

STATE OF NEVADA

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COLORADO RIVER COMMISSION  
OF NEVADA

June 10, 2014

INFORMATIONAL STATEMENT

PROPOSED REGULATION OF THE COLORADO RIVER COMMISSION OF  
NEVADA

LCB File No. R148-13

The following information is provided pursuant to the requirements of Nevada Revised Statutes (NRS) 233B.066:

**a) A clear and concise explanation of the need for the adopted regulations**

The proposed changes to the Commission's regulations are needed to implement the provisions of the Hoover Power Allocation Act of 2011 (43 USC Sec. 619a), and Assembly Bill 199 (AB 199) adopted in the 2013 session of the Nevada legislature, which amended NRS 704.787, and to update other provisions of Nevada Administrative Code (NAC) 538. Implementation of the Hoover Power Allocation Act and AB 199 will result in new, up to 50-year contracts with Nevada entities for power resources from Hoover Dam that will replace current contracts which will expire in September, 2017.

The additional proposed regulatory changes in part:

- Revise provisions governing practice and procedure before the Commission that pertain to how hearings, public processes and in particular the hydropower marketing and allocation process, will be conducted and how to participate;
- Revise provisions regarding the marketing and allocation of power to current contractors;
- Adopt provisions governing the marketing and allocation of certain power from Hoover Dam to new allottees;
- Revise various provisions governing electric power contracting by the Commission and other matters addressed in NAC 538; and,
- Revise current risk management procedures and adopt additional risk management procedures.

**b) A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

In early 2012, as part of the Commission's extensive outreach efforts, Commission staff developed a website dedicated to the Commission's Hoover marketing and allocation process and researched and developed a list of potential interested parties in Nevada. The list of potential interested parties included leaders of cities, counties, state government entities and utilities that currently do not have an allocation of Hoover power that may have electrical load located within Western Area Power Administration's (Western's) marketing area, and the Commission's existing customers.

Commission staff also published, emailed and posted on its website a series of informational newsletters informing interested persons in Nevada, and existing customers of the Commission, about each step in Western's Hoover marketing and allocation process and timeline, the Commission's Hoover marketing and allocation process and timeline including the introduction and status of AB 199 that amended NRS 704.787, when various informal public meetings and workshops would be held, and who to contact with questions.

Prior to introduction of the Commission's proposed regulations, in 2012 and in 2014, Commission Staff held informal public informational meetings and workshops informing interested persons in Nevada and existing customers of the Commission about the Hoover Power Allocation Act of 2011, Western's allocation process and timeline, and the Commission's allocation process and timeline which included the status of Assembly Bill 199 and the time frame in which the Commission would be amending its Regulations.

As a result of the Commission's extensive outreach efforts, staff developed a mailing distribution list of interested persons.

Copies of the proposed regulations, notice of workshop, notice of intent to act upon the regulation and notice of hearing were sent by email to persons who were known to have an interest in the Commission's regulations and the implementation of the Hoover Power Allocation Act of 2011 as well as to those who had requested such notice.

Copies of the proposed regulations, notice of workshop, notices of intent to act upon the regulation and notice of hearing were shipped by Federal Express to all county libraries in the State of Nevada and posted at the following locations:

- City of Las Vegas City Hall, 495 South Main Street, Las Vegas, NV
- City of North Las Vegas City Hall, 2250 Las Vegas Boulevard North, North Las Vegas, NV
- Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, NV
- State of Nevada Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, NV
- The Capitol Building, 101 North Carson Street, Carson City, Nevada 89701
- The State Library, 100 North Stewart Street, Carson City, Nevada 89701
- Nevada State Legislature Building, 401 South Carson Street, Carson City, Nevada 89701
- Nevada Legislature website <http://www.leg.state.nv.us>
- City of Boulder City Hall, 401 California Avenue, Boulder City, NV
- City of Henderson City Hall, 240 Water Street, Henderson, NV
- Laughlin Chamber of Commerce, 1725 Casino Drive, Laughlin, NV
- Laughlin Town Manager's Office, 101 Civic Way, Laughlin, NV
- Esmeralda County, Courthouse, 233 Crook Avenue, Goldfield, NV
- Eureka County, 10 South Main Street, Eureka, NV
- Lincoln County, 181 North Main Street, Pioche, NV
- Mineral County, 105 South "A" Street, Hawthorne, NV
- Nye County, 1520 East Basin Avenue, Pahrump, NV
- White Pine County, Courthouse, 801 Clark Street, Ely, NV

Commission staff held a workshop on April 21, 2014 to provide a summary of, and solicit comments on, the proposed regulations. Oral comments by interested persons were provided at the workshop and additional written comments were also submitted. In addition to the workshop transcripts, and minutes that contain a summary of the discussion held regarding the proposed regulations, Commission staff prepared a Workshop Comments and Commission staff Response Matrix and provided this document to all interested persons by email. The minutes of the workshop and Comment and Response Matrix are attached hereto (Attachment 1 and 2).

On May 8, 2014 Commission staff issued a notice of intent to act upon a regulation. The text of the proposed regulation which accompanied the notice incorporated some of the suggestions made by parties attending the April 21, 2014 workshop and in written comments submitted by April 25, 2014. A notice of hearing was also included in the May 8, 2014 notice of intent. This notice of hearing also was posted again on June 4, 2014 in accordance with Open Meeting Law, with the notice of the Commission's regularly scheduled June 10, 2014 meeting.

The Commission conducted a hearing on the proposed regulation on June 10, 2014 to receive and consider comments from interested persons regarding the adoption, amendment and repeal of the proposed regulations. The minutes of the hearing that contain a summary of the discussion held regarding the proposed regulations are attached hereto (Attachment 3).

In addition to direct email to interested persons and public postings, documentation including the notices, proposed regulations, other materials provided, and written comments received by the Commission for both the April 21, 2014 public workshop and June 10, 2014 public hearing have been provided to the public on the Commission's Hoover allocation website at [www.crchoooverallocation.com](http://www.crchoooverallocation.com). Audio recordings of the public workshop and hearing are also available at the Colorado River Commission of Nevada office located at 555 East Washington Avenue, Suite 3100, Las Vegas, Nevada 89101, Phone (702) 486-2670.

**c) A statement indicating the number of persons who attended the workshop, testified at the hearing, and submitted written statements regarding the proposed regulations.**

Nineteen (19) attendees participated in the public workshop on April 21, 2014. Of those attendees three (3) had questions or comments at the workshop and eight (8) persons provided written comments by the April 25, 2014 due date.

Thirteen (13) persons attended the hearing on June 10, 2014. No one testified at the hearing.

**d) A list of names and contact information, including telephone number, business address, business telephone number, electronic email address, and name of entity or organization represented for each person identified in item C above, as provided to the agency, is attached hereto (Attachment 4).**

**e) A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Following a presentation summarizing the proposed regulations, Commission staff provided existing customers of the Commission and interested persons (affected businesses) an opportunity to ask questions and provide comment at the April 21, 2014 workshop. Also, written comments were accepted through April 25, 2014. The written summary of workshop comments, additional

written comments submitted by April 25, 2014 and Commission staff responses (Comment and Response Matrix) are attached hereto (Attachment 2).

Additionally, Commission staff provided existing customers of the Commission and interested persons (affected businesses) the opportunity to provide further written comments between May 8, 2014 and May 27, 2014 and at the public hearing held on June 10, 2014. No written comments were received between May 8, 2014 and May 27, 2014. There were no comments from affected businesses provided at the June 10, 2014 public hearing.

Documentation including the notices, proposed regulations, other materials provided and comments received by the Commission for both the April 21, 2014 public workshop and June 10, 2014 public hearing, a statement identifying the methods used by the agency in determining the impact on a small business and small business impact statement, have been provided to the public on the Commission's Hoover allocation website at [www.crchoverallocation.com](http://www.crchoverallocation.com). The statement identifying the methods used by the agency in determining an impact on a small business and the small business impact statement are attached hereto (Attachment 5).

**f) If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Two additional revisions to the May 8, 2014 version of the proposed regulations were included in the regulations approved by the Commission on June 10, 2014. These changes removed from Section 32 (4) the provision requiring Nevada Power Company to pass through to its residential class of ratepayers the benefits of Schedule A power; and added to Section 34 (5) a provision allowing Contractor's agents, as well as Contractors, to provide the Commission with the ability to physically disconnect a Contractor's power.

The members of the Colorado River Commission of Nevada fully considered the comments addressed in the Comment and Response Matrix and the recommended revisions to the May 8, 2014 version of the proposed regulations.

No public comments were made at the June 10, 2014 public hearing.

Commissioner Coffin moved for approval of the recommended revisions to the May 8, 2014 version of the proposed regulations of the Commission contained in NAC Chapter 538, LCB File No. R148-13 as follows:

Section 32 (4) of the proposed regulation are modified as follows (changes shown in strikeout and in underlined text) resulting in the original language remaining unchanged:

4. ~~[NV Energy, Inc.,]~~ Nevada Power Company shall pass through to its residential class of ratepayers ~~located within Western's [Boulder Canyon Project] defined marketing area for the Boulder Canyon Project~~ the ~~[full]~~ economic benefits of power from ~~Schedule A and~~ Schedule B.

Section 34 (5) of the proposed regulation are modified as follows (changes shown in strikeout and in underlined text):

5. *On or before September 30, 2017, each Contractor or their agent(s) that obtains all of its electric power from the Commission must provide the Commission with the ability to physically disconnect the Contractor's power for failure to pay a power invoice from the Commission in a timely manner, without adversely impacting the delivery of power to other Contractors.*

The motion was seconded by Vice Chairman Miller and approved by a unanimous vote at the June 10, 2014 hearing.

Commissioner Coffin moved for approval of the May 8, 2014 version of the proposed regulations of the Commission contained in NAC Chapter 538, LCB File No. R148-13 as amended. The motion was seconded by Commissioner Gibson and approved by a unanimous vote at the June 10, 2014 hearing.

The adoption, amendment and repeal of permanent regulations of the Colorado River Commission of Nevada were adopted by the Commission on June 10, 2014.

The minutes of the hearing contain the full discussion of the Commission and approval of the proposed regulations which are attached hereto as Attachment 3.

**g) The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**

**a. *Both adverse and beneficial effects:***

The proposed regulation is not expected to have any adverse economic effect on the general public. The proposed regulation may have a beneficial effect to the extent that these regulatory changes facilitate expeditious allocation of post-2017 Hoover power and provide the Commission staff with new tools for administration of electrical power contracts.

**b. *Both immediate and long-term effects:***

The proposed regulation does not have an immediate or long-term effect on the general public, because these regulations address aspects of the Colorado River Commission's statutory mandate which focus upon the Commission's trust responsibility under NRS 538.181 to hold and administer the State of Nevada's rights and benefits to electrical power, including Hoover power, and to ensure that the State's power contracts are administered for "the greatest possible benefit to this state" under NRS 538.161. These regulations do not contain provisions related to the general public, other than those members of this group who participate in the receipt and delivery of Hoover power. The only entities eligible to receive federal hydropower and other electric services from the Commission are set forth in NRS 704.787.

**h) The estimated cost to the agency for enforcement of the proposed regulation.**

Enforcement of these proposed regulations poses no measurable cost to the Commission beyond funds already authorized in the budget approved by the Nevada legislature.

**i) A description of and citation to any regulation of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

The proposed regulation does not overlap that of any other state, local, or federal agency.

**j) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

Certain provisions of these proposed regulations are required to implement the federal Hoover Power Allocation Act of 2011 (43 USC Sec. 619a), which authorized the Commission to receive, allocate and administer Nevada's allocations of Schedule A, B, C and D Hoover power, and to

receive and administer allocations of Schedule D Hoover power approved by the Western Area Power Administration.

Sections 12 and 13 of the proposed regulations in part implement provisions of NRS 704.787 (1)(c) that require an applicant that receives an allocation of capacity and energy from the Commission to have an annual peak load of at least 1 megawatt which is more stringent than the Western Area Power Administration's minimum allocation of 100 kilowatts pursuant to its December 30, 2013 Federal Register Notice Volume 78, Number 250.

- k) If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulations do not establish any new fees or increase an existing fee.

**STATE OF NEVADA**  
**Colorado River Commission of Nevada**

**Minutes of Workshop to Solicit Comments  
on Proposed Regulations  
LCB File No. R148-13**

The workshop was held at 1:00 p.m. on Monday, April 21, 2014 at the Clark County Commission Chambers, Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada.

**STAFF MEMBERS PRESENT**

Ms. Jayne Harkins, Executive Director  
Mr. Jim Salo, Deputy Executive Director  
Ms. Ann Pongracz, Special Counsel, Attorney General  
Mr. Craig Pyper, Hydropower Program Manager  
Ms. Lisa Ray, Assistant Hydropower Program Manager  
Ms. Dana Corkill, Hydropower Program Specialist  
Ms. Carla Miguel, Administrative Assistant II  
Ms. Sandra Fairchild, Consultant to Colorado River Commission of Nevada

**OTHERS PRESENT**

Mr. Mike Simonton, Western Area Power Administration (Western)  
Mr. John Holmstrom, Tronox  
Mr. Darrell Lacy, Nye County  
Ms. Pauline England, Nevada Department of Transportation  
Mr. Eric Witkoski, Attorney General, Bureau of Consumer Protection  
Mr. David A. Jones, Nevada State College  
Ms. Mary Simmons, NV Energy  
Mr. Douglas Brooks, Nevada Power  
Mr. Jeff Morrow, State of Nevada, Department of Child and Family Services  
Ms. Chelsie Campbell, NV Energy  
Mr. Curt Ledford, Valley Electric Association  
Mr. Randy Ewell, Mt. Wheeler Power  
Mr. Nicholas Vaskov, Nevada State Higher Education  
Mr. Scott Krantz, Southern Nevada Water Authority  
Ms. Tammy Cordova, Public Utilities Commission of Nevada (PUC-N)  
Mr. Randy DeVaul, City of North Las Vegas  
Mr. Vinny Spotleson, Senator Reid's Office  
Mr. Paul Stuhff, Attorney General, Bureau of Consumer Protection  
Mr. Lloyd Webb, Olin Corporation (by teleconference)  
Mr. Tamay Hodu, member of the public

The workshop was conducted in accordance with Nevada's Open Meeting Law.

The following materials were made available at the workshop: the Notice of Workshop and Agenda, the proposed regulations, the Small Business Impact Statement, the slide presentation, a summary of the proposed regulations, Nevada Revised Statutes (NRS) 704.787, a copy of Nevada Administrative Code

(NAC) 538 and the Hoover Power Allocation Act of 2011. These materials are attached to and made a part of the minutes.

Ms. Jayne Harkins welcomed everyone to the public workshop pertaining to the proposed regulations amending Chapter 538 of the Nevada Administrative Code (NAC). Ms. Harkins stated that the purpose of the workshop is to solicit comments from interested persons regarding the Colorado River Commission of Nevada (Commission) proposed regulations. Further, the topics in the proposed regulations would be divided into five general areas – 1) rules of Practice and Procedures before the Commission; 2) allocation of Schedule D Power from the Boulder Canyon Project to new allottees; 3) marketing of electric power by the Commission; 4) other matters addressed in NAC 538, including metering and risk management; and 5) general rules that are being repealed.

Ms. Ann Pongracz described the timeline for the rulemaking process and interaction to date between the Commission staff and the Legislative Council Bureau (LCB). Ms. Pongracz outlined the remaining process which includes receipt of final comments by 5:00 p.m., Friday, April 25 and the proposed hearing at the Commission's regularly planned meeting in June.

Ms. Pongracz then provided a summary of the changes to the Commission's Rules of Practice and Procedures which included Sections 1, 2, 4-6, 10, and 17-18, XX, and 19-25. Section 1 is simply an introductory section that is non-substantive. It says that Chapter 538 of NAC is hereby amended by adding "thereto the provisions set forth as Sections 2 to 16, inclusive, of this regulation." Section 2 states, "As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 538.010 and Section 3 of this regulation have the meanings ascribed to them in those sections."

The next revision to Section 4 talks about how documents can be received officially by the Commission. The last time the Commission revised its regulations, the internet did not exist. Section 5 requires the Commission to maintain a service list for each case for which a hearing will be held. Section 6 allows for the appointment of one or more presiding officers to preside over and conduct hearings and other proceedings, or any portion thereof.

In Section 10, there's a definition of Schedule C, which specifies the priority of entitlement of the States of Arizona, California, and Nevada to excess energy generated at the Hoover Power plant. Section 17 addresses the amendment of NAC 538.010 to read as follows: "Commission" means the Colorado River Commission of Nevada. Section 18 contains introductory language clarifying which of the regulations that will be discussed later applies to Schedule D allocations and which sections of the NAC govern practice and procedures for the Commission. And Section XX states that complaints may be made by any interested person and explains how a complaint should be made to the Commission.

Sections 19 through 25 set forth minor revisions to current procedural regulations. Section 19 states that the Commission Chair, Executive Director or the presiding officer may hold a prehearing conference. Section 20 addresses who may be the presiding officer. Section 21 changes the date for rendering a Commission decision from 90 to 180 days after completion of the hearing.

Section 22 addresses the Commission's issuance of a decision or order and inserts the language "following a hearing." Section 23 states that the Commission may be petitioned by members of the public regarding any matter within the Commission's jurisdiction. Section 24 addresses petitions and Section 25 clarifies which sections of the regulations are covered under the Rules of Practice and Procedure.



Following Ms. Pongracz' presentation, Jim Salo provided a summary of proposed regulations that relate to the topic of allocating Schedule D power including Sections 3, 7-8, and 11-13. Section 3 is a definition of the phrase "Schedule D Power." Section 7 sets up the steps that will be followed to develop the criteria to be used by the Commission in determining how to allocate Schedule D power.

The basic steps include the following: Staff will hold a public meeting to solicit input, comments, and suggestions. After considering that input, Staff will prepare a draft order setting forth proposed criteria for the Commission's consideration and decision. A copy of the draft order will be served on all interested persons, and on anyone else who asks to be served with a copy of that draft order. The Commission will conduct a formal hearing at a future date to consider the proposed criteria the Staff has developed, at which the Commission will act on those criteria by adopting them, modifying them, or rejecting them. The Commission has a range of options. Assuming the Commission approves the criteria then Staff will utilize the criteria in developing a proposed allocation of Schedule D power for consideration by the Commission. Section 8 focuses on the actual steps leading up to allocations once the Commission has the criteria in place. Staff will hold another public meeting and discuss the application process. Any application forms that are developed will be discussed. The deadlines will be set forth; and, again, input, comments and questions will be solicited. Interested persons will be able to submit an application. All the applications will be reviewed by Staff.

Again, a draft order will be prepared by the Staff for the Commission's consideration recommending which entities the Staff believes would most appropriately be identified as potentially successful applicants. After this notice there will be another Commission hearing on the actual allocations and the proposed draft order the Staff has prepared. Once again, the Commission at the hearing will have a full range of options but ultimately will be asked to make a decision on which applications will be successful. That decision will be advertised with a notice calling for any objections pursuant to statute. If objections are received within ten days, the Commission will hold a hearing within 30 days.

Mr. Salo next addressed Section 8 which sets forth the concept that if the applicant is offered a contract and for whatever reason is unable or fails to execute the contract within 90 days, the Commission has the ability to call that portion of the allocation back and reallocate it to some other entity.

Section 11 directs the Commission to allocate Schedule D power according to the law and incorporates a phrase to achieve the greatest possible benefit to the State, which is directly taken from one of the Commission's organic statutes, NRS 538.161.

Section 12 sets forth the minimum requirements for an applicant that is a public utility, and Section 13 sets forth the minimum requirements for an applicant -- that is not a public utility.

These two sections parallel each other closely. Subparagraphs 3 and 4 relate to who has the responsibility to maintain an appropriate power factor. Obviously, if a customer is a utility applicant, that's part of what you do in your business, and the burden of the utility. If you're a non-utility applicant, you would have to have a contract with a utility or other entity that can maintain the appropriate power factor. Similarly, the Integrated Resource Plan (IRP) requirements that apply in this context directly apply to you if you are a utility. If you're a non-utility, you will be expected to contract with someone that does comply with the requirements.

Craig Pyper provided a summary of proposed regulations related to electric power marketing rules, including Sections 9-10, 14-16, 26-33, 35, 37-39. Section 9 and 10 simply define Schedule A and Schedule

C. Section 14 describes the steps that the Commission will take to reallocate power if a contractor either surrenders or loses its allocation. Sections 28 and 29 also describe the steps the Commission will take to reallocate power if a contractor loses, surrenders, or fails to contract with the Commission within 90 days of being offered an allocation.

Section 15 describes the Commission's offer of new Hoover power contracts to existing Schedule A and B contractors for Post-2017 Hoover power. Section 16 describes the Post-2017 contract provisions for Schedule A, B, and D contractors. These are items that are mandated by the State or the federal government in accepting the Hoover contract. Some of these provisions include the Lower Colorado Multi-Species Conservation Program and an IRP that is mandated by the federal government and therefore to customers.

Also, the new Schedule D customers will be required to participate through the Commission in the implementation agreement, which also mandates repayable advances that will basically be repaying those existing customers who made the investment in Hoover Dam who have given up part of their allocations to create the Schedule D resource pool.

Section 26 describes the eligibility requirements for applicants who seek an allocation of Hoover power prior to 2017, as well as for applicants seeking an allocation from Parker-Davis or Salt Lake City Area Integrated Projects.

Section 30 describes the minimum capacity reserve requirement for each contractor. Section 31 identifies the contract term for Boulder Canyon, Parker-Davis and Salt Lake City Integrated Projects. For the new Hoover contracts, the power terms could be up to 50 years. In the current contract, the term was 30 years.

Section 32 describes the provisions that require several things. Currently, some hydropower customers have existing relationships with other customers for resource sharing. And this section just clarifies some of the rules that need to be in place prior to their lease agreements or selling their share of power. It also mandates that the current utilities that have Hoover power use it to the full advantage for the benefit of their current customers, which provides the greatest benefit to this State. Also, currently Nevada Power by contract has to pass through the benefits of Hoover Schedule B power to its residential rate payers. Under this provision, Staff has proposed changes to pass through the benefits of both Schedules A and B to Nevada Power's residential rate payers.

Section 33 allows the Commission to reduce the allocation of any contractor that does not use its full allocation for three consecutive years. Section 35 includes Schedule D in the calculation when apportioning shortages when there is a reduction in Hoover capacity. For those customers who know Hoover, it is basically a pro-rata share of what's available. So this just explains how Schedule D is incorporated into what is already occurring with Schedule A and B, so they all share the available resource.

Section 38 adds a provision that allows the Commission to designate other points of delivery and voltages within Western's marketing area for all hydropower projects. Section 39 specifies Post-2017 Schedule A and B Hoover Contractors' allocations of capacity and energy and creates a virtual place-holder for Schedule D Contractors allocations of capacity and energy. As of this point in time, the Commission doesn't know who they will be.

Lisa Ray, Assistant Hydropower Program Manager provided a summary of proposed regulations related to metering and risk management, which includes Sections 34, 36, 40 and 41.

Ms. Ray stated that the Commission is a customer-funded agency which does not receive revenue from the State's General Fund. The Commission passes through costs to its customers directly, and pays suppliers within four to five days of receiving payment from its customers. There is no wiggle room if a payment is received late. The goal of the proposed changes to the NAC is to provide financial protection for the State of Nevada, the Commission and its contractors that could result in a loss resulting from a late payment or nonpayment.

Ms. Ray went on to say that the Commission is not a power generator. And, therefore, the Commission wants to avoid becoming a credit risk to its power suppliers, including Western, Bureau of Reclamation and other market power suppliers. One of the reasons the Commission is looking at this is because Western is proposing to implement additional risk management policies that may require a federal electric service contractor such as the Commission, to provide collateral in the event of an adverse material change. One of the things that the Commission has been looking at is establishing appropriate meter and meter data requirements according to the type of customer in order to provide accurate data for billing purposes, providing protection for both the Commission and its customers.

Staff also wants to provide the Commission flexibility to adjust its administration charge rate for a number of circumstances that will protect Commission's revenue stream in order to provide continued operation in the event of planned and unplanned reductions in billable kWh. Currently, the Commission does an annual credit worthiness review of a few contractors, but what Staff desires is to conduct an annual credit worthiness review of all contractors to provide the Commission the whole picture of its customers' financial situations. Current statutes limit which customers must provide collateral. There is no change to which customers must provide collateral.

The proposed revisions also provide the Commission the flexibility necessary to implement prepayment of power purchases and/or establish a cash working capital fund, if and when it is needed. Examples were provided that explained the impact of late and inaccurate payment discrepancies. There are also proposed changes to the regulations that allow for short-term reallocation of hydropower to other contractors following the suspension of a contractor's hydropower allocation in order for the Commission to maintain its revenue stream until there's a reconciliation with that contractor or the contract is fully terminated and the power is permanently reallocated. So, again, this gives the Commission a few checks and balances.

Following the presentation, Ms. Harkins opened public comment. She explained that she would walk through each page and section, and if there was a section that someone was interested in, to come up to the microphone and provide comment. She also reminded the participants that a court reporter was present and would be transcribing the workshop.

The first commenter was Tamay Hodu. Mr. Hodu's comments addressed certain personal concerns of his that are not related to the Commission's Rulemaking process. Ms. Harkins explained that the Commission was only using the meeting room at the Clark County Government Center and that the Commission was taking comments on the proposed regulations.

No oral comments were provided for Sections 1 through 15.

The second commenter was Mr. Douglas Brooks, Assistant General Counsel of NV Energy. Mr. Brooks expressed concerns with subsection 2F of Section 16, which he indicated appears to be a misinterpretation of the relevant section of NRS 704.787, specifically subsection 3. Mr. Brooks said that this was part of AB 199 that passed last year in Nevada's legislative session, and believes that all new customers who are allotted Schedule D power are subject to the provisions of AB 199 subsection 3, and that all the charges enumerated therein would apply to those customers. Mr. Brooks also stated that it appears that subsection 2F of Section 16 of regulations does not accomplish that and omits what NV Energy calls subsection 3 charges from applying to those customers.

No oral comments were provided for Sections 17, 18, XX and 19 through 31.

The third comment was provided by Mr. Douglas Brooks, Assistant General Counsel of NV Energy. Mr. Brooks expressed concerns with Section 32, subsection 4. Mr. Brooks stated that current regulation requires Nevada Power to pass the benefits of Schedule B power through to residential customers, as does the contract between the Commission and Nevada Power for the sale of Schedule B power. Mr. Brooks also stated that the PUC-N has implemented this principle in general rate case proceedings with Nevada Power consistent with stipulations presented to the Commission that involve Nevada Power and the Commission. Mr. Brooks further stated that as a general principle, Nevada Power does not believe it's appropriate for anyone other than the PUC-N to attempt to determine how Nevada Power's rates should be set. Mr. Brooks said that it's Nevada Power's position that the Commission should not attempt to further engage in rate setting through its regulations, and that the rate setting process involves the balancing of many interests and the allocation of an additional hundred megawatts of river power benefit to one rate class would disadvantage other rate classes and make Nevada Power's non-residential rates less competitive. Mr. Brooks added that the only appropriate place under Nevada law for determining how to balance all of these competing interests is before the PUC-N and not in the Commission's regulations. Mr. Brooks also stated that the Commission has participated in many PUC-N proceedings regarding Nevada Power's rates and has been an effective advocate for its interests and should continue to use those interventions in their dockets to attempt to implement its preferred policies on rate making. Additionally, Mr. Brooks stated that Section 32, subsection 1 is not clear.

Ms. Harkins asked if NV Energy's concern was with the use of the term "full" in place of "economic" in subsection 4, or was the concern related to the fact that the Commission allocated Schedule A to residential customers. Mr. Brooks responded that it was the addition of Schedule A. Mr. Brooks added that Schedule B in the regulation is a historic artifact, and NV Energy does not advocate changing that. The addition of Schedule A is the issue that NV Energy has and that the allocation of the economic benefits of Schedule A power is vested by the Nevada Legislature and the PUC-N.

Mr. Brooks provided additional comments on Section 32, subsection 1 stating that it appears subsection 1 is written so that the Commission can determine issues regarding a joint dispatch agreement between Nevada Power and its sister company, Sierra Pacific Power, through its regulations, which Nevada Power believes would be improper. Mr. Brooks added that he understands the Commission's concerns with carrying out its statutory duties and obligations, but suggested that the PUC-N hearing room was the only appropriate place under Nevada law to do that. And that would include any concerns that the Commission has with how the joint dispatch of generation involving Nevada Power and its sister company up north affecting any obligations Nevada Power may have to ensure that the benefits of Schedule B power be flowed through to residential customers. He said he didn't think it was appropriate to do through the Commission's regulations. Mr. Brooks further expressed that Nevada Power is not

taking issue with what concerns the Commission or the policies it wants to implement and respects those, but suggests that the PUC-N under Nevada Law is the only appropriate place to make those final decisions. Mr. Brooks said that Nevada Power is somewhat confused and unclear about the meaning of the term "full benefits" in subsection 4, and that a definition of this phrase would be very helpful for its proper understanding and application should this section be included in the opted regulations. Mr. Brooks reemphasized that if the use of "full benefits" is intended to mandate how the PUC-N is to allocate costs between Nevada Power and its affiliate Sierra Pacific under their interim joint dispatch agreement, NV Energy's objections against the Commission's regulations attempting to dictate the PUC-N rate making decisions apply here as well. Mr. Brooks thanked Commission staff for the opportunity to present comments.

Mr. Eric Witkoski, the State of Nevada's Consumer Advocate with the Attorney General's Bureau of Consumer Protection, stated that his office would be filing additional comments on Section 32, subsection 4 by Friday, April 25. Mr. Witkoski further stated that he was not totally in agreement with the characterization of Nevada Power's interpretation on what the PUC-N can do and what the Commission can do. Mr. Witkoski added that Hoover Schedule B was allocated to residential rate payers in a contract in the early '80s and is followed by the PUC-N today, and that it may be up to the Commission on how it is going to be allocated. Mr. Witkoski restated that Bureau of Consumer Protection will file comments by Friday and cautioned that he does not fully agree with Nevada Power's interpretation on what the PUC-N can do and what the Commission can do.

No oral comments were provided for Sections 33 through 38.

The final comment, on Section 39, was provided by Mr. Douglas Brooks, Assistant General Counsel of NV Energy. Mr. Brooks said that NV Energy is incorrectly shown in the listing or restatement of the entities that will take Schedule A and Schedule B power. Mr. Brooks added that the current contract and any future contract for Schedules A or B power would be with Nevada Power Company, and clarified that NV Energy, Inc. is the holding company that owns Nevada Power Company. Mr. Brooks added that there is a lot of confusion because Nevada Power Company does business as NV Energy, Inc. with the Secretary of State, but that's not the entity the Commission contracts with. Mr. Salo asked if "Nevada Power Company" should be listed in the NAC chart; Mr. Brooks affirmed.

No oral comments were provided for Sections 39 through 43.

Ms. Harkins asked if there were any comments from those on the phone. No other comments were provided. Ms. Harkins reminded the participants that written comments were due to the Commission by 5:00 o'clock p.m. on Friday, April 25. Ms. Harkins provided the fax number and email address and added that comments could be hand delivered or mailed to the Commission. Ms. Harkins then outlined the next steps in the Rulemaking process that include the posting of the Notice of Intent to Adopt Regulations in May 2014 and the public hearing at the Commission's regularly planned June meeting date and that the Staff anticipates submitting the final regulations to the LCB for final adoption after Commission approval.

The Workshop was concluded at 1:54 p.m.

*Staff received written comments by the April 25, 2014 deadline from the following entities: Basic Power Company, State of Nevada's Attorney General's Bureau of Consumer Protection, City of Henderson, City of*

*Mesquite, Nevada Power Company, Olin Corporation, Southern Nevada Water Authority and Valley Electric Association. Written comments are attached and made part of the minutes.*

APPROVED:



Jayne Harkins, B.E., Executive Director

COLORADO RIVER COMMISSION OF NEVADA – LCB File No. R148-13

***Summary of comments received in the April 21, 2014 Rulemaking Workshop and written comments received by April 25, 2014***

Attorney General’s Office, Bureau of Consumer Protection: Comment Nos. 1, 18, 19, 24, 28  
City of Mesquite, Nevada: Comment Nos. 2, 4, 9, 12  
NV Energy: Comment Nos. 10, 11, 16, 17, 26, 27  
Basic Power Company: Comment No. 22

City of Henderson, Nevada: Comment Nos. 7, 14  
Southern Nevada Water Authority: Comment Nos. 6, 13  
Valley Electric Association: Comment Nos. 3, 5, 8, 15, 25  
Olin Corporation: Comment Nos. 20, 21, 23, 29

Comment #	Section #	Author	Point Raised	CRC Staff Response <sup>1</sup>	Revision	
					Yes	No
1	9	Paul E. Stuhff, Senior Deputy Attorney General, Bureau of Consumer Protection (BCP) (Written Comment)	BCP notes that there is a slight inconsistency in how Schedule A is defined in Section 9 of the CRC’s proposed regulations and how Schedule B is defined in NAC 538.380.	The difference is due to the fact that Schedule B resulted from upgrades that increased capacity of Hoover equipment and facilities in the 1980’s, and Schedule A did not. Under federal law, the entire Nevada allocation of Schedule B is allocated to the CRC, while both the City of Boulder City and the CRC receive direct allocations of Schedule A directly, as well as the CRC.		X
2	13(7)	Aaron Baker, City Liaison Officer, City of Mesquite (Written Comment)	This requirement seems extremely open-ended (referring to CRC proposed regulation – “ <i>Complies with other requirements imposed by the Commission</i> ”. The City would like further clarification of what CRC is hoping to accomplish by this requirement and if there are specific areas of concern this is intended to address.	The CRC needs to retain the flexibility to make adjustments for future changes and circumstances. Any future requirements imposed by the CRC will be conducted after consultation with CRC’s hydropower contractors and in an open public process pursuant to Nevada open meeting law (NRS 233B).		X
3	16(1)(b)	Curt Ledford, Esq., General Counsel, Valley Electric Association (Written Comment)	Valley suggests adding a definition to the term “densely populated counties” in the proposed regulations. In Section 16, the term “densely populated counties” is used three separate times [16(1)(b), 16(2)(e), 16(2)(f)]. This term is not defined in the regulation. Valley recommends that a definition for this term be included for clarity.	The term “electric utility that primarily serves densely populated counties” is already defined by statute in NRS 704.787(7)(b). A revision was made to reference the specific NRS provision.		X
4	16(1)(b)	Aaron Baker, City Liaison Officer, City of Mesquite (Written Comment)	While this section does not directly apply to the City of Mesquite, the City does have similar concerns to those expressed below regarding Section 16-2-f ( <i>referring to City of Mesquite comment No. 9</i> ).	See response to Comment No. 9.		X
5	16(2)(e)	Curt Ledford, Esq., General Counsel, Valley Electric Association (Written Comment)	Valley suggests adding a definition to the term “densely populated counties” in the proposed regulations. In Section 16, the term “densely populated counties” is used three separate times [16(1)(b), 16(2)(e), 16(2)(f)]. This term is not defined in the regulation. Valley recommends that a definition for this term be included for clarity.	See response to Comment No. 3.		X
6	16(2)(f) <sup>2</sup>	Scott Krantz, Director, Energy Management, SNWA (Written Comment)	SNWA supports the approach taken by CRC clarifying that local government agencies currently receiving electric services from CRC pursuant to Nevada Power’s Distribution Only Service (DOS) tariff would not be required to pay the fees set forth in NRS 704.787 (2), (3), and (4)(b) if the customer agency has already paid such fees. SNWA and certain of its member agencies receive electric services, including Hoover power, from CRC, to serve water and wastewater pumping loads. In order to utilize CRC’s electric services, these agencies have been required under the DOS tariff, to pay “exit fees” to Nevada Power, which have run into the millions of dollars. The exit fees paid by SNWA	Staff recognizes the goal of AB199 is to do no economic harm to NVE’s current customers if additional Schedule D Hoover hydropower was allocated to loads within NVE’s service area. The provision of 16(2)(f) has been revised to further clarify that loads receiving Schedule D, within NVE’s service area that are not supplied energy from NVE do not have to pay charges and fees under AB 199.  The proposed regulation has been modified as follows (changes shown in <del>strikeout</del> and in <u>underlined text</u> ):	X	

<sup>1</sup> The CRC responses address each of the comments, and sets forth revised language which was incorporated into the May 8, 2014 draft in response to certain comments.  
<sup>2</sup> Mr. Krantz’ comment cited Section 16(1)(f), but actually discusses the language in Section 16(2)(f).



Comment #	Section #	Author	Point Raised	CRC Staff Response <sup>1</sup>	Revision	
					Yes	No
			<p>and its member agencies were intended to insulate Nevada Power Company and its customers from any economic harm resulting from SNWA’s decision to purchase energy from an alternative provider. The exit fees were calculated by Nevada Power Company and approved by the Public Utilities Commission of Nevada (PUCN).</p> <p>The DOS Agreements between Nevada Power Company, CRC, SNWA, and each of the members identify specific metered locations where SNWA and its members can deliver energy purchased from an alternative source. To the extent SNWA or its member agencies receive an allocation of Hoover D power and wish to deliver that power to locations identified in an existing DOS Agreement, it would be inappropriate to impose additional fees and charges on those customers.</p>	<p><i>Pay applicable tariff rates and charges pursuant to NRS 704.787 (4)(b) on its Schedule D allocation if the Contractor is located in the service area of an electric utility that primarily serves densely populated counties, is a customer of the Commission pursuant to NRS 704.787 (1)(b), and will receive Schedule D at delivery points that are <del>already included in</del> served pursuant to an existing Distribution Only Service agreement, provided that the Contractor has not previously paid such rates and charges.</i></p>		
7	16(2)(f) <sup>3</sup>	Priscilla Howell, Director, Dept. of Utility Services, City of Henderson (COH) (Written Comment)	COH supports the approach taken by CRC clarifying that local government agencies currently receiving services from CRC pursuant to Nevada Power's DOS tariff would not be required to pay the fees set forth in NRS 704.787 if the agency has already paid those fees.	See response to Comment No. 6.		
8	16(2)(f)	Curt Ledford, Esq., General Counsel, Valley Electric Association (Written Comment)	Valley suggests adding a definition to the term “densely populated counties” in the proposed regulations. In Section 16, the term “densely populated counties” is used three separate times [16(1)b, 16(2)(e), 16(2)(f)]. This term is not defined in the regulation. Valley recommends that a definition for this term be included for clarity.	See response to Comment No. 3.		X
9	16(2)(f)	Aaron Baker, City Liaison Officer, City of Mesquite (Written Comment)	The City of Mesquite is concerned about applicable tariff rates and charges. While the City of Mesquite is located in Clark County, it is not served by NV Energy. Overton Power District No. 5 serves Mesquite. It is common knowledge that the business models for NV Energy and Overton Power District are different. Consequently, it seems unfair to lump a small-scale utility into the same group as a large-scale utility company that serves approximately 2 million customers in Clark County.	The rates and charges set forth in paragraph 16(2)(f) of the revised regulations do not apply to the service territories of Overton Power District, Lincoln County Power District, Valley Electric Association, or the City of Boulder City. The rates and charges listed in this section only apply to customers located in Nevada Power Company’s service territory.		X
10	16(2)(f)	Douglas Brooks, Asst. General Counsel, NV Energy (Written Comment)	Section 16(2)(f) of the proposed regulations would add a new subsection that appears to exempt Schedule D customers from having to pay the mandated charges listed in NRS 704.787(3). The plain language of that subsection of the statutes requires customers of Nevada Power who take power under Hoover Schedule D to pay the enumerated charges. However, section 16(2)(f) of the proposed regulations appears to state that Schedule D customers who receive that power at delivery points included in an existing DOS agreement only have to pay the tariff rates and charges pursuant to NRS 704.787(4)(b). No mention is made of the charges listed in subsection (3). Nevada Power believes that this represents a misreading of NRS 704.787(3) and should be corrected.	See response to Comment No. 6, which incorporates revised language proposed by Nevada Power.	X	

<sup>3</sup> Ms. Howell’s comment cited Section 16(1)(f), but actually discuss the language in Section 16(2)(f).



Comment #	Section #	Author	Point Raised	CRC Staff Response <sup>1</sup>	Revision	
					Yes	No
11	16(2)(f)	Douglas Brooks, Asst. General Counsel, NV Energy (Oral Comment) <sup>4</sup>	We are concerned that Section 16(2)(f) to us appears to be a misinterpretation of the relevant section of NRS 704.787, specifically subsection 3. As you, of course, know, this was part of AB 199 that passed last year in Nevada's legislative session. We believe that all new customers who are allotted Schedule D power are subject to the provisions of that subsection 3 for AB 199 and that all the charges enumerated therein would apply to those customers. It appears to us that subsection 2F of Section 16 of your regulations does not accomplish that and omits those, what I call subsection 3 charges from applying to those customers.	See response to Comment No. 10.		
12	31(2)	Aaron Baker, City Liaison Officer, City of Mesquite (Written Comment)	The City seeks clarification regarding the determination of the term of the contract. Will both parties have to mutually agree to the term or does the Commission dictate it? The City would prefer a longer term and wants to ensure that remains a possibility.	The term of the contract for Schedule D power allocated by Western will be the term set by Western. The contract term for Schedule D power allocated by the CRC will be set by the CRC.		X
13	32(1)	Scott Krantz, Director, Energy Management, SNWA, (Written Comment)	SNWA suggests that CRC remove the requirement that a Contractor purchasing power from the Boulder Canyon Project, Parker-Davis Project, or Salt Lake City Area Integrated Projects obtain prior approval of the Commission to change the “point of use” of that power. This requirement seems to be overly restrictive and could impose an administrative burden on certain customers, like SNWA and its member agencies, which have numerous points of use distributed across multiple metering locations. The decision to use hydropower at one or more of these locations should not trigger the need for a Contractor to seek prior Commission approval. SNWA would not object to CRC requiring that Contractors seek approval for a change that would move the “point of use” outside the current balancing authority or outside the State of Nevada.	Staff anticipates that the flexibility requested by the SNWA will be available through the administration of contracts under the proposed revised regulations. It is anticipated the Commission will approve new contracts which include exhibits specifying points of delivery, and contract provisions allowing for administrative approval of changes to those schedules.  As a matter of policy, the staff does not believe the Commission would support a “point of use” outside the State of Nevada.		X
14	32(1)	Priscilla Howell, Director, Dept. of Utility Services, City of Henderson (Written Comment)	COH endorses SNWA's suggestion that CRC remove the requirement that a Contractor purchasing power obtain prior approval of the Commission to change the "point of use" if the "point of use" remains inside the current balancing authority or inside the State of Nevada.	See response to Comment No. 13.		X
15	32(2)(c)	Curt Ledford, Esq., General Counsel, Valley Electric Association (Written Comment)	Section 32 (2)(c) of the proposed regulation states that an electric utility that contracts with the Commission for power from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects may only “resell that power to serve customers in its service territory, within this state and within Western’s defined marketing area, without seeking the approval of the Commission.” This proposed regulation adds two new criteria for resell that could potentially impact the practices of existing CRC contractors. The service territory proscribed for Valley by the PUCN may not be entirely within Western’s defined marketing area. Valley serves Nevada members that are located north of Beatty. Valley believes in equal and fair treatment for all of its members. Therefore, Valley recommends that CRC provide a regulation that does not work to exclude certain members / customers of a CRC contracting utility from obtaining affordable and renewable hydropower resources that	While Staff understands that Mr. Ledford’s comment is limited to Section 32(2)(c), we believe these concerns are addressed in provisions of Section 32(2)(b), which creates an opportunity for VEA to seek Commission approval for resale of federal hydropower outside Western’s defined marketing area, and authorizes the Commission to conduct a case-by-case review of such issues.		X

<sup>4</sup> Oral comments were given at the NAC Rulemaking Workshop held on April 21, 2014. Where written comments were provided by the same agency, the oral comment on the same subject matter follows the written comment.

Comment #	Section #	Author	Point Raised	CRC Staff Response <sup>1</sup>	Revision	
					Yes	No
			would be otherwise available to other members / customers of the same utility, unless such is specifically required by state or federal law or regulation. Valley believes that all of its members should be able to enjoy the benefits provided by the hydropower marketed by CRC since Valley is a Nevada-based cooperative and current customer of CRC. Therefore, Valley suggests that the current language of NAC 538.540(2) be preserved, or be modified in a way to ensure equal benefit for all of a specific utility's patrons.			
16	32(4)	Douglas Brooks, Asst. General Counsel, NV Energy (Written Comment)	<p>Section 32(4) of the proposed regulations would amend NAC 538.540 to require Nevada Power to pass through to the residential class of ratepayers “the full benefits” of the power it receives from Schedules A and B of Hoover power. As a general principle, Nevada Power does not believe that it is appropriate for the CRC to use its regulations to determine how Nevada Power's rates should be set. The PUCN has been given exclusive jurisdiction by the Nevada Legislature over Nevada Power's retail rates. The CRC should not attempt to engage in rate setting through its regulations.</p> <p>In addition, Nevada Power is unclear about the meaning of the term “full benefits” as it is used in subsection 4. A definition of this phrase is essential for its proper interpretation and application, should this section be included in the adopted regulations. Furthermore, if the use of “full benefits” is intended to mandate how the PUCN is to allocate costs between Nevada Power and its affiliate Sierra Pacific Power, our objections against the CRC's regulations attempting to dictate PUCN ratemaking decisions through its own regulations apply here as well. Similarly, to the extent subsection 1 of this section would attempt to regulate the joint dispatch of Nevada Power' generation resources with its affiliate Sierra Pacific Power, it would interfere with the PUCN's exclusive jurisdiction over the rates, charges and practices of Nevada Power.</p>	<p>Section 32(3)(a) and Section 32(4) of the proposed regulation have been modified as follows (changes shown in <del>strikeout</del> and in <u>underlined text</u>): <sup>5</sup></p> <p><i>Section 32(3): An electric utility that contracts with the Commission for power from the Boulder Canyon Project:</i></p> <p><i>(a) Must use the full power resource available to them, including energy, capacity, and the dynamic signal and other ancillary services, and pass through to its customers located within Western's defined marketing area, the <del>full</del> <u>economic benefits of <del>that power</del> the energy, capacity, and dynamic signal and other ancillary services utilized by the customers, except as provided in subsection 4, and shall provide information demonstrating compliance with this requirement upon request of the Commission.</u></i></p> <p><i>Section 32(4) <del>{NV Energy, Inc.,}</del> Nevada Power Company shall pass through to its residential class of ratepayers located within Western's <del>{Boulder Canyon Project}</del> defined marketing area for the Boulder Canyon Project the <del>{full}</del> <u>economic</u> <del>{economic}</del> <u>economic</u> benefits of power from Schedule A and Schedule B.</i></p> <p>Staff believes using the term “economic” with the addition of 32(3)(a) are sufficient to provide the benefits of Hoover hydropower to appropriate Nevada customers.</p>	X	
17	32(4)	Douglas Brooks, Asst. General Counsel, NV Energy (Oral Comment)	The current regulation requires Nevada Power to pass the benefits of Schedule B power through to residential customers, as does the contract between the CRC and Nevada Power for the sale of Schedule B power. As a general principle, Nevada Power does not believe it's appropriate for anyone other than the PUCN to attempt how Nevada Power's rates should be set. The PUCN has been given exclusive jurisdiction by the Nevada Legislature over Nevada Power's rates. It's Nevada Power's position that the CRC shall not further attempt this rate setting through further regulations. The rate process involves the balancing of many interests, and the allocation of an additional hundred megawatts of Nevada Power would disadvantage other rate classes and make Nevada Power less	<p>Staff recognizes that the PUC-N has the duty to set Nevada Power's rates. However, the CRC has the duty to ensure that Hoover power resources are used for the greatest possible benefit of the State of Nevada. The CRC carries out this responsibility through its regulations and contracts. Staff anticipates that Nevada Power will ask the PUC-N to take into account the terms and conditions of future Hoover power contract in its consideration of Nevada Power Company's future rate filing.</p> <p>Regarding “full benefits” see response to Comment No. 16.</p>	X	

<sup>5</sup> The Commission intends to honor current contracts through their term.

Comment #	Section #	Author	Point Raised	CRC Staff Response <sup>1</sup>	Revision	
					Yes	No
			<p>competitive. We feel the appropriate place to balance all these interests is before the PUCN and not in the CRC regulation.</p> <p>Nevada Power is somewhat confused and unclear about the meaning of the term "full benefits" in subsection 4. A definition of this phrase we think would be very helpful for its proper understanding and application should this section be included in the opted regulations. If the use of "full benefits" is intended to mandate how the PUCN is to allocate costs between Nevada Power and its affiliate Sierra Pacific under their interim joint dispatch agreement, our objections against the CRC's regulations attempting to dictate PUCN's rate making decisions apply here as well.</p>			
18	32(4)	Paul E. Stuhff, Senior Deputy Attorney General, Bureau of Consumer Protection (written comment)	BCP is supportive of the CRC's proposed amendment to Section 32(4) of NAC 538.540, to pass through the full benefits and costs of power from both Schedule A and Schedule B to Nevada Power Company's residential customers. Further the BCP would note, there is no statutory or regulatory ratemaking prohibition that would keep the CRC from adopting a regulation that would fully allocate Schedule A to the residential class of NPC.	See response to Comment No. 17.	X	
19	32(4)	Eric Witkoski, Consumer Advocate, Attorney General's Bureau of Consumer Protection (Oral Comment)	I'm not sure I totally agree with the characterization of Nevada Power's interpretation on what the PUCN can do and what the CRC can do. The Hoover Schedule B was allocated to residential rate payers in a contract in the early '80s. And that's been followed by the PUCN. And it may be up to the CRC on how that's going to be allocated.	See response to Comment No. 17.	X	
20	34(5)	Lloyd Webb, Director, Energy Procurement, Olin Corporation (Written Comment)	There are situations (e.g. Industrial Parks or Commercial Parks) where the meters, switches and breakers are under the command and control of the Landlord or the Operator of their electrical systems and not the Contractor. In these situations the Contractor has no legal right to comply with this Section and it is our suggestion that the Party that controls the applicable equipment contracts with the Contractors to act as their agent to meet the requirements of this Section. This requires a minor revision of this section by changing "Contractors" to "Contractors or their Agent(s)".	Staff agrees to recommended acceptance of Olin's proposed change to subsection 34(5).	X	
21	34(5)	Lloyd Webb, Director, Energy Procurement, Olin Corporation (Written Comment)	Under subsection 5, add language that creates a two-step process for curtailing the power supply to industrial customers. Step 1 would be to provide notice to cease consuming power and if the Contractor doesn't comply within 24 hours then CRC will initiate Step 2 which would be to terminate the power supply. This ensures that sufficient planning takes place so an orderly shutdown can be effected without putting plant personnel or the public at risk.	Staff is developing specific contract provisions for late payment and non-payment. Staff agrees that appropriate notice and due process is required before the Commission can effectuate a shutdown and believes the details are appropriately addressed in the contract between the CRC and the contractor.		X
22	34(5)	Colen D. Watts, Vice President, Basic Power Company (Written	As we have discussed, Basic Power Company is not able to allow any third party to have access to the BMI complex common electrical system. We propose that Section 34(5) be modified by adding the following provision: Each Contractor	Implementation of this provision will require cooperation and discussions among the affected parties. Implementation may take various paths which may include agreements governing access and procedures to ensure an orderly shutdown of		X

Comment #	Section #	Author	Point Raised	CRC Staff Response <sup>1</sup>	Revision	
					Yes	No
		Comment)	that operates electrical facilities which serve other Contractors may, in lieu of providing the Commission with the ability to physically disconnect another Contractor's power, act at the specific written direction of the Commission to disconnect such other Contractor, provided that the Commission shall indemnify, defend and hold such Contractor that acts to disconnect another harmless from any claims that such the disconnection was not authorized by this Regulation or was otherwise wrongful for any reason.	power supply. Staff believes this should occur during the implementation phase.		
23	36(5)	Lloyd Webb, Director, Energy Procurement, Olin Corporation (Written Comment)	Sec. 36 NAC 538.610 subsection 5 – change “for 90 days” to “for 90 consecutive days”. Contractors often do multi-year outage planning where over the course of three years the aggregate of the outages may exceed 90 days. We don't believe that reporting these types of outages over a multi-year planning horizon is the intent of this Section.	Staff agrees to the suggested change. Section 36(5) has been revised to read as follows “As soon as practicable, a Contractor planning, projecting or experiencing a decrease in its load of 30 percent or more for 90 <i>consecutive</i> days or more, <i>in any 12 month period</i> , shall notify the Commission of the decrease in its load.”	X	
24	39(1)	Paul E Stuhff, Senior Deputy Attorney General, BCP (Written Comments)	BCP believes that Schedule A energy should be 613,689,000, not the 13,689,000 in the proposed regulation. Also in this subsection, BCP believes that Schedule B should be 391,400,000, not the 341,400,000 in the proposed regulations.	Staff agrees that the Schedule A total KWH should be 613,689,000. The number has been corrected in the proposed regulation.	X	
25	39(1)	Curt Ledford, Esq., General Counsel, Valley Electric Association (Written Comment)	Valley notes that in Section 39, line 3 of page 22 of the proposed regulations, the proposed modification changes the total energy in kilowatt hours from 645,989,000 to 13,698,000. Valley inquires as to whether that number is correct, or if it contains an inadvertent error.	See response to Comment No. 24.	X	
26	39(2)	Douglas Brooks, Asst. General Counsel, NV Energy (Written Comment)	The proper name for the entity receiving the Hoover power is Nevada Power Company. Contracts with Nevada Power continue to be with “Nevada Power Company”. NV Energy, Inc. is the holding company that directly owns Nevada Power, and holds no contractual rights to Hoover power.	The reference to NV Energy, Inc. has been changed to Nevada Power Company.	X	
27	39(2)	Douglas Brooks, Asst. General Counsel, NV Energy (Oral Comment)	The current contract and any future contract for Schedules A or B power would be with Nevada Power Company.	See response to Comment No. 26.	X	
28	39(2)	Paul E Stuhff, Senior Deputy Attorney General, BCP (Written Comment)	The schedule should refer to Nevada Power Company, not NV Energy, Inc.	See response to Comment No. 26.	X	
29	40(4)	Lloyd Webb, Director, Energy Procurement, Olin Corporation (Written Comment)	Sec. 40 NAC 538.744 subsection 4 CRC establishes limits to the expected obligation for Contractor to make payments to a cash working capital fund or power prepayment similar to the limits that were established for collateral as memorialized in subsection 3 of this Section.	Possible implementation of a cash working capital fund and power prepayment requirement will be determined by a decision of the Commission following discussion with customers. Such decisions of the Commission will reflect the results of the creditworthiness review, implement sound risk management policies, and protect the financial health of the Commission and this State.		X

**STATE OF NEVADA**  
**Colorado River Commission of Nevada**

**Minutes of Public Hearing on Proposed Regulations of the Colorado River  
Commission of Nevada contained in Nevada Administrative Code  
Chapter 538, Legislative Counsel Bureau File No. R148-13**

These minutes pertain only to the following agenda items of the June 10, 2014 Commission Meeting:

A. Conformance to Open Meeting Law.

D. *For Possible Action:* Public Hearing on proposed regulations of the Colorado River Commission of Nevada (Commission) contained in Nevada Administrative Code (NAC) Chapter 538, Legislative Counsel Bureau (LCB) File No. R148-13.

E. *For Possible Action:* Consideration of and possible action to adopt new, amended and repeal of permanent regulations of the Commission contained in NAC, Chapter 538, LCB File No. R148-13, with the proposed revisions.

The meeting began at 1:02 p.m. on Tuesday, June 10, 2014 at the Grant Sawyer State Office Building, 555 East Washington Avenue, Suite 4401, Las Vegas, Nevada.

**COMMISSIONERS IN ATTENDANCE**

Mr. George F. Ogilvie III, Chairman  
Mr. Berlyn D. Miller, Vice Chairman  
Mr. Bob Coffin, Commissioner  
Mr. J. Brin Gibson, Commissioner  
Mr. Duncan R. McCoy, Commissioner  
Ms. Puoy K. Premsrirut, Commissioner  
Mr. Steve Sisolak, Commissioner

**COMMISSION STAFF IN ATTENDANCE**

Ms. Jayne Harkins, Executive Director  
Mr. James D. Salo, Deputy Executive Director  
Mr. Douglas N. Beatty, Chief of Finance and Administration  
Mr. Robert D. Reese, Assistant Director of Engineering and Operations  
Ms. Gail A. Bates, Manager, Energy Services  
Mr. Craig N. Pyper, Hydropower Program Manager  
Ms. Lisa Ray, Assistant Hydropower Program Manager  
Mr. Jason Thiriot, Natural Resource Analyst  
Ms. Gail L. Benton, Senior Accountant

Mr. Richard M. Sanders, Senior Energy Accountant  
Ms. Kalora E. Snyder, Senior Energy Accountant  
Ms. Judy K. Atwood, Office Manager  
Ms. Brenda Haymore, Administrative Assistant IV  
Ms. Gina Goodman, Administrative Assistant II  
Ms. Carla Miguel, Administrative Assistant II  
Ms. Sandra Fairchild, Consultant to Colorado River Commission of Nevada

**SPECIAL COUNSEL, ATTORNEY GENERAL**

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

**OTHERS PRESENT; REPRESENTING**

Mr. Paul Stuhff, Office of the Attorney General, Bureau of Consumer Protection  
Mr. Gary Brodt  
Mr. Sandor Duran, Office of the Military  
Eric Witkoski, Office of the Attorney General, Bureau of Consumer Protection  
Suzette Wheeler, City of Henderson  
Scott Krantz, Southern Nevada Water Authority  
Mendis Cooper, Overton Power District  
Douglas Brooks, NV Energy  
Vinny Spotleson, Senator Reid's Office  
Jordon Bunker, Southern Nevada Water Authority  
David Chairez, Office of the Attorney General, Bureau of Consumer Protection

The Colorado River Commission meeting was called to order by Chairman Ogilvie at 1:02 p.m. followed by the pledge of allegiance. Chairman Ogilvie asked for a moment of silence in observance of two police officers and an innocent bystander who were killed in Las Vegas this past week.

Chairman Ogilvie asked Ms. Harkins if the meeting was in conformance with the Open Meeting Law.

Ms. Harkins affirmed that the meeting had been noticed and posted in conformance with Nevada's Open Meeting Law.

Chairman Ogilvie stated that Item D on the June 10, 2014 agenda was a public hearing on proposed regulations of the Colorado River Commission of Nevada contained in Nevada Administrative Code (NAC) Chapter 538. He informed meeting attendees that the general public would have an opportunity to comment on the proposed regulations and invited members of the public who would like to speak during the hearing to sign the attendance sheet and speaker list at the back of the room.

Chairman Ogilvie asked Ms. Harkins to introduce Item D.



Ms. Harkins stated that Agenda Item D is the public hearing on proposed regulations of the Colorado River Commission of Nevada contained in NAC Chapter 538, Legislative Counsel Bureau (LCB) File No. R148-13. Ms. Harkins recommended the Commission conduct a hearing on the proposed regulations in conformance with the provisions for adoption or amendment of administrative regulations in Nevada's Administrative Procedures Act, Nevada Revised Statute 233B and Nevada's Open Meeting Law contained in NRS 241.

Chairman Ogilvie opened the public hearing at about 1:15 p.m. Chairman Ogilvie stated that the purpose of the hearing was to receive comments on the proposed regulations of the Colorado River Commission of Nevada contained in NAC 538. He asked Ms. Harkins to confirm that the notice and intent to act upon regulation had been noticed and posted in conformance with the appropriate Nevada law.

Ms. Harkins confirmed that the notice of hearing for the adoption, amendment, and repeal of permanent regulations of the Colorado River Commission of Nevada contained in NAC Chapter 538, LCB File No. R148-13 had been posted in accordance with NRS 233B.060, that the public hearing agenda had been posted in accordance with Nevada's Open Meeting Law and NRS 233B.061(5), and that the public hearing was being conducted in accordance with NRS 233B and the Open Meeting Law.

Chairman Ogilvie asked Ms. Harkins to explain the substance of the proposed adoption, amendment, and repeal of the regulations.

Ms. Harkins stated that there were numerous changes that were being proposed and they fell under five broad headings including: rules of practice and procedure before the Commission; how documents are to be received by the Commission; maintaining service lists; and how the Commission may appoint one or more presiding officers to conduct hearings. She stated that another broad category of the proposed regulations addressed the allocation of Schedule D power from the Boulder Canyon Project Act. These amendments address requirements of the Hoover Power Allocation Act of 2011 and Assembly Bill 199 from the last legislative session.

Ms. Harkins stated further that these regulations include amendments to various provisions governing the marketing of electric power by the Commission including: defining Schedule A and Schedule C power; describing the steps the Commission will take to reallocate power; describing how the Commission will offer new Hoover power contracts to existing Schedule A and B contractors, and describing the Post 2017 contract provisions for Schedule A, B, and D contractors; and provisions describing the eligibility of contractors and explaining how the power will be marketed within the seasons set by the Western Area Power Administration. The last broad category of other matters addressed, include metering and risk management procedures. Ms. Harkins stated that these regulations would require the Commission's end-

user retail contractors to provide the Commission with metered data for billing, require Contractors to use meter equipment that meets the standards approved by the Executive Director, require the Contractors to provide physical access to metering equipment to Commission staff, including access to Commission staff to physically disconnect power. The proposed regulations also reduce the notification period from six months to 90 days for the Commission to provide notice of a change in administrative charge, and provide the Commission the ability to review the creditworthiness of all contractors, and in the future to implement prepayments of its bills to all contractors and/or to establish a cash working capital fund.

Ms. Harkins added that the proposed regulations also provide the ability to reallocate hydropower on a short-term basis in the event a contractor's allocation of hydropower has been suspended. Lastly, there are two sections being repealed.

Chairman Ogilvie said that he understood Staff held a workshop on April 21st of this year and asked Ms. Harkins to provide the Commissioners with a report of the comments submitted at that workshop.

Ms. Harkins stated that Staff had received oral comments at the workshop and written comments from eight entities. They included Nevada Power Company, Southern Nevada Water Authority, the State of Nevada Office of the Attorney General Bureau of Consumer Protection, Basic Power Company, City of Henderson, City of Mesquite, Olin Corporation, and Valley Electric Association. Ms. Harkins said that there were specific comments related to Schedule A and B as it has been allocated to Nevada Power Company, and whether Schedule A should also go to residential customers, or if the benefit of Schedule A power should continue to go to all customers and the benefit of Schedule B power go to residential customers as is done currently now. Ms. Harkins added that Staff received numerous other comments, many of which were incorporated into the proposed regulations. Staff provided responses to the comments made, in the form of a Comment and Response matrix, including whether or not changes would be incorporated in the proposed regulations.

Ms. Harkins further stated that Staff was offering two other amendments to what was included in the notice of hearing document. Those changes are to Section 32(4), for which Staff recommends going back to original regulation. Specifically, Staff recommends an additional change that Nevada Power Company shall pass through to its residential class of rate payer, only the economic benefits of power from Schedule B. And then in Section 34(5), one of the Commission's customers requested that the text "or their agents" be inserted in that section to read that each contractor or their agents that obtains all its electric power from the



Commission must provide the Commission the ability to physically disconnect the contractor's power for failure to pay a power invoice from the Commission in a timely manner without adversely impacting the delivery of power to other contractors. It is Staff's recommendation that "or their agents" be inserted in Section 34(5).

Chairman Ogilvie requested clarification with respect to the change proposed to Section 32(4). He noted that the proposed amendment to the regulation that was originally received by the Commissioners included a pass through of the benefit of Schedule A to residential customers of Nevada Power, as well as a pass through of the benefit of Schedule B. Chairman Ogilvie asked if the proposed change would essentially leave that section of the regulation the same, so that only the Schedule B benefit would be passed through, and there would be no pass through of the Schedule A benefit.

Ms. Harkins affirmed that was correct.

Chairman Ogilvie asked if Staff had received any further comments, oral or verbal, by anyone.

Ms. Harkins stated that Staff had not received any other written comments.

Chairman Ogilvie asked if the Commissioners had questions regarding the comments or needed clarification of comments.

Commissioner Gibson asked Ms. Harkins to explain the rationale behind allowing the economic benefit pass through just for Schedule B in 32(4).

Ms. Harkins explained that the pass through of Schedule B to residential customers has been in place for approximately 27 years. When this pass through began, the rationale for providing the benefit to residential customers was that the Hoover power would be used primarily for load following, that residential customers caused that load following, and that therefore, residential customers should get the benefit of Schedule B.

Ms. Harkins added that Staff received data from Nevada Power which was checked with staff of the Public Utilities Commission of Nevada (PUCN) and provided to the Commissioners in a White Paper on Schedule A and B. Ms. Harkins explained that Staff looked at 2013 residential customer data, and based on the Schedule B benefit, on average a residential customer received a Schedule B benefit of approximately \$4.30 per year. Ms. Harkins further stated that residential customers also receive a benefit from Schedule A, when the PUCN currently calculates the benefits to all customers.

Ms. Harkins also stated that nonresidential customers paid an average of about \$27.00 more per year than they would have if the Schedule B benefit was not limited to the residential customers, and that the rationale at the time was to benefit the residential customers. Ms. Harkins added that Staff was not recommending a change, but recommending that the regulation be kept substantially the same as it is currently.

Chairman Ogilvie asked Ms. Harkins to confirm that if Schedule A was included in the pass through with Schedule B for 2013, Nevada Power's residential customers would have realized approximately \$3.50, maybe \$4.00 more in savings on an annual basis, and that the nonresidential customers, commercial customers, would end up paying higher energy costs of approximately \$22.50 or \$23.00 on an annual basis.

Ms. Harkins agreed that was correct.

Chairman Ogilvie asked if the Commissioners had any other questions. There were none.

Chairman Ogilvie then asked if there were any members of the general public who would like to provide oral comments. There were none.

Ms. Harkins noted that Staff received comments from the Bureau of Consumer Protection which are included in the Commissioner's Briefing Book; however no comments were received from the PUCN even though Staff had spoken with PUCN staff and verified numbers with them.

Chairman Ogilvie asked if there were any further comments.

Vice Chairman Miller asked Ms. Harkins to clarify comments made regarding the exit fees and whether or not Nevada Power would impose exit fees, and if exit fees would be applied to those who had previously paid exit fees or to other Schedule D new allottees.

Ms. Harkins said that Nevada Power had concerns regarding Section 16(2) (e) and (f) as to how the tariff would be implemented. Ms. Harkins explained that Staff has had discussions with Nevada Power and is coming to an agreement as to what that would look like. Ms. Harkins further stated that 16(2)(f) provides that current CRC customers, such as the Southern Nevada Water Authority and its member agencies who have exited and paid an exit fee already, would not have to pay any further exit fees, if they would get a Schedule D allocation, because they have already exited and paid their fee. The Commission and Nevada Power have come to an agreement on the language in the proposed regulations.

Vice Chairman Miller asked that if any other entity that receives an allocation of Schedule D would be required under the Nevada Revised Statute to pay exit fees.

Ms. Harkins said that Staff has been working with Nevada Power on how to implement the tariff and believes there is an understanding that those entities who receive Schedule D allocations would not have to pay an exit fee because those entities will not be exiting Nevada Power's services. Ms. Harkins further stated that there will be two different tariffs in place, one for those who will exit completely and one for those who do not.

Commissioner Coffin read into the record one paragraph from comments provided by the Bureau of Consumer Protection of the Attorney General's office. "The Bureau of Consumer Protection (BCP) appreciates the opportunity to file comments on the proposed regulations. Specifically, for the reasons detailed below, BCP is supportive of the CRC's proposed amendment to Section 32, Paragraph 4, of NAC 538.540, to pass through the full benefits and costs of power from both Schedule A and Schedule B to Nevada Power Company's residential customers. Further, the BCP would note, there is no statutory or regulatory ratemaking prohibition that would keep the CRC from adopting a regulation that would fully allocate Schedule A to the residential class of NPC. Such an approach is consistent with what was done in 1987 with Schedule B and it causes the benefit of Schedule A to have a positive impact on the approximately 750,000 residential customers of Nevada Power Company." Commissioner Coffin stated that BCP's introductory comment is the most important and indicates support for this.

Chairman Ogilvie asked if there were other questions or comments. There were none. He closed the hearing and moved to the next agenda item which was the consideration of and possible action on the proposed regulations.

Ms. Harkins explained that Agenda Item E was consideration of and possible action to adopt new, amended, and repeal of permanent regulations of the Commission contained in NAC, Chapter 538, Legislative Counsel Bureau File No. R148-13, with the proposed revisions. Ms. Harkins recommended the Commission, following the conclusion of the hearing conducted under Agenda Item D, approve the adoption of the new, amended, and repealed permanent regulations of the Commission contained in NAC, Chapter 538, Legislative Counsel Bureau File No. R148-13, with the proposed revisions attached to the briefing document.

Chairman Ogilvie asked for a motion to adopt.

Ms. Ann Pongracz asked that the Commission consider voting on the two amendments to the regulations first.

Commissioner Coffin moved for an approval to incorporate the amendments set forth under Agenda Item E into the proposed regulations. The motion was seconded by Commissioner Gibson and approved by unanimous vote.

Commissioner Coffin moved for the adoption of the proposed regulations outlined in the public hearing.

Commissioner Sisolak asked for clarification that the motion is for the regulation as amended.

Chairman Ogilvie affirmed it was.

The motion was seconded by Vice Chairman Miller and approved by unanimous vote.

Chairman Ogilvie thanked the Staff for their work on the proposed regulations.

Ms. Harkins thanked the Chairman and stated on the record that she thanked LCB staff Brian Fernley Gonzales and Ms. Debra Corp of the Carson City office for their assistance with the proposed regulations.

The proceedings were concluded at 1:29 p.m.

Attachment 4

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BRIAN SANDOVAL, *Governor*GEORGE F. OGILVIE III, *Chairman*BERLYN D. MILLER, *Vice Chairman*JAYNE HARKINS, P.E., *Executive Director*

STATE OF NEVADA

BOB COFFIN, *Commissioner*J. BRIN GIBSON, *Commissioner*DUNCAN R. MCCOY, *Commissioner*PUOY K. PREMSRIRUT, *Commissioner*STEVE SISOLAK, *Commissioner***COLORADO RIVER COMMISSION  
OF NEVADA****STATEMENT ON METHODOLOGY TO DETERMINE  
SMALL BUSINESS NON-IMPACT****Proposed Regulation of the Colorado River Commission of Nevada  
LCB No. R148-13**

Pursuant to NRS 233B.0608(3), the methods used by the agency in determining the impact of these proposed revisions to NAC 538 include the following: Commission staff reviewed the draft revisions, applicable state and federal laws, and the Commission's power contracts that will be impacted by approval of the proposed revisions, to determine whether the proposed revisions would impact a small business. This research has determined that these regulations will not impact small business because participation is voluntary, any entity that meets the requirements may apply, the proposed regulations implement provisions of the Hoover Power Allocation Act of 2011 and Assembly Bill 199, and the proposed regulations do not impose a fee or other charge in the application process.

I certify to the best of my knowledge or belief that a concerted effort has been made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement of non-impact is accurate.

Dated this 2<sup>nd</sup> day of April 2014.

A handwritten signature in blue ink that reads "Jayne Harkins".

Jayne Harkins, P.E.  
Executive Director





**COLORADO RIVER COMMISSION**  
OF NEVADA

**STATEMENT REGARDING SMALL BUSINESS IMPACT (NRS 233B.0608)**

**Proposed Regulation of the Colorado River Commission of Nevada**

**LCB File No. R148-13**

**Implementing the federal Hoover Power Allocation Act of 2011 and A.B. 199 enacted in the 2013 Nevada legislative session, and providing for other administrative updates**

Pursuant to NRS 233B.0608 (1), the staff of the Colorado River Commission of Nevada ("Commission") has made a concerted effort to determine whether the proposed regulations are likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business, and has concluded that neither of these conditions will result from adoption of the proposed regulations, for the reasons set forth below.

The Commission has received power from the Boulder Canyon Project (Hoover Dam) since 1937 through contracts with the federal government, and has been involved in the marketing and allocation of Hoover power through the initial process in 1937 and again in 1987. The proposed regulations are necessary for the Commission to implement the provisions of the Hoover Power Allocation Act of 2011 (HPAA) and Nevada's A.B. 199. These laws instruct the Commission to allocate electrical power from Hoover Dam and execute power contracts for delivery of power beginning on October 1, 2017. The proposed regulations also update other administrative provisions of NAC 538. Implementation of these laws through the Commission's regulations imposes no direct impact on small businesses, and does not restrict the formation, operation or expansion of small businesses.

The proposed regulations in part:

- Revise provisions governing practice and procedures before the Commission that pertain to how hearings, public processes and in particular the hydropower marketing and allocation process, will be conducted and how to participate;
- Revise provisions regarding the marketing and allocation of power to current contractors;
- Adopts provisions governing the marketing and allocation of certain power from Hoover Dam to new allottees;

- Revise various provisions governing electric power contracting by the Commission, and other matters addressed in NAC 538; and
- Revise current risk management procedures and adopt additional risk management procedures.

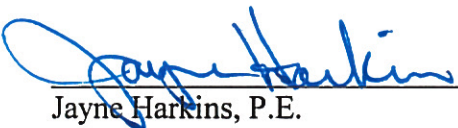
The Commission procedures are the same for any entity involved in a current contract with the Commission or applying for a new allocation, regardless of whether it is a small business, a municipality, a political subdivision or whether a current customer, or potential customer. Members of the general public are encouraged to participate in Commission meetings, workshops and public hearings as allowed under Nevada Open Meeting Law. There is no expected burden to any entity regarding practice and procedures. Participation in obtaining power from Hoover Dam through the Commission is voluntary. In the past, the Commission has not imposed fees or other charges on applications for an allocation of Hoover Dam power, nor do these proposed regulations propose to implement such fees or charges to any applicant. Once new Hoover power allocations are offered, the applicant has a right to refuse the allocation with no cost or penalty. If the offer is accepted, then the applicant voluntarily enters into power supply contracts with the Commission for Hoover power.

The Commission has determined that these regulations have no impact to small businesses because:

- (1) Participation is voluntary;
- (2) Any entity that meets the requirements may apply;
- (3) The proposed regulations implement provisions of the HPAA and A.B. 199; and
- (4) The proposed regulations do not impose a fee or other charge in the application process.

I, Jayne Harkins, Executive Director of the Commission certify that to the best of my knowledge or belief, the information contained in the statement was prepared properly and is accurate.

Dated this 2<sup>nd</sup> day of April 2014.

  
\_\_\_\_\_  
Jayne Harkins, P.E.  
Executive Director



SECRETARY OF STATE  
FILING DATA

**Form For Filing  
Administrative Regulations**

**Agency: Colorado River Commission  
of Nevada**

FOR EMERGENCY  
REGULATIONS ONLY

**Effective date** \_\_\_\_\_

**Expiration date** \_\_\_\_\_

\_\_\_\_\_  
**Governor's signature**

**Classification:**     **ADOPTED BY AGENCY**

**Brief description of action:** The proposed changes to the Commission's regulations are needed to implement the provisions of the Hoover Power Allocation Act of 2011 (43 USC Sec. 619a), and Assembly Bill 199 adopted in the 2013 session of the Nevada legislature (NRS 704.787), and to update other provisions of Nevada Administrative Code (NAC) 538.

The additional proposed regulatory changes in part:

- Revise provisions governing practice and procedure before the Commission that pertain to how hearings, public processes and in particular the hydropower marketing and allocation process, will be conducted and how to participate;
- Revise provisions regarding the marketing and allocation of power to current contractors;
- Adopt provisions governing the marketing and allocation of certain power from Hoover Dam to new allottees;
- Revise various provisions governing electric power contracting by the Commission and other matters addressed in NAC 538; and,
- Revise current risk management procedures and adopt additional risk management procedures.

**Authority citation other than 233B:** NRS Chapter 538, NRS 704.787

**Notice date:** May 8, 2014

**Date of Adoption by Agency:** June 10, 2014

**Hearing date:** June 10, 2014

### **NOTICE OF ADOPTION OF REGULATION**

The Colorado River Commission of Nevada adopted regulations assigned LCB File No. R148-13 which pertain to chapter 538 of the Nevada Administrative Code on June 10, 2014. A copy of the regulation as adopted is attached hereto.

**PROPOSED REGULATION OF THE  
COLORADO RIVER COMMISSION OF NEVADA**

**LCB File No. R148-13**

January 16, 2014

**EXPLANATION**

- **LCB: January 16, 2014 Version:** Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted
- **CRC: April 4, 2014 Version:** Matter in *italics* is new material inserted by CRC; matter in brackets ~~[omitted material]~~ is material to be omitted
- **CRC: May 7, 2014 Version:** Matter in *italics* is new material inserted by CRC following the April 21, 2014 Workshop; matter in brackets ~~[omitted material]~~ is material to be omitted following the April 21, 2014 Workshop

**AUTHORITY:** §§1, 2, 4-6, 17 and 19-24, NRS 538.201; §§3, 7-16, 18 and 25-43, NRS 538.181 and 538.201.

A REGULATION relating to the Colorado River Commission of Nevada; revising provisions governing practice and procedure before the Commission; adopting provisions governing the allocation of certain power from the Boulder Canyon Project to new allottees; revising various provisions governing the marketing of electric power by the Commission; and providing other matters properly relating thereto.

**Section 1.** Chapter 538 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 538.010 and section 3 of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *"Schedule D" means the schedule appearing at 43 U.S.C. § 619a(a)(2)(A) which specifies the amount of:*

*1. Contingent capacity of the Hoover power plant; and*

*2. Associated firm energy,*

*↪ allocated in that schedule ~~[to the Commission]~~ for allocation to new allottees.*

**Sec. 4.** *A document is considered officially received by the Commission only if it is:*

*1. Delivered to the Commission's office in Las Vegas in person or by United States mail;*

1           2.   *Presented to the Commission during a hearing;*

2           3.   *Filed electronically through the Commission's website, if an electric filing system is*  
3 *available, and by United States mail; or*

4           4.   *Filed with Commission in any other manner directed by the Executive Director.*

5           Sec. 5.   1.   *The Commission will maintain a service list for each case for which a hearing*  
6 *[may] will be held.*

7           2.   *A person may submit to the Executive Director a written request to be placed on the*  
8 *service list maintained by the Commission pursuant to subsection 1. If a person makes such a request,*  
9 *the Commission will send the person either copies or electronic mail notification of all notices and*  
10 *orders issued by the Commission or a presiding officer in the case to which the service list applies.*

11          3.   *A person placed on the service list maintained by the Commission pursuant to subsection 1*  
12 *is responsible for notifying the Executive Director in writing of any changes in the electronic or physical*  
13 *address contact information for that person.*

14          Sec. 6.   1.   *The Commission may appoint one or more presiding officers to preside over and*  
15 *conduct hearings or other proceedings, or any portion thereof, in any matter pending before the*  
16 *Commission. The Commission, in its discretion, may appoint an employee of the Commission or any*  
17 *other person to serve as a presiding officer.*

18          2.   *If the Commission appoints a presiding officer to preside over and conduct any hearing or*  
19 *proceeding, within 30 days after the close of all evidentiary hearings in the matter, the presiding*  
20 *officer shall file with the Commission a [proposed] draft order that sets forth the findings and*  
21 *conclusions of the presiding officer and the reasons and bases for those findings and conclusions. The*  
22 *[proposed] draft order must be served promptly on each party of record.*

23          3.   *Any party of record may file comments to the [proposed] draft order of a presiding officer.*  
24 *Any such comments must be filed with the Commission within 30 days after the issuance of the*  
25 *[proposed] draft order.*

26          4.   *Upon review of a [proposed] draft order filed with the Commission by a presiding officer*  
27 *and any comments to the proposed draft order filed by a party of record, the Commission may affirm*  
28 *or modify the [decision] draft order, in whole or in part, remand the [proposed] draft order to the*  
29 *presiding officer for further proceedings or take any other just and reasonable action with regard to*  
30 *the [proposed] draft order, including, without limitation, replacing the [proposed] draft order with an*  
31 *order of the Commission.*

1           **Sec. 7. 1. The Commission will develop criteria for the allocation of power designated in**  
2           *Schedule D in accordance with this section.*

3           **2. The Commission's staff must prepare a draft order setting forth proposed criteria for the**  
4           *allocation by the Commission of power designated in Schedule D. To prepare the draft order, the*  
5           *Commission's staff must:*

6           **(a) Conduct a public meeting that complies with the provisions of chapters 241 and 538 of**  
7           *NRS and NAC 538.075 to 538.330, inclusive, and sections 4 to 8, inclusive, of this regulation. In*  
8           *addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.330,*  
9           *inclusive, and sections 4 to 8, inclusive, of this regulation, the notice must:*

10           **(1) Describe the power designated in Schedule D for which allocation criteria is being**  
11           *developed;*

12           **(2) Set forth the proposed criteria to be used by the Commission for the allocation of**  
13           *power designated in Schedule D;*

14           **(3) Include a proposed form for applying for an allocation of power designated in**  
15           *Schedule D;*

16           **(4) State that, at the public meeting, the Commission's staff will accept questions and**  
17           *oral comments from persons attending the meeting; and*

18           **(5) State a deadline for the submission of written comments to the Commission's**  
19           *staff.*

20           **(b) Consider written comments submitted to the Commission's staff on or before the deadline**  
21           *for the submission of written comments and the questions and oral comments presented at the public*  
22           *meeting.*

23           **3. After preparing the draft order described in subsection 2, the Commission's staff must:**

24           **(a) Serve a copy of the draft order on each person who submits:**

25           **(1) Written comments to the Commission's staff on or before the deadline for the**  
26           *submission of written comments or submitted questions or oral comments at the public meeting*  
27           *conducted pursuant to subsection 2.*

28           **(2) A request to the Executive Director to be included on a service list for proceedings**  
29           *related to the development of criteria for the allocation of power designated in Schedule D.*

30           **(b) Post a copy of the draft order on the Commission's Internet website.**

1           4. The Commission will conduct a hearing and issue a decision on the draft order prepared by  
2 the Commission's staff pursuant to subsection 1. The hearing will be conducted, and the Commission's  
3 decision issued, in accordance with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to  
4 538.330, inclusive, and sections 4 to 8, inclusive, of this regulation. In addition to satisfying the  
5 requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.330, inclusive, and sections 4 to  
6 8, inclusive, of this regulation, the notice must include, without limitation, a copy of the draft order  
7 prepared by the Commission's staff pursuant to subsection 2.

8           5. The proceeding described in this section is not a contested case as defined in NRS  
9 233B.032.

10           Sec. 8. 1. The Commission's staff must conduct a public meeting that complies with the  
11 provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.330, inclusive, and sections 4 to 8,  
12 inclusive, of this regulation to discuss the process of allocating power designated in Schedule D and  
13 accept questions and comments concerning that process. In addition to satisfying the requirements of  
14 chapter 241 and 538 of NRS and NAC 538.075 to 538.330, inclusive, and sections 4 to 8, inclusive, of  
15 this regulation, the notice must state:

16           (a) That applications for an allocation of power designated in Schedule D may be submitted  
17 after the public meeting;

18           (b) A deadline for the submission of applications for an allocation of power designated in  
19 Schedule D; and

20           (c) That, at the public meeting, the Commission's staff will accept questions and oral  
21 comments from persons attending the meeting.

22           2. After the public meeting conducted pursuant to subsection 1, a person who wishes to  
23 apply for an allocation of power designated in Schedule D may submit an application to the  
24 Commission's staff. The application must:

25           (a) Be on a form provided by the Commission.

26           (b) Set forth the applicant's full name and mailing address and any facts and exhibits required  
27 by law.

28           (c) Be signed by the applicant.

29           3. The Commission's staff must review ~~an~~ the applications submitted pursuant to  
30 subsection 2 and prepare a draft order containing a recommendation for the Commission's disposition  
31 of the applications. The Commission's staff must provide a copy of the draft order to the applicant. The

1 *applicant must file any comments on the draft order with the Commission within 30 days after the*  
2 *Commission's staff issues the draft order.*

3 *4. The Commission will conduct a hearing and issue a decision on the draft order prepared by*  
4 *the Commission's staff pursuant to subsection 3. The hearing will be conducted, and the Commission's*  
5 *decision issued, in accordance with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to*  
6 *538.330, inclusive, and sections 4 to 8, inclusive, of this regulation. In addition to satisfying the*  
7 *requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.330, inclusive, and sections 4 to*  
8 *8, inclusive, of this regulation, the notice must include, without limitation, a copy of the draft order*  
9 *prepared by the Commission's staff pursuant to subsection 3.*

10 *5. After the issuance of the Commission's decision on the draft order prepared by the*  
11 *Commission's staff pursuant to subsection 3, the Commission's staff must advertise the notice required*  
12 *by subsection 4 of NRS 538.181. If the Commission receives an objection to its decision on the*  
13 *application within 10 days after the date of the last publication of the notice required by subsection 4*  
14 *of NRS 538.181, the Commission will conduct a hearing on the objection not later than 30 days after*  
15 *the date of the last publication of the notice.*

16 *6. Except for a hearing conducted pursuant to subsection 5, the proceeding described in this*  
17 *section is not a contested case as defined in NRS 233B.032.*

18 *7. In the event that an applicant offered an allocation of Schedule D power from the*  
19 *Commission fails to enter into a contract with the Commission within 90 days, the Commission will*  
20 *reallocate the amount of power offered to that applicant to other applicant(s) at the Commission's*  
21 *discretion.*

22 *Sec. 9. "Schedule A" means the schedule appearing at 43 U.S.C. § 619a(a)(1)(A) which*  
23 *specifies the amount of:*

24 *1. Contingent capacity of the Hoover power plant; and*

25 *2. Associated firm energy,*

26 *↪ allocated [to the Commission] in that schedule.*

27 *Sec. 10. "Schedule C" means the schedule appearing at 43 U.S.C § 619a(a)(1)(C) which*  
28 *specifies the priority of entitlement of the States of Arizona, California and Nevada to excess energy*  
29 *generated at the Hoover power plant.*

30 *Sec. 11. The Commission will allocate power designated in Schedule D in accordance with*  
31 ~~*[the criteria developed pursuant to section 7 of this regulation and the provisions of section 8 of this*~~

1 ~~regulation in addition to the remaining provisions of NAC 538,~~ *this chapter and to achieve the greatest*  
2 *possible benefit to this state.*

3 **Sec. 12.** *An applicant that is an electric utility and is seeking to contract with the*  
4 *Commission for the delivery of power from the Boulder Canyon Project designated in Schedule D*  
5 *commencing on or after October 1, 2017, must supply information as requested by the Commission*  
6 *and must demonstrate that, on or before the date determined by the Executive Director, the applicant:*

7 *1. Is an entity to which the Commission is authorized by law to sell electricity or provide*  
8 *transmission service or distribution service, or both;*

9 *2. Is able to receive energy from one or more of the points of delivery authorized by the*  
10 *Commission* [~~including, without limitation, Amargosa substation, Basic substation, Boulder City~~  
11 ~~switchyard, Boulder City tap, Clark tie, Eastside substation, Mead substation or Newport substation~~];

12 *3. Is able to maintain a ratio between “real power” in kilowatts and “apparent power” in*  
13 *kilovoltamperes (“power factor”) within at least 95 percent, if called upon to do so, or is able to*  
14 *receive power over the facilities of a utility that is able to maintain that ratio;*

15 *4. Meets the requirements for any program for integrated resource planning or a similar*  
16 *program, however designated, set forth as a condition to the purchase of power by federal or state*  
17 *law;*

18 *5. Has an annual peak load of at least 1 megawatt;*

19 *6. ~~Has load~~ [~~is~~] located within Western’s ~~defined~~ marketing area in this State for [~~power~~*  
20 ~~from~~] *the Boulder Canyon Project; and*

21 *7. Complies with any other requirements imposed by the Commission.*

22 **Sec. 13.** *An applicant that is not an electric utility and is seeking to contract with the*  
23 *Commission for the delivery of power from the Boulder Canyon Project designated in Schedule D*  
24 *commencing on or after October 1, 2017, must supply information as requested by the Commission*  
25 *and must demonstrate that, on or before the date determined by the Executive Director, the applicant:*

26 *1. Is an entity to which the Commission is authorized by law to sell electricity or provide*  
27 *transmission service or distribution service, or both;*

28 *2. Is able to receive energy from one or more of the points of delivery authorized by the*  
29 *Commission* [~~including, without limitation, Amargosa substation, Basic substation, Boulder City~~  
30 ~~switchyard, Boulder City tap, Clark tie, Eastside substation, Mead substation or Newport substation~~];



1           3. Will receive power from the Commission over the facilities of an electric utility that is able  
2 to maintain a ratio between “real power” in kilowatts and “apparent power” in kilovoltamperes  
3 (“power factor”) within at least 95 percent, if called upon to do so, or is able to receive power over the  
4 facilities of a utility that is able to maintain that ratio;

5           4. Will receive power from the Commission over the facilities of an electric utility that meets  
6 the requirements for any program for integrated resource planning or a similar program, however  
7 designated, set forth as a condition to the purchase of power by federal or state law;

8           5. Has an annual peak load of at least 1 megawatt;

9           6. Has load [15] located within Western’s defined marketing area in this State for [power  
10 from] the Boulder Canyon Project; and

11          7. Complies with any other requirements imposed by the Commission.

12          Sec. 14. 1. The Commission will reallocate power that becomes available for reallocation  
13 pursuant to NAC 538.440 and NAC 538.450 in accordance with the provisions of this section and to  
14 achieve the greatest possible benefit to this State.

15          2. As soon as practicable after power becomes available for reallocation by the Commission  
16 pursuant to NAC 538.440 and NAC 538.450, the Commission’s staff must notify the public of the  
17 availability of the power. The notice must:

18           (a) Describe the power to be allocated;

19           (b) Set forth the proposed criteria to be used by the Commission for the allocation of the  
20 power;

21           (c) Include a proposed form for applying for an allocation of the power; and

22           (d) Set forth the dates during which applications may be submitted.

23          3. A person who wishes to apply for an allocation of power from the Commission pursuant to  
24 this section must submit an application to the Commission’s staff. The application must:

25           (a) Be on a form provided by the Commission.

26           (b) Set forth the applicant’s full name and mailing address and any facts and exhibits required  
27 by law.

28           (c) Be signed by the applicant.

1           4. The Commission's staff must review ~~[an]~~ the applications submitted pursuant to  
2 subsection 3 and prepare a draft order containing a recommendation for the Commission's disposition  
3 of the applications. The Commission's staff must provide a copy of the draft order to the applicants.  
4 The applicant must file any comments on the draft order with the Commission within 30 days after the  
5 Commission's staff issues the draft order.

6           5. The Commission will conduct a hearing and issue a decision on the draft order prepared by  
7 the Commission's staff pursuant to subsection 4. The notice of the hearing must include, without  
8 limitation, a copy of the draft order prepared by the Commission's staff pursuant to subsection 4.

9           6. After the issuance of the Commission's decision on a draft order prepared by the  
10 Commission's staff pursuant to subsection 4, the Commission's staff must advertise the notice required  
11 by subsection 4 of NRS 538.181. If the Commission receives an objection to its decision on the  
12 application within 10 days after the date of the last publication of the notice required by subsection 4  
13 of NRS 538.181, the Commission will conduct a hearing on the objection not later than 30 days after  
14 the date of the last publication of the notice.

15           7. Except for a hearing conducted pursuant to subsection 6, the proceedings described in this  
16 section is not a contested case as defined in NRS 233B.032.

17           8. In the event that an applicant offered an allocation of power from the Commission fails to  
18 enter into a contract with the Commission pursuant to NAC 538.450, the Commission will reallocate  
19 the amount of power offered to that applicant to other applicant(s) at the Commission's discretion.

20           Sec. 15. ~~[Upon]~~ Prior to the expiration of a contract for the delivery of long-term power from  
21 the Boulder Canyon Project designated in Schedule A or Schedule B pursuant to subsection 1 of NAC  
22 538.500, the Commission will offer the Contractor a new contract ~~[for the delivery of 95 percent of its~~  
23 ~~existing allocation of power designated in Schedule A or Schedule B]~~ for the period commencing on  
24 October 1, 2017, and ending on September 30, 2067.

25           Sec. 16. 1. A contract for the delivery of power from the Boulder Canyon Project  
26 designated in Schedule A or Schedule B commencing on or after October 1, 2017, must include ~~[a]~~  
27 provisions requiring the Contractor to ~~[pay]~~:

28           (a) Pay a proportionate share of this State's contribution to the cost of the Lower Colorado  
29 River Multi-Species Conservation Program, as defined in section 9401 of the Omnibus  
30 Public Land Management Act of 2009, Public Law 111-11~~[-]~~; and

31           (b) Pay applicable tariff rates and charges pursuant to NRS 704.787(4)(a) if the Contractor  
32 obtains electric distribution services from an electric utility that primarily serves densely

1 *populated counties, and is a customer of the Commission pursuant to NRS 704.787(1)(a)*  
2 *and (b).*

3 *2. A contract for the delivery of power from the Boulder Canyon Project designated in*  
4 *Schedule D commencing on or after October 1, 2017, must include [a] provisions requiring the new*  
5 *allottee to:*

6 *(a) Pay a proportionate share of this State's contribution to the cost of the Lower Colorado*  
7 *River Multi-Species Conservation Program, as defined in section 9401 of the Omnibus Public Land*  
8 *Management Act of 2009, Public Law 111-11;*

9 *(b) Participate through the Commission in the Boulder Canyon Project Implementation*  
10 *Agreement;*

11 *(c) Pay a pro rata share of Hoover Dam repayable advances required to be paid by*  
12 *Contractors who entered into contracts for the delivery of power from the Boulder Canyon Project*  
13 *before October 1, 2017; [and]*

14 *(d) Meet the requirements for any program for integrated resource planning or a similar*  
15 *program, however designated, set forth as a condition to the purchase of power by federal or state*  
16 *law, or receive[s] power from the Commission over the facilities of an electric utility that meets the*  
17 *requirements for such program; and,*

18 ~~*—[(d))(e) Comply with the provisions of [NRS 704.787]*~~

19 *(e) Pay applicable fees, tariff rates and charges pursuant to NRS 704.787 (2), (3), and (4)(b) if*  
20 *the Contractor is located in the service area of an electric utility that primarily serves densely*  
21 *populated counties, is a customer of the Commission pursuant to NRS 704.787 (1)(c), and will receive*  
22 *Schedule D at delivery points that are not [included in] served pursuant to an existing Distribution*  
23 *Only Service agreement[-]; and*

24 *(f) Pay applicable tariff rates and charges pursuant to NRS 704.787 (4)[(b)](a) on its Schedule*  
25 *D allocation if the Contractor is located in the service area of an electric utility that primarily serves*  
26 *densely populated counties, is a customer of the Commission pursuant to NRS 704.787 (1)(b), and will*  
27 *receive Schedule D at delivery points that are [already included in] served pursuant to an existing*  
28 *Distribution Only Service agreement[-], provided that the Contractor has not previously paid such*  
29 *rates and charges.*

30 **Sec. 17.** NAC 538.010 is hereby amended to read as follows:

31 538.010 ~~*[As used in this chapter, unless the context otherwise requires,]*~~ "Commission" means  
32 the Colorado River Commission of Nevada.

1           **Sec. 18.** NAC 538.075 is hereby amended to read as follows:

2           538.075   **1.** The provisions of NAC 538.075 to 538.330, inclusive, *and sections 4 to 8,*  
3 *inclusive, of this regulation* govern all practice and procedure before the Commission.

4           **2.** *The provisions of NAC 538.075 to 538.330, inclusive, and sections 4 to 8, inclusive, of this*  
5 *regulation apply to the allocation by the Commission of power designated in Schedule D for delivery*  
6 *commencing on or after October 1, 2017.*

7           **3.** *To the extent that any action before the Commission is not covered by the provisions of*  
8 *NAC 538.075 to 538.330, inclusive, and sections 4 to 8, inclusive, of this regulation the Executive*  
9 *Director may determine the proceedings to apply to the action, including, without limitation, the use*  
10 *of workshops for rulemaking.*

11           **Sec. XX. NAC 538.180 is hereby amended to read as follows:**

12           **538.180 1.** Upon the initiative of any interested person, ~~[or of the Executive Director]~~ a  
13 complaint may be made alleging one or more causes of action based on ~~[chapter]~~ **NRS 538.181(4) and**  
14 **NRS 538.221.** Facts constituting acts or omissions must be stated with such particularity as to enable  
15 the respondent to prepare a defense to the Complaint.

16           1. All applicable statutes, regulations and orders of the Commission must be cited, together with  
17 the dates on which the acts or omissions occurred.

18           2. If more than one cause of action is alleged, each cause of action must be stated and  
19 numbered separately.

20           3. Two or more Complainants may join in one Complaint if their respective causes of action are  
21 against the same person and deal with substantially the same violation of a statute, regulation or order  
22 of the Commission.

23           4. Every Complaint must be in writing, signed and verified by the person making it, and filed  
24 with the Commission.

25           5. A Complaint will be set for hearing at the earliest convenience of the Commission unless the  
26 Commission receives notice of satisfaction of the Complaint.

27           **Sec. 19.** NAC 538.200 is hereby amended to read as follows:

28           538.200 The *Chair of the Commission, the* Executive Director *or the presiding officer* may,  
29 upon written notice to all parties of record, hold a prehearing conference to:

30           1. Formulate or simplify the issues;

31           2. Obtain admissions of fact and documents in order to avoid unnecessary proof;

32           3. Arrange for the exchange of proposed exhibits or prepared expert testimony;

1           4. ~~[Limit]~~ *Identify and limit* the number of witnesses, *specify the subject matter of witnesses'*  
2 *testimony* and consolidate the examination of witnesses;

3           5. Establish a procedure for the hearing; and

4           6. Consider any other matters which may promote orderly conduct and expedite the  
5 disposition of the proceedings or achieve a settlement.

6           **Sec. 20.** NAC 538.210 is hereby amended to read as follows:

7           538.210 1. Hearings will be held before the Commission or its designated presiding officer.  
8 ~~[A presiding officer may be a member of the Commission or a representative designated by the~~  
9 ~~Commission to conduct a hearing.]~~

10          2. Notice of a hearing will be served at least 20 days before the time set for the hearing.

11          3. A hearing which has previously been continued may be reset on notice of not less than 10  
12 days.

13          4. Hearings will be held at the time and place designated by the notice.

14          **Sec. 21.** NAC 538.290 is hereby amended to read as follows:

15          538.290 1. The Commission's order or decision will be rendered within ~~[90]~~ *180* days after  
16 the completion of its hearing.

17          2. A proceeding stands submitted for decision by the Commission after the taking of evidence,  
18 the filing of briefs and the presentation of any oral argument permitted by the Commission.

19          **Sec. 22.** NAC 538.300 is hereby amended to read as follows:

20          538.300 1. Within 20 days after the Commission renders a decision or order ~~[H]~~ *following a*  
21 *hearing*, the aggrieved party may apply for a rehearing, setting forth the grounds for the petition.

22          2. The Commission will act upon such a petition within 30 days after the effective date of the  
23 order or decision upon which the rehearing is requested, but if the Commission does not take action on  
24 the petition within that time, the petition shall be deemed denied.

25          3. The Commission or presiding officer on his or her own motion may order a rehearing within  
26 30 days after the rendering of the decision if a mistake, fraud or a misconception of facts led to the  
27 original decision.

1           4. The filing of a petition for a rehearing upon an order or decision does not excuse  
2 compliance with it or suspend its effectiveness unless otherwise ordered by the Commission.

3           **Sec. 23.** NAC 538.320 is hereby amended to read as follows:

4           538.320 1. Any member of the public may petition the Commission for a declaratory order  
5 or an advisory opinion on the applicability of any statutory provision or ~~[any]~~ regulation *within the*  
6 *jurisdiction of the Commission*~~[or any decision of the Executive Director or Commission].~~

7           2. A petition for a declaratory order or an advisory opinion must be in writing.

8           3. The Commission will issue a declaratory order or render an advisory opinion in writing  
9 within 90 days after its receipt of the petition in proper form.

10          **Sec. 24.** NAC 538.330 is hereby amended to read as follows:

11          538.330 1. A petition for the adoption, filing, amendment or repeal of a regulation of the  
12 Commission must be in writing and be delivered to the offices of the Commission.

13          2. *A petition filed pursuant to subsection 1 will not be classified as a petition for the*  
14 *purposes of applying the procedures set forth in NAC 538.075 to 538.330, inclusive, and sections 4 to 8,*  
15 *inclusive, of this regulation.*

16          3. The Commission will send any statement denying such a petition or correspondence  
17 concerning the petition to the petitioner by certified mail.

18          **Sec. 25.** NAC 538.340 is hereby amended to read as follows:

19          538.340 As used in NAC 538.340 to 538.746, inclusive, *and sections 9 to 16, inclusive, of this*  
20 *regulation*, unless the context otherwise requires, the words and terms defined in NAC 538.350 to  
21 538.390, inclusive, *and sections 3, 9 and 10 of this regulation* have the meanings ascribed to them in  
22 those sections.

23          **Sec. 26.** NAC 538.410 is hereby amended to read as follows:

24          538.410 An applicant ~~{for an allocation of power from}~~ *seeking to contract with* the  
25 Commission *for the delivery of power from the Boulder Canyon Project designated in Schedule A,*  
26 *Schedule B or Schedule C commencing before October 1, 2017, or power from the Parker-Davis Project*  
27 *or the Salt Lake City Area Integrated Projects* must supply information as requested by the Commission  
28 and must:

29          1. Be an entity to which the Commission is authorized by law to sell electricity or provide  
30 transmission service or distribution service, or both;

2. Be able to receive energy from one or more of the ~~Commission's~~ points of delivery ~~[ ]~~ **authorized by the Commission** ~~[, including, without limitation, Amargosa substation, Basic substation, Boulder City switchyard, Boulder City tap, Clark tie, Eastside substation, Mead substation or Newport substation];~~

3. Be able to maintain a ratio between "real power" in kilowatts and "apparent power" in kilovoltamperes ("power factor") within at least 95 percent, if called upon to do so;

4. Meet the requirements for a program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by:

(a) Regulations adopted by Western pursuant to 42 U.S.C. § 7276;

(b) Federal statute; or

(c) The Commission; and

5. If the applicant is an electric utility:

(a) Have a ~~[principal]~~ load that:

(1) Has a peak demand of at least 8 megawatts; and

(2) Is located within Western's **defined** marketing area in this State for ~~[power from]~~ the Boulder Canyon Project, Parker-Davis Project or Southern Division of the Salt Lake City Area Integrated Projects; and

(b) Be qualified to receive preference power under the applicable provisions of federal law relating to preference power when applying for electric power from the Parker-Davis Project or Salt Lake City Area Integrated Projects.

**Sec. 27.** NAC 538.420 is hereby amended to read as follows:

538.420 1. Power from the Boulder Canyon Project, ~~the~~ ~~[and]~~ Parker-Davis Project ~~and the~~ **Salt Lake City Area Integrated Projects** will be marketed by the Commission during ~~[two]~~ **the** seasons ~~[as follows:]~~

~~———(a) The summer season for any calendar year is the 7-month period beginning the first day of the Commission's billing period for March and continuing through the last day of its billing period for September.~~



1 ~~\_\_\_\_\_ (b) The winter season for any calendar year is the 5-month period beginning the first day of the~~  
2 ~~Commission's billing period for October and continuing through the last day of its billing period for~~  
3 ~~February in the next succeeding calendar year.] defined by Western.~~

4 ~~[\_\_\_\_\_ 2. Power from the Salt Lake City Area Integrated Projects will be marketed by the Commission~~  
5 ~~during the following seasons:~~

6 ~~\_\_\_\_\_ (a) The summer season for any calendar year is the 6-month period beginning the first day of~~  
7 ~~the Commission's billing period for April and continuing through the last day of its billing period for~~  
8 ~~September.~~

9 ~~\_\_\_\_\_ (b) The winter season for any calendar year is the 6-month period beginning the first day of the~~  
10 ~~Commission's billing period for October and continuing through the last day of its billing period for~~  
11 ~~March of the next succeeding calendar year.]~~

12 **Sec. 28.** NAC 538.440 is hereby amended to read as follows:

13 538.440 If a [e]Contractor loses *or surrenders* its entitlement to power allocated to it by the  
14 Commission pursuant to NAC 538.340 to 538.670, inclusive, *and sections 9 to 16, inclusive, of this*  
15 *regulation*, the Commission will reallocate that power in the manner provided in ~~[those provisions.]~~  
16 *section 14 of this regulation.*

17 **Sec. 29.** NAC 538.450 is hereby amended to read as follows:

18 538.450 **1. Except as otherwise provided in subsection 7 of section 8, [i]**if an entity that has  
19 been offered an allocation of power from the Commission fails, within ~~[a reasonable time as determined~~  
20 ~~by the Commission.]~~ *90 days after being offered the allocation of power*, to enter into a contract with  
21 the Commission in accordance with the terms and conditions set by the Commission, the Commission  
22 will reallocate the amount of power offered to that entity in the manner provided in ~~[NAC 538.340 to~~  
23 ~~538.670, inclusive.]~~ *section 14 of this regulation.*

24 ~~[\_\_\_\_\_ 2. If, for any reason other than the reasons set forth in subsection 1, power from the Boulder~~  
25 ~~Canyon Project which is designated in Schedule D becomes available for allocation by the Commission,~~  
26 ~~the Commission will allocate the amount of power available pursuant to section 11 of this regulation.]~~

27 **Sec. 30.** NAC 538.460 is hereby amended to read as follows:

28 538.460 ~~[1.]~~ Each [e]Contractor must meet the minimum recommendation for reserves set  
29 by the Western ~~[Systems]~~ *Electricity* Coordinating Council ~~[.]~~

30 ~~\_\_\_\_\_ 2. If there is a reduction in capacity from the Hoover power plant, each contractor may supply~~  
31 ~~its own needs for capacity.] unless the Contractor receives power from the Commission over the~~

1 *facilities of a utility that meets the minimum recommendation for reserves set by the Western*  
2 *Electricity Coordinating Council.*

3 **Sec. 31.** NAC 538.500 is hereby amended to read as follows:

4 538.500 1. Contracts for the delivery of long-term power from the Boulder Canyon Project  
5 allocated under NAC 538.340 to 538.740, inclusive, *and sections 9, 10, 14, 15 and 16, inclusive, of this*  
6 *regulation for the period ending on September 30, 2017,* become effective on the day they are  
7 executed and expire on the last day of the billing period for September 2017, unless terminated before  
8 that date by the ~~the~~ Contractor or the Commission in accordance with the terms of the contract.

9 2. *Contracts for the delivery of long-term power from the Boulder Canyon Project allocated*  
10 *under NAC 538.340 to 538.740, inclusive, and sections 9 to 16, inclusive, of this regulation for the*  
11 *period commencing on October 1, 2017*~~[, and ending on September 30, 2067,]~~ *become effective on the*  
12 *day they are executed and expire on the day specified in the contract, unless terminated before that*  
13 *date by the Contractor or the Commission in accordance with the terms of the contract. The*  
14 *Commission will determine the term of each contract for the delivery of power from the Boulder*  
15 *Canyon Project for a term of less than 50 years commencing on or after October 1, 2017.*

16 3. Contracts for the delivery of long-term power from the Parker-Davis Project allocated under  
17 NAC 538.340 to 538.740, inclusive, *and sections 9* ~~[, 10, 14, 15 and]~~ *through 16, inclusive, of this*  
18 *regulation* become effective on the day they are executed and expire on the last day of the billing  
19 period for September 2028, unless terminated before that date by the ~~the~~ Contractor or the Commission  
20 in accordance with the terms of the contract.

21 ~~[3.]~~ 4. Contracts for the delivery of long-term power from the Salt Lake City Area Integrated  
22 Projects allocated under NAC 538.340 to 538.740, inclusive, *and sections 9* ~~[, 10, 14, 15 and]~~ *through 16,*  
23 *inclusive, of this regulation* become effective on the first day of the billing period for October 1989 and  
24 expire on the last day of the billing period for September 2024, unless terminated before that date by  
25 the ~~the~~ Contractor or the Commission in accordance with the terms of the contract.

26 ~~[4.—The]~~

27 5. *Except as otherwise provided in subsection 2, the* term of contracts for short-term power  
28 will be determined by the Executive Director of the Commission for each contract.

29 ~~[5.—The Commission will, upon the expiration of a contract described in subsection 1, offer to~~  
30 ~~the contractor the right to renew the contract. This right is subject to the conditions set forth in~~  
31 ~~subsection 7 of NRS 538.181 and the terms for such renewal provided in the contract.]~~

32 **Sec. 32.** NAC 538.540 is hereby amended to read as follows:

1 538.540 ~~[1.—[No retail] A contractor that [contracts with] purchases power provided by the~~  
2 ~~Commission [for power] [from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area~~  
3 ~~Integrated Projects] for its own use may resell [any of] that power, [-] [with the prior approval of the~~  
4 ~~Commission.]~~

5 ~~[2]1. [No] A [c]Contractor, that is not an electric utility, that purchases power provided by~~  
6 ~~the Commission from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area~~  
7 ~~Integrated Projects may not share, resell, pool, [or] lease or change the point of use of that power~~  
8 ~~without the prior approval of the Commission. The Commission may approve the sharing, reselling,~~  
9 ~~pooling, [or] leasing or changing the point of use of power pursuant to this subsection for a term of~~  
10 ~~not more than 3 years.~~

11 ~~[3]2. An electric utility that contracts with the Commission for power from the [Boulder~~  
12 ~~Canyon Project] Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects:~~

13 ~~(a) Must receive that power at a location in this State which is within Western's defined~~  
14 ~~marketing area for the project.~~

15 ~~(b) [may resell any of that power [outside of] within its service area without with the prior~~  
16 ~~approval of the Commission.]~~

17 ~~(b) May not resell that power outside the State or outside Western's defined marketing area~~  
18 ~~for the project without the prior approval of the Commission.~~

19 ~~(c) May resell that power to serve customers in its service area, within this state and within~~  
20 ~~Western's defined marketing area, without seeking the approval of the Commisison.~~

21 ~~[3.—The Nevada Power Company]~~

22 ~~[4]3. An electric utility that contracts with the Commission for power from the Boulder~~  
23 ~~Canyon Project:~~

24 ~~(a) Must use the full power resource available to them, including energy, capacity, and the~~  
25 ~~dynamic signal and other ancillary services, and pass through to its customers located within~~  
26 ~~Western's defined marketing area, the [full] economic benefits of [that power] the energy, capacity,~~  
27 ~~and dynamic signal and other ancillary services utilized by the customers, except as provided in~~  
28 ~~subsection 4, and shall provide information demonstrating compliance with this requirement upon~~  
29 ~~request of the Commission.~~

30 ~~[(a) Must receive that power at a location in this State within Western's Boulder Canyon Project~~  
31 ~~marketing area.~~

1 ~~—— (b) May resell that power within its service area with the prior approval of the Commission.]~~

2 ~~[5]4. [NV Energy, Inc.] Nevada Power Company~~ shall pass through to its residential class of  
3 ratepayers ~~[located within Western's] [Boulder Canyon Project] [defined marketing area for the~~  
4 ~~Boulder Canyon Project]~~ the ~~[full] [economic] economic~~ benefits of power from ~~[Schedule A and]~~  
5 Schedule B.

6 **Sec. 33.** NAC 538.560 is hereby amended to read as follows:

7 538.560 Except as otherwise provided in this section, if, for 3 consecutive operating years, a  
8 ~~[retail customer] Contractor~~ does not use the full allocation of power made available to it by the  
9 Commission ~~[.] [at its designated delivery point],~~ the Commission, after notifying the ~~[e]Contractor,~~ may  
10 reduce its allocation to that ~~[e]Contractor~~ to the extent of the ~~[e]Contractor's~~ failure to use that full  
11 allocation. A reduction will not be made if the ~~[e]Contractor's~~ failure to use that full allocation is caused  
12 by the implementation of a program for integrated resource planning or a similar program, however  
13 designated, described in NAC 538.530 and approved for the ~~[e]Contractor~~ by Western or the  
14 Commission.

15 **Sec. 34.** NAC 538.570 is hereby amended to read as follows:

16 538.570 1. A ~~[e]Contractor~~ *that is not a utility that purchases power provided by the*  
17 *Commission for its own use* shall provide *the Commission with meter data and other information*  
18 *necessary for the provision and billing of electric service by:*

19 *(a) Using* suitable equipment for metering power ~~[allocated] delivered~~ to it ~~[pursuant to NAC~~  
20 ~~538.340 to 538.740, inclusive, to provide data as required]~~ by the ~~[Executive Director of the]~~  
21 Commission ~~[.]~~

22 ~~—— 2. The equipment for metering must be installed at the contractor's designated points for~~  
23 ~~measuring and must be maintained, tested and repaired as required by the Executive Director of the~~  
24 ~~Commission.] that meets all applicable standards of the electric utility industry; or such other~~  
25 *standards as may be approved by the Executive Director; or*

26 *(b) Obtaining interconnection to the [Commission's] transmission system through an electric*  
27 *distribution provider that has metering which [has entered into an interconnection agreement with the*  
28 *Commission before October 1, 2017, and that] meets all applicable standards of the electric utility*  
29 *industry [and any] or such other standards as may be approved by the Executive Director.*

30 *2. Upon the request of the Commission's staff and at any time specified by the Commission's*  
31 *staff, a Contractor must provide the Commission's staff with such revenue quality meter data as may*  
32 *be required by the Executive Director.*

1           3. Upon the request of the Commission's staff and at any time specified by the Commission's  
2 staff, a Contractor that is not a utility that purchases power provided by the Commission for its own  
3 use must provide the Commission's staff with immediate physical access to the metering equipment  
4 used by the Contractor to measure the Contractor's load for the purposes of inspection and  
5 verification of the accuracy of the metering equipment.

6           ~~[3]~~ 4. The Executive Director of the Commission shall provide for the ~~[full adjustment]~~ just  
7 resolution of claims between the Commission and a ~~[e]~~ Contractor arising from the inaccuracy of a  
8 meter.

9           ~~[4]~~ 5. On or before September 30, 2017, each Contractor or their agent(s) that obtains all of  
10 its electric power from the Commission must provide the Commission with the ability to physically  
11 disconnect the Contractor's power for failure to pay a power invoice from the Commission in a timely  
12 manner, without adversely impacting the delivery of power to other Contractors.

13           **Sec. 35.** NAC 538.590 is hereby amended to read as follows:

14           538.590 1. The capacity and energy available to the ~~[e]~~ Contractors for each month by the  
15 Commission will be shown by an annual report or by exhibits to the contracts for power from the  
16 Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.

17           2. Scheduling and accounting procedures will be established by the Commission to adjust for  
18 any variations between the contractual energy available for delivery and the actual deliveries.

19           3. If requested by the ~~[e]~~ Contractor, the Commission, in preparing the exhibits, will endeavor  
20 to approximate that ~~[e]~~ Contractor's seasonal and monthly pattern of usage of energy. The extent to  
21 which the Commission is able to accommodate these patterns is contingent upon the monthly  
22 availability of energy.

23           4. The Commission will, in the contracts for power from the Boulder Canyon Project, allow for  
24 a reduction in capacity due to loss of head or flow or to outages of generating units or other factors.  
25 Such a reduction will be apportioned by the Commission among the ~~[e]~~ Contractors for capacity from the  
26 Boulder Canyon Project. The Commission will not discriminate between the capacity designated in  
27 Schedule A, ~~[at 43 U.S.C. § 619a(a)(1)(A) and]~~ Schedule B **and Schedule D** in apportioning the shortages.  
28 The pro rata share of any ~~[e]~~ Contractor is the proportion its capacity bears to the total capacity available  
29 under ~~[Schedules]~~ **Schedule A and, Schedule B and Schedule D.**

30           **Sec. 36.** NAC 538.610 is hereby amended to read as follows:

31           538.610 1. The rates or charges payable by a ~~[e]~~ Contractor to the Commission for capacity or  
32 energy from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects

1 and for wheeling energy from the Parker-Davis Project or Salt Lake City Area Integrated Projects must be  
2 Western's effective rates or charges for those resources. These rates or charges, the Commission's  
3 administrative charge and any other costs associated with the contracted resource will be shown by a  
4 periodic report or by exhibits to the contracts for power from these projects. These rates, charges and  
5 costs may vary due to changing conditions. Some rates or charges may be estimated for a portion of an  
6 operating year with an adjustment, for the months the estimate is used, in the month the actual rate or  
7 charge is established.

8 2. At the time the Commission is notified by Western of any change in the rates or charges,  
9 the Commission will notify its ~~the~~ Contractors of the change.

10 3. The administrative charge is based on a projection for 2 years of all costs for the  
11 Commission's operations relating to the ~~the~~ Contractors. Those estimated costs are divided by the total  
12 estimated number of kilowatt-hours of all energy, including both hydroelectric and nonhydroelectric, to  
13 be delivered to ~~the~~ Contractors to arrive at a rate per kilowatt-hour. ~~The~~ **Except as otherwise provided**  
14 **in subsection 4, the** administrative charge may be increased or decreased after the Commission notifies  
15 the ~~the~~ Contractors of the grounds for the increase or decrease ~~and~~ **and the effective date of the increase**  
16 **or decrease, which must be not less than 90 days after the Commission sends the notice of the increase**  
17 **or decrease.**

18 **4. The Commission may utilize the expedited procedure set forth in this subsection to increase**  
19 **or otherwise revise the administrative charge** ~~if actual revenue from the administrative charge is~~  
20 ~~{30} 70 percent or less than the amount of revenue projected {when the amount of the administrative~~  
21 ~~charge was determined, the Commission will review and consider whether to increase the~~  
22 ~~administrative charge}~~ **in accordance with subsection 3. Commission staff may develop a proposed**  
23 **increase or other revision to the charge and notify Contractors in writing of the proposed {increase}**  
24 **change at least 30 days prior to the Commission meeting at which it {the proposed increase} will be**  
25 **considered. This notice shall include a statement of the amount of, and the grounds for, the proposed**  
26 **implementation date, and the date of the Commission meeting at which the Commission will make a**  
27 **determination on the proposed increase or revision. The Commission will accept written comments**  
28 **from Contractors regarding the proposed increase or other revision submitted no later than 15 days**  
29 **prior to the Commission meeting. The Commission will review the administrative charge change**  
30 **{increase} proposed by staff, and any comments submitted by Contractors, and any other relevant**  
31 **information, in its {and consider} determination of whether to increase or otherwise revise the**  
32 **administrative charge.** ~~{Not later than 60 days before the effective date of a proposed increase in the~~  
33 ~~administrative charge as a result of a review conducted pursuant to this subsection, the Commission will~~  
34 ~~notify the contractors of the proposed increase, the effective date of the proposed increase and the~~  
35 ~~grounds for the increase. A contractor may submit to the Commission comments concerning a proposed~~  
36 ~~increase in the administrative charge pursuant to this subsection and, after reviewing the comments and~~

1 ~~any other relevant information, the Commission may increase or otherwise review the administrative~~  
2 ~~charge.}~~

3 **5. As soon as practicable, a Contractor planning, projecting or experiencing a decrease in its**  
4 **load of 30 percent or more for 90, consecutive day or more, in any 12 month period, shall notify the**  
5 **Commission of the decrease in its load.**

6 **Sec. 37.** NAC 538.620 is hereby amended to read as follows:

7 538.620 1. The Commission, in cooperation with the ~~{e}~~ Contractor, will establish scheduling ,  
8 ~~{and}~~ accounting **and delivery** procedures ~~{based upon standard practices of utilities.}~~ **for the receipt of**  
9 **power from the Commission that meet the needs of the Contractor.** These procedures must be set  
10 forth in an agreement approved by the Executive Director of the Commission.

11 2. Deliveries of power from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City  
12 Area Integrated Projects will be scheduled by the Commission in advance in accordance with the  
13 procedures set forth in separate scheduling instructions which will provide for schedules to meet the  
14 needs of day-to-day or hour-by-hour operations. The instructions must include procedures for  
15 determining amounts of power from the Boulder Canyon Project, Parker-Davis Project and Salt Lake City  
16 Area Integrated Projects delivered to the ~~{e}~~ Contractor at each point of delivery and procedures for  
17 delivery of losses. The procedures must also specify the conditions under which actual deliveries, which  
18 are greater or less than scheduled deliveries during the month of a particular season, will be adjusted in  
19 later deliveries in subsequent months of that season.

20 **Sec. 38.** NAC 538.650 is hereby amended to read as follows:

21 538.650 1. The points of delivery and voltages for ~~{the}~~ **Western's defined** marketing area  
22 for the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects are:

Location	Kilovolts
Boulder Canyon Project	
Mead substation	69.0
Mead substation	230.0



Location	Kilovolts
Parker-Davis Project	
Amargosa substation	138.0
Clark tie	230.0
Henderson substation	230.0
Mead substation	230.0

Location	Kilovolts
Salt Lake City Area Integrated Projects	
Amargosa substation	138.0
Boulder City tap	230.0
Clark tie	230.0
Henderson substation	230.0
Mead substation	230.0
Pinnacle Peak/Rogers substation	230.0

1

2

2. Delivery will be made at designated points on Western’s “Parker-Davis Project Southern Nevada Facilities” at rates of delivery not to exceed the available capability of the facilities. The designated points of delivery and Western’s “Parker-Davis Project Southern Nevada Facilities” may be modified as required.

5

6

3. The designation of a point of delivery does not imply any obligation on the Commission’s part to furnish additional facilities or to increase the capabilities of transmission or of the transformer at the designated points. Each [+]Contractor must obtain the permission of the Commission for any modification to existing facilities and alternate or additional points of delivery. Requests for taps on

7

8

9

Western’s “Parker-Davis Project Southern Nevada Facilities” will be considered by the Commission individually.

4. Any cost associated with obtaining points of delivery or voltage at other than those set forth in subsection 1 is the obligation of the ~~the~~ Contractor.

5. Power from the Boulder Canyon Project will be delivered at the Mead substation. If a ~~the~~ Contractor cannot accept delivery of power from the Boulder Canyon Project at the Mead substation, arrangements for transmission service to other points of delivery are the obligation of the ~~the~~ Contractor.

***[6. Notwithstanding the provisions of this section, the Commission may designate any other points of delivery and voltages for points of delivery for the marketing area for the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects.]***

**Sec. 39.** NAC 538.690 is hereby amended to read as follows:

538.690 1. Pool 1 consists of a total of ~~{377,000}~~ **392,239** kilowatts of capacity and ~~{1,057,989,000}~~ **1,032,202,000** kilowatt-hours of energy from the following sources of the Boulder Canyon Project:

Schedule A		Schedule B		<b><i>Schedule D</i></b>	
Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)	<b><i>Capacity (KW)</i></b>	<b><i>Energy (KWH)</i></b>
<del>189,000</del>	<del>645,989,000</del>	<del>188,000</del>	<del>412,000,000</del>	<b>11,510</b>	<b>25,113,000</b>
<b>190,869</b>	<b>613,689,000</b>	<b>189,860</b>	<b>391,400,000</b>		

2. ~~{This resource}~~ ***The resource specified for Schedule A and Schedule B*** is reserved for allocation to the named entities as follows:

#### Hoover Capacity and Energy

Contractors	Schedule A		Schedule B	
	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)

# Hoover Capacity and Energy

Contractors	Schedule A		Schedule B	
	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
<del>American Pacific Corp.</del>	<del>10,625</del>	<del>49,952,389</del>	<del>0</del>	<del>0</del>
<del>Basic Water Co.</del>	<del>4,827</del>	<del>9,738,148</del>	<del>0</del>	<del>0</del>
<del>Boulder City</del>	<del>0</del>	<del>0</del>	<del>8,500</del>	<del>17,870,400</del>
<del>Chemical Lime Co.</del>	<del>382</del>	<del>2,164,033</del>	<del>0</del>	<del>0</del>
<del>Lincoln County Power District No. 1</del>	<del>4,828</del>	<del>20,726,814</del>	<del>21,339</del>	<del>77,521,529</del>
<del>Nevada Power Company</del>	<del>100,232</del>	<del>240,098,311</del>	<del>135,000</del>	<del>283,824,000</del>
<del>Overton Power District No. 5</del>	<del>6,507</del>	<del>27,936,142</del>	<del>13,007</del>	<del>20,946,270</del>
<del>Southern Nevada Water Authority</del>	<del>15,207</del>	<del>75,200,137</del>	<del>0</del>	<del>0</del>
<del>Titanium Metals Corp.</del>	<del>21,397</del>	<del>113,070,710</del>	<del>0</del>	<del>0</del>
<del>Tronox LLC</del>	<del>17,649</del>	<del>75,561,510</del>	<del>0</del>	<del>0</del>
<del>Valley Electric Association</del>	<del>7,346</del>	<del>31,540,806</del>	<del>10,154</del>	<del>11,837,801</del>
<b>Totals</b>	<b>189,000</b>	<b>645,989,000</b>	<b>188,000</b>	<b>412,000,000</b>
<b>American Pacific Corp.</b>	<b>10,730</b>	<b>47,454,729</b>	<b>0</b>	<b>0</b>
<b>Basic Water Co.</b>	<b>4,874</b>	<b>9,251,239</b>	<b>0</b>	<b>0</b>
<b>Boulder City</b>	<b>0</b>	<b>0</b>	<b>8,584</b>	<b>16,976,897</b>
<b>Chemical Lime Co.</b>	<b>386</b>	<b>2,055,858</b>	<b>0</b>	<b>0</b>
<b>Lincoln County Power District No. 1</b>	<b>4,876</b>	<b>19,690,457</b>	<b>21,550</b>	<b>73,645,433</b>

## Hoover Capacity and Energy

Contractors	Schedule A		Schedule B	
	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
<del>[NV Energy, Inc.] Nevada Power Company</del>	101,223	228,093,166	136,336	269,632,798
Overton Power District No. 5	6,571	26,539,288	13,136	19,898,972
Southern Nevada Water Authority	15,357	71,440,089	0	0
Titanium Metals Corp.	21,609	107,417,054	0	0
Tronox LLC	17,824	71,783,386	0	0
Valley Electric Association	7,419	29,963,734	10,254	11,245,900
<b>Totals</b>	<b>190,869</b>	<b>613,689,000</b>	<b>189,860</b>	<b>391,400,000</b>

- 1
- 2       **3. The resource specified for Schedule D is reserved for allocation to new allottees as follows:**
- 3

Contractors	Schedule D	
	Capacity (KW)	Energy (KWH)
<b>New Allotees</b>	<b>11,510</b>	<b>25,113,000</b>

- 4
- 5       **Sec. 40.** NAC 538.744 is hereby amended to read as follows:

538.744 1. *The Commission may require Contractor to pay collateral, make payments to a cash working capital fund or prepay for power pursuant to this section.*

2. During October in each operating year, and at any other time it deems necessary, the Commission will conduct a review to determine the creditworthiness of each of its ~~{e}~~Contractors.~~{}~~ except:

~~—(a) A federal or state agency or political subdivision; and~~

~~—(b) NV Energy, Inc., and any other entity regularly engaged in the business of buying and selling electric power.~~

~~{2}~~ 3. After ~~{a}~~ the creditworthiness review conducted pursuant to subsection 1, the Commission will establish the amount of collateral which a Contractor is required to furnish and prescribe the manner in which the ~~{e}~~Contractor is required to furnish that collateral pursuant to its contracts with the Commission. In no case will the amount of collateral established by the Commission be less than one-fourth of the ~~{e}~~Contractor's gross annual purchases. *The Commission shall not apply such collateral requirements to:*

*(a) A federal or state agency or political subdivision; and*

*(b) The Nevada Power Company, and any other entity regularly engaged in the business of buying and selling electric power.*

~~{3}~~ 4. *In addition to the collateral required under subsection 3 above, the Commission may require ~~{a}~~Contractors to make payments to a cash working capital fund established by the Commission or prepay for power purchased from the Commission in accordance with requirements established by the Commission, or both, as deemed necessary by the Commission to reflect the results of the creditworthiness review, implement sound risk management policies and protect the financial health of the Commission and this State.*

~~{4}~~ 5. If a ~~{e}~~Contractor does not provide and maintain the full amount of the collateral required ~~{}~~ by subsection ~~{2}~~3 or make payments to a cash working capital fund as required by the Commission pursuant to subsection ~~{3}~~4, the Commission may, in addition to its other remedies and in the course of its normal invoicing, bill the ~~{e}~~Contractor for an amount necessary to furnish ~~{a-cash}~~ the required collateral or fund working capital within a period established by the Commission, but not to exceed 6 months.

~~{4.}~~~~{5}~~ 6. Notwithstanding any other provision of NAC 538.340 to 538.746, inclusive, and sections 9 to 16, inclusive, of this regulation, if a Contractor fails to provide and maintain the full amount of required collateral within the period authorized by the Commission, fails to make payments

1 *to a cash working capital fund as required by the Commission or fails to comply in a timely manner*  
2 *with any prepayment requirements established by the Commission pursuant to subsection ~~{3}~~4,* the  
3 Commission may at any time require a ~~{e}~~Contractor to furnish *within 30 days after written demand*  
4 collateral in an amount that is greater than the minimum amount set forth in subsection ~~{2}~~3,  
5 *additional payments to a cash working fund or additional prepayments,* as may be necessary to  
6 protect the State of Nevada from any loss that it might suffer as a result of the ~~{e}~~Contractor's breach of  
7 any covenant or condition of any contract with the Commission. That amount of the collateral which is  
8 greater than the minimum amount set forth in subsection ~~{2}~~3 will be calculated on any rational and  
9 appropriate basis as determined by the Commission.

10 ~~{5-}~~~~{6}~~ 7. As used in this section:

11 (a) "Date of review" means the date in any operating year on which the Commission establishes  
12 the amount of collateral a ~~{e}~~Contractor must furnish pursuant to its contracts with the Commission.

13 (b) "Gross annual purchases" means the total amount of a ~~{e}~~Contractor's actual purchases of  
14 power, transmission and other related services, if any, under all its contracts with the Commission,  
15 invoiced by the Commission during the test period.

16 (c) "Test period" means the 12 consecutive months immediately preceding the month  
17 containing the date of review.

18 **Sec. 41.** NAC 538.746 is hereby amended to read as follows:

19 538.746 1. If a ~~{e}~~Contractor fails or refuses to perform any of its obligations under any of its  
20 contracts with the Commission, including, without limitation, any agreement confirming the purchase of  
21 supplemental power from any source, and the Executive Director determines that the failure or refusal  
22 may expose the Commission to ~~{significant}~~ liability ~~{,}~~ *or expose this State to financial risk,* the  
23 Executive Director shall provide written notice of the nonperformance to the ~~{e}~~Contractor.

24 2. If the ~~{e}~~Contractor fails or refuses to cure the nonperformance within 15 days after the  
25 date of the written notice, the ~~{Commission}~~ *Executive Director* may, after ~~{notifying}~~ *giving 3 days'*  
26 *notice in writing to* the ~~{e}~~Contractor, suspend the ~~{e}~~Contractor's allocation of hydroelectric power  
27 under NAC 538.340 to 538.746, inclusive, *and sections 9 to 16, inclusive, of this regulation* and  
28 discontinue furnishing electric service specified in its contracts with the ~~{e}~~Contractor pending any  
29 further action taken by the Commission pursuant to this section.

30 3. *After the suspension of the Contractor's allocation of hydroelectric power pursuant to*  
31 *subsection 2, the Executive Director may reallocate the power to any other Contractor or Contractors*  
32 *on a short-term basis. A Contractor receiving an allocation of power pursuant to this subsection shall*

1 *comply with all terms and conditions applicable to that power under the contract between the*  
2 *Commission and the Contractor whose allocation was suspended.*

3 4. Within 30 days after the suspension of the Contractor's allocation of hydroelectric power,  
4 the Contractor may petition the Commission for the reinstatement of the allocation. The Commission  
5 will hold a hearing on the petition within 10 days after providing notice of the hearing as required by  
6 NAC 538.075 to 538.330, inclusive.

7 ~~4.1~~ , and sections 4 to 8, inclusive, of this regulation.

8 5. If the Contractor fails to file a petition for reinstatement in a timely manner or if, after a  
9 hearing on such a petition, the Commission denies the petition, the Commission may permanently  
10 terminate the Contractor's allocation of hydroelectric power and permanently discontinue electric  
11 service to the Contractor.

12 ~~5.1~~ 6. Upon the permanent termination of a Contractor's allocation of hydroelectric power,  
13 the Commission will reallocate the hydroelectric power ~~as authorized by law.~~

14 ~~6.1~~ pursuant to NAC 538.450 and section 14 of this regulation.

15 7. This section does not preclude the Commission from pursuing at any time any other remedy  
16 for breach of contract that is available to the Commission.

17 **Sec. 42.** NAC 538.490 and 538.580 are hereby repealed.

18 **Sec. 43.** 1. This section and sections 1 to 38, inclusive, 40, 41 and 42 of this regulation  
19 become effective upon filing with the Secretary of State.

20 2. Section 39 of this regulation becomes effective on October 1, 2017.

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## 23 TEXT OF REPEALED SECTIONS

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26 **538.490 General rule. (NRS 538.181, 538.201)** The terms and conditions set forth in NAC  
27 538.500 to 538.570, inclusive, for contracts for power are not subject to change during the contractual  
28 period.



1           **538.580 General rule. (NRS 538.181, 538.201)** The contractual provisions set forth in NAC  
2   538.590 to 538.670, inclusive, are subject to change as necessary throughout the contractual period.  
3