

**The meeting was held at 10:00 a.m. on Tuesday, June 13, 2006, at the Grant Sawyer Building, 555 East Washington Avenue, Suite 4401, Las Vegas, Nevada.**

**COMMISSIONERS IN ATTENDANCE**

Chairman	Richard W. Bunker
Commissioner	Andrea Anderson
Commissioner	Shari Buck
Commissioner	Marybel Batjer
Commissioner	Myrna Williams

**COMMISSIONERS NOT IN ATTENDANCE**

Vice Chairman	Jay D. Bingham
Commissioner	Ace I. Robison

**DEPUTY ATTORNEYS GENERAL**

Senior Deputy Attorney General	Gerald A. López
Senior Deputy Attorney General	Jennifer T. Crandell

**COMMISSION STAFF IN ATTENDANCE**

Energy Services Group Manager	Gail A. Bates
Manager of Regulatory and Intergovernmental Affairs	James D. Salo
Chief, Finance and Administration	Douglas N. Beatty
Senior Energy Accountant	Gail Benton
Natural Resource Specialist	Nicole Everett
Network Administrator	Kaleb Hall
Office Manager	Deanna Bruno
Office Manager	Judy Atwood
Administrative Assistant II	Alena Adrianse
Administrative Assistant II	Janet L. Nuszbaum
Administrative Assistant II	Caryl Shine-Myers

**OTHERS PRESENT; REPRESENTING**

Bunker & Associates	Melissa Trammell
Tronox, LLC	John Holstrom
Kummer, Kaempfer, Bonner, and Renshaw, Ltd.	Michael Phillips
Las Vegas Valley Water District/So. Nevada Water Authority	Sandra Reed Bottino
Nevada Power Company	Barbara Doble
Nevada Power Company	Gary Craythorn

**COLORADO RIVER COMMISSION  
OF NEVADA  
MEETING OF JUNE 13, 2006**

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The Colorado River Commission meeting was called to order by Chairman Bunker at 10:01 a.m.

**A. Conformance to Open Meeting Law.**

Doug Beatty, Chief, Finance and Administration, confirmed that the meeting was in compliance with the Open Meeting Law.

**B. Approval of the minutes of the May 9, 2006, meeting.**

**Commissioner Williams moved for approval of the minutes of the May 9, 2006, meeting as written. The motion was approved by a unanimous vote of those present. Commissioner Batjer was not present for the vote.**

**C. Public workshop and hearing and possible action to adopt the proposed amendment of certain electrical power marketing regulations of the Colorado River Commission of Nevada (NAC 538.340 through 538.740).**

Jim Salo, Manager of Regulatory and Intergovernmental Affairs, explained that provisions in the Nevada Administrative Procedure Act, NRS Chapter 233B, govern the amendment of regulations by state agencies, like this Commission. Since the required procedural elements are defined by statute, this agenda item must follow those elements.

Under NRS 233B.061, a publicly-noticed workshop to address proposed regulations or changes to regulations is required to be held before the agency may proceed to an actual public hearing to consider possible adoption of regulations or changes to regulations. Staff recommended that the workshop be held now, followed immediately by the public hearing.

Chairman Bunker opened the workshop for consideration of the proposed amendments to certain electrical power marketing regulations of the CRC.

Mr. Salo stated that NAC 538.340 to 538.740, inclusive, govern the marketing of hydroelectric power resources contracted by the federal government to the State of Nevada, acting through its Colorado River Commission. The purpose of the proposed regulation is to conform these provisions to current statutory and contractual requirements and to remove obsolete provisions. For example, there are tables showing voltages and capacity and energy contained in the regulations that have been updated to reflect primarily the changes in the contracts that the Commission previously approved this year and last year for power from the Salt Lake City Area Integrated Project and the Parker-Davis Project. Similarly, there are changed names of customers that are reflected in the regulations.

Mr. Salo pointed out that extra copies of the proposed regulations were available for the public in the meeting room.

On April 25, 2006, staff and counsel met with the Commission's power customers to explain the proposed regulation and solicit comments. At that meeting, the customers confirmed that none is a "small business" as defined in NRS 233B.0382 for the purpose of determining the proposed regulation's economic impact on small businesses.

Pursuant to NRS 233B.0608, staff investigated the impact of the proposed regulation on small businesses. That investigation is completed, and staff found that the proposed regulation is not likely to "impose a direct and significant economic burden upon a small business" or "directly restrict the formation, operation or expansion of a small business." Accordingly, it was not necessary to prepare a small business impact statement or take any other action as required by that statute.

After the power customer meeting, staff and counsel submitted the proposed regulation to the Legislative Counsel Bureau ("LCB") for its review under NRS 233B.063. The LCB returned them with no objection but with certain editorial changes, which were incorporated in the proposal before the Commission at this meeting.

On May 10, 2006, staff published a Notice of Intent to Act Upon a Regulation, together with a Notice of Workshop and Hearing, providing at least 30 days' notice as required by NRS 233B.060. As also required by law, copies of this notice were deposited with the State Librarian and with public libraries throughout the state and posted on the State of Nevada Register of Administrative Regulations by LCB. Copies were also sent to those persons on CRC's mailing list for notices of meetings, which includes the Commission's power customers, and posted the notice in the same places of any other meeting of the CRC.

The notice contained the text of the proposed regulation and solicited written comments on the amendments from all interested persons. As of this time, no written comments have been received.

Chairman Bunker invited any person present to come forward and submit any oral or written comments on the proposed changes to regulations.

There were no comments.

Chairman Bunker closed the public workshop.

Mr. Salo pointed out that the Commission may now proceed to open a public hearing to consider any further public comment and to consider possible adoption of the proposed regulation.

Chairman Bunker opened the public hearing for consideration of and possible adoption of the proposed amendments to certain electrical power marketing regulations of the CRC. Mr. Salo indicated that, as noted during the workshop, staff and counsel concluded the proposed amendments to regulations do not and will not have the adverse impacts on small business delineated in NRS 233B.0608. Therefore, when the Commission determines what action to take concerning these regulations, staff recommended the Commission:

1. make a specific determination that the proposed regulation is not likely to “impose a direct and significant economic burden upon a small business” or “directly restrict the formation, operation or expansion of a small business” and
2. adopt the proposed regulation as publicly noticed by staff on May 10, 2006, and subsequently revised by the Legislative Counsel Bureau.

Chairman Bunker invited the public to come forward and submit any comments on the proposed changes to regulations.

There were no comments.

Chairman Bunker closed the public comment portion of the public hearing on proposed amendments to regulations.

Chairman Bunker asked if there were questions, comments or discussion from Commission members relative to the proposed regulations.

There were none.

**Commissioner Williams moved that:**

- 1. The Colorado River Commission of Nevada determines that the proposed regulation is not likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business; and**
- 2. The Colorado River Commission of Nevada adopts the proposed regulation as publicly noticed by staff on May 10, 2006, and subsequently revised by the Legislative Counsel Bureau.**

**The motion was approved by a unanimous vote of those present.**

Chairman Bunker closed the public hearing.

**D. Consideration of and possible action to approve the following amendments to the Commission's contracts with certain law firms for the purposes indicated:**

**1. Fifth Amendatory Contract to the August 12, 2003, contract with Duncan, Weinberg, Genzer & Pembroke, P.C., to extend the term of the contract and adjust the hourly rates of principal personnel.**

**2. Third Amendatory Contract to the November 12, 2002, contract with Gordon & Silver, Ltd., to extend the term of the contract and adjust the fee schedule.**

Mr. Salo reported that the Commission has entered into contracts with certain law firms for specialized legal services related to matters involving the Federal Energy Regulatory Commission and the supply of energy to the Southern Nevada Water Authority. These energy market activities are continuing and support the request that these contracts be amended to provide for an extension of the term of the contracts and a modification of hourly rates.

At its meeting on July 8, 2003, the CRC approved a personal services contract with Duncan, Weinberg, Genzer & Pembroke, P.C., of Washington, D.C., ("Duncan Weinberg") to provide needed outside legal services and representation in the Order to Show Cause and relating proceedings (the "Partnership Dockets") before the Federal Energy Regulatory Commission ("FERC"). CRC was unable to use the services of its primary Washington, D.C. counsel, Miller, Balis and O'Neill, because of a potential conflict of interest.

Currently, the maximum aggregate limit on compensation under the Duncan Weinberg contract is sufficient to cover any reasonably anticipated costs for legal services from that firm for the foreseeable future. As a result of the settlement of the CRC's role in the Partnership Dockets, the on-going need for the services of Duncan, Weinberg has been reduced materially. Staff recommended that this contract be extended beyond its present termination date of June 30, 2006, to June 30, 2008, to allow for the use of Duncan Weinberg's services in FERC-related matters on an as-needed basis.

Recent experience has shown that CRC may be required to be actively represented before FERC with very short notice, and that potential conflicts or other causes may preclude the CRC from utilizing the services of Miller, Balis & O'Neill, its primary legal counsel in matters before FERC. Due to the state-mandated approval process for outside services contracts, it can be virtually impossible to enter into a new contract for outside legal services on short notice when the need is immediate. Additionally, the adoption of the federal Energy Policy Act of 2005 in August 2005 for the first time gives FERC limited, but significant jurisdiction over some activities of previously non-jurisdictional governmental entities like the CRC. Notably, the CRC's power trading activities are subject to significant new rules governing the operation of power markets which opens the door to the potential need to participate more actively in related FERC proceedings, and, to the possibility of responding to limited-scope audit-like inquiries by FERC and its professional staff.

It is important to note that the Duncan Weinberg contract is enabling in nature only, and that further services from this law firm will be provided only upon the specific request of the executive director. Since there is no minimum payment or retainer required, the CRC retains full control over the level of expenditures to be incurred under the contract. Staff has worked closely with Duncan Weinberg for several years and finds its legal services to be of a high quality as well as prompt and responsive.

The “Fifth Amendatory Contract for Services of Independent Contractor” extends the term of Duncan Weinberg’s contract from June 30, 2006, to June 30, 2008, and amends the contract’s schedule of hourly rates to reflect current levels.

**2. Third Amendatory Contract to the November 12, 2002, contract with Gordon & Silver, Ltd., to extend the term of the contract and adjust the fee schedule.**

Mr. Salo further reported that the Las Vegas law firm of Gordon & Silver, Ltd. assisted the Commission in NPC-related litigation under a November 12, 2002, contract entered into with the approval of the attorney general originally in connection with the Pioneer litigation, but extended to include different or additional matters. Unlike legal services contracts with law firms based in Washington, D.C., this contract with Gordon & Silver, Ltd., provides for supporting legal services from a prominent Las Vegas-based firm which is fully capable of representing the CRC’s interests as they may appear before state and federal courts within Nevada, and to provide direct legal advice on applicable Nevada law.

Because the services provided to the CRC by Gordon & Silver, Ltd. are expected to pertain to the power supply function of the Southern Nevada Water Authority Power Delivery Project, the cost of the legal services rendered under this contract would be borne as an operational expense of the Commission, which is charged to the customer who benefits by the services provided. Currently, the maximum aggregate limit on compensation under the Gordon & Silver, Ltd. contract is sufficient to cover any reasonably anticipated costs for legal services from that firm for the foreseeable future.

The Gordon & Silver, Ltd. contract is enabling in nature only, in that further services from this law firm will be provided only upon the specific request of the executive director. Since there is no minimum payment or retainer required, the CRC retains full control over the level of expenditures to be incurred under the contract. Staff has worked closely with Gordon & Silver, Ltd., for several years and finds its legal services to be of a high quality as well as prompt and responsive.

The current termination date of the November 12, 2002, Gordon & Silver contract is June 30, 2006. The “Third Amendatory Contract for Services of Independent Contractor,” extends the term of the contract to June 30, 2008, and amends the fee schedule provided in the contract to reflect current levels in the hourly rates charged by Gordon & Silver.

**Commissioner Anderson moved for approval of both contract amendments. The motion was approved by a unanimous vote of those present.**

**E. Update on the status of discussions regarding shortages criteria and other developments on the Colorado River.**

Natural Resource Specialist Nicole Everett gave a presentation regarding the use of water on the Colorado River in 2006, a copy of which is attached hereto and made a part of the minutes. (See Attachment A.)

**F. Comments and questions from the public and discussion. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken).**

There were no comments or questions from the public.

**G. Comments and questions from the Commission members.**

There were no comments or questions from the Commission members.

**H. Action to select next meeting date and adjourn.**

The next meeting is tentatively scheduled for Tuesday, July 11, 2006, at 10:00 a.m. at the State Sawyer Building in Room 4412.

**Commissioner Marybel Batjer made a motion to approve the next meeting date and place, and the motion was approved by a unanimous vote of those present.**

The meeting adjourned at 10:38 a.m.

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George M. Caan, Executive Director

APPROVED:

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Richard W. Bunker, Chairman