

**BEFORE THE
COLORADO RIVER COMMISSION OF NEVADA**

In The Matter Of:

**REALLOCATION OF HYDROPOWER
RESOURCES FORMERLY HELD BY
AMERICAN PACIFIC CORP.**

ORDER

At the regular monthly meeting of the Colorado River Commission of Nevada ("COMMISSION") held on May 9, 2017, a public hearing was held on the reallocation of hydropower resources formerly held by American Pacific Corp.:

PRESENT: Chairwoman Puoy K. Premssrut
Vice Chairwoman Kara J. Kelley
Commissioner Marilyn Kirkpatrick
Commissioner Duncan R. McCoy
Commissioner Steve Sisolak
Commissioner Dan H. Stewart
Commissioner Cody T. Winterton

Executive Director Jayne Harkins, P.E.

The COMMISSION makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On May 9, 2017, a public hearing was held in the above-entitled matter in compliance with the provisions of the Nevada Open Meeting Law, Chapter 538 of the Nevada Revised Statutes (NRS) and Chapter 538 of the Nevada Administrative Code (NAC).
2. The COMMISSION represents and acts for the State of Nevada in the negotiation and execution of contracts for the purchase of hydropower from federal generation facilities for the greatest possible benefit to this state pursuant to NRS 538.166, NRS 538.181 and NAC chapter 538.
3. American Pacific Corp. ("AMPAC") was a customer of the COMMISSION who held an allocation for 2,756 kW of capacity and 4,618,416 kWh of energy (Summer Season)

1 and 3,623 kW of capacity and 6,118,263 kWh of energy (Winter Season) and
2 associated transmission from the Salt Lake City Area Integrated Projects for the period
3 October 1, 2004 through September 30, 2024 (“the SLCAIP resource”).

- 4 4. AMPAC had also been allocated 10,730 kW of Schedule A capacity and 47,454,729
5 kWh of Schedule A energy from the Boulder Canyon Project for the period October 1,
6 2017 through September 30, 2067 (“the post 2017 BCP resource”).
- 7 5. In 2016, AMPAC informed the Commission that it would be unable to utilize its SLCAIP
8 resource and that it would not enter into a contract for its post 2017 BCP resource.
- 9 6. Upon receiving notification from AMPAC, the COMMISSION began the process to
10 reallocate the hydropower resources in accordance with NAC 538.455 and prepared a
11 draft Notice and Invitation to Apply for the Reallocation of Hydropower Resources
12 which included draft selection criteria as well as a draft Application.
- 13 7. COMMISSION staff noted that pursuant to NRS 704.787, existing entities that receive
14 a SLCAIP or a BCP – Schedule A or Schedule B allocation from the COMMISSION
15 would be eligible for the additional resources as well as the Southern Nevada Water
16 Authority and its member agencies, provided that the Southern Nevada Water
17 Authority and/or its member agencies used this additional allocation for its water and
18 wastewater operations.
- 19 8. On or about November 1, 2016, the COMMISSION issued a Notice of a Public
20 Information Meeting to be held on November 10, 2016 seeking comments regarding
21 the draft Notice and Invitation to Apply for the Reallocation of Hydropower Resources,
22 the draft selection criteria and the draft Application.
23
24
25
26
27
28

- 1 9. The November 1, 2016 Notice included a copy of the draft documents and was sent to all
2 current customers of the COMMISSION, all individuals on the COMMISSION'S
3 notification list and was placed on the COMMISSION'S website.
- 4 10. The November 1, 2016 Notice also solicited written comments. Any written comments
5 were to be submitted to the COMMISSION by 5 PM PST on November 17, 2016.
- 6 11. The Public Information Meeting was held on November 10, 2016 wherein staff of the
7 COMMISSION reviewed the draft documents as well as answered questions from the
8 attendees.
- 9 12. Subsequent to the Public Information Meeting, the COMMISSION received written
10 comments from four of its customers, including NV Energy, Valley Electric Association,
11 Titanium Metals Corporation, and Lincoln County Power District No. 1. Staff reviewed
12 and considered the comments offered by its customers and provided written responses
13 to their comments/questions.
- 14 13. On January 10, 2017, the COMMISSION reviewed, considered and approved the
15 Notice and Invitation to Apply for the Reallocation of Hydropower Resources, the
16 selection criteria and the Application.
- 17 14. On January 12, 2017, COMMISSION staff issued the Notice and Invitation to Apply
18 for the Reallocation of Hydropower Resources, the selection criteria and the
19 Application. Completed applications were due to the COMMISSION by 5 PM PST on
20 February 13, 2017.
- 21 15. The criteria for the reallocation as approved by the COMMISSION:
22
23 a. The award of resources to the Applicant will achieve the greatest possible
24 benefit to the state.
25
26 b. The award of resources to the Applicant will not place an undue burden
27 on the Commission.
28

- c. The Applicant must be an entity that the Commission has the ability to serve under NRS 704.787.
- d. If the entity is a qualified Applicant under NRS 704.787(b), the entity must certify that any reallocated power awarded will be used for its water and wastewater operations.
- e. The Applicant must have sufficient load to fully utilize the allocated resource.
- f. An Applicant requesting an allocation of SLCAIP resource must be able to accept a minimum SLCAIP schedule of 1 MW off-peak.
- g. The Applicant must be ready to take delivery of the additional resource on October 1, 2017.
- h. The Applicant must demonstrate, by June 1, 2017, that it will have all necessary transmission and distribution arrangements in place prior to delivery.

16. The following nine (9) entities completed the Application and submitted it prior to the deadline:

- a. City of Henderson ("Henderson") submitted by email on February 13, 2017 at 4:11 pm;
- b. City of Las Vegas ("Las Vegas"); submitted by email on February 8, 2017 at 7:18 am
- c. Clark County Water Reclamation District ("CCWRD") submitted by email on February 13, 2017 at 8:59 am;
- d. Las Vegas Valley Water District ("LVVWD") submitted by email on February 2, 2017 at 10:01 am;
- e. Lincoln County Power District No. 1 ("LCPD") submitted by email on January 23, 2017 at 12:49 pm;

- f. Nevada Power Co. ("NV Energy") submitted by email on February 9, 2017 at 12:57 pm;
- g. Southern Nevada Water Authority ("SNWA") submitted by email on February 2, 2017 at 10:01 am;
- h. Titanium Metals Corp. ("Timet") submitted by email on February 10, 2017 at 2:23 pm; and
- i. Valley Electric Association ("VEA") submitted by email on February 9, 2017 at 8:06 pm.

17. COMMISSION Staff evaluated each Application for completeness and creditworthiness, verified electric load data, and determined if the Application met the general eligibility criteria. In developing its recommendations regarding the proposed allocations, Staff considered how an Applicant's use of the Reallocated Hydropower would fulfill the Commission's Approved Reallocation Criteria and provide the "greatest possible benefit to this state". Staff considered the statements provided by the Applicants in Section 3 of the Application identifying the benefit to the state from the Applicant's receipt of the reallocated resource.

18. Three (3) entities – CCWRD, LCPD and VEA applied for the SLCAIP resource. Of the three applicants, only VEA was a prior recipient of SLCAIP power. Due to the relatively short contract term, minimum SLCAIP delivery requirements as well as the applicant's ability to receive this additional resource with no administrative burden, Staff recommends all of the available SLCAIP resource be reallocated to VEA.

19. All nine (9) entities applied for some or all of the available post 2017 BCP resource.

1 20. Staff noted that of the nine (9) applications submitted, seven (7) were from public
2 and/or not for profit entities and two (2) – NV Energy and Timet were from private for-
3 profit entities.

4 21. Staff determined and the COMMISSION hereby concurs that while NV Energy is an
5 outstanding corporate citizen of the state of Nevada, the reallocation of any additional
6 hydropower resources to NV Energy does not achieve the greatest possible benefit to
7 the state because NV Energy is a private for profit entity and already receives 47% of
8 the COMMISSION'S total available BCP energy and 59% of the COMMISSION'S total
9 available BCP capacity. The data submitted by NV Energy shows their annual energy
10 load for the past three years was over 22 billion kWh of which their BCP allocation is
11 less than 2%. The reallocation of all or a portion of the available hydropower resources
12 would be a very small addition to NV Energy's resources and provide little benefit to
13 the state.
14

15 22. Staff determined and the COMMISSION hereby concurs that the reallocation of any
16 additional hydropower resources to Timet does not achieve the greatest possible
17 benefit to the state because Timet is a private for profit entity. Timet stated in its
18 application that it is a major employer in Southern Nevada and its operations support
19 other local suppliers and the US Military. However, the for-profit nature of Timet's
20 business makes it difficult to determine whether and to what extent local consumers in
21 Nevada would see any appreciable benefit if Timet were to receive an additional
22 allocation of Hoover Schedule A power. Residents of the state of Nevada would likely
23 see no appreciable benefit from such an allocation.
24

25 23. Staff determined and the COMMISSION hereby concurs that the reallocation of the
26 post 2017 BCP resource to CCWRD, Henderson, Las Vegas, LCPD, LVVWD and
27
28

1 SNWA, due to their geographic coverage and current power requirements, would
2 achieve the greatest possible benefit to the state.

3 24. Staff noted during their review of the monthly maximum demand and energy use data
4 supplied on the applications that each of the public entities would receive measureable
5 benefits from even minimum allocations as the allocations would be a greater
6 percentage of their power requirements.

7 25. CCWRD, Henderson, Las Vegas, LVVWD, and SNWA are eligible to receive Hoover
8 Schedule A power but are restricted by NRS 704.787 to using such power only for their
9 water pumping and wastewater operations. These applicants currently purchase
10 market power for some of their water pumping and wastewater operations. An
11 allocation of Hoover A would diversify the mix of resources being used to serve their
12 loads.
13

14 26. In its application, CCWRD stated that electrical power is an essential and expensive
15 operational component of their wastewater collection and reclamation and any savings
16 provided by the allocation of Hoover A power benefits the District's ratepayers,
17 leveraging their annual service fees for operational expenses and offsetting future rate
18 increases.
19

20 27. In its application, Las Vegas stated that an allocation of Hoover Schedule A power
21 would further reinforce and support the City Council's Sustainable Energy Strategy at
22 its wastewater treatment facility and reduce electric expenses at those facilities.

23 28. In its application, Henderson stated that an allocation of Hoover Schedule A power
24 would reduce electricity costs for water and wastewater facilities which would allow
25 Henderson to reinvest in necessary capital improvement projects to repair and
26
27
28

1 rehabilitate water reservoirs, pump stations, and lift stations that provide vital water and
2 wastewater services in the community.

3 29. In its application, LVVWD stated that power costs are a significant part of the total cost
4 of providing water and all benefits of receiving an additional allocation of Hoover
5 Schedule A power would flow through to the benefit of Las Vegas Valley residents.

6 30. In its application, SNWA stated that the benefit "of receiving an additional allocation of
7 Hoover power would flow through to the ultimate benefit of all southern Nevada water
8 users benefitting over two million residents."

9 31. LCPD provided a lengthy explanation in its application as to why an allocation to them
10 would provide "the greatest possible benefit to the state." LCPD stated that 1) LCPD is a
11 not for profit utility and directly passes on the economic benefit of hydropower directly
12 to the customers it serves, 2) LCPD serves the most impoverished county in Nevada,
13 3) the primary industry in the service area is agriculture which is increasing in
14 production output, but requires affordable electric service in order to compete with
15 other regions, 4) LCPD serves the most rural area of Nevada and has high fixed
16 operating costs and a high investment in utility plant per customer when compared to
17 more urban areas, 5) reallocated hydropower would reduce the amount of higher
18 priced, natural gas fueled, generation that LCPD purchases on the wholesale market.

19 32. In its March 6, 2017 Draft Order, Staff recommended that the COMMISSION order the
20 following reallocation of the hydropower resources:

- 21
- 22 a. All of the SLCAIP resource, including energy, capacity and associated
23 transmission to VEA;
 - 24 b. Twenty percent (20%) of the capacity and twenty percent (20%) of the energy
25 from the post 2017 BCP resource to each of:
26
27
28

- i. CCWRD;
- ii. City of Las Vegas;
- iii. City of Henderson; and
- iv. LVVWD.

c. Twenty percent (20%) of the capacity from the post 2017 BCP resource to SNWA; and

d. Twenty percent (20%) of the energy from the post 2017 BCP resource to LCPD.

33. The March 6, 2017 Draft Order was provided to all applicants on or about March 6, 2017 and requested comments. Comments were due to the COMMISSION office by April 6, 2017.

34. Staff received written comments from five applicants by the deadline. Henderson, Las Vegas, LCPD and VEA agreed with Staff's recommendations in the March 6, 2017 Draft Order. SNWA, in its April 5, 2017 Comment Letter asked that the Draft Order be modified. Specifically, SNWA requested that the allocations to CCWRD, Henderson, Las Vegas, LCPD and LVVWD be reduced and that the post 2017 BCP resource be split amongst the six public entities, including them.

35. SNWA commented that "energy can only be utilized if the recipient also has sufficient capacity to accommodate the energy." SNWA states that they would not request an allocation for capacity only and cites that the cost split for Hoover capacity and energy is 30% for capacity and 70% for energy.

36. LCPD's statements in its March 31, 2017 Comment Letter were supportive of Staff's recommendations and the Draft Order and cited that "they are consistent with applicable federal law" granting "preference for the purchase of hydropower." While the Commission and Staff follow all applicable laws, Staff wishes to clarify that the

1 federal laws, referred to by LCPD, which grant preference to certain entities to receive
2 federal hydropower, are not applicable to allocations from the Boulder Canyon Project
3 (Hoover). Hoover is "exempt" from such preference laws as Congress has specifically
4 allocated BCP power by congressional act and amendments since the dam was built
5 Furthermore, the CRC allocates all of its available hydropower under State law, and
6 determines what's in the best interest of the state pursuant to NRS 538.166, NRS
7 538.181 and NAC chapter 538.

8
9 37. Based on the comments received, Staff re-evaluated the allocations proposed in the
10 March 6, 2017 and in its reevaluation considered:

- 11 a. Are there any other considerations that need to be addressed based on the
12 Comments?
- 13 b. Are there any other benefits described in the Comments that were not provided
14 in original applications?
- 15 c. Should Staff recommend any additional changes to the proposed allocations?

16 38. After a thorough review, Staff did not recommend any changes to the allocations
17 provided for in the March 6, 2017 Draft Order.

18 39. The Commission conducted a public hearing on May 9, 2017 at which Staff, SNWA and
19 LCPD provided testimony.

20 40. The Commission found the oral testimony of SNWA and SNWA's April 5, 2017
21 Comment Letter compelling and determined that SNWA should receive an allocation of
22 energy as well as capacity.
23

24 41. The Commission also found the oral testimony of LCPD and its March 31, 2017
25 Comment Letter compelling and determined that LCPD should receive an allocation of
26 capacity as well as energy.
27
28

1
2 CONCLUSIONS OF LAW

- 3 1. The COMMISSION has the authority through NRS and NAC chapters 538 to reallocate
4 hydropower resources.
- 5 2. Reallocation of the hydropower resources so that the greatest numbers of Nevada
6 residents receive an appreciable benefit provides the greatest possible benefit to the
7 state.
- 8 3. Pursuant to NRS 704.787, CCWRD, City of Las Vegas, City of Henderson, LVVWD
9 and SNWA must use the reallocated resource for their water and wastewater
10 operations.
11

12 ORDER

13 CAUSE APPEARING THEREFORE:

14 IT IS HEREBY ORDERED that:

- 15 1. All of the SLCAIP resource, including energy, capacity and associated
16 transmission is hereby reallocated to Valley Electric Association;
- 17 2. The post 2017 BCP resource is hereby reallocated as follows:

18

<u>Allottees</u>	<u>Capacity</u> <u>(KW)</u>	<u>Energy</u> <u>(kWh)</u>
19 City of Henderson	1,787	7,909,120
20 City of Las Vegas	1,789	7,909,122
21 Clark County Water Reclamation District	1,787	7,909,121
22 Las Vegas Valley Water District	1,789	7,909,122
23 Lincoln County Power District No. 1	1,789	7,909,122
24 <u>Southern Nevada Water Authority</u>	<u>1,789</u>	<u>7,909,122</u>
25 Total:	10,730	47,454,729

26
27
28

- 1
2
3
4
5
6
7
8
9
10
11
3. Upon execution of this Order, COMMISSION Staff will cause to be published the notice required by subsection 6 of NAC 538.455.
 4. Applicants who have received a reallocation of a hydropower resource must execute amendments to their current applicable hydropower contract to include the reallocated resources within ninety (90) days of the date of the formal offer from the Executive Director of the reallocated resource. Formal offers are sent following the publication required in paragraph 3, supra.
 5. The Executive Director is hereby authorized to execute the amendments to the applicants' current applicable hydropower contracts to include the reallocated resources on behalf of the COMMISSION.

12
13
14

Dated this 11th day of May, 2017.

15
16

BY THE COMMISSION:



17
18
19
20
21
22
23
24
25
26
27
28

PUDY K. PREMSRIRUT
CHAIRWOMAN