

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

**LCB File No. R069-15 (PUCN Docket No. 15-06042)**

- 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 October 21, 2015, 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 November 5, 2015, the PUCN issued an Order adopting the findings of Staff's Memorandum of October 21, 2015, 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.

///  
///  
///  
///

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 November 5, 2015, the PUCN issued an Order adopting the findings of Staff's Memorandum of October 21, 2015, 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, STEPHANIE MULLEN, Executive Director of the PUCN, 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 statement was prepared properly and is accurate.

DATED this 14 day of January, 2016.



---

STEPHANIE MULLEN  
Executive Director  
PUBLIC UTILITIES COMMISSION OF NEVADA



# **ATTACHMENT 1**



**PUBLIC UTILITIES COMMISSION OF NEVADA  
MEMORANDUM**

RECEIVED-PUBLIC  
UTILITIES COMMISSION  
OF NEVADA-CARSON CITY  
2015 OCT 21 PM 2:30

**DATE:** October 19, 2015

**TO:** The Commission *me*  
Via Anne-Marie Cuneo, DRO

**FROM:** Tammy Cordova, Staff Counsel *TC/MC2*

**SUBJECT:** Small Business Impact Report  
Agenda Number 21-15; Item Number 3A; Docket Number 15-06042,  
Rulemaking to amend, adopt, and/or repeal regulations pertaining to Chapter 704  
of the Nevada Administrative Code regarding the use of decommissioned power  
plant sites and other matters in accordance with Senate Bill 416 (2015).

---

**I. Summary**

On June 24, 2015, at the 12-15 Agenda, the Public Utilities Commission of Nevada ("Commission") voted to open a rulemaking to amend, adopt, and/or repeal regulations pertaining to Chapter 704 of the Nevada Administrative Code ("NAC") regarding the use of decommissioned power plant sites and other matters in accordance with Senate Bill ("SB") 416, which was passed by the 78<sup>th</sup> (2015) Session of the Nevada Legislature.

On September 25, 2015, the Presiding Officer issued a Procedural Order that directed the Commission's Regulatory Operations Staff ("Staff") to conduct an investigation pursuant to Nevada Revised Statutes ("NRS") 233B.0608(1) regarding whether the proposed regulations, attached as Attachment 1 to that Procedural Order, are 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.

The Order directed Staff to conduct an investigation into whether the proposed regulations are likely to affect small businesses as contemplated in NRS 233B.0608(1) and to present a report of the results of this investigation, including all the information required by NRS 233B.0609(1), along with a statement identifying the methodology used in determining the impact on small business. Staff was further directed to place this report on an agenda for consideration not later than the last open meeting of the Commission in October 2015.

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 small businesses; or
- (b) directly restrict the formation, operation or expansion of 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."

One Staff Financial Analyst, one Staff Economist, and one Staff Engineer, all of whom were involved in the rulemaking in this docket and who were most knowledgeable about the proposed regulations, participated in this analysis.

This briefing memo constitutes the Staff Report regarding the Small Business Impact of the proposed regulations.

## **II. Analysis and Investigation**

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 the Regulatory Operations Staff, all three of whom were involved in the rulemaking and who are most familiar with the subject matter of the rulemaking. Each participant in the exercise used his or her background and expertise to reflect upon and analyze the impact of the regulations on small businesses.

The proposed regulations amend existing regulations, and provide requirements for a utility to include in its supply plan the list of assets required by section 10 of SB 416 and certain additional information concerning the ownership of each asset that the utility only partially owns, as well as a requirement for the utility to include in its action plan the surplus asset retirement plan for each asset required by section 10 of SB 416. The participants considered any immediate



and/or long-term adverse effects of the regulation on the utility, the businesses regulated by the regulation, and the public generally. Participants also evaluated any economic burden of the proposed regulation, and whether the proposed regulation directly restricts the formation, operation or expansion of a small business.

#### Adverse Effects:

The participants determined that the utility will have some additional reporting requirements, and that the utility will likely incur costs to carry out the additional reporting requirements. However, the participants determined that such costs are expected to be insignificant and will not cause any immediate or long term adverse effects. The participants found no adverse economic effects to the utility, businesses regulated by the regulation, nor to the public generally.

#### Beneficial Effects

The participants also considered any immediate and/or long-term beneficial effects of the regulation on the utility, the businesses regulated by the regulation, and the public generally. One participant noted that a beneficial effect of the statute on the public generally is that land that is no longer needed by a utility may be able to be redeveloped sooner. However, that beneficial effect is a result of the statute itself; the participants unanimously agreed that the proposed regulation would have no beneficial economic effect on the utility, the business regulated by neither the regulation, nor the public generally.

#### Economic Burden

The participants noted that the proposed regulation only addresses utilities or independent power producers who are large corporations. As these utilities do not fall within the definition of a small business, no small businesses are directly burdened or impacted by the proposed regulation. The regulation does require the utility to complete additional reporting requirements; however, because the cost of the additional reporting requirements are expected to be insignificant, no additional cost will fall to customers, including small businesses. Therefore, no small businesses are directly or indirectly burdened by the proposed regulation.

#### Restriction on the formation, operation or expansion of a small business

As discussed above, the proposed regulation addresses utilities that do not fall within the definition of a small business, nor are any increased costs due to additional reporting requirements expected to fall to customers, including small businesses. The participants unanimously concluded that the proposed regulations are not likely to impose a direct and

significant economic burden on small businesses or directly restrict the formation, operation or expansion of a small business.

As a result of the investigation, Staff has 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 small business. Therefore, a small business impact statement pursuant to NRS 233B.0608(2) is not required.

### **III. Notice and Subsequent Action**

On September 25, 2015, the Presiding Officer issued a Procedural Order with the proposed regulations attached, which 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. The procedural order directed Staff to present a report of the results to the Commission for action at a Commission Meeting not later than the last open meeting of the Commission in October 2015.

### **IV. Conclusion and Recommendations**

Staff recommends that, in accordance with NRS 233B.0608(1), the Commission find that the proposed regulations are not likely to impose a direct or significant economic burden on a small business, nor to restrict the formation, operation or expansion of a small business.

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 amend, adopt, and/or repeal )  
regulations pertaining to Chapter 704 of the Nevada )  
Administrative Code regarding the use of ) Docket No. 15-06042  
decommissioned power plant sites and other matters )  
in accordance with Senate Bill 416 (2015). )  
\_\_\_\_\_ )

At a general session of the Public Utilities  
Commission of Nevada, held at its offices  
on October 27, 2015.

**PRESENT:** Chairman Paul A. Thomsen  
Commissioner Alaina Burtenshaw  
Commissioner David Noble  
Assistant Commission Secretary Trisha Osborne

**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 amend, adopt, and/or repeal regulations  
pertaining to Chapter 704 of the Nevada Administrative Code ("NAC") regarding the use of  
decommissioned power plant sites and other matters in accordance with Senate Bill 416 (2015).

**II. SUMMARY**

The proposed regulation in Docket No. 15-06042 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 June 26, 2015, the Commission opened the Rulemaking. This matter has been designated  
by the Commission as Docket No. 15-06042.
- The matter is being conducted in accordance with Chapters 233B, 703, and 704 of the NRS  
and the NAC, including but not limited to NRS 703.025 and 704.210.

///

- On June 26, 2015, the Commission issued a Notice of Rulemaking, Notice of Request for Comments, and Notice of Workshop.
- On July 31, 2015, Nevada Power Company d/b/a NV Energy jointly with Sierra Pacific Power Company d/b/a NV Energy ("NV Energy") and the Regulatory Operations Staff ("Staff") of the Commission filed Comments.
- On August 14, 2015, the Attorney General's Bureau of Consumer Protection ("BCP") and NV Energy filed Reply Comments.
- On August 19, 2015, the Hearing Officer held a Workshop.
- On August 20, 2015, the Hearing Officer sent a proposed regulation to the Legislative Counsel Bureau ("LCB") for pre-adoption review and approval.
- On September 18, 2015, LCB returned the proposed regulation to the Commission in revised form.
- On September 25, 2015, 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 October 21, 2015, Staff filed a briefing memorandum regarding the small business impact statement required to be considered by NRS 233B.0608(2).

#### **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 the utility will have some additional reporting requirements and will likely incur additional costs to carry out those reporting requirements. Such costs, though, are expected to be insignificant and will not cause any immediate adverse effects. Staff finds no adverse economic effects to the utility, businesses regulated by the regulation, or to the public generally.

**Immediate Beneficial Effects**

Staff states that one participant stated that one beneficial effect of the underlying statute is that land that is no longer needed by a utility may be able to be redeveloped sooner. However, that potential effect is as a result of the statute, not the regulation. The participants agreed that the proposed regulation would have no beneficial economic effect on the utility, the business regulated by the regulation, or the public generally.

**Long-Term Adverse Effects**

Similar to the short-term effects already described, Staff states that the utility will have some additional reporting requirements and will likely incur additional costs to carry out those reporting requirements. Such costs, though, are expected to be insignificant and will not cause any long-term adverse effects. Staff finds no adverse economic effects to the utility, businesses regulated by the regulation, or to the public generally.

**Long-Term Beneficial Effects**

Similar to the short-term beneficial effects already described, Staff states that the proposed regulation would have no beneficial economic effect on the utility, the business regulated by the regulation, or the public generally.

### Economic Burden

Staff states that the participants noted that the proposed regulation only addresses utilities or independent power producers who are large corporations. No small businesses are directly burdened or affected by the proposed regulation. As any additional cost to utilities is likely to be minimal, Staff states that no additional cost will fall to customers, including small business. Therefore, no small businesses are directly or indirectly burdened by the proposed regulation.

### Restriction on the Formation, Operation, or Expansion of a Small Business

Staff states that the proposed regulation addresses utilities that do not fall within the definition of a small business, nor are any increased costs due to additional reporting requirements expected to fall to customers, including small businesses. Staff concludes that the proposed regulation is not likely to impose a direct and significant economic burden on small businesses or directly restrict the formation, operation, or expansion of a small business.

2. Based on the foregoing, Staff's report recommends that the Commission find that the proposed regulation in Docket No. 15-06042 is not likely to: (a) impose a direct and significant economic burden upon 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.

### **Commission Discussion and Findings**

3. At a utility agenda meeting held on October 27, 2015, 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. 15-06042 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,



TRISHA OSBORNE,  
Assistant Commission Secretary  
On behalf of the Commissioners

Certified:

  
STEPHANIE MULLEN,  
Executive Director

Dated: Carson City, Nevada

11.5.15

(SEAL)



