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COLORADO RIVER COMMISSION
OF NEVADA

July 7, 2022

NOTICE OF HEARING

TO ACT UPON A REGULATION
LCB File No. R071-22

The Colorado River Commission of Nevada (Commission or CRCNV) will be holding a public hearing at **1:30 p.m., Tuesday, August 9, 2022** at the **CLARK COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS, 500 SOUTH GRAND CENTRAL PARKWAY, LAS VEGAS, NEVADA**. This public hearing will be included on the agenda for the Commission's August 9, 2022, meeting.

The purpose of the hearing is for the Commission to consider and take possible action to approve, modify, or reject, in whole or in part, the proposed revised regulation NAC 538.610, LCB File No. R071-22.

Interested parties and members of the public may provide comments to the Commission on the Draft regulation, LCB File No. R071-22 either by appearing at the August 9, 2022 public hearing to provide oral comments, or by submitting written comments addressed to: Executive Director, RE: LCB File No. R071-22. Written comments must be delivered to the Commission's offices by **5:00 p.m. on Tuesday, August 2, 2022**, for inclusion in the materials provided to the Commission for the hearing.

Written comments may be submitted to the Commission via email at CRCAdmins@crc.nv.gov or may be delivered by mail or in person to the Commission's office at 555 East Washington Avenue, Suite 3100, Las Vegas, Nevada 89101.

AVAILABILITY OF DOCUMENTS

A copy of the revised regulation, LCB File No. R071-22 is attached to this Notice. In addition, this Notice and the revised regulation are available at:

- The Commission's office at 555 East Washington Avenue, Suite 3100, Las Vegas, NV 89101, during business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.), and
- Online at: www.crc.nv.gov

A copy of the Agenda for the August 9, 2022 Commission meeting will be available on the Commission's website at least 3 business days before the meeting. Any person may request a copy of the Agenda to be sent to them by calling Tamisha Randolph at the Commission's office at (702) 486-2670. At the discretion of the Chair, agenda items may be taken out of order or the meeting or may be continued as deemed necessary. The Commission may combine two or more items for consideration and may remove an item from the agenda at any time.

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 Public Meeting has been sent to all persons on the agency's service list and posted at the following locations:

Colorado River Commission of Nevada Office
555 East Washington Avenue, Suite 3100, Las Vegas, NV 89101

Nevada State Library
100 North Stewart Street, Carson City, NV 89701

State of Nevada Grant Sawyer Office Building
555 East Washington Avenue, Las Vegas, NV 89101 and at the following websites:

Colorado River Commission website
www.crc.nv.gov

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

Nevada State Legislative Counsel Bureau
Administrative Regulation Notices website: <https://www.leg.state.nv.us/App/Notice/A/>

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

LCB File No. R071-22

June 23, 2022

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

AUTHORITY: § 1, NRS 538.181 and 538.201.

A REGULATION relating to the Colorado River Commission of Nevada; revising provisions governing the administrative charge payable by contractors to 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 related to the distribution of certain power derived from the Colorado River and is authorized to enter into contracts relating to that power, including, without limitation, contracts relating to the transmission and distribution of that power. (NRS 538.181) Existing regulations establish an administrative charge in the form of a rate per kilowatt-hour payable by contractors who purchase power, in addition to the rates or charges for capacity or energy from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects. (NAC 538.350, 538.610) The administrative charge is based on a projection for 2 years of all costs for the Commission’s operations relating to the contractors. (NAC 538.610) This regulation requires the administrative charge to be calculated using an average of the operating costs incurred by the Commission during a period of not less than 3 years immediately preceding the operating year in which the administrative charge will be levied and adjusted for future known and expected changes in operating costs. This regulation also authorizes the Commission to collect the administrative charge, in whole or in part, as a fixed charge based on the amount of hydroelectric energy allocated to the contractor and the amount of any other energy to be delivered to the contractor by the Commission.

Section 1. NAC 538.610 is hereby amended to read as follows:

538.610 1. The rates or charges payable by a contractor to the Commission for capacity or energy from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects and for wheeling energy from the Parker-Davis Project or Salt Lake City Area

Integrated Projects must be Western's effective rates or charges for those resources. These rates or charges, the Commission's administrative charge and any other costs associated with the contracted resource will be shown by a periodic report or by exhibits to the contracts for power from these projects. These rates, charges and costs may vary due to changing conditions. Some rates or charges may be estimated for a portion of an operating year with an adjustment, for the months the estimate is used, in the month the actual rate or charge is established.

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

3. The administrative charge is based on a projection ~~{for 2 years of all costs for}~~ of the Commission's *costs of* operations relating to the contractors ~~{. Those}~~, *which must be calculated using an average of the costs incurred by the Commission for operations relating to the contractors during a period of not less than 3 years immediately preceding the operating year in which the administrative charge is to be levied and adjusted for future known and expected changes to the annual operating costs of the Commission. The administrative charge may be collected, in whole or in part:*

(a) As a rate per kilowatt-hour, which is determined by dividing ~~{estimated}~~ the projected costs ~~{are divided}~~ by the total estimated number of kilowatt-hours of all energy, including both hydroelectric and nonhydroelectric, to be delivered to contractors . ~~{to arrive at a rate per kilowatt hour.}~~

(b) As a fixed charge, whereby a contractor is charged a portion of the operating costs of the Commission in an amount based on the amount of hydroelectric energy allocated to the contractor pursuant to the contract entered into by the contractor with the Commission and the amount of any other energy to be delivered to that contractor by the Commission.

➡ Except as otherwise provided in subsection 4, the administrative charge may be increased or decreased after the Commission notifies the contractors of the grounds for the increase or decrease and the effective date of the increase or decrease, which must be not less than 90 days after the Commission sends the notice of the increase or decrease.

4. The Commission may use the expedited procedure set forth in this subsection to increase or otherwise revise the administrative charge if actual revenue from the administrative charge is equal to or less than 70 percent of the revenue projected in accordance with subsection 3. The Commission's staff may develop a proposed increase or other revision to the administrative charge and, not later than 30 days before the Commission meeting at which the Commission will make a determination on the proposed increase or other revision, notify the contractors in writing of the proposed increase or other revision. The notice must contain a statement of the amount of, and the grounds for, the proposed increase or other revision and the date of the Commission meeting at which the Commission will make a determination on the proposed increase or other revision. The Commission will accept written comments from contractors regarding the proposed increase or other revision which are submitted not later than 15 days before the Commission meeting at which the Commission will make a determination on the proposed increase or other revision. In determining whether to increase or otherwise revise the administrative charge, the Commission will review the proposed increase or other revision to the administrative charge proposed by the Commission's staff, comments submitted by contractors in accordance with this subsection and any other relevant information.

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

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SMALL BUSINESS IMPACT STATEMENT

LCB FILE NO. R071-22

The Colorado River Commission of Nevada (Commission) is an executive agency of the State of Nevada responsible for acquiring and managing Nevada's share of water and hydropower resources from the Colorado River. The Commission has been involved in the marketing and allocation of federal hydropower since 1936. The proposed revised regulations are necessary to ensure agency procedures are relevant for future hydropower marketing and allocation processes.

The proposed regulations in part amends NAC 538.610 to add provisions related to the administrative charge:

1. Removes the projection of annual costs for two years and replaces it with a projection based on an average of at least three previous years' annual costs incurred and adjusted for future known and expected changes; and
2. Removes the requirement to determine an administrative rate that is charged solely on the kilowatt-hours of energy delivered to the customers. The proposed language would allow the Commission the flexibility, if it was necessary, to base the hydropower administrative charge an allocation of fixed costs.

Pursuant to NRS 233B.0608 and NRS 233B.0609, the staff of the Commission has made a concerted effort to determine whether the proposed regulations are likely to (a) Impose a direct and significant economic burden upon small businesses, or (b) Directly restrict the formation, operation or expansion of a small business.

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary:

Because the Commission has not contracted, and does not anticipate contracting with a small business, Commission staff determined that there are no known small businesses that would be affected by the proposed revisions to its regulations. Therefore, no comments were solicited from small businesses and no subsequent summary has been issued.

(b) The manner in which the small business analysis was conducted:

Commission staff knowledgeable of the hydropower industry, reviewed the Commission's statutes, regulations and its federal contracting requirements, and determined that there are no known small businesses that would be affected by its proposed revisions to its regulations.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects:

(I) Adverse effects:

No known or anticipated adverse effect on small businesses.

(II) Beneficial effects:

No known or anticipated beneficial effect to small businesses.

(2) Both direct and indirect effects:

(I) Direct effect:

No known or anticipated direct effect to small businesses.

(II) Indirect effect:

No known or anticipated indirect effect to small businesses.

(d) A description of the methods that the Colorado River Commission of Nevada considered to reduce the impact of the proposed revisions to its regulations on small businesses and a statement whether the Commission actually used any part of those methods.

The Commission has not considered a method to reduce the impact of its proposed regulations on small businesses at this time because the Commission has determined that there is no impact on small businesses.

(e) The estimated cost to the Commission for enforcement of the proposed regulation.

There is no cost to the Commission for enforcement of the proposed regulation.

(f) If the Commission's proposed revisions to its regulations provides a new fee or increases an existing fee, the total annual amount the Commission expects to collect and the manner in which the money will be used.

The Commission's proposed revisions to its regulations does not provide for a new fee or increase an existing fee.

(g) If the Commission's proposed revisions to its regulations includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The Commission's proposed revisions to its regulations does not duplicate any existing federal, state, or local standards regulating the same activity.

(h) The reasons for the conclusions of Commission staff regarding the impact of its proposed revisions to its regulations on small businesses.

Commission staff has concluded that there will be no impact to small businesses that will result from the adoption of the proposed regulations for the reasons set forth below:

1. Pursuant to NRS chapter 538 and 704, the Commission is limited to whom water and electric service can be provided; and
2. The proposed amendment adds provisions related to the administrative charge due to the variability of hydrology and the variability of the nonhydroelectric purchases made on behalf of the industrial customers, the Commission's administrative fee revenue has declined over time using the method required by the regulation. Although the Commission is not anticipating the need to increase the administrative rate at this time, the regulation change would provide a tool for the Commission to consider in the future if such a tool was necessary to stabilize the administrative revenue.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses, and the information contained in the Small Business Impact Statement was prepared properly and is accurate.



Eric Witkoski
Executive Director

3/28/2022

Date