

The meeting was held at 1:00 p.m. on Tuesday, October 14, 2014 at the Grant Sawyer State Office Building, 555 East Washington Avenue, Suite 3100, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairman	George F. Ogilvie III
Commissioner	J. Brin Gibson
Commissioner	Duncan R. McCoy
Commissioner	Puoy K. Premsrirut

COMMISSIONERS NOT IN ATTENDANCE

Vice Chairman	Berlyn D. Miller
Commissioner	Bob Coffin
Commissioner	Steve Sisolak

DEPUTY ATTORNEYS GENERAL

Special Counsel, Attorney General	Jennifer T. Crandell
Special Counsel, Attorney General	Ann C. Pongracz

COMMISSION STAFF IN ATTENDANCE

Executive Director	Jayne Harkins, P.E.
Deputy Executive Director	James D. Salo
Chief of Finance and Administration	Douglas N. Beatty
Assistant Director of Engineering and Operations	Robert D. Reese
Hydropower Program Manager	Craig N. Pyper
Assistant Hydropower Program Manager	Lisa M. Ray
Hydropower Program Specialist	Sarah Ritchie
Natural Resource Analyst	Jason L. Thiriot
Natural Resource Analyst	Warren Turkett
Senior Accountant	Gail L. Benton
Senior Energy Accountant	Richard M. Sanders
Senior Energy Accountant	Kalora E. Snyder
Office Manager	Judy K. Atwood
Administrative Assistant III	Carol L. Perone
Administrative Assistant II	Gina L. Goodman

OTHERS PRESENT; REPRESENTING

Bureau of Reclamation	Larry Karr
City of Las Vegas	Nichole Malichky
City of Las Vegas	Brian McAnallen
Clark County Water Reclamation District	Brian Lovelin
Congressman Joe Heck	Andrew Turcaz
Consultant	Sara A. Price, Esq.
Overton Power District No. 5	Terry Romero
RTS	Brett Storsved
Southern Nevada Water Authority	Jordan Bunker

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF OCTOBER 14, 2014**

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**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF OCTOBER 9, 2014**

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The Colorado River Commission meeting was called to order by Chairman Ogilvie at 1:15 p.m. followed by the pledge of allegiance.

A. Conformance to Open Meeting Law.

Executive Director Jayne Harkins confirmed that the meeting was in compliance with the Open Meeting Law.

B. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

Chairman Ogilvie asked if there were any comments or questions from the public. There were none.

C. *For Possible Action:* Approval of minutes of the September 9, 2014 meeting.

Commissioner McCoy moved for approval of the minutes. The motion was seconded by Commissioner Gibson and approved by a unanimous vote.

D. *For Possible Action:* Consideration of and possible action to approve Amendment No. 1 to the engineering services contract between Burns & McDonnell Engineering Company, Inc. and the Colorado River Commission of Nevada.

Robert Reese, Assistant Director of Engineering and Operations, provided a background of the contract between Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) and the Colorado River Commission of Nevada (Commission).

The Commission owns, operates and maintains a high-voltage transmission and distribution system to provide electrical services for its customers. The Commission also is responsible for the operation and maintenance of six additional substations owned by the Southern Nevada Water Authority and three owned by the Clark County Water Reclamation District.

The Commission's in-house engineer is capable of performing many routine engineering support functions. However, the Commission occasionally requires further engineering support for its operation and maintenance functions and needs an engineering firm to assist with special projects.

Areas of expertise required periodically include civil engineering for foundation, grading and structural design; communication engineering for assistance with the Commission's fiber optic and microwave radio communication system; and system studies. On a less frequent basis, the Commission requires expertise in environmental engineering and structural engineering.

In order to have a ready source of engineering expertise, the Commission began the process of recruiting qualified engineering firms in 2013 through a Request for Proposals (RFP) process which was handled by the Nevada State Purchasing Division. Two qualified firms that had the experience required for the Commission's projects were Burns & McDonnell (Burns & McDonnell) and Sargent & Lundy, LLC (Sargent & Lundy). Unfortunately, Staff was unable to work through some of the terms and conditions with Sargent & Lundy and negotiations ended due to that firm's non-response.

Recently, special projects have included two phases of the Boulder City Bypass Project, with its unique environmental concerns and requirements. The two projects have required the preparation of designs, specifications and construction documents and have used nearly the entire current not-to-exceed contract amount of \$450,000.00. The Commission is being reimbursed for all of these expenses to date through specific funding agreements signed by the Commission with the Nevada Department of Transportation (NDOT) on October 20, 2011; and the Regional Transportation Commission of Southern Nevada (RTC) on February 12, 2013.

Additional projects requiring engineering support are modifications to the Southern Nevada Water System pumping facilities 3, 4, 5, and 6, as well as environmental issues due to finding naturally occurring asbestos in Phase 2 of the Boulder City Bypass Project. The amendment proposed will allow the Commission available funds to ensure that all project commitments can be met.

Burns & McDonnell has proven itself well qualified and fully capable of providing the necessary engineering and environmental expertise support needed for the Commission.

Staff recommends an increase of the contract amount by \$300,000.00 to a not-to-exceed total of \$750,000.00 over the term of the contract. Work under the agreement will have to be authorized by Commission staff as needed through the development and execution of written task authorizations. The total combined value of task authorizations under this agreement shall not exceed the contract total.

Chairman Ogilvie asked how the costs paid to Burns & McDonnell are funded.

Mr. Reese responded that NDOT funded Phase 1 of the Boulder City Bypass Project and the RTC will fund the design for the I-11 Bypass Project. Any additional work requested for the Commission by the Southern Nevada Water Authority, the Clark County Water Reclamation District, or Basic Management Industrial Complex, and others will be funded by the requestor.

Chairman Ogilvie asked if the activities that require the increase of \$300,000.00 will be funded by RTC.

Mr. Reese responded this is an enabling contract, so there has to be a specific task.

Chairman Ogilvie commented that he was referring to the cost.

Mr. Reese responded yes; for example, there will be more costs for the RTC for “As Built” drawings and the environmental aspect to this project—RTC will fund those costs.

Chairman Ogilvie asked if the costs that have occurred already prompted this modification; those are funded by the RTC, is that correct?

Mr. Reese responded that is correct.

Chairman Ogilvie asked if RTC is aware of those additional costs.

Mr. Reese responded that RTC is aware and obligated and will pay for those costs.

Chairman Ogilvie asked whether Staff is in communication with Burns & McDonnell and whether the RTC has authorized Staff to bring this before the Commission to seek the enabling modification.

Mr. Reese responded that is correct.

Commissioner Gibson noted that Burns & McDonnell is a Nevada licensed company, that they have at least one licensed Nevada engineer, and that no engineers that he is aware of reside in Nevada. His concern is this, when looking at multiplier effects; when paying a wage to someone and then they spend it and there is taxation associated with that as they buy cars, groceries, and all the rest of it. Those are additional benefits that trickle down to Nevada citizens. In this case, we do not realize any of those additional benefits associated with wages because they do not have employees living in Nevada. Going forward, he would like for the Staff to consider employee placement, location, and all the rest of it. He is not sure if the RFP was written too narrowly or why Staff just got one qualified respondent. He wanted to put that on the record as a concern of his.

Mr. Reese responded that he appreciated the comment and shares this philosophy. It is always Staff’s intent to utilize local resources whenever possible. It benefits him personally to have the ability to go directly to the contractor as a local presence, as opposed to having to use the phone or pulling those resources from another state to do the work in Nevada. He also quantified Commissioner Gibson’s statement by stating that there were actually two qualified bidders.

Mr. Reese added he does not want to say the scope of work was very narrow, but it is very specific to the work done for the Commission and that does cut out a lot of the smaller engineering firms. As an example, one of the criteria is at least five years’ experience in high-voltage transmission and distribution systems. Bidders must demonstrate the ability to handle that scope of work. Staff checks references from their past projects and contacts their representatives and project managers to get a feel of the quality of work done for others.

Staff does a lot of work when qualifying bidders. Staff had intended to have two engineering firms with the expertise under contract with the Commission. Sargent & Lundy and Burns & McDonnell both have a tremendous amount of experience in transmission and distribution systems which would have given the Commission two

positive assets. However Sargent & Lundy negotiations ended due to that firm's non-responsiveness. With only one qualified engineering company, the Commission is at the point of having to amend the contract to increase funds to accomplish all the work necessary.

Upon the expiration of this contract, Mr. Reese stated that Staff will again issue a RFP. Local presence will always be encouraged and there is a 5% bid preference for local contractors that meet the requirements. He restated that he shares Commissioner Gibson's concern and ensured him that Staff does and will do everything in their power to ensure the Commission has local assets.

Commissioner Premsrirut commented that she echoes Commissioner Gibson's concerns, which also are championed by Commissioner Sisolak, in always awarding the contracts locally; at the same time she champions getting the job done right. If the Commission is going to spend that money, she thinks having it done by the most qualified, most reputable professional firm benefits everyone in Nevada.

Commissioner McCoy asked about the naturally occurring asbestos identified by the University of Las Vegas professors in the news stories that released the information. He understands that it resulted in a great deal of additional testing everywhere along the route of the I-11 Boulder City Bypass. He asked if Staff knows at this point whether or not the naturally occurring asbestos which was discovered impacts any of the areas where the Commission has to be concerned with the movement of transmission towers. Is there anything that the Commission has to do that we do not know already that we have to do?

Mr. Reese answered yes. There were several more bore sites that were drilled to determine if there were any hot spots within the Commission's new right-of-way for the transmission lines. There were some hot spots in proximity to the Commission's new right of way. There are certain requirements to be met to ensure that contractors working for the Commission adhere to those standards as we go forth. The Commission will need environmental expertise to ensure that it meets or exceeds all of Occupational Safety and Health Administration's requirements for this naturally occurring asbestos issue.

Commissioner McCoy asked if Mr. Reese was referring to designing mitigation processes and activities to deal with asbestos that Staff knows is already there.

Mr. Reese answered that is correct.

Chairman Ogilvie referenced the contract's Exhibit A to the Amendment No. 1. Exhibit A is the original contract which reflects that it is effective August 13, 2013 to June 30, 2015 with an option to renew an additional two years. He asked if that is the Commission's preference—to renew the contract.

Mr. Reese answered that is correct.

Chairman Ogilvie asked if the \$300,000.00 increase was to cover any potential cost that may be incurred between now and June 30, 2015.

Mr. Reese answered that is correct.

Chairman Ogilvie asked if the Commission will send this out for a RFP again next Spring or renew the current contract?

Mr. Reese answered that he plans to renew the current contract with Burns & McDonnell, but also anticipates issuing another RFP as he would like to have two engineering firms on contract for the Commission. Two firms make it a little bit more competitive and helps in the event that one engineering firm is tied up with another major project, thus allowing the Commission to have multiple resources. The RFP process takes a long time. The two-year renewal option with Burns & McDonnell ensures that the Commission has an engineering firm under contract while going through this process.

Chairman Ogilvie asked if Staff knows of local firms who Staff expected to return a response to the past RFP, and from whom Staff is expecting a response to the future RFP.

Mr. Reese answered that he does not know at this time. Staff will make a strong effort to ensure that all avenues are explored to see if a qualified local presence is available for the next RFP.

Chairman Ogilvie stated that he has worked with Mr. Reese for a number of years and given his professionalism at what he does, if there were qualified firms in town, Mr. Reese would know about them.

Mr. Reese said he thinks that is a fair assessment. He stated that when Staff does a RFP an extensive advertisement is done for this type of services. Staff publicizes not only through newspapers but through other entities throughout the area, Lincoln County, Overton and NV Energy.

Chairman Ogilvie stated that he is not questioning Staff's due diligence. He thinks everyone that sits on this Commission shares Commissioner Gibson's view and the views that are routinely expressed by Commissioner Sisolak. He added that the Commissioners are local residents and business owners and certainly want to do what is best for the community. That includes employing local businesses and retaining the revenues locally that are generated through these projects. His question is whether the Commission is simply asking for something that does not exist. Mr. Reese would know if other firms that are locally-based are qualified to do this work. He asked Mr. Reese if he knows of one.

Mr. Reese stated that he does not know of a qualified engineering firm. The last RFP that was done had a response from another engineering firm that was very skilled in building, roofing, structural issues; but zero electrical expertise and that is where there is a shortfall from the local presence.

Staff recommended the Commission approve the amendment to the contract with Burns & McDonnell Engineering Company, Inc., and authorize the Executive Director to sign the agreement on behalf of the Commission.

Commissioner Gibson moved to approve Amendment No. 1 to the engineering services contract between Burns & McDonnell Engineering Company, Inc. and the Colorado River Commission of Nevada. The motion was seconded by Commissioner Premsrirut and approved by a unanimous vote.

E. *For Possible Action:* Consideration of and possible action to ratify the Settlement Agreement filed in Docket Nos. ER13-1605-000 and ER13-1607-000 on September 24, 2014 in the Federal Energy Regulatory Commission (FERC) proceeding considering NV Energy's request to revise the rates contained in Schedules 1 through 11 of the NV Energy Operating Companies Open Access Transmission Tariff.

Ms. Harkins reminded the Commission of the confidentiality of the FERC dockets during settlement negotiations and until the agreement is signed and filed.

Ann C. Pongracz, Special Counsel, Attorney General, explained that on May 31, 2013, NV Energy made a filing in FERC Docket No. ER13-1605-000 to revise the transmission and ancillary service rates contained in their Open Access Transmission Tariff (OATT). In that filing, NV Energy made a request to change from a zonal rate structure (which charged separate rates for service across the respective systems of Nevada Power and Sierra Pacific) to a single-system rate structure for transmission service over NV Energy's system. The impetus for filing the single-system rate structure was the then-anticipated commercial operation of the One Nevada Transmission Line Project (ON Line), which now provides the first direct interconnection between the transmission systems of Sierra Pacific and Nevada Power. NV Energy requested an effective date of the later of January 1, 2014, or the ON Line in-service date for the single-system rates.

On the same day, NV Energy also made a filing in Docket No. ER13-1607-000 to reflect changes to the non-rate terms and conditions under its OATT to reflect the provision of single-system transmission service.

On August 5, 2013, FERC issued a single order in Docket Nos. ER13-1605-000 and ER13-1607-000 (now consolidated for purposes of hearing and settlement) accepting the single-system rates and OATT for filing, suspending them for a nominal period to become effective on the later of January 1, 2014 or the in-service date of the ON Line, subject to refund, and establishing hearing and settlement judge procedures.

Over the course of the past several months, the Parties to this case, including the Commission, through its outside FERC Counsel and Commission staff, have participated in settlement discussions. If approved by the FERC, the attached Settlement Agreement resolves all outstanding issues in the proceeding. The Settlement Agreement that has been finalized resulted in a substantial cost savings to the Southern Nevada Water

Authority and its member agencies of approximately \$2.0 million annually when compared to the rates originally filed by NV Energy.

The Commission staff, based on cost savings and other factors, determined it was in the best interest of the Commission to sign the Settlement Agreement. Commissioners were individually and confidentially briefed on the terms. Accordingly, the Executive Director signed the Settlement Agreement and NV Energy filed the Settlement Agreement with the FERC on September 24, 2014. Staff was not able to bring the finalized Settlement document to this public hearing until it was filed with the FERC.

Staff requested that the Commission ratify the Settlement Agreement.

Commissioner Gibson stated as a matter of public disclosure that Linda Bullen, Esq. from his firm, Lionel Sawyer & Collins represents interveners occasionally in these kinds of dockets. NV Energy is always adverse so he has no conflict and he will vote.

Commissioner McCoy moved for approval to ratify the Settlement Agreement filed in Docket Nos. ER13-1605-000 and ER13-1607-000 on September 24, 2014 in the Federal Energy Regulatory Commission (FERC) proceeding considering NV Energy's request to revise the rates contained in Schedules 1 through 11 of the NV Energy Operating Companies Open Access Transmission Tariff. The motion was seconded by Commissioner Premsrirut and approved by a unanimous vote.

F. *For Information Only:* Status update on Staff's implementation of the provisions in the Hoover Power Allocation Act of 2011 (H.R. 470) passed by Congress.

Craig N. Pyper, Hydropower Program Manager, provided a report on the Western Area Power Administration (Western) and the Commission's Marketing of Hoover Schedule D Power including proposed allocations and the estimated value for Nevada. A copy of the Report is attached and made a part of the minutes. (See Attachment A.)

Commissioner Gibson asked if Western's application process includes identifying the applicant's particular use for the power or was it just by broad category.

Mr. Pyper responded no; the applicants were identified first as eligible entities in section 5 of the Boulder Canyon Act of 1928—not as to how or why the hydropower would be used.

Chairman Ogilvie asked if he understood correctly—that 75% of the associated energy of 25,115,000 kWh (Slide 14) will actually be generated, and the contracts the Commission will be entering into with the applicants—they are likely to receive 75% of what the Commission allocates to them.

Mr. Pyper answered, that is correct.

Ms. Harkins added that the associated energy generated could change if the lake level comes up, which changes over time. Staff is using current conditions.

Mr. Pyper stated Staff used the current delivery estimates from the Bureau of Reclamation and Western.

Chairman Ogilvie asked in reference to Hoover Allocation by State – Current and Proposed (Slide 9) showing that Nevada’s percentage is increasing by four-tenths of one percent. Is there a response from Western as to why they are not allocating to get Nevada closer to its one-third anticipated allocation?

Mr. Pyper answered that Western did not look at state specific data and that was not one of their goals. Their goals were the widespread use with all eligible entities, giving the federally recognized Tribes first priority. After the Tribes, the remainder was averaged out.

Chairman Ogilvie asked since Hoover power is regulated by Congress, is there any relief that Nevada could seek if the Commission wanted to challenge this.

Mr. Pyper stated that if this is a legal question he is not qualified to respond.

Chairman Ogilvie asked if Staff was just going to sit back and say okay fine.

Mr. Pyper responded that Staff has asked several questions, especially in the comments submitted to Western. There are certain specific items of which that Staff vehemently disagrees; and, depending on Western’s response, that could be a choice for the Commission to review as to how Nevada should respond.

Ms. Pongracz addressed the Commission and responded that Staff is expecting Western’s final version of allocations to come out before the end of the year. At that point, Staff will have to assess the Commission’s options. The Commission could challenge Western’s decision through the administrative process and then, assuming that does not go well, move into the litigation process. The Commission also would have the option of going to Congress to come up with some guidelines that more appropriately reflect the policy that Congress intended back in 2011.

Chairman Ogilvie confirmed that the Commission could, if so desired, seek relief from Congress.

Ms. Pongracz responded that the Commission could.

G. *For Information Only: Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.*

Warren Turkett, Natural Resource Group Analyst provided a report on the following:

- Unregulated Inflow into Lake Powell
- Storage Conditions
- Reservoir Storage as of October 9, 2014
- Lower Basin Side Inflows
- Lake Powell End of Month Elevations Based on October 2014, 24-month Study
- Lake Mead End of Month Elevation Projections
- Precipitation – Colorado River Basin as of October 6, 2014
- U.S. West Drought Monitor
- U.S. Seasonal Drought Outlook
- Monthly Precipitation for September 2014
- Monthly Precipitation, Las Vegas, NV as of September 30, 2014
- Cumulative Precipitation, Las Vegas, NV as of September 30, 2014
- Water Use in Southern Nevada
- Return Flow Credit (RFC) Calculations

A copy of the Report is attached and made a part of the minutes. (See Attachment B.)

Chairman Ogilvie asked how there is an 11.62 maf release from Lake Powell for the maximum probable inflow scenario, since he thought it had to be a 7.48 or 8.23 maf release.

Mr. Turkett answered that the maximum probable scenario has a high unregulated inflow into Lake Powell. The model that the Bureau of Reclamation (Bureau) uses has a 75% percentile input for unregulated inflow, which is pretty high, and is anticipating an inflow of 157% followed by 130% in 2016 into Lake Powell.

Chairman Ogilvie responded, so it is balancing in excess of the 7.48 or 9.0.

Mr. Turkett answered yes, because of the large amount of inflow into Lake Powell the two reservoirs were balanced which would be fantastic if Nevada could get an 11.83 maf release.

Chairman Ogilvie asked how a gauge located at the Las Vegas Wash (Wash) can determine storm water or any other water that Nevada is entitled to for Return Flow Credit (RFC).

Mr. Turkett answered that Staff in Nevada and other states worked with the Bureau to come up with an agreed upon methodology. Looking at the RFC, Staff calculates and deducts certain things. Storm water, for example, is measured by the base flow per day

and if there is a deviation of more than 15% from the base flow then the difference is identified as storm water. Nevada does not get return flow credits for storm water.

Chairman Ogilvie said good answer.

Mr. Turkett added that there are other methodologies as well. Staff monitors ground water pumping and importing of water which is not given credit because it was not Colorado River water.

Chairman Ogilvie asked, referring to RFC Calculations for Calendar Year 2013, there is 433,559 maf diversions, 208,309 maf of returns, of that 208,309 Nevada does not get credit for 5,076 maf. Is that correct?

Mr. Turkett answered that is correct, although slightly misleading because in 2013 there was approximately 10,000 maf of storm water. This number actually is taking the total amount of flow in the Wash, subtracted by the total amount of RFC's. So there are probably 10,000 or 11,000 maf that Nevada did not get credit for in the Wash. If the Commission is interested in seeing more detailed information, a different presentation can be given. In the last column on RFC Calculations slide, it is important to point out that Nevada gets return flow credits below Hoover Dam at Laughlin and Lake Mojave.

Chairman Ogilvie commented that the annual diversion is very interesting as well as the annual decrease in diversions.

Mr. Turkett added that there some positive things to note. Nevada's diversions have decreased a lot while the RFC's have remained the same and that has caused our consumptive use to decrease.

H. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

Chairman Ogilvie asked if there were any comments or questions from the public. There were none.

I. Comments and questions from the Commission members.

Chairman Ogilvie asked if there were any comments or questions from the Commission members. There were none.

J. Selection of the next possible meeting date.

The next meeting is tentatively scheduled for 1:00 p.m. on Thursday, November 13, 2014, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

K. Adjournment.

The meeting adjourned at 2:16 p.m.

Jayne Harkins, P.E., Executive Director

APPROVED:

George F. Ogilvie III, Chairman