

STATE OF NEVADA

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**COLORADO RIVER COMMISSION
OF NEVADA**

April 4, 2018

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment
and/or Repeal of Regulations of the
COLORADO RIVER COMMISSION OF NEVADA**

The Colorado River Commission of Nevada (Commission) will hold a public hearing at **1:30 p.m. on May 8, 2018**, at the **Grant Sawyer State Office Building, Room 4412, 555 E Washington Ave, Las Vegas, NV 89101**.

The purpose of the hearing is to receive comments from all interested persons regarding the Adoption, Amendment and/or Repeal of regulations that pertain to chapter 538 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

The amendment of NAC 538.455 – *Procedures for Reallocation of Power* is to provide one process for the allocation or reallocation of power. The conforming changes are to update the reference numbers in other sections of NAC chapter 538.

Sections that dealt only with the initial allocation of Hoover Schedule D or which listed out allocations are being repealed because the initial Schedule D allocations have been completed and the information contained in the regulations which listed out allocations is out of date and current information can be found on the Commission website.

2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.

The Colorado River Commission of Nevada is proposing to adopt Legislative Counsel Bureau (LCB) File No. R033-18 attached hereto which includes:

- a. The amendment of NAC 538.455 – *Procedures for Reallocation of Power* to provide one process for the allocation or reallocation of power.
- b. Conforming amendments to:
 - i. NAC 538.075 *Scope; power of Executive Director.*
 - ii. NAC 538.330 *Petition for adoption, filing, amendment or repeal of regulation*
 - iii. NAC 538.395 *Applicability*
 - iv. NAC 538.500 *Terms of contracts; expiration*
 - v. NAC 538.530 *Establishment and maintenance of program for integrated resource planning or similar program*
 - vi. NAC 538.550 *Assignment or other transfer of rights*
 - vii. NAC 538.746 *Nonperformance: Notice; suspension of allocation of power; temporary reallocation of power; reinstatement of allocation of power; termination of allocation and reallocation of power.*
- c. The repeals of:
 - i. NAC 538.333 *Allocation of Schedule D Power, Commission to Develop Criteria*
 - ii. NAC 538.336 *Allocation of Schedule D Power, Application Process*
 - iii. NAC 538.397 *Allocation of Schedule D power in accordance with chapter*
 - iv. NAC 538.413 *Requirements of electric utility seeking to contract with Commission for delivery of Schedule D power from Boulder Canyon Project on or after October 1, 2017.*
 - v. NAC 538.416 *Requirements of applicant that is not electric utility seeking to contract with Commission for delivery of Schedule D power from Boulder Canyon Project on or after October 1, 2017.*
 - vi. NAC 538.450 *Reallocation of Power if Entity Fails to Enter into Contract with Commission*
 - vii. NAC 538.680 *Division of Resources into Pools*
 - viii. NAC 538.690 *Pool 1: Applicable Resource; allocation*
 - ix. NAC 538.700 *Pool 2: Applicable Resource; allocation*
 - x. NAC 538.730 *Pool 3: Applicable Resource; allocation*
 - xi. NAC 538.740 *Pool 3: Sharing Increase or decrease in available power*

3. 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; and
- b. Both immediate and long-term effects.

There are no economic effect on power contractors.

4. The estimated cost to the agency for enforcement of the proposed regulation.

There is no cost to the agency.

5. A description of and citation to any regulations 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.

There are no regulations or statutes which overlap or duplicates LCB File No. R033-18.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

There is no federal law requirement.

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

There are no federal regulations which are applicable.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

LCB File No. R033-18 does not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Colorado River Commission of Nevada may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to:

Kris Perry, Administrative Assistant III
Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, NV 89101
kperry@crc.nv.gov
702-486-2670

Written submissions must be received by the Colorado River Commission of Nevada no later than 5 p.m. on Monday, April 30, 2018. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Colorado River Commission of Nevada may proceed immediately to act upon any written submissions.

A copy of this notice and LCB File No. R033-18 will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and LCB File No. R033-18 will be available at Colorado River Commission of Nevada, 555 E. Washington Avenue, Suite 3100, Las Vegas, NV 89101, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>.

Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

NOTICE: The Commission is pleased to make reasonable accommodations for persons who are disabled and wish to attend the workshop. If special arrangements are required, please notify the Colorado River Commission of Nevada in writing, 555 E. Washington Avenue, Suite 3100, Las Vegas, NV 89101 or by calling (702) 486-2670 at least 2 business days prior to the meeting.

This Notice of Intent to Act Upon a Regulation has been sent to all persons on the agency's service list and posted at the following locations:

Colorado River Commission website: www.crc.nv.gov

Nevada Public Notice website: <https://notice.nv.gov>

Legislative Counsel Bureau website: www.leg.state.nv.us

City of Las Vegas City Hall, 495 South Main Street, 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

City of Boulder City Hall, 401 California Avenue, Boulder City, NV

City of Henderson City Hall, 240 South Water Street, Henderson, NV

City of North Las Vegas City Hall, 2250 N. Las Vegas Boulevard, North Las Vegas, NV

Laughlin Chamber of Commerce, 1585 South Casino Drive, Laughlin, NV

Laughlin Town Manager's Office, 101 Civic Way, Laughlin, NV

Lincoln County, 181 North Main Street, Pioche, NV

Nye County, 1520 East Basin Avenue, Pahrump, NV

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

LCB File No. R033-18

March 22, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-9, NRS 538.181 and 538.201.

A REGULATION relating to the Colorado River Commission of Nevada; revising certain provisions governing the process for the distribution of power by the Colorado River Commission of Nevada; repealing certain provisions relating to the distribution of power by the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Colorado River Commission of Nevada holds and administers all rights and benefits pertaining to the distribution of power from the Hoover Dam and may enter into contracts relating to that power, including, without limitation, contracts relating to the transmission and distribution of that power. (NRS 538.181) Existing regulation sets forth a process by which the Commission may reallocate power that becomes available during the term of a contract. (NAC 538.455) **Section 4** of this regulation revises the process for the reallocation of power to require additional public notice and meetings. **Section 4** also provides that the Commission may also allocate power that becomes available to new applicants at the end of a contract using the same process as the one used for the reallocation of power. If an applicant who is allocated or reallocated power fails to enter into a contract with the Commission for that power within 90 days after entering the contract, **section 4** further provides that the Commission may allocate or reallocate that power to existing applicants or may begin the process for the allocation or reallocation for the remaining power again.

Existing federal law requires the United States Secretary of Energy to create from existing allocations of power from the Hoover Dam a pool of power for allocation by the Commission to new allottees for delivery commencing October 1, 2017. (43 U.S.C. § 619a(a)(2)) Existing regulations set forth the process for the allocation and contracting for the power available for delivery commencing on October 1, 2017. (NAC 538.333, 538.336, 538.413, 538.416) As this power has been allocated and contracted for pursuant to these regulations and is no longer available, **section 9** of this regulation repeals these provisions. **Sections 1-3 and 5-9** of

this regulation make conforming changes. **Section 9** also repeals certain provisions that describe the division of marketable long-term capacity and energy into pools.

Section 1. NAC 538.075 is hereby amended to read as follows:

538.075 1. The provisions of NAC 538.075 to ~~538.336,~~ **538.330**, inclusive, govern all practice and procedure before the Commission.

2. ~~The provisions of NAC 538.075 to 538.336, inclusive, apply to the allocation by the Commission of power designated in Schedule D for delivery commencing on or after October 1, 2017.~~

~~—3.]~~ To the extent that any action before the Commission is not covered by the provisions of NAC 538.075 to ~~538.336,~~ **538.330**, inclusive, the Executive Director may determine the proceedings to apply to the action, including, without limitation, the use of workshops for rulemaking.

Sec. 2. NAC 538.330 is hereby amended to read as follows:

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

2. A petition filed pursuant to subsection 1 will not be classified as a petition for the purposes of applying the procedures set forth in NAC 538.075 to ~~538.336,~~ **538.330**, inclusive.

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

Sec. 3. NAC 538.395 is hereby amended to read as follows:

538.395 1. The provisions of NAC 538.340 to ~~538.740,~~ **538.670**, inclusive, apply to power allocated ***or reallocated*** by the Commission from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.

2. The provisions of NAC 538.744 and 538.746 apply to power allocated ***or reallocated*** by the Commission from any source.

Sec. 4. NAC 538.455 is hereby amended to read as follows:

538.455 1. The Commission will ***allocate or*** reallocate power that becomes available for ***allocation or*** reallocation ~~[pursuant to NAC 538.440 and 538.450]~~ in accordance with the provisions of this section and to achieve the greatest possible benefit to this State.

2. As soon as practicable after power becomes available for ***allocation or*** reallocation by the Commission, ~~[pursuant to NAC 538.440 and 538.450,]~~ the Commission's staff ~~[must notify the public of the availability of the]~~ ***shall prepare a draft notice for the approval of the Commission which informs the public that applications will be accepted for the allocation or reallocation of*** power. The ***draft*** notice must:

- (a) Describe the power to be allocated ~~[;]~~ ***or reallocated;***
- (b) Set forth the proposed criteria to be used by the Commission for the allocation ***or reallocation*** of the power;
- (c) Include a proposed form for applying for an allocation ***or reallocation*** of the power; ~~[and]~~
- (d) Set forth the ~~[dates during]~~ ***date on*** which ***the Commission's staff will begin taking*** applications ~~[may be submitted.]; and~~
- (e) ***Set forth the date by which an application must be submitted.***

3. ~~[A person who]~~ Before presenting the draft notice to the Commission for approval, the Commission's staff shall conduct a public meeting to review the draft notice and solicit comments from the public. To conduct the public meeting, the Commission's staff shall provide public notice of the meeting at least 15 days before the meeting by:

(a) Posting a copy of the draft notice of the meeting:

(1) At the principal office of the Commission;

(2) On the Internet website of the State; and

(3) On the Internet website of the Commission; and

(b) Providing a copy of the draft notice of the meeting to any person who has requested notice of the meetings of the Commission and all potential applicants identified by the Commission's staff. The notice must be delivered by regular mail or, if feasible for the Commission, transmitted by electronic mail.

4. Comments on the draft notice prepared pursuant to subsection 2 must be received not later than 10 days after the public meeting held pursuant to subsection 3. The Commission's staff shall review the comments received at the meeting and any comments submitted in writing and may revise the draft notice in response to the comments.

5. After the Commission's staff has complied with the requirements of subsections 3 and 4, the draft notice must be placed on the agenda of the Commission for the review of the Commission. The Commission may revise, approve or reject the draft notice, in whole or in part. If the Commission approves the draft notice, the Commission's staff shall post that approved notice in accordance with the requirements of paragraphs (a) and (b) of subsection 3.

6. *Any entity that* wishes to apply for an allocation *or reallocation* of power from the Commission pursuant to this section must submit an application to the Commission's staff ~~[-]~~ *by the date set forth in the draft notice pursuant to subsection 2.* The application must:

- (a) Be on ~~[a]~~ *the* form ~~[provided]~~ *approved* by the Commission.
- (b) Set forth the applicant's full name and mailing address and any *required* facts and exhibits. ~~[required by law.]~~
- (c) Be signed by the applicant.

~~[4-]~~ 7. The Commission's staff ~~[must]~~ *shall* review any application submitted pursuant to subsection ~~[3]~~ 6 and prepare a draft order ~~[containing a recommendation]~~ *which must:*

- (a) *Address each application submitted; and*
- (b) *Include recommendations* for the Commission's ~~[disposition of each application.]~~
allocation or reallocation of the power.

8. The Commission's staff ~~[must]~~ *shall* provide a copy of the draft order *prepared pursuant to subsection 7* to each applicant. An applicant must file any comments on the draft order with the Commission within ~~[30]~~ 20 days after the *date the* Commission's staff ~~[issues]~~ *sends, by regular mail, electronic mail or hand delivery,* the draft order ~~[-]~~ *to the applicant. The Commission's staff may revise the draft order in response to any comments received from an applicant.*

~~[5-]~~ 9. The Commission will conduct a hearing and issue a decision on the draft order prepared by the Commission's staff pursuant to subsection ~~[4-]~~ 7. *The Commission may revise, approve or reject, in whole or in part, the draft order. The Commission's staff shall prepare a*

notice of the hearing *on the draft order, which* must include, without limitation, a copy of the draft order prepared by the Commission's staff pursuant to subsection ~~4.~~

~~6.]~~ *7 and, if applicable, revised by the Commission's staff pursuant to subsection 8. The notice of the hearing must be posted at least 20 days before the date set for the hearing and in accordance with the requirements of paragraphs (a) and (b) of subsection 3.*

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

~~7.]~~ *11.* If an applicant that has been offered an allocation *or reallocation* of power from the Commission pursuant to this section fails to enter into a contract with the Commission within 90 days after being offered the allocation *or reallocation* of power, the Commission ~~will~~ *may* reallocate the amount of power offered to that applicant to ~~other~~ :

(a) Other existing applicants ~~at the Commission's discretion.~~

~~8.]~~ *; or*

(b) New applicants in accordance with the requirements of this section.

12. Except for a hearing conducted pursuant to subsection ~~6.]~~ *10*, the proceedings described in this section ~~is~~ *are* not a contested case as defined in NRS 233B.032.

Sec. 5. NAC 538.500 is hereby amended to read as follows:

538.500 1. Except as otherwise provided in this subsection, contracts for the delivery of long-term power from the Boulder Canyon Project allocated under NAC 538.340 to ~~538.740,~~ 538.670, inclusive, for the period ending on September 30, 2017, become effective on the day they are executed and expire on the last day of the billing period for September 2017, unless terminated before that date by the contractor or the Commission in accordance with the terms of the contract. ~~The provisions of NAC 538.397, 538.413 and 538.416 do not apply to this subsection.~~

2. Contracts for the delivery of long-term power from the Boulder Canyon Project allocated under NAC 538.340 to ~~538.740,~~ 538.670, inclusive, for the period commencing on October 1, 2017, become effective on the day they are executed and expire on the day specified in the contract, unless terminated before that date by the contractor or the Commission in accordance with the terms of the contract. The Commission will determine the term of each contract for the delivery of power from the Boulder Canyon Project for a term of less than 50 years commencing on or after October 1, 2017.

3. Contracts for the delivery of long-term power from the Parker-Davis Project allocated under NAC 538.340 to ~~538.740,~~ 538.670, inclusive, become effective on the day they are executed and expire on the last day of the billing period for September 2028, unless terminated before that date by the contractor or the Commission in accordance with the terms of the contract.

4. Contracts for the delivery of long-term power from the Salt Lake City Area Integrated Projects allocated under NAC 538.340 to ~~538.740,~~ 538.670, inclusive, become effective on the first day of the billing period for October 1989 and expire on the last day of the billing period for

September 2024, unless terminated before that date by the contractor or the Commission in accordance with the terms of the contract.

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

Sec. 6. NAC 538.530 is hereby amended to read as follows:

538.530 1. Except as otherwise provided in subsection 3, each contractor shall, within 1 year after entering into a contract with the Commission pursuant to NAC 538.340 to ~~538.740,~~ **538.670**, inclusive, establish and maintain 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.

2. When requested, the Commission, with the help of Western and to the extent possible, will guide and assist the contractor in the development of its program.

3. The provisions of subsection 1 do not apply if Western accepts a program for integrated resource planning or a similar program, however designated, established and maintained by the Commission on behalf of the contractor.

Sec. 7. NAC 538.550 is hereby amended to read as follows:

538.550 No contractor may assign or otherwise transfer its rights under its contract with the Commission without the prior written approval of the Commission. Before approval will be granted by the Commission, the transfer must be consistent with the provisions of NAC 538.340 to ~~538.740,~~ **538.670**, inclusive.

Sec. 8. NAC 538.746 is hereby amended to read as follows:

538.746 1. If a contractor fails or refuses to perform any of its obligations under any of its contracts with the Commission, including, without limitation, any agreement confirming the purchase of supplemental power from any source, and the Executive Director determines that the failure or refusal may expose the Commission to liability or expose this State to financial risk, the Executive Director shall provide written notice of the nonperformance to the contractor.

2. If the contractor fails or refuses to cure the nonperformance within 15 days after the date of the written notice, the Executive Director may, after giving 3 days' notice in writing to the contractor, suspend the contractor's allocation of hydroelectric power under NAC 538.340 to 538.746, inclusive, and discontinue furnishing electric service specified in its contracts with the contractor pending any further action taken by the Commission pursuant to this section.

3. After the suspension of the contractor's allocation of hydroelectric power pursuant to subsection 2, the Executive Director may reallocate the power to any other contractor or contractors on a short-term basis. A contractor receiving an allocation of power pursuant to this subsection shall comply with all terms and conditions applicable to that power under the contract between the Commission and the contractor whose allocation was suspended.

4. Within 30 days after the suspension of the contractor's allocation of hydroelectric power, the contractor may petition the Commission for the reinstatement of the allocation. The Commission will hold a hearing on the petition within 10 days after providing notice of the hearing as required by NAC 538.075 to ~~538.336,~~ 538.330, inclusive.

5. If the contractor fails to file a petition for reinstatement in a timely manner or if, after a hearing on such a petition, the Commission denies the petition, the Commission may

permanently terminate the contractor's allocation of hydroelectric power and permanently discontinue electric service to the contractor.

6. Upon the permanent termination of a contractor's allocation of hydroelectric power, the Commission will reallocate the hydroelectric power pursuant to NAC ~~538.450 and~~ 538.455.

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

Sec. 9. NAC 538.333, 538.336, 538.397, 538.413, 538.416, 538.450, 538.680, 538.690, 538.700, 538.730 and 538.740 are hereby repealed.

TEXT OF REPEALED SECTIONS

538.333 Commission to develop criteria: Draft order; public meeting; comments; hearing; decision. (NRS 538.181, 538.201)

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

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

(a) Conduct a public meeting that complies with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must:

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

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

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

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

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

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

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

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

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

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

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

4. The Commission will conduct a hearing and issue a decision on the draft order prepared by the Commission's staff pursuant to subsection 1. The hearing will be conducted, and the Commission's decision issued, in accordance with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must include, without limitation, a copy of the draft order prepared by the Commission's staff pursuant to subsection 2.

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

538.336 Application process: Public meeting to discuss process; review of applications; preparation of draft order; Commission hearing and decision; reallocation of power if entity fails to enter into contract with Commission. (NRS 538.181, 538.201)

1. The Commission's staff must conduct a public meeting that complies with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, to discuss the process of allocating power designated in Schedule D and accept questions and comments concerning that process. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must state:

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

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

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

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

- (a) Be on a form provided by the Commission.
- (b) Set forth the applicant's full name and mailing address and any facts and exhibits required by law.
- (c) Be signed by the applicant.

3. The Commission's staff must review any application submitted pursuant to subsection 2 and prepare a draft order containing a recommendation for the Commission's disposition of each application. The Commission's staff must provide a copy of the draft order to each applicant. An applicant must file any comments on the draft order with the Commission within 30 days after the Commission's staff issues the draft order.

4. The Commission will conduct a hearing and issue a decision on the draft order prepared by the Commission's staff pursuant to subsection 3. The hearing will be conducted, and the Commission's decision issued, in accordance with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must include, without limitation, a copy of the draft order prepared by the Commission's staff pursuant to subsection 3.

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

6. If an applicant that has been offered an allocation of power designated in Schedule D from the Commission fails to enter into a contract with the Commission within 90 days after being offered the allocation of power, the Commission will reallocate the amount of power offered to that applicant to other applicants at the Commission's discretion.

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

538.397 Allocation of Schedule D power in accordance with chapter. (NRS 538.181, 538.201) The Commission will allocate power designated in Schedule D in accordance with this chapter and to achieve the greatest possible benefit to this State.

538.413 Requirements of electric utility seeking to contract with Commission for delivery of Schedule D power from Boulder Canyon Project on or after October 1, 2017.

(NRS 538.181, 538.201) An applicant that is an electric utility and is seeking to contract with the Commission for the delivery of power from the Boulder Canyon Project designated in Schedule D commencing on or after October 1, 2017, must supply information as requested by the Commission and must demonstrate that, on or before the date determined by the Executive Director, the applicant:

1. Is an entity to which the Commission is authorized by law to sell electricity or provide transmission service or distribution service, or both;
2. Is able to receive energy from one or more of the points of delivery authorized by the Commission;
3. Is 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, or is able to receive power over the facilities of a utility that is able to maintain that ratio;
4. Meets the requirements for any program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by federal or state law;
5. Has an annual peak load of at least 1 megawatt;
6. Has load located within Western’s defined marketing area in this State for the Boulder Canyon Project; and
7. Complies with any other requirements imposed by the Commission.

538.416 Requirements of applicant that is not electric utility seeking to contract with Commission for delivery of Schedule D power from Boulder Canyon Project on or after October 1, 2017. (NRS 538.181, 538.201) An applicant that is not an electric utility and is seeking to contract with the Commission for the delivery of power from the Boulder Canyon Project designated in Schedule D commencing on or after October 1, 2017, must supply information as requested by the Commission and must demonstrate that, on or before the date determined by the Executive Director, the applicant:

1. Is an entity to which the Commission is authorized by law to sell electricity or provide transmission service or distribution service, or both;
2. Is able to receive energy from one or more of the points of delivery authorized by the Commission;
3. Will receive power from the Commission over the facilities of an electric utility that is 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, or is able to receive power over the facilities of a utility that is able to maintain that ratio;
4. Will receive power from the Commission over the facilities of an electric utility that meets the requirements for any program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by federal or state law;
5. Has an annual peak load of at least 1 megawatt;
6. Has load located within Western’s defined marketing area in this State for the Boulder Canyon Project; and
7. Complies with any other requirements imposed by the Commission.

538.450 Reallocation of power if entity fails to enter into contract with Commission.
(NRS 538.181, 538.201) Except as otherwise provided in subsection 6 of NAC 538.336 and subsection 7 of NAC 538.455, if an entity that has been offered an allocation of power from the Commission fails, within 90 days after being offered the allocation of power, to enter into a contract with the Commission in accordance with the terms and conditions set by the Commission, the Commission will reallocate the amount of power offered to that entity in the manner provided in NAC 538.455.

538.680 Division of resources into pools. (NRS 538.181, 538.201) The marketable long-term capacity and energy from the Commission’s share of power from the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects are divided into three pools as set forth in NAC 538.690 to 538.740, inclusive.

538.690 Pool 1: Applicable resource; allocation. [Effective through September 30, 2017.] (NRS 538.181, 538.201)

1. Pool 1 consists of a total of 377,000 kilowatts of capacity and 1,057,989,000 kilowatt-hours of energy from the following sources of the Boulder Canyon Project:

Schedule A		Schedule B	
Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
189,000	645,989,000	188,000	412,000,000

2. This resource is reserved for allocation to the named entities as follows:

Hoover Capacity and Energy

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

Hoover Capacity and Energy

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

538.700 Pool 2: Applicable resource; allocation. (NRS 538.181, 538.201) Pool 2

consists of power from the Parker-Davis Project in the amounts of 56,560 kilowatts of capacity and 194,622,960 kilowatt-hours of energy in the summer season and 40,752 kilowatts of capacity and 69,400,656 kilowatt-hours of energy in the winter season. This resource is reserved for allocation as firm and withdrawable power to the named entities as follows:

Parker-Davis Capacity in KW

Contractors	Summer Season			Winter Season		
	Firm	Withdrawable	Total	Firm	Withdrawable	Total
1						
BWC	2,75	245	3,00	1,972	144	2,116
	6		1			
CL	218	19	237	156	12	168
OPD	4,49	0	4,49	3,667	0	3,667
	7		7			
SNWA	8,68	772	9,45	6,216	455	6,671
	4		6			
TM	12,2	1,087	13,3	8,747	640	9,387

Parker-Davis Capacity in KW

	17		04			
TR	16,1	1,437	17,5	11,557	846	12,40
	44		81			3
VEA	8,48	0	8,48	6,340	0	6,340
	4		4			
Totals	53,0	3,560	56,5	38,655	2,097	40,75
	00		60			2

Parker-Davis Energy in KWH

Summer Season			Winter Season			Annual
Contractor	Firm	Withdrawal	Firm	Withdrawal	Total	
s1		le		le		
BWC	4,086,020	366,278	4,452,298	1,480,86	106,780	1,587,64 6,039,944
			6		6	
CL	908,005	81,395	989,400	329,081	23,729	352,810 1,342,210
OPD	16,160,67	0	16,160,67	5,762,73	0	5,762,73 21,923,40
	1		1	8		8 9

SNWA	31,553,15	2,828,47	34,381,63	11,435,5	824,577	12,260,1	46,641,78
	3	9	2	79		56	8
TM	47,443,23	4,252,89	51,696,12	17,194,5	1,239,83	18,434,3	70,130,45
	0	3	3	03	2	35	8
TR	52,664,25	4,720,91	57,385,16	19,086,7	1,376,27	20,462,9	77,848,16
	4	5	9	21	3	94	3
VEA	29,557,66	0	29,557,66	10,539,9	0	10,539,9	40,097,64
	7		7	77		77	4
Totals	182,373,0	12,249,9	194,622,9	65,829,4	3,571,19	69,400,6	264,023,6
	00	60	60	65	1	56	16

1Key: BWC = Basic Water Co.

CL = Chemical Lime Co.

OPD = Overton Power District No. 5

SNWA = Southern Nevada Water Authority

TM = Titanium Metals Corp.

TR = Tronox LLC

VEA = Valley Electric Association

538.730 Pool 3: Applicable resource; allocation. (NRS 538.181, 538.201) Pool 3

consists of power from the Salt Lake City Area Integrated Projects, at Pinnacle Peak, in the amounts of 20,851 kilowatts of capacity and 46,054,700 kilowatt-hours of energy in the summer

season and 27,414 kilowatts of capacity and 61,011,134 kilowatt-hours of energy in the winter season. This resource is reserved for allocation to the named entities as follows:

Salt Lake City Area Integrated Projects

Capacity and Energy

Contractor ¹	Summer Season		Winter Season	
	Capacity(KW)	Energy(KWH)	Capacity(KW)	Energy(KWH)
Ampac	2,756	6,086,817	3,623	8,063,533
BC	5,537	12,228,710	7,279	16,200,029
OPD	6,279	13,869,586	8,256	18,373,786
VEA	6,279	13,869,587	8,256	18,373,786
Totals	20,851	46,054,700	27,414	61,011,134

¹Key: Ampac = American Pacific Corporation

BC = Boulder City

OPD = Overton Power District No. 5

VEA = Valley Electric Association

538.740 Pool 3: Sharing increase or decrease in available power. (NRS 538.181, 538.201) Any increase or decrease in the amount of power available to the Commission from

the Salt Lake City Area Integrated Projects must be shared by the contractors according to the following percentages:

American Pacific Corporation	13.21649485
Boulder City	26.55257732
Overton Power District No. 5	30.11546391
Valley Electric Association	30.11546392