

Colorado River Commission of Nevada

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

September 11, 2014, Las Vegas, Nevada

Attendees: Russ Dapsauski, Nevada State Parks
Roger Wright, Aha Macav Power Service, Ft. Mojave Indian Tribe
Charles Trusher, City of Las Vegas
Matthew Hortt, City of Henderson Libraries
Jacob Smoot, Academica Nevada
Jim VanAntwerp, University of Nevada, Las Vegas
Larry Karr, U.S. Bureau of Reclamation
Kari Reynolds, University of Nevada, Las Vegas
Lloyd Webb, Olin
Heath Petersen, Department of Energy, Nevada Nuclear Security Administration
Chau Nguyen, U.S. Bureau of Reclamation
Scott Krantz, Southern Nevada Water Authority
Douglas Brooks, Nevada Power Company
Don Land, University of Nevada, Las Vegas
Sandor Duran, Office of Military Affairs (Nevada National Guard)
Brian Lovelin, Clark County Water Reclamation
Suzette Wheeler, City of Henderson
Pauline England, Nevada Department of Transportation
Randy DeVaul, City of North Las Vegas
Mark Binney, Clark County Water Reclamation District

CRC Staff: Jayne Harkins, Executive Director
Jim Salo, Deputy Executive Director
Ann Pongracz, Legal Counsel
Craig Pyper, Hydropower Program Manager
Lisa Ray, Assistant Hydropower Project Manager
Sarah Ritchie, Hydropower Specialist
Carla Miguel, Administrative Assistant
Kaleb Hall, IT
Sandra Fairchild, Consultant to CRC

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

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

- The Hoover Dam was authorized for construction by federal legislation in 1928. The actual construction occurred during the 1930's, with power customers paying the majority of the construction and maintenance costs. There is a very small contribution from the water customers. In the statutes, the purpose for the Hoover Dam is flood control, water storage for irrigation and urban uses, navigation purposes, and lastly for power generation.
- In the original legislation, it was contemplated that Nevada, Arizona, and California would each receive equal allocations of power, but it has never been achieved. California has always received a larger share of Hoover hydropower.
- The CRC was created in 1935 to secure and protect Nevada's interests in water and power from the Colorado River. The first contracts for power were in 1936 with Lincoln County Power District and Southern Nevada Power Company, a predecessor of NV Energy. Over a period of years, other contractors signed on. These first contracts expired on September 30, 1987. They were all timed to expire on the same date.
- In the late 1970's, Western Area Power Administration (Western) planned to extend CRC's Hoover power contracts beyond 1987 without increasing Nevada's share, then around 18 percent. Nevada filed a lawsuit in 1982, which was later joined by Arizona. Both Arizona and Nevada were seeking to get up to one-third of the allocation as originally envisioned in the 1930's. In the end, all three states were involved in the lawsuit.
- On a parallel path, a major increase in capacity and available energy, known as the Hoover Upgrading Program was being constructed. The Hoover Power Plant Act of 1984 allocated most of the additional capacity and energy to Arizona and Nevada. However, even with the increased allocation, Arizona and Nevada allocations were less than the one-third allocation originally envisioned. In the end, the availability of the increased capacity due to the Upgrading Program and the additional allocations to Arizona and Nevada, allowed the States to settle the lawsuit. The new power from the Upgrading Program was called Schedule B power and was made primarily to Arizona and Nevada. Schedule A power was the original power allocated in the 1930's.
- In the 1980's the CRC considered and came to the following decisions on the following criteria:
 1. Allocation by population. Criterion deemed to be too mechanical and limiting. This criterion was rejected.
 2. Encourage and support rural area development and diversification. The Commission supported this criterion. Deemed as being important to the State of Nevada. The Commission supported rural economic development. As a result, some of the allocations that were made went to the rural areas of southern Nevada; Overton Power District, Valley Electric Association, and Lincoln County Power District.

3. Require Nevada Power to “pass-through” the economic benefit of Schedule B power to their residential customers. The Commission supported a “pass-through” – this criterion provided a peaking resource for the benefit of a large number of residential customers.
4. Industrial development and diversification. This criterion, which applied to existing Basic Management Industrial complex customers (located near Henderson, NV), was supported by the Commission.
5. Reduction of groundwater pumping as a goal. The Commission determined this criterion would not provide the “greatest possible benefit to the State.”

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

The HPAA states that existing Federal Hoover customers (CRC in Nevada) would be offered contracts after October 1, 2017 at 95 percent of their current allocation for a term of 50 years. Under Nevada state law and current contracts, existing customers will be made an offer for an allocation of Hoover power at 95 percent of their current allocation for a 50 year term. The current customers have the option to accept or reject the offer. The remaining 5 percent will be made available to new allottees under Schedule D Hoover power. Under state law, the CRC will decide who gets an allocation in Nevada and which criteria would be used to allocate to new customers. Any entity that currently receives Hoover power cannot get Schedule D.

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

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

The draft allocation criteria developed by Staff was derived from broad policy goals and objectives of the Governor and legislature; i.e. economic benefit, education, and support to state, local and tribal

government. The overarching criterion, which is based in Nevada State statute, requires the CRC to consider those criteria that would fulfill the “greatest possible benefit to the state” mandate. However, this mandate is subject to various interpretations. Staff encourage interested parties provide other criteria that should be considered and the rationale behind the recommendation.

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

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

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

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

The Applicant would also be subject to the jurisdiction of the State of Nevada courts or U.S. courts. If a contract is offered, the Applicant must contract with the Commission within 90 days of being offered an allocation or the power may be re-allocated.

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

for confidentiality. A disclaimer about the CRC's open records obligations will be added to the final application.

Questions, Comments, and Responses

With the lake level varying, how will CRC power and allocations be constant? Craig Pyper explained that Hoover power isn't constant. Based on current lake levels, the CRC is receiving about 80% of the contract capacity of 2074 MW, but with all units operating, the power plant is only able to generate approximately 1700 MW or less, so it's called contingent capacity. If you can get a 1 MW allocation, then you would get your percentage of that 1 MW to the 2074 MW. This has always been the case. The way that Hoover is operated, even at full capacity, the generators are only producing power when water is flowing through to fulfill downstream water orders. The average capacity factor¹ is approximately 26 percent.

If the dam were operating at 100 percent, what is the built-in capacity? At full lake levels and if all units were operating, there is over 2,000 MW of capacity; the nameplate is 2074 MW. Jayne mentioned that under statute and in CRC's regulation, if someone were to receive a 1 MW allocation, and if only 70% Hoover power were available, the CRC can purchase market power for a customer up to the 1 MW to firm to an entities allocation. The CRC could provide a constant amount of power. However, it would be part hydropower and part some other type of generation, so there wouldn't be quite the savings of 100 percent hydropower.

Regarding NV Energy's proposed tariffs and other charges, when does the CRC anticipate these cost structures will be made available? Staff has had ongoing discussions with Nevada Power and anticipates the proposed rate structures will be developed early in 2015, at which point they will be incorporated in a new Nevada Power tariff to be submitted for approval of the Public Utilities Commission of Nevada (PUC-N).

How long is the CRC looking to make allocations? The CRC will be entering into 50 year contracts with Western. The contract terms that CRC will enter into with new and existing customers are to be determined, subject to a final decision by the Commission.

If someone is currently a Nevada Power customer and they apply and receive a couple of MW's of Schedule D power, which reduces their load requirements from Nevada Power, is this being worked out with Nevada Power? Is this part of their tariff or a separate issue? Nevada Power is required by State law to create a tariff for new Hoover Schedule D customers in their service territory. It is anticipated that a new Schedule D allottee within Nevada Power's service territory will continue to purchase its energy needs above any hydropower energy actually delivered from the Company. By statute, Nevada Power is directed to develop a new tariff to address the mechanics of delivery of Schedule D power and to address which charges and costs the Nevada Power customer will continue to be responsible for. The CRC has had preliminary discussions with Nevada Power to determine what individual charges would be reduced, and will continue to work with Nevada Power and the staff of the Public Utilities Commission, to finalize a new Nevada Power tariff which will itemize applicable charges.

¹ Capacity factor is a measure of how often an electric generator runs for a specific period of time. It indicates how much electricity a generator actually produces relative to the maximum it could produce at continuous full power operation during the same period.

Is the VA Hospital eligible? The draft criteria proposed by Staff do not identify federal agencies as eligible applicants. However there is nothing in Nevada statute or the CRC's regulations that precludes the CRC from allocating to a federal agency. Under the federal process, federal entities were excluded from applying.

How will Western's new allocation be factored into the CRC's process? Whether or not an entity sought an allocation from Western does not affect that entity's eligibility to apply for an allocation from the CRC but may be considered when allocation determinations are made. We encourage interested parties to apply to the CRC even if they participated in Western's allocation process. Staff encourages commenters to provide comments regarding how the fact that an applicant receives an allocation from Western should affect the decision concerning a requested allocation from the CRC.

So, it may be possible for an allottee who may receive an allocation from Western to receive an allocation from the CRC? Yes, it may be possible. However, the final decision will be made by the Commission.

The form (application) looks very much like Western's. Is it identical? No. It was used as the basis for CRC's form, but Staff modified the form to meet CRC's requirements.

Does the peak demand in the application, determine how much will be allocated to an applicant? For example, if someone's application upon further review shows that an applicant has a 3.8 MW peak demand, but it turns out to be actually 11 MW. An applicant's peak demand or load does not directly "determine" how much will be allocated, but it is expected that any allocations granted will not exceed the peak load and is likely to be some fraction of that peak load. Staff encourages all applicants to provide as accurate load data as possible, and to keep in mind that statute requires applicants have a minimum load of 1 MW.

You state that an entity must be able to receive Schedule D power directly or indirectly from a local utility. As a city, we have power that we buy from the CRC for our water and wastewater. Can they use CRC as their host utility and can this power be used for other types of uses besides water and wastewater? As a current partial requirements power customer of the CRC for water-related power needs, your city is subject to the Distribution Only Service (DOS) Tariff of Nevada Power. If your city receives an allocation of Schedule D Hoover power, the energy will be delivered pursuant to a new statutorily required Tariff to be developed by Nevada Power. The use of any Schedule D energy by the city will not be restricted to water or wastewater purposes; that hydropower can be used for any city purposes, e.g. buildings, street lights, etc., or for water and wastewater purposes.

You propose in the criteria that a customer have a minimum allocation of 1 MW, but can you allocate a smaller amount? Under NRS 704.787, a customer must have a peak demand of at least 1 MW. The minimum allocation the CRC can allocate is 1 MW and within NV Energy's service area the CRC's allocation will not meet the total demand of the applicant.

You mention that we pre-pay on repayments. What exactly does that mean? Repayable Advances is a one-time charge, but can be paid interest-free over five years. Repayable Advances are to reimburse the current Hoover customers for improvements they have previously paid for, or are currently paying for, but will lose a portion to the new Schedule D customers. **UPDATE SINCE THIS MEETING:** Western currently estimates the Repayable Advances to total \$150,000,000 by the end of 2017. All Schedule D

customers will be responsible for 5% of this, or \$7.5 Million. Divide this total from all Schedule D allocations of 103,700 kW and that gives an estimated \$72,324 per 1,000 kW of Schedule D allocation. This can be paid interest-free over a 5 year period.

Decisions about risk management requirements such as collateral, prepayments and making payments to a cash working capital fund will be made in the future, and the CRC intends to take into account legal constraints on customers when implementing any future requirements.

Does an entity consume their power first, before their host utility starts charging the new rate structure? At this time, the future payment structure(s) is under development. It is possible that different host utilities will establish different payment structures.

So is it's the customer's responsibility to negotiate how they're going to get the power from the CRC? The CRC is taking the lead on working with Nevada Power and PUC-N staff to finalize details on how Schedule D customers in Nevada Power's service territory will receive the power. The CRC has also reached out to the other utilities in Western's marketing area, to ensure that the utilities are aware of the Schedule D allocation processes of Western and the CRC, and assist customers in addressing power delivery issues. The CRC may require applicants to provide a letter from their utility certifying that that they can receive Schedule D power from that utility.

So, if I have multiple service providers and the entity gets an allocation, can I choose which provider I want to use? Perhaps, as long as the allocation does not exceed the load at selected delivery point or location. The response to this question would depend on the specific details of the situation. Staff recommends you include these specific details in your application.

We filled out a similar application for Western do they have to fill out one for the CRC? Yes. The CRC application is specific to the 11.5 MW of Schedule D Hoover power that will be allocated by the CRC.

We currently have an agreement with the CRC for our Wastewater Treatment Plant, do we have to reapply? You do not need to re-apply to continue to receive power for your wastewater treatment plant pursuant to existing agreements and Nevada Power's DOS Tariff. You would need to apply if you seek to receive an allocation of Schedule D Hoover power.

Regarding the tariff that Nevada Power is developing, is it going to be more inclusive than the DOS only tariff? Will meters have to be changed? The CRC does not know yet how Nevada Power will structure the new tariff, but will continue to work on it with Nevada Power and PUC-N staff. When Nevada Power submits its proposed new tariff to the PUC-N for approval, the CRC will notify all interested parties on its 2017 Hoover Allocation process distribution list so each can decide whether to seek to participate in the tariff process before the PUC-N.

So this is a totally different application than Western's allocation and doesn't relate to Western's application, correct? This is the CRC's application. It is similar to Western's application but this is the application the CRC will use for its allocation process.

If someone receives an allocation from Western and an allocation from the CRC, could an entity possibly have multiple providers? Would the entity have to have different contracts with Western and CRC? No. Staff anticipates that non-Tribal Schedule D allottees in Nevada will contract for this power only with the CRC, regardless of whether the allocation is granted by CRC or Western.

Will the rate structure under the Western process and CRC process be the same? They will be very similar. Effectively, the CRC passes along all costs it incurs from Western to the CRC's customers on a proportional basis with the addition of some charges including the CRC's Administrative Charge and support for the MSCP program.

It would be very hard for a state agency to pay for a service that hasn't been provided. Staff recommended that the commenter provide this as comment.

If you have different terms for different entities, what happens to an allocation after their term ends?

Will it be reallocated? Yes. The power would be reallocated following the requirements set forth in NAC 538. Applicants will have until October 1, 2017 to either accept or reject an allocation. However, if an entity had not applied during CRC's allocation process, they would not be eligible to receive any reallocated power that is not contracted for by October 1, 2017. After October 1, 2017, if an allocation is turned back to the CRC or lost due to breach of contract (e.g. lack of payment), the CRC regulations provides a public process for reallocation.

Is there any expectation at this time, if an entity has a 10 MW demand, is there a sense of the type of percentages that may be applied? No.

Will the comments be made available to the public? Yes.