

STATEMENT REGARDING SMALL BUSINESS IMPACT (NRS 233B.0608)

LCB File No. T002-14 (PUCN Docket No. 14-09008)

- 1. 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.**

N/A. See Informational Statement accompanying the Regulation, Question Nos. 2-5 and 12.

Pursuant to NRS 233B.0608 (1), the Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada ("PUCN") conducted an investigation to determine whether the proposed regulation is likely to: (a) Impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business. In a Memorandum filed on February 20, 2014, Staff memorialized its conclusion that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. See Attachment 1 hereto.

On October 28, 2014, the PUCN issued an Order adopting the findings of Staff's Memorandum of October 22, 2014, and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. See Attachment 2 hereto.

NRS 233B.0608 (2)(a) only requires an agency to consult with owners and officers of small businesses "if an agency determines pursuant to subsection 1 that a proposed regulation *is* 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..." (emphasis added). Given the PUCN's determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry, as no such "affected" small businesses exist.

- 2. The manner in which the analysis was conducted.**

See Attachments 1 and 2. Staff used a version of the Delphi method that incorporates elements of the Policy Delphi method to determine the potential impact of a regulation on small businesses.

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3. **The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:**
- (a) Both adverse and beneficial effects; and
 - (b) Both direct and indirect effects.

See Informational Statement accompanying the Regulation, Question No. 7. See also Attachments 1 and 2.

4. **A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

N/A. *See Attachments 1 and 2.*

Pursuant to NRS 233B.0608 (1), Staff conducted an investigation to determine whether the proposed regulation is likely to: (a) Impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business. In a Memorandum filed on October 22, 2014, Staff of the PUCN memorialized its conclusion that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. *See Attachment 1.*

On October 28, 2014, the PUCN issued an Order adopting the findings of Staff's Memorandum of October 22, 2014, and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. *See Attachment 2.*

NRS 233B.0608 (2)(c) only requires an agency to consider methods to reduce the impact of a proposed regulation on small businesses "if an agency determines pursuant to subsection 1 that a proposed regulation is 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..." (emphasis added). Given the PUCN's determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry as there are no impacts on small businesses and no methods that were considered for reducing the non-existent impacts.

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

See Informational Statement accompanying the Regulation, Question No. 8. See also Attachment 1.

6. **If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A. *See also* Informational Statement accompanying the Regulation, Question No. 11.

7. **If the proposed regulation 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.**


See Informational Statement accompanying the Regulation, Questions Nos. 9 and 10. *See also* Attachment 1.

8. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The PUCN complied with NRS 233B.0608 by making a concerted effort to determine whether the proposed regulation imposes a direct and significant economic burden upon small businesses, or directly restricts the formation, operation or expansion of a small business. The PUCN concluded that no such impacts would occur from the adoption of the proposed regulation based upon the well-reasoned investigation of its Staff.

I, CRYSTAL JACKSON, Executive Director of the PUCN, certify that, to the best of my knowledge or belief, the information contained in the statement was prepared properly and is accurate.

DATED this 24th day of December, 2014.


CRYSTAL JACKSON
Executive Director
PUBLIC UTILITIES COMMISSION OF NEVADA

ATTACHMENT 1

PUBLIC UTILITIES COMMISSION OF NEVADA
----- CORRECTED -----
MEMORANDUM

(Strikethrough denotes deletion. Additions underlined.)

DATE: October 3, 2014

TO: The Commission

Via Anne-Marie Cuneo, DRO *AMC*
Tammy Cordova, Staff Counsel *TC/MC*

FROM: Louise Uttinger, Assistant Staff Counsel *LU*

SUBJECT: Small Business Impact Report

Agenda No. 21-14; Item No. 4B; Docket No. 14-09008;

Rulemaking to reflect changes to the Economic Development Rate Rider Program set forth in Assembly Bill 1 of the 28th (2014) Special Session of the Nevada Legislature.

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RECEIVED-PUBLIC
UTILITIES COMMISSION
OF NEVADA-CIVIL DIVISION

I. Summary:

On September 19, ~~2013~~ 2014, the Public Utilities Commission of Nevada ("Commission") issued an Amended Notice of Intent to Act Upon a Regulation, Notice of Workshop and Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the Public Utilities Commission of Nevada. This matter was designated as Commission Docket No. 14-09008.

On September 17, 2014, the Hearing Officer issued a Procedural Order directing Staff to perform a Small Business Impact investigation into whether the proposed regulation attached to the Procedural Order, amendments to Section 9 of LCB File No. R072-13, is likely to impact small businesses as contemplated in Nevada Revised Statutes ("NRS") 233B.0608(1), and to present a report of the results of this investigation along with a statement identifying the methodology used in determining the impact on small business. Staff was further directed to place this report on the Commission's October 27, 2014, agenda for the Commission's consideration.

NRS 233B.0608 (1) requires an agency to make a concerted effort to determine whether a proposed regulation is likely to:

- (a) impose a direct and significant economic burden upon a small businesses; or
- (b) directly restrict the formation, operation or expansion of a small business.

A small business is defined in NRS 233B.0382 as a business conducted for profit which employs fewer than 150 full-time or part-time employees. NRS 233B.0608 (1) further requires that the assessment must be made prior to conducting a workshop regarding the proposed regulation.

NRS 233B.0608 (3) requires that an agency considering a proposed regulation “. . . shall prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency.” The statement must include the information listed in NRS 233B.0609 (1).

This briefing memo constitutes Staff's Report regarding the small business impact of the proposed regulations.

II. Investigation and Analysis:

In accordance with NRS 233B.0608 (3), Staff used a version of the Delphi method that incorporates elements of the Policy Delphi method to determine the potential impact of a regulation on small businesses. The Delphi method is a systematic interactive forecasting method based on independent inputs of selected experts. It recognizes the value of expert opinion, experience and intuition, and allows the use of limited information when full scientific knowledge is lacking.

In this instance, the participants were members of Staff who are familiar with the subject matter of the rulemaking. A Staff Financial Analyst who worked on the original regulation and is assigned to the current regulation, a Staff Economist and a Staff member from the Consumer Division participated in this analysis. Each participant in the exercise used the participant's background and expertise to reflect upon and analyze the impact of the regulations on small businesses. Following the first round of written responses the Delphi participants met and engaged in a critique of the responses, arriving at a consensus position.

The proposed regulations amend existing regulations, which provide discounted rates that an electric utility is required to charge pursuant to a Nevada legislative program for economic development.

Adverse Effects:

Participants to the Delphi review concluded that while amendments to the existing regulation will raise the overall electric bill a small business receives, any such increase is expected to be slight and is not the result of the proposed amendments to the existing regulation. Any adverse effects are directly due to the passage of the statute which changed the existing Economic

Development Electric Rate Rider Program (“EDER”), set forth in Assembly Bill (“AB”) 1 of the 28th (2014) Special Session of the Nevada Legislature.

The participants concluded that the proposed regulations will have a small adverse effect on Sierra Pacific Power Company’s d/b/a NVEnergy ratepayers due to a small addition on the Utility’s bills. Small businesses will realize a very small increase in their DEAA rate to account for the discounted BTER, as provided in the proposed amendments to the existing regulation, for a longer period of time.

Additionally, the DEAA rate may increase for all non-participating ratepayers for a longer time (since discounts to each program participant can be provided for up to eight years), including small businesses, as a result of providing rate discounts to EDER Program participants. The amount of the increase to the DEAA, if any, would depend on participation in the program. However, any increase is likely to be nominal and unlikely to burden small businesses; small businesses may absorb any increases, pass through cost increases to customers or modify how business is conducted. Such small cost increases would be the result of AB 1 and not the regulation.

Beneficial Effects:

Businesses that participate in the EDER program will receive the benefit of a discounted BTER rate for a longer period (up to eight years). A large business currently being constructed in northern Nevada is expected to bring direct and indirect economic benefits to businesses in the area. With the building of the business, the public is likely to realize increased employment opportunities, as well as direct and indirect economic benefits.

Because of the EDER Program small businesses generally (including both participating and non participating businesses) may experience additional demand for the products/services they provide as a result of other businesses and potential new customers relocating to Nevada, increasing the job market. However, the magnitude of such benefits, if any, would depend on how many and what types of businesses relocate to Nevada because of the program. These potential benefits would be a result of AB 1, not the proposed regulation.

Restrictions on the formation, operation or expansion of small businesses:

The proposed regulations, which amend existing Nevada regulations, carry out the Nevada Legislature’s intent to further encourage economic development for the state of Nevada, and are designed to implement AB 1 to further encourage the formation, operation and/or expansion of Nevada businesses.

What are the immediate and/or long-term adverse effects, if any, of the regulation on the Utility?

The Utility will be able to pass on the amount of reduced revenue collections to other ratepayers, thereby making the Utility whole for the discount given to EDER customers. However, the Utility is likely to experience some minimal long-term adverse effects because it will have some slight additional oversight to implement the expanded EDER Program and additional recordkeeping requirements related to tracking the discounted BTER for a longer period of time. The AB 1 amendment increases the discount period from four years to eight years. Additionally, the Utility will need to include additional information in filings, possibly for a longer time.

What are the immediate and/or long-term beneficial effects, if any, of the attached regulation on the Utility?

More businesses may relocate to Nevada to take advantage of increased incentives, which should grow NV Energy's business customer base and add more residential customers. The Utility will be able to recover the discounts plus carry as part of its annual DEAA filing.

What are the immediate and/or long-term beneficial effects, if any, of the attached regulation on the public?

The public may receive some immediate and long-term beneficial economic benefits from other businesses relocating to Nevada because of the EDER Program. However, the magnitude of such benefits depends on program participation. More jobs for Nevadans would help the economy overall. With the building of a new large business in northern Nevada, the public should realize increased employment opportunities, as well as direct and indirect economic benefits from a large manufacturer being built in the area.

Cost to the Commission to enforce or administer the proposed regulation, including start-up and ongoing costs.

Startup costs include developing the regulation and conducting the necessary workshop and hearing. These costs, such as publication costs and court reporter costs, are incremental in nature and may be absorbed by existing personnel and budgets in place.

If additional information is provided, Staff and the Commission may need more time to review DEAA applications; however, this review can be performed with existing Staff. Specifically, Staff may need to perform additional audit and review procedures during the DEAA dockets to review and calculate the discounted BTER. These procedures should be minimal.

As a result of this investigation and analysis, Staff participants concluded that the proposed

regulations are not likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation, or expansion of a small business. Therefore, a small business impact statement pursuant to NRS 233B.0608 (2) is not required.

III. Notice and Subsequent Action:

On September 17, 2014, the Hearing Officer issued a Procedural Order, attaching proposed amendments to the existing regulation. The Procedural Order directed Staff to conduct an investigation pursuant to NRS 233B.0608(1) to determine whether the proposed regulations were likely to (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

IV. Conclusion:

Staff recommends that, in accordance with NRS 233B.0608(1), the Commission find that the proposed regulation is not likely to impose a direct or significant economic burden on a small business, or to restrict the formation, operation or expansion of a small business. Any slight economic effect that will be experienced by small businesses is a result of prior Nevada legislative action, not the proposed regulations.

Staff further recommends that, pursuant to NRS 233B.0608 (3), the Commission state that the Delphi method was used in the determination of the impact of the proposed regulations on small business.

ATTACHMENT 2

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Rulemaking to reflect changes to the Economic)	
Development Electric Rate Rider Program set forth)	
in Assembly Bill 1 of the 28th (2014) Special)	Docket No. 14-09008
Session of the Nevada Legislature.)	
_____)	

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on October 27, 2014.

PRESENT: Chairman Alaina Burtenshaw
 Commissioner Rebecca D. Wagner
 Commissioner David Noble
 Assistant Commission Secretary Breanne Potter

ORDER

The Public Utilities Commission of Nevada ("Commission") makes the following
findings of fact and conclusions of law:

I. INTRODUCTION

The Commission opened a Rulemaking to reflect changes to the Economic Development Electric Rate Rider Program set forth in Assembly Bill ("AB") 1 of the 28th (2014) Special Session of the Nevada Legislature.

II. SUMMARY

The proposed regulation in Docket No. 14-09008 does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business. Therefore, a small business impact statement pursuant to the Nevada Revised Statutes ("NRS") 233B.0608(2) is not required.

III. PROCEDURAL HISTORY

- On September 15, 2014, the Commission opened a rulemaking to reflect changes to the Economic Development Electric Rate Rider Program set forth in AB 1 of the 28th (2014) Special Session of the Nevada Legislature. This matter has been designated by the Commission as Docket No. 14-09008.

- The matter is being conducted in accordance with Chapters 233B, 703, and 704 of the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC"), including but not limited to NRS 703.025 and 704.210.

- On September 17, 2014, the Presiding Officer issued a Procedural Order with the proposed regulation attached. Staff was directed to conduct an investigation pursuant to NRS 233B.0608 to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.
- On September 18, 2014, a copy of the Commission's proposed temporary regulation was sent to the Legislative Counsel Bureau.
- On September 19, 2014, the Commission issued an Amended Notice of Intent to Act Upon a Regulation, Notice of Workshop and Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the Public Utilities Commission of Nevada.
- On October 22, 2014, Staff filed a corrected briefing memo regarding its small business impact report.

IV. SMALL BUSINESS IMPACT REPORT

Staff's Position

1. Staff conducted a Delphi Method exercise to determine the impact of this proposed regulation on small businesses. The Delphi Method is a systematic, interactive forecasting method based on independent inputs of selected experts. In this instance, the participants were members of Staff. Each participant in the exercise used his background and expertise to reflect upon and analyze the impact of the proposed regulation on small businesses. Staff made the following observations:

Immediate Adverse Effects

Staff states that while the proposed regulation will raise the overall electric bill a small business receives, any such increase is expected to be slight and is not the result of the proposed amendments to the existing regulation. Any adverse effects are directly due to the passage of the statute which changes the existing Economic Development Electric Rate Rider Program ("EDER") set forth in AB 1 of the 28th (2014) Special Session of the Nevada Legislature.

Immediate Beneficial Effects

Staff states that due to the EDER, small businesses generally may experience additional demand for the products/services they provide as a result of other businesses and potential new customers relocating to Nevada, increasing the job market. However, the magnitude of such benefits, if any, would depend on how many and what types of businesses relocate to Nevada because of the program. These potential benefits would be a result of AB 1 of the 28th (2014) Special Session of the Nevada Legislature.

Long-Term Adverse Effects

Similar to the short-term effects already described, Staff states that while the regulation extends the term of discounts provided under the EDER to eight years and may raise the overall electric bill a small business receives, any such increase is expected to be slight and is not the result of the proposed amendments to the existing regulation. Any adverse effects are directly due to the passage of the statute which changes the existing Economic Development Electric Rate Rider Program ("EDER") set forth in Assembly AB 1 of the 28th (2014) Special Session of the Nevada Legislature.

Long-Term Beneficial Effects

Similar to the short-term beneficial effects already described, Staff states that the regulation may result in small businesses experiencing additional demand for the products/services they provide as a result of other businesses and potential new customers relocating to Nevada, increasing the job market. However, the magnitude of such benefits, if any, would depend on how many and what types of businesses relocate to Nevada because of the program. These potential benefits would be a result of AB 1 of the 28th (2014) Special Session of the Nevada Legislature.

Cost to the Commission to enforce or administer the proposed regulation, including start-up and ongoing costs

Staff states that startup costs include developing the regulation and conducting the necessary workshop and hearing. These costs, such as publication costs and court reporter costs, are incremental in nature and may be absorbed by existing personnel and budgets in place. If additional information is provided, staff and the Commission may need more time to review Deferred Energy Accounting Adjustment ("DEAA") Applications; however, this review can be performed with existing staff. Specifically, Staff may need to perform additional audit and review procedures during DEAA dockets to review and calculate the discounted Base Tariff energy Rate ("BTER"). These procedures should be minimal.

2. Based on the foregoing, Staff's report recommends that the Commission find that the proposed regulation in Docket No. 14-09008 will not impose a direct and significant economic burden on small businesses or directly restrict the formation, operation, or expansion of a small business.

Commission Discussion and Findings

3. At a utility agenda meeting held on October 27, 2014, the Commission voted to accept Staff's report and adopt Staff's recommendation.

4. The Commission finds that the proposed regulation does not impose a direct or significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business, and therefore a small business impact statement pursuant to NRS 233B.0608(2) is not required.

5. The Commission concludes that the provisions of NRS 233B.0608 have been met.

THEREFORE, it is ORDERED that:

1. The proposed regulation in Docket No. 14-09008 does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation, or expansion of a small business.

2. The Commission may correct any errors that have occurred in the drafting or issuance of this Order without further proceedings.

By the Commission,



BREANNE POTTER,
Assistant Commission Secretary
On behalf of the Commissioners

Certified:



CRYSTAL JACKSON,
Executive Director

Dated: Carson City, Nevada

10-28-14

(SEAL)

