

**BEFORE THE
COLORADO RIVER COMMISSION OF NEVADA**

In The Matter Of:

REALLOCATION OF HYDROPOWER
RESOURCES FORMERLY HELD BY
AMERICAN PACIFIC CORPORATION

April 18, 2017
Draft
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 Corporation:

PRESENT: Chairwoman Puoy K. Premsrirut
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 Corporation (“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

1 Season) 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.
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- 1 9. The November 1, 2016, Notice included a copy of the draft documents and was sent to
2 all 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 22
23 15. The criteria for the reallocation as approved by the COMMISSION:
24 a. The award of resources to the Applicant will achieve the greatest possible
25 benefit to the state.
26 b. The award of resources to the Applicant will not place an undue burden
27 on the Commission.
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- 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”);
- b. City of Las Vegas (“Las Vegas”);
- c. Clark County Water Reclamation District (“CCWRD”);
- d. Las Vegas Valley Water District (“LVVWD”);
- e. Lincoln County Power District No. 1 (“LCPD”);
- f. Nevada Power Corporation (“NV Energy”);
- g. Southern Nevada Water Authority (“SNWA”);
- h. Titanium Metals Corporation (“Timet”); and
- i. Valley Electric Association (“VEA”).

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

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

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

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

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20 21. Staff determined and the COMMISSION hereby concurs that the reallocation of any
21 additional hydropower resources to NV Energy does not achieve the greatest possible
22 benefit to the state because NV Energy is a for profit entity and already receives 47%
23 of the COMMISSION'S total available BCP energy and 59% of the COMMISSION'S
24 total available BCP capacity. The data submitted by NV Energy shows their annual
25 energy load for the past three years was over 22 billion kWh of which their BCP
26 allocation is less than 2%. The reallocation of all or a portion of the available
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1 hydropower resources would be a very small addition to NV Energy's resources and
2 provide little benefit to the state.

3 22. Staff determined and the COMMISSION hereby concurs that the reallocation of any
4 additional hydropower resources to Timet does not achieve the greatest possible
5 benefit to the state because Timet is a for profit entity. Timet stated in its application
6 that it is a major employer in Southern Nevada and its operations support other local
7 suppliers and the US Military. However, the for-profit nature of Timet's business makes
8 it difficult to determine whether and to what extent local consumers in Nevada would
9 see any appreciable benefit if Timet were to receive an additional allocation of Hoover
10 Schedule A power. Residents of the state of Nevada would likely see no appreciable
11 benefit from such an allocation.
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13 23. Staff determined and the COMMISSION hereby concurs that the reallocation of the
14 available resources to the remaining seven (7) public entities, due to their geographic
15 coverage and current power requirements, would achieve the greatest possible benefit
16 to the state.
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18 24. Staff noted during their review of the monthly maximum demand and energy use data
19 supplied on the applications that each of the public entities would receive measureable
20 benefits from even minimum allocations as the allocations would be a greater
21 percentage of their power requirements.

22 25. CCWRD, Henderson, Las Vegas, and LVVWD, as member agencies of SNWA, are
23 eligible to receive Hoover Schedule A power but are restricted by NRS 704.787 to
24 using such power only for their water pumping and wastewater operations. These
25 applicants currently purchase market power for some of their water pumping and
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1 wastewater operations. An allocation of Hoover A would diversify the mix of resources
2 being used to serve their loads.

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

8 27. In its application, Las Vegas stated that an allocation of Hoover Schedule A power
9 would further reinforce and support the City Council's Sustainable Energy Strategy at
10 its wastewater treatment facility and reduce electric expenses at those facilities.
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12 28. In its application, Henderson stated that an allocation of Hoover Schedule A power
13 would reduce electricity costs for water and wastewater facilities which would allow
14 Henderson to reinvest in necessary capital improvement projects to repair and
15 rehabilitate water reservoirs, pump stations, and lift stations that provide vital water and
16 wastewater services in the community.
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18 29. In its application, LVVWD stated that power costs are a significant part of the total cost
19 of providing water and all benefits of receiving an additional allocation of Hoover
20 Schedule A power would flow through to the benefit of Las Vegas Valley residents.

21 30. Staff recommends that these applicants each receive an allocation of Hoover Schedule
22 A power because each of these applicants provide water and/or wastewater service
23 directly to the consumer and a reduction in their expenses will provide a direct benefit
24 to the consumer.
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1 31. In its application, SNWA stated that the benefit “of receiving an additional allocation of
2 Hoover power would flow through to the ultimate benefit of all southern Nevada water
3 users benefitting over two million residents.”

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

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15 33. Staff reviewed SNWA’s and LCPD’s load information as well as current use and
16 allocations. Initially, Staff determined that providing Hoover Schedule A power to the
17 member agencies of the SNWA, instead of to SNWA directly, had the greatest
18 potential of benefitting the end-use consumer through savings in water pumping and/or
19 wastewater expenses. However, Staff also recognized that the SNWA’s current
20 hydropower allocation was obtained by the SNWA from the reassignment of an
21 industrial customer’s allocation a number of years ago. The SNWA’s allocation, while
22 appropriate for an industrial customer with a constant, steady load, is less flexible than
23 the allocations of some of the Commission’s utility customers. That is because the
24 ratio of energy to capacity of the SNWA’s allocation is not as evenly weighted between
25 capacity and energy as the allocations of some of the Commission’s other customers.
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1 Rather, it is more heavily weighted toward energy. In contrast, LCPD's allocation is
2 more heavily weighted toward capacity, than the allocation of some of the
3 Commission's other utility customers. Staff reasoned that allocating the capacity to the
4 SNWA and the energy to LCPD would be of benefit to each while not reducing the
5 allocations below a useful amount.

6 34. Therefore in the March 6, 2017, Draft Order, Staff recommended that the
7 COMMISSION order the following reallocation of the hydropower resources:

- 8 a. All of the SLCAIP resource, including energy, capacity, and associated
9 transmission to VEA;
- 10 b. Twenty percent (20%) of the capacity and twenty percent (20%) of the energy
11 from the post 2017 BCP resource to each of:
 - 12 i. CCWRD;
 - 13 ii. City of Las Vegas;
 - 14 iii. City of Henderson; and
 - 15 iv. LVVWD.
- 16 c. Twenty percent (20%) of the capacity from the post 2017 BCP resource to
17 SNWA; and
- 18 d. Twenty percent (20%) of the energy from the post 2017 BCP resource to LCPD.

19 35. The March 6, 2017, Draft Order was provided to all applicants on or about March 6,
20 2017 and requested comments. Comments were due to the COMMISSION office by
21 April 6, 2017.

22 36. Staff received written comments from five applicants by the deadline. Henderson, Las
23 Vegas, LCPD and VEA agreed with Staff's recommendations in the March 6, 2017,
24 Draft Order. SNWA asked that the Draft Order be modified. Specifically, SNWA
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1 requested that the allocations to CCWRD, Henderson, Las Vegas, LCPD, and LVVWD
2 be reduced and that the post 2017 BCP resource be split amongst the six public
3 entities, including them.

4 37. SNWA commented that “energy can only be utilized if the recipient also has sufficient
5 capacity to accommodate the energy.” SNWA states that they would not request an
6 allocation for capacity only and cites that the cost split for Hoover capacity and energy
7 is 30% for capacity and 70% for energy. However, those numbers are specific to
8 SNWA and some industrial customers. Hoover revenue requirements are split 50/50
9 between energy and capacity allocations. The reason for SNWA’s 30/70 split is that
10 the SNWA receives a greater percentage of the available energy than they do of the
11 available capacity because they received their original allocation from an industrial
12 customer. SNWA also states that they “have enough surplus capacity to flexibly shape
13 nearly all of its energy allocation.” Staff reviewed the load data supplied by SNWA
14 and noted that SNWA's load patterns have changed in recent years. Staff also noted
15 that the SNWA and the City of Boulder City currently have a hydropower resource
16 sharing arrangement that is mutually beneficial to the parties. Prior to these load
17 changes and sharing arrangements, the SNWA requested, and would have benefitted
18 from, additional capacity. Staff reasoned that, over the course of a 50 year contract,
19 the SNWA might benefit from the additional flexibility associated with a larger capacity
20 allocation. Staff also reasoned that a higher allocation of capacity might be of value as
21 actual available capacity has declined due to the drought while available energy has
22 remained steadier.

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25 38. LCPD’s comments were supportive of Staff’s recommendations and the Draft Order
26 and cited that “they are consistent with applicable federal law” granting “preference for
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1 the purchase of hydropower.” While the Commission and Staff follow all applicable
2 laws, Staff wishes to clarify that the federal laws, referred to by LCPD, which grant
3 preference to certain entities to receive federal hydropower, are not applicable to
4 allocations from the Boulder Canyon Project (Hoover). Hoover is “exempt” from such
5 preference laws as Congress has specifically allocated BCP power by congressional
6 act and amendments since the dam was built. Furthermore, the CRC allocates all of
7 its available hydropower under State law, and determines what’s in the best interest of
8 the state pursuant to NRS 538.166, NRS 538.181 and NAC chapter 538.

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

- 12 a. Are there any other considerations that need to be addressed based on the
13 Comments?
14 b. Are there any other benefits described in the Comments that were not provided
15 in original applications?
16 c. Should Staff recommend any additional changes to the proposed allocations?
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18 40. After a thorough review, Staff does not recommend any changes to the allocations
19 provided for in the March 6, 2017, Draft Order.
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22 CONCLUSIONS OF LAW

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

ORDER

CAUSE APPEARING THEREFORE:

IT IS HEREBY ORDERED that:

1. All of the SLCAIP resource, including energy, capacity and associated transmission is hereby reallocated to Valley Electric Association;
2. Twenty percent (20%) of the capacity and twenty percent (20%) of the energy from the post 2017 BCP resource is hereby reallocated to:
 - i. Clark County Water Reclamation District, for its water and wastewater operations;
 - ii. City of Las Vegas, for its water and wastewater operations;
 - iii. City of Henderson, for its water and wastewater operations; and
 - iv. Las Vegas Valley Water District, for its water and wastewater operations.
3. Twenty percent (20%) of the capacity from the post 2017 BCP resource is hereby reallocated to Southern Nevada Water Authority, for its water and wastewater operations; and
4. Twenty percent (20%) of the energy from the post 2017 BCP resource is hereby reallocated to Lincoln County Power District No. 1.

**THIS IS NOT A FINAL ORDER AND MAY BE REVISED
BY THE COLORADO RIVER COMMISSION OF NEVADA.**

- 1 5. Upon execution of this Order, COMMISSION Staff will cause to be published the
2 notice required by subsection 6 of NAC 538.455.
- 3 6. Applicants who have received a reallocation of a hydropower resource must
4 execute amendments to their current applicable hydropower contract to include
5 the reallocated resources within ninety (90) days of the date of the formal offer
6 from the Executive Director of the reallocated resource. Formal offers are sent
7 following the publication required in paragraph 5, supra.
- 8 7. The Executive Director is hereby authorized to execute the amendments to the
9 applicants' current applicable hydropower contracts to include the reallocated
10 resources on behalf of the COMMISSION.
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12 Dated this _____ day of May, 2017.

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14 BY THE COMMISSION:

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16 [DRAFT]

17 _____
18 PUOY K. PREMSRIRUT
19 CHAIRWOMAN
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