

**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.