will be a factor in CRC's allocation determination.

There was discussion about aggregation of load to meet the 1 MW requirements. Staff encouraged Nye County to provide recommendations regarding how this type of arrangement could be developed and efficiently managed. Darrel Lacy and Tim Sutton stated that delivery of Schedule D Hoover power in Nye County would be through Valley Electric Association and most likely, any type of aggregation would be through one entity. Staff asked that the County provide a very concise description on how this type of arrangement could be achieved. Considerations discussed: corporate structure of the entity; delivery arrangements with the host utility; creditworthiness of each entity; obligation of each entity.

Jim Salo explained that an applicant must be able to receive delivery of Schedule D Hoover power on October 1, 2017. It could be direct physical delivery through their host utility, or some other indirect or contractual arrangement. For example, the Las Vegas Paiute Band has an arrangement whereby they receive an allocation of Salt Lake City Area Integrated Project power, but the power is delivered to the Navajo Tribe. The Navajo Tribe pay the Las Vegas Paiutes for the use of the allocation, and the Las Paiutes receive the economic benefit. The CRC is open to considering various types of delivery arrangements or alternatives. Ann Pongracz reminded everyone that under NRS 704.787, the benefit of Schedule D Hoover along with the power itself has to go to an entity that CRC, by law, is authorized to serve.