

INFORMATIONAL STATEMENT

PROPOSED REGULATION OF THE COLORADO RIVER COMMISSION OF NEVADA

LCB File No. R148-13

The following information is provided pursuant to the requirements of Nevada Revised Statutes (NRS) 233B.066:

a) A clear and concise explanation of the need for the adopted regulations

The proposed changes to the Commission's regulations are needed to implement the provisions of the Hoover Power Allocation Act of 2011 (43 USC Sec. 619a), and Assembly Bill 199 (AB 199) adopted in the 2013 session of the Nevada legislature, which amended NRS 704.787, and to update other provisions of Nevada Administrative Code (NAC) 538. Implementation of the Hoover Power Allocation Act and AB 199 will result in new, up to 50-year contracts with Nevada entities for power resources from Hoover Dam that will replace current contracts which will expire in September, 2017.

The additional proposed regulatory changes in part:

- Revise provisions governing practice and procedure before the Commission that pertain to how hearings, public processes and in particular the hydropower marketing and allocation process, will be conducted and how to participate;
- Revise provisions regarding the marketing and allocation of power to current contractors;
- Adopt provisions governing the marketing and allocation of certain power from Hoover Dam to new allottees;
- Revise various provisions governing electric power contracting by the Commission and other matters addressed in NAC 538; and,
- Revise current risk management procedures and adopt additional risk management procedures.

b) A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

In early 2012, as part of the Commission's extensive outreach efforts, Commission staff developed a website dedicated to the Commission's Hoover marketing and allocation process and researched and developed a list of potential interested parties in Nevada. The list of potential interested parties included leaders of cities, counties, state government entities and utilities that currently do not have an allocation of Hoover power that may have electrical load located within Western Area Power Administration's (Western's) marketing area, and the Commission's existing customers.

Commission staff also published, emailed and posted on its website a series of informational newsletters informing interested persons in Nevada, and existing customers of the Commission, about each step in Western's Hoover marketing and allocation process and timeline, the Commission's Hoover marketing and allocation process and timeline including the introduction and status of AB 199 that amended NRS 704.787, when various informal public meetings and workshops would be held, and who to contact with questions.

Prior to introduction of the Commission's proposed regulations, in 2012 and in 2014, Commission Staff held informal public informational meetings and workshops informing interested persons in Nevada and existing customers of the Commission about the Hoover Power Allocation Act of 2011, Western's allocation process and timeline, and the Commission's allocation process and timeline which included the status of Assembly Bill 199 and the time frame in which the Commission would be amending its Regulations.

As a result of the Commission's extensive outreach efforts, staff developed a mailing distribution list of interested persons.

Copies of the proposed regulations, notice of workshop, notice of intent to act upon the regulation and notice of hearing were sent by email to persons who were known to have an interest in the Commission's regulations and the implementation of the Hoover Power Allocation Act of 2011 as well as to those who had requested such notice.

Copies of the proposed regulations, notice of workshop, notices of intent to act upon the regulation and notice of hearing were shipped by Federal Express to all county libraries in the State of Nevada and posted at the following locations:

- City of Las Vegas City Hall, 495 South Main Street, Las Vegas, NV
- City of North Las Vegas City Hall, 2250 Las Vegas Boulevard North, North 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
- The Capitol Building, 101 North Carson Street, Carson City, Nevada 89701
- The State Library, 100 North Stewart Street, Carson City, Nevada 89701
- Nevada State Legislature Building, 401 South Carson Street, Carson City, Nevada 89701
- Nevada Legislature website <http://www.leg.state.nv.us>
- City of Boulder City Hall, 401 California Avenue, Boulder City, NV
- City of Henderson City Hall, 240 Water Street, Henderson, NV
- Laughlin Chamber of Commerce, 1725 Casino Drive, Laughlin, NV
- Laughlin Town Manager's Office, 101 Civic Way, Laughlin, NV
- Esmeralda County, Courthouse, 233 Crook Avenue, Goldfield, NV
- Eureka County, 10 South Main Street, Eureka, NV
- Lincoln County, 181 North Main Street, Pioche, NV

- Mineral County, 105 South “A” Street, Hawthorne, NV
- Nye County, 1520 East Basin Avenue, Pahrump, NV
- White Pine County, Courthouse, 801 Clark Street, Ely, NV

Commission staff held a workshop on April 21, 2014 to provide a summary of, and solicit comments on, the proposed regulations. Oral comments by interested persons were provided at the workshop and additional written comments were also submitted. In addition to the workshop transcripts, and minutes that contain a summary of the discussion held regarding the proposed regulations, Commission staff prepared a Workshop Comments and Commission staff Response Matrix and provided this document to all interested persons by email. The minutes of the workshop and Comment and Response Matrix are attached hereto (Attachment 1 and 2).

On May 8, 2014 Commission staff issued a notice of intent to act upon a regulation. The text of the proposed regulation which accompanied the notice incorporated some of the suggestions made by parties attending the April 21, 2014 workshop and in written comments submitted by April 25, 2014. A notice of hearing was also included in the May 8, 2014 notice of intent. This notice of hearing also was posted again on June 4, 2014 in accordance with Open Meeting Law, with the notice of the Commission’s regularly scheduled June 10, 2014 meeting.

The Commission conducted a hearing on the proposed regulation on June 10, 2014 to receive and consider comments from interested persons regarding the adoption, amendment and repeal of the proposed regulations. The minutes of the hearing that contain a summary of the discussion held regarding the proposed regulations are attached hereto (Attachment 3).

In addition to direct email to interested persons and public postings, documentation including the notices, proposed regulations, other materials provided, and written comments received by the Commission for both the April 21, 2014 public workshop and June 10, 2014 public hearing have been provided to the public on the Commission’s Hoover allocation website at www.crchooerallocation.com. Audio recordings of the public workshop and hearing are also available at the Colorado River Commission of Nevada office located at 555 East Washington Avenue, Suite 3100, Las Vegas, Nevada 89101, Phone (702) 486-2670.

c) A statement indicating the number of persons who attended the workshop, testified at the hearing, and submitted written statements regarding the proposed regulations.

Nineteen (19) attendees participated in the public workshop on April 21, 2014. Of those attendees three (3) had questions or comments at the workshop and eight (8) persons provided written comments by the April 25, 2014 due date.

Thirteen (13) persons attended the hearing on June 10, 2014. No one testified at the hearing.

- d) **A list of names and contact information, including telephone number, business address, business telephone number, electronic email address, and name of entity or organization represented for each person identified in item C above, as provided to the agency, is attached hereto (Attachment 4).**
- e) **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Following a presentation summarizing the proposed regulations, Commission staff provided existing customers of the Commission and interested persons (affected businesses) an opportunity to ask questions and provide comment at the April 21, 2014 workshop. Also, written comments were accepted through April 25, 2014. The written summary of workshop comments, additional

written comments submitted by April 25, 2014 and Commission staff responses (Comment and Response Matrix) are attached hereto (Attachment 2).

Additionally, Commission staff provided existing customers of the Commission and interested persons (affected businesses) the opportunity to provide further written comments between May 8, 2014 and May 27, 2014 and at the public hearing held on June 10, 2014. No written comments were received between May 8, 2014 and May 27, 2014. There were no comments from affected businesses provided at the June 10, 2014 public hearing.

Documentation including the notices, proposed regulations, other materials provided and comments received by the Commission for both the April 21, 2014 public workshop and June 10, 2014 public hearing, a statement identifying the methods used by the agency in determining the impact on a small business and small business impact statement, have been provided to the public on the Commission's Hoover allocation website at www.crchoverallocation.com. The statement identifying the methods used by the agency in determining an impact on a small business and the small business impact statement are attached hereto (Attachment 5).

- f) **If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Two additional revisions to the May 8, 2014 version of the proposed regulations were included in the regulations approved by the Commission on June 10, 2014. These changes removed from Section 32 (4) the provision requiring Nevada Power Company to pass through to its residential class of ratepayers the benefits of Schedule A power; and added to Section 34 (5) a provision allowing Contractor's agents, as well as Contractors, to provide the Commission with the ability to physically disconnect a Contractor's power.

The members of the Colorado River Commission of Nevada fully considered the comments addressed in the Comment and Response Matrix and the recommended revisions to the May 8, 2014 version of the proposed regulations.

No public comments were made at the June 10, 2014 public hearing.

Commissioner Coffin moved for approval of the recommended revisions to the May 8, 2014 version of the proposed regulations of the Commission contained in NAC Chapter 538, LCB File No. R148-13 as follows:

Section 32 (4) of the proposed regulation are modified as follows (changes shown in ~~strikeout~~ and in underlined text) resulting in the original language remaining unchanged:

4. [~~NV Energy, Inc.,~~] Nevada Power Company shall pass through to its residential class of ratepayers ~~located within Western's [Boulder Canyon Project] defined marketing area for the Boulder Canyon Project~~ the ~~[full]~~ economic benefits of power from ~~Schedule A and~~ Schedule B.

Section 34 (5) of the proposed regulation are modified as follows (changes shown in ~~strikeout~~ and in underlined text):

5. *On or before September 30, 2017, each Contractor or their agent(s) that obtains all of its electric power from the Commission must provide the Commission with the ability to physically disconnect the Contractor's power for failure to pay a power invoice from the Commission in a timely manner, without adversely impacting the delivery of power to other Contractors.*

The motion was seconded by Vice Chairman Miller and approved by a unanimous vote at the June 10, 2014 hearing.

Commissioner Coffin moved for approval of the May 8, 2014 version of the proposed regulations of the Commission contained in NAC Chapter 538, LCB File No. R148-13 as amended. The motion was seconded by Commissioner Gibson and approved by a unanimous vote at the June 10, 2014 hearing.

The adoption, amendment and repeal of permanent regulations of the Colorado River Commission of Nevada were adopted by the Commission on June 10, 2014.

The minutes of the hearing contain the full discussion of the Commission and approval of the proposed regulations which are attached hereto as Attachment 3.

g) 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:*

The proposed regulation is not expected to have any adverse economic effect on the general public. The proposed regulation may have a beneficial effect to the extent that these regulatory changes facilitate expeditious allocation of post-2017 Hoover power and provide the Commission staff with new tools for administration of electrical power contracts.

b. *Both immediate and long-term effects:*

The proposed regulation does not have an immediate or long-term effect on the general public, because these regulations address aspects of the Colorado River Commission's statutory mandate which focus upon the Commission's trust responsibility under NRS 538.181 to hold and administer the State of Nevada's rights and benefits to electrical power, including Hoover power, and to ensure that the State's power contracts are administered for "the greatest possible benefit to this state" under NRS 538.161. These regulations do not contain provisions related to the general public, other than those members of this group who participate in the receipt and delivery of Hoover power. The only entities eligible to receive federal hydropower and other electric services from the Commission are set forth in NRS 704.787.

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

Enforcement of these proposed regulations poses no measurable cost to the Commission beyond funds already authorized in the budget approved by the Nevada legislature.

i) A description of and citation to any regulation 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.

The proposed regulation does not overlap that of any other state, local, or federal agency.

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

Certain provisions of these proposed regulations are required to implement the federal Hoover Power Allocation Act of 2011 (43 USC Sec. 619a), which authorized the Commission to receive, allocate and administer Nevada's allocations of Schedule A, B, C

and D Hoover power, and to receive and administer allocations of Schedule D Hoover power approved by the Western Area Power Administration.

Sections 12 and 13 of the proposed regulations in part implement provisions of NRS 704.787 (1)(c) that require an applicant that receives an allocation of capacity and energy from the Commission to have an annual peak load of at least 1 megawatt which is more stringent than the Western Area Power Administration's minimum allocation of 100 kilowatts pursuant to its December 30, 2013 Federal Register Notice Volume 78, Number 250.

- k) If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulations do not establish any new fees or increase an existing fee.