

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

LCB File No. R112-02

July 17, 2002

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

AUTHORITY: §§ 1-6, NRS 538.181 and 538.201.

Section 1. Chapter 538 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *During October in each operating year, and at any other time it deems necessary, the commission will conduct a review to determine the creditworthiness of each of its contractors, except:*

(a) A federal or state agency or political subdivision; and

(b) The Nevada Power Company and any other entity regularly engaged in the business of buying and selling electric power.

2. After a review conducted pursuant to subsection 1, the commission will establish the amount and prescribe the manner in which the contractor is required to furnish collateral pursuant to its contracts with the commission. In no case will the amount of collateral established by the commission be less than one-fourth of the contractor's gross annual purchases.

3. If a contractor does not provide and maintain the full amount of the collateral required, the commission may, in addition to its other remedies and in the course of its normal

invoicing, require the contractor to pay a cash collateral within a period established by the commission, but not to exceed 6 months.

4. Notwithstanding any other provision of NAC 538.340 to 538.740, inclusive, and sections 2 and 3 of this regulation, the commission may at any time require a contractor to furnish collateral in an amount that is greater than the minimum amount set forth in subsection 2, as may be necessary to protect the State of Nevada from any loss that it might suffer as a result of the contractor's breach of any covenant or condition of any contract with the commission. That amount of the collateral which is greater than the minimum amount set forth in subsection 2 will be calculated on any rational and appropriate basis as determined by the commission.

5. As used in this section:

(a) "Date of review" means the date in any operating year on which the commission establishes the amount of collateral a contractor must furnish pursuant to its contracts with the commission.

(b) "Gross annual purchases" means the total amount of a contractor's actual purchases of power under all its contracts with the commission, invoiced by the commission during the test period.

(c) "Test period" means the 12 consecutive months immediately preceding the month containing the date of review.

Sec. 3. 1. *If a contractor fails or refuses to perform any of its obligations under any of its contracts with the commission, including, without limitation, any agreement confirming the purchase of supplemental power from any source, and the executive director determines that*

the failure or refusal may expose the commission to significant liability, the executive director shall provide written notice of the nonperformance to the contractor.

2. If the contractor fails or refuses to cure the nonperformance within 15 days after the date of the written notice, the commission may, after notifying the contractor, suspend the contractor's allocation of hydroelectric power under NAC 538.340 to 538.740, inclusive, and sections 2 and 3 of this regulation, and discontinue furnishing electric service specified in its contracts with the contractor pending any further action taken by the commission pursuant to this section.

3. Within 30 days after the suspension of the contractor's allocation of hydroelectric power, the contractor may petition the commission for the reinstatement of the allocation. The commission will hold a hearing on the petition within 10 days after providing notice of the hearing as required by NAC 538.075 to 538.330, inclusive.

4. If the contractor fails to file a petition for reinstatement in a timely manner or if, after a hearing on such a petition, the commission denies the petition, the commission may permanently terminate the contractor's allocation of hydroelectric power and permanently discontinue electric service to the contractor.

5. Upon the permanent termination of a contractor's allocation of hydroelectric power, the commission will reallocate the hydroelectric power as authorized by law.

6. This section does not preclude the commission from pursuing at any time any other remedy for breach of contract that is available to the commission.

Sec. 4. NAC 538.340 is hereby amended to read as follows:

538.340 As used in NAC 538.340 to 538.740, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 538.350 to 538.390, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 538.350 is hereby amended to read as follows:

538.350 “Contractor” means any entity that contracts with the commission to purchase power . ~~[from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.]~~

Sec. 6. NAC 538.395 is hereby amended to read as follows:

538.395 **1.** The provisions of NAC 538.340 to 538.740, inclusive, apply to power allocated by the commission from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.

2. *The provisions of sections 2 and 3 of this regulation apply to power allocated by the commission from any source.*