

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

LCB File No. R148-13

**PROPOSED CHANGES TO
NAC 538.010 – 538.746**

**GENERAL, RULES OF PRACTICE AND PROCEDURE
AND
MARKETING OF ELECTRIC POWER**

CHAPTER 538 - COLORADO RIVER COMMISSION OF NEVADA

GENERAL PROVISIONS

NAC 538.010 “Commission” defined. As used in this chapter, unless the context otherwise requires, “Commission” means the Colorado River Commission of Nevada.

NAC 538.030 Construction. (NRS 538.201) The Commission intends that the provisions of this chapter be liberally construed to secure the just, speedy and economical determination of all issues presented to the Commission and to carry out the purposes of chapters 233B and 538 of NRS.

NAC 538.040 Deviation from regulations. (NRS 538.201) In special cases, where good cause appears, the Commission will permit deviation from the provisions of this chapter if it finds compliance to be impracticable or unnecessary.

NAC 538.050 Severability. (NRS 538.201) If any provision of this chapter is held invalid, it is intended that such invalidity not affect the remaining provisions to the extent they can be given effect.

NAC 538.060 Office of Commission. (NRS 538.201) The principal office of the Commission is located at 555 East Washington Avenue, Suite 3100, Las Vegas, Nevada. The office of the Commission will be open from 8 a.m. to 5 p.m. each day except on a Saturday, Sunday or legal holiday.

NAC 538.070 Communications. (NRS 538.201)

1. All formal written communications and documents being sent to the Commission must be addressed to the Executive Director of the Commission.
2. A person may seek clarification of these rules by filing a written request with the Executive Director of the Commission. The Director will reply in writing within a reasonable time.

**PRACTICE AND PROCEDURE BEFORE COLORADO RIVER COMMISSION OF
NEVADA**

NAC 538.075 Scope. (NRS 538.201) The provisions of NAC 538.075 to 538.~~330~~342, inclusive, govern all practice and procedure before the Commission.

NAC 538.076 Receipt of documents by Commission (NRS 538.201) A document is considered officially received by the Commission only if it is:

- 1. Delivered to the Commission's office in Las Vegas in person, or by United States mail, properly addressed with postage pre-paid;*
- 2. Presented to the Commission during a hearing;*
- 3. Filed electronically on the Commission's website (if electronic filing is available at the Commission), and by United States mail, properly addressed with postage pre-paid; or,*
- 4. Filed in such other manner as the Executive Director may direct.*

*Rules of Practice and Procedure for Filings
Submitted to the Colorado River Commission of Nevada*

~~[NAC 538.080 Classification of parties. (NRS 538.201)~~

- ~~— 1. A person who applies for any right or authority from the Commission must be styled the "applicant."~~
- ~~— 2. A person who complains to the Commission of any act or of any person must be styled the "complainant." In any proceeding which the Commission brings on its own motion, it must be styled the "complainant."~~
- ~~— 3. A person, other than a complainant, who petitions for affirmative relief must be styled the "petitioner."~~
- ~~— 4. A person against whom any complaint is filed or investigation initiated must be styled the "respondent."~~
- ~~— 5. Any person who is not an original party to a proceeding but who makes a showing that he is directly and substantially affected by it, must, upon securing an order from the Executive Director granting him leave to intervene, be styled the "intervener." The granting of leave to a person to intervene or otherwise appear in any matter or proceeding does not constitute a finding or determination of the Executive Director or the Commission that the person is, for judicial review or appeal, a party aggrieved by a ruling, order or decision of the Commission.~~
- ~~— 6. Any person who believes that he may be affected by a proceeding but does not seek to participate in it, must be styled an "interested party."}]~~

NAC 538.080 Executive Director Determination of whether to set filings with the Colorado River Commission of Nevada for hearing. (NRS 538.201)

Upon receipt of a filing the Executive Director will apply the appropriate procedure to be followed for the filing, including setting the filing for hearing pursuant to NRS 538.221 if the filing alleges a violation of NRS 538.181(4). A hearing or allocation hearing (as specified in NAC 538.342(2)) is not a contested case as contemplated by NRS 233B.032. In the event that the Executive Director determines that a filing shall not be set for hearing, he may determine

to apply to this filing such procedural requirements as he deems appropriate, including but not limited to use of workshops for rulemaking.

NAC 538.081 Rules of Practice and Procedure for Filings with the Colorado River Commission of Nevada that may be set for hearing. (NRS 538.201)

The following rules of practice and procedure in NAC 538.080-to 538.331 inclusive, apply to filings with the Colorado River Commission of Nevada that may be set for hearing.

NAC 538.082 Definitions applicable to filings with the Colorado River Commission of Nevada that may be set for hearing. (NRS 538.201)

- 1. "Answer" defined. (NRS 538.201) "Answer" means a response to a Complaint filed with the Commission.*
- 2. "Applicant" defined. (NRS 538.201) "Applicant" means a person who applies for any right or authority from the Commission pursuant to NRS 538, NRS 704, and NAC 538.340 to 538.342.*
- 3. "Application" defined. (NRS 538.201) "Application" means a document which requests a right or authority from the Commission.*
- 4. "Complainant" defined. "Complainant" means a person who complains to the Commission of any act, omission or violation which gives rise to a cause of action which may be set for hearing pursuant to NRS 538.221.*
- 5. "Complaint" defined. "Complaint" means a document which alleges one or more causes of action which may be set for hearing pursuant to NRS 538.221.*
- 6. "Hearing Officer" defined. "Hearing Officer" means a person who is appointed by the Commission to preside over and conduct hearings or other proceedings, or any portion thereof, pursuant to NRS 538.181(4) and 538.221 and NAC 538.340-538.342.*
- 7. "Interested Party" defined. "Interested Party" means any person who believes that he may be affected by a Commission proceeding but does not seek to participate in it.*
- 8. "Intervenor" defined. "Intervenor" means any who is not an original party to a proceeding in, but who makes a showing that he is directly and substantially affected by it, who secures an order from the Executive Director, the Hearing Officer or the Commission, granting him leave to intervene in a hearing conducted pursuant to NRS 538.181(4) and NRS 538.221 or NAC 538.340-538.342. The granting of leave to a person to intervene or otherwise appear in any matter does not constitute a finding or determination of the Executive Director or the Commission that the person is, for judicial review or appeal, a party aggrieved by a ruling, order or decision of the Commission.*
- 9. "Motion" defined. "Motion" means a request for relief filed with the Commission in a case which is subject to hearing.*
- 10. "Petition" defined. Petition means a pleading which prays for affirmative relief, such as for intervention, or for an advisory opinion or declaratory order as to the applicability of any statutory provision, agency regulation or decision of the agency as contemplated by NRS 233B.120.*
- 11. "Petitioner" defined. "Petitioner" means a person, other than a Complainant, who petitions the Commission.*
- 12. "Respondent" defined. "Respondent" means a person against whom a Complaint is filed or investigation initiated.*

NAC 538.083 Complaints: General requirements. (NRS 538.201)

- 1. Upon the initiative of any interested person, a Complaint may be made alleging one or more causes of action based on NRS 538.181(4) and NRS 538.221. Facts constituting acts or omissions must be stated with such particularity as to enable the respondent to prepare a defense to the Complaint. All applicable statutes, regulations and orders of the Commission must be cited, together with the dates on which the acts or omissions occurred.*
- 2. If more than one cause of action is alleged, each cause of action must be stated and numbered separately.*
- 3. Two or more Complainants may join in one Complaint if their respective causes of action are against the same person and deal with substantially the same violation of a statute, regulation or order of the Commission.*
- 4. Every Complaint must be in writing, signed and verified by the person making it, and filed with the Commission.*
- 5. A Complaint will be set for hearing at the earliest convenience of the Commission unless the Commission receives notice of satisfaction of the Complaint.*

NAC 538.084 Complaints: Answer. (NRS 538.201)

- 1. Within 20 days after a Complaint is served upon a Respondent, he must file an Answer with the Commission.*
- 2. Affirmative defenses must be separately stated and numbered.*
- 3. If the Respondent fails to answer within the time prescribed, he shall be deemed to have denied generally the allegations of the Complaint and is precluded, except with the consent of opposing parties and the Commission, from setting up any affirmative defense in the hearing.*
- 4. The Commission will proceed with the matter solely upon the issues set forth in the Complaint.*

NAC 538.092 Appointment of hearing officer; proposed orders; appeal and review of decisions. (NRS 538.201)

- 1. The Commission may appoint one or more hearing officers to preside over and conduct hearings or other proceedings conducted pursuant to NRS 538.181(4) and 538.221, or any portion thereof. The Commission may appoint an employee of the Commission or another person to serve as a hearing officer.*
- 2. Except as otherwise provided in subsection 4, if the Commission appoints a hearing officer to preside over and conduct any hearing or other proceeding, the hearing officer shall file with the Commission within 30 days of the close of all evidentiary hearings in the matter, a proposed order that sets forth the findings of fact and conclusions of law of the hearing officer and the reasons for those findings and conclusions, and serve the proposed order promptly on each party of record.*
- 3. Any party of record may file comments on the hearing officer's proposed order within 30 days of issuance.*
- 4. Upon review of a proposed order of a hearing officer and any comments filed, the Commission may vote to affirm or modify the proposed order, in whole or in part, substitute such order as the Commission deems just and reasonable in lieu of the proposed order, or remand the proposed order to the hearing officer for further proceedings.*

NAC 538.100 Appearances *in a hearing*. (NRS 538.201) A party may enter his appearance at the beginning of a hearing, or at any other time designated by the Commission or its presiding officer, by giving his name and address and stating his position or interest to the Commission or its ~~presiding~~*hearing* officer. The information must be recorded in the transcript of the hearing.

NAC 538.110 Service of process on attorney *in a hearing*. (NRS 538.201) Following the entry of an appearance *in a hearing* by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon *the party who has entered the appearance and upon* his attorney *if any*, and the service is valid service for all purposes upon the party represented.

NAC 538.120 Withdrawal of attorney *in a hearing*. (NRS 538.201) Any attorney of record who wishes to withdraw from a proceeding *which is subject to hearing* before the Commission must immediately give written notice of the withdrawal to the party he has represented and to the Commission or its presiding officer.

NAC 538.130 Pleadings *in a case which is subject to hearing*: Style; verification. (NRS 538.201)

1. Pleadings before the Commission must be styled ~~applications~~*Applications*, ~~petitions~~*Petitions*, ~~complaints~~*Complaints* or ~~answers~~*Answers*.
2. All pleadings must be verified.

NAC 538.140 Pleadings *in a case which is subject to hearing*: Construction. (NRS 538.201) The Commission will construe all pleadings liberally to effect justice ~~between~~*among* the parties and will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.

NAC 538.150 Pleadings *in a case which is subject to hearing*: Applications. (NRS 538.201)

1. ~~Each pleading which requests a right or authority from the Commission must be styled an "application."~~
2. An ~~application~~*Application* must set forth the applicant's full name and mailing address and must contain any facts and exhibits required by statute.
3. The ~~applicant~~*Applicant* must sign the ~~applicaiton~~*Application*.

NAC 538.160 Pleadings *in a case which is subject to hearing*: Amendments. (NRS 538.201) The Commission may allow a pleading to be amended or corrected or any omission to be supplied.

NAC 538.170 Pleadings: Petitions. (NRS 538.201)

1. ~~Each pleading which prays for affirmative relief, excluding an application, complaint or answer, but including a request for a declaratory order, an advisory opinion or the adoption, filing, amendment or repeal of a regulation, must be styled the "petition."~~
2. A ~~petition~~*Petition* must contain the full name and mailing address of the ~~petitioner~~*Petitioner* and must be signed by him.

~~NAC 538.180 Complaints: General requirements. (NRS 538.201)~~

~~— 1. Upon the initiative of any interested person or of the Executive Director, a complaint may be made alleging one or more causes of action based on chapter 538 of NRS. Facts constituting acts or omissions must be stated with such particularity as to enable the respondent to prepare a defense to the complaint.~~

~~— 2. All applicable statutes, regulations and orders of the Commission must be cited, together with the dates on which the acts or omissions occurred.~~

~~— 3. If more than one cause of action is alleged, each cause of action must be stated and numbered separately.~~

~~— 4. Two or more complainants may join in one complaint if their respective causes of action are against the same person and deal with substantially the same violation of a statute, regulation or order of the Commission.~~

~~— 5. Every complaint must be in writing, signed and verified by the person making it, and filed with the Commission.~~

~~— 6. A complaint will be set for hearing at the earliest convenience of the Commission unless the Commission receives notice of satisfaction of the complaint.}~~

~~{ NAC 538.190 Complaints: Answer. (NRS 538.201)~~

~~— 1. Within 20 days after a complaint is served upon a respondent, he must file an answer with the Commission.~~

~~— 2. Affirmative defenses must be separately stated and numbered.~~

~~— 3. If the respondent fails to answer within the time prescribed, he shall be deemed to have denied generally the allegations of the complaint and is precluded, except with the consent of opposing parties and the Commission, from setting up any affirmative defense in the hearing.~~

~~— 4. The Commission will proceed with the matter solely upon the issues set forth in the complaint.}~~

NAC 538.200 Prehearing conference. (NRS 538.201) The *Chairman of the Commission*, Executive Director, *or the hearing officer*, may, upon written notice to all parties of record, hold a prehearing conference to:

1. Formulate or simplify the issues;
2. Obtain admissions of fact and documents in order to avoid unnecessary proof;
3. Arrange for the exchange of proposed exhibits or prepared expert testimony;
4. ~~{Limit}~~ *Identify and limit* the number of witnesses, *specify the subject matter of their expected testimony*, and consolidate the examination of witnesses;
5. Establish a procedure for the hearing; and
6. Consider any other matters which may promote orderly conduct and expedite the disposition of the proceedings or achieve a settlement.

NAC 538.210 Hearings: Notice; location. (NRS 538.201, 538.221)

1. Hearings will be held before the Commission or its designated ~~{presiding officer. A presiding officer may be a member of the Commission or a representative designated by the Commission to conduct a hearing.}~~ *hearing officer*.

2. Notice of a hearing will be served at least 20 days before the time set for the hearing.

3. A hearing which has previously been continued may be reset on notice of not less than 10 days.

4. Hearings will be held at the time and place designated by the notice.

NAC 538.220 Hearings: Continuances. (NRS 538.201, 538.221) The Commission or ~~presiding~~hearing officer may, either before or during a hearing, upon a proper showing, grant a continuance for the submission of additional proof.

NAC 538.230 Hearings: Failure of party to appear. (NRS 538.201, 538.221)

1. If a party fails to appear at a scheduled hearing and no continuance has been granted, the Commission or ~~presiding~~hearing officer will hear the evidence of the witnesses who have appeared and will proceed to consider the matter and dispose of it on the basis of the evidence before it.
2. If, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing and fails to request a continuance of the hearing, he may within a reasonable time, but not more than 15 days, apply to the Commission to reopen the proceedings.
3. Upon finding a cause sufficient and reasonable, the Commission or presiding officer will immediately fix a time and place for a hearing and give notice of the hearing to all parties. At the time and place fixed, a hearing will be held at which the person may testify in his own behalf and present such other evidence as may be beneficial to his cause.
4. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the Commission or ~~presiding~~hearing officer.

NAC 538.240 Hearings: Conduct. (NRS 538.201, 538.221) All parties to hearings, their counsel and spectators shall conduct themselves in a respectful manner.

NAC 538.250 Hearings: Presentation of evidence. (NRS 538.201, 538.221)

1. The Commission or ~~presiding~~hearing officer will call the proceeding to order, take appearances and act upon any pending motions or petitions. The parties may then make opening statements.
2. Except as otherwise provided in subsection 3, the applicant, petitioner or complainant shall present his evidence first and then such parties as may be opposing the application, petition or complaint may present their evidence. The Commission or ~~presiding~~hearing officer will determine the order in which any intervener may present his evidence.
3. Evidence will ordinarily be received from the parties in the following order:
 - (a) Upon applications and petitions:
 - (1) Applicant or petitioner.
 - (2) Commission's staff.
 - (3) Intervener.
 - (4) Applicant or petitioner in rebuttal.
 - (b) Upon complaints:
 - (1) Complainant.
 - (2) Respondent.
 - (3) Commission's staff.
 - (4) Complainant in rebuttal.
 - (c) Upon complaints by Commission:
 - (1) Commission's staff.
 - (2) Respondent.
 - (3) Commission's staff in rebuttal.

- The listed order may be modified by the Commission or ~~presiding~~ *hearing* officer.
4. The Commission or ~~presiding~~ *hearing* officer may allow closing statements to be made by the parties.

NAC 538.260 Hearings: Consolidation. (NRS 538.201, 538.221) The Commission or ~~presiding~~ *hearing* officer may consolidate two or more proceedings whenever it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by the consolidation. The Commission or ~~presiding~~ *hearing* officer will determine the order of procedure at a consolidated hearing.

NAC 538.270 Hearings: Stipulations. (NRS 538.201, 538.221) With the approval of the Commission or ~~presiding~~ *hearing* officer, the parties may stipulate to any fact at issue, either by a written stipulation introduced into evidence as an exhibit or by an oral statement shown in the record. Any stipulation is binding upon all parties to it, and it may be treated as evidence at the hearing. The Commission or ~~presiding~~ *hearing* officer may require evidential proof of the stipulated facts.

NAC 538.280 Hearings: Official notice. (NRS 538.201, 538.221) The Commission or ~~presiding~~ *hearing* officer may take official notice of standards, rules, regulations, official reports, decisions, orders and other records of its own and of any other regulatory agency of this State or any court of record.

NAC 538.290 Hearings: Decision by Commission. (NRS 538.201, 538.221)

1. The Commission's order or decision will be rendered within ~~90~~ *180* days after the completion of its hearing.
2. A proceeding stands submitted for decision by the Commission after the taking of evidence, the filing of briefs and the presentation of any oral argument permitted by the Commission.

NAC 538.300 Hearings: Rehearings. (NRS 538.201, 538.221)

1. Within 20 days after the Commission renders a decision or order *following a hearing*, the aggrieved party may apply for a rehearing, setting forth the grounds for the ~~petition~~ *Petition*.
2. The Commission will act upon such a ~~petition~~ *Petition* within 30 days after the effective date of the order or decision upon which the rehearing is requested, but if the Commission does not take action on the petition within that time, the ~~petition~~ *Petition* shall be deemed denied.
3. The Commission or ~~presiding~~ *hearing* officer on his own motion may order a rehearing within 30 days after the rendering of the decision if a *material* mistake, fraud or a misconception of facts led to the original decision.
4. The filing of a ~~petition~~ *Petition* for a rehearing upon an order or decision does not excuse compliance with it or suspend its effectiveness unless otherwise ordered by the Commission.

NAC 538.310 Hearings: Records. (NRS 538.201, 538.221) Any person desiring a copy of the record of a contested case before the Commission may obtain a copy from the office of the Commission upon payment of the cost of the copy.

~~NAC 538.320 Petitions for declaratory orders and advisory opinions. (NRS 538.201)~~

~~— 1. Any member of the public may petition the Commission for a declaratory order or an advisory opinion on the applicability of any statutory provision or any regulation or decision of the Executive Director or Commission.~~

~~— 2. A petition for a declaratory order or an advisory opinion must be in writing.~~

~~— 3. The Commission will issue a declaratory order or render an advisory opinion in writing within 90 days after its receipt of the petition in proper form.~~

~~[NAC 538.330 Petition for adoption, filing, amendment or repeal of regulation. (NRS 538.201)~~

~~— 1. A petition for the adoption, filing, amendment or repeal of a regulation of the Commission must be in writing and be delivered to the offices of the Commission.~~

~~— 2. The Commission will send any statement denying such a petition or correspondence concerning the petition to the petitioner by certified mail.]~~

NAC 538.331 Service list in case which is subject to hearing (NRS 538.201)

1. The Commission will maintain a service list for a case which is subject to hearing.

2. A person may submit to the Executive Director a written request to be placed on a service list maintained by the Commission for a case which is subject to hearing. If a person makes such a request, the Commission will send the person either copies or electronic mail notification of all notices and orders issued by the Commission or a hearing officer in the case to which the service list applies.

3. A person on a service list is responsible for notifying the Executive Director in writing of any changes in the electronic or physical address contact information for that person.

Miscellaneous Provisions

NAC 538.332 Petition for declaratory orders or advisory opinion. (NRS 538.201)

1. Any member of the public may petition the Commission for a declaratory order or an advisory opinion on the applicability of a decision of the agency, a statutory provision or any regulation within the jurisdiction of the Commission.

2. A request for a declaratory order or an advisory opinion must be in writing.

3. The Commission will issue a declaratory order or render an advisory opinion in writing within 90 days after its receipt of the petition in proper form.

NAC 538.333 Request for adoption, filing, amendment or repeal of regulation. (NRS 538.201)

1. A request for rulemaking, to include the adoption, filing, amendment or repeal of a regulation of the Commission, must be in writing and be delivered to the offices of the Commission.

2. The Commission will send any response to the request for rulemaking, by certified mail.

RULES OF PRACTICE AND PROCEDURE APPLICABLE TO ALLOCATION OF SCHEDULE D POWER PRIOR TO SEPTEMBER 30, 2017

NAC 538.340 Scope. (NRS 538.201) The provisions of NAC 538.340 to 538.341, inclusive, in addition to the remaining provisions of NAC 538, govern the allocation of Schedule D power from the Boulder Canyon Project prior to September 30, 2017.

NAC 538.341 Applications for Schedule D power from the Boulder Canyon Project prior to September 30, 2017. (NRS 538.201):

- 1. "Schedule D Applicant" defined. (NRS 538.201) "Schedule D Applicant" means a person who applies to the Commission for an allocation of Schedule D power from the Boulder Canyon Project.*
- 2. A Schedule D Application must set forth the Applicant's full name and mailing address and contain any facts and exhibits required by statute, regulation, or order of the Commission, and must be submitted on a form provided by the Commission.*
- 3. The Applicant must sign the Application.*

NAC 538.342 Commission Allocation of Schedule D Power from the Boulder Canyon Project (NRS 538.201):

The Commission will select Schedule D power allocation criteria and allocate Schedule D power in a public proceeding consistent with the requirements of the Commission's regulations, the State of Nevada's Administrative Procedures Act set forth in NRS 233B, and the Open Meeting Law set forth in NRS Chapter 241, sections .010-.040, and with the following requirements:

- 1. Selection of Schedule D power allocation criteria:*
 - a. Staff will initiate the selection of Schedule D power allocation criteria, by issuing a public notice which describes the power to be allocated, the proposed allocation criteria and the proposed application form, sets the date for a meeting to accept questions and oral comments from meeting participants, and sets a date for submission of written comments.*
 - b. Staff will conduct the meeting scheduled in the notice referenced in paragraph (a) above.*
 - c. Staff will review written comments, prepare a draft order for consideration by the Commission which will set forth the proposed Schedule D allocation criteria, and issue the draft order by serving it on meeting participants and posting it on the Commission's website.*
 - d. The Commission will issue a notice of its hearing on the draft order, which will include a copy of the draft order.*
 - e. The Commission will conduct a hearing on the draft order.*
 - f. The Commission will issue its decision regarding Schedule D power allocation criteria following the hearing on the draft order.*
- 2. Allocation of Schedule D power:*
 - a. Staff will initiate the allocation of Schedule D power by issuing a public notice of the Schedule D allocation process and call for applications, and setting the dates for submission of applications and for a meeting to address the allocation process and accept questions and oral comments from meeting participants.*
 - b. Staff will conduct the meeting scheduled in the notice referenced in paragraph (a) above.*
 - c. Following the meeting, Applicants for Schedule D power shall submit their Applications.*
 - d. Each Schedule D Application shall set forth on the form provided by the Commission, the Applicant's full name and mailing address and any facts and exhibits required by statute,*

regulation, or order of the Commission. Each such Application must be signed by the Applicant.

e. Staff will review the Schedule D Applications and prepare a draft order which will provide recommendations for disposition of these applications for consideration by the Commission, and issue the draft order to the Applicants.

f. The Commission will issue a notice of its hearing on the draft order, which will include a copy of the draft order.

g. The Commission will conduct a hearing on the draft order.

h. The Commission will issue its decision regarding the Schedule D Applications following the hearing on the draft order.

i. Following the Commission's decision on the draft order, Staff will issue notice of the approved allocations as required in NRS 538.181(4).

j. If the Commission receives objections to the Commission's decision within ten days of the date of the last publication of the notice required by NRS 538.181(4), the Commission will conduct a hearing on the objections within 30 days of this publication date.

MARKETING OF ELECTRIC POWER

General Provisions

NAC 538.340 *Marketing* Definitions. (NRS 538.201) As used in NAC 538.340 to 538.746, inclusive, 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.

NAC 538.350 “Contractor” defined. (NRS 538.201) “Contractor” means any entity that contracts with the Commission to purchase power.

NAC 538.352 “Hoover Power Allocation Act of 2011” defined. *The “Hoover Power Allocation Act of 2011” means Public Law 112-72 (43 U.S.C. §619a), which is referred to herein as the HPAA 2011.*

NAC 538.353 “New allottee” defined. (NRS _____) *“New allottee” means any entity that contracts with the Commission to purchase Hoover power pursuant to Schedule D, as authorized by the HPAA 2011.*

NAC 538.358 “Operating year” defined. (NRS 538.201) “Operating year” means a 12-month period that coincides with the 12-month period designated by federal law as a fiscal year. Until changed by federal law, the term means the period that commences October 1 of each year, immediately following midnight of September 30 of that year, and ends at midnight of September 30 of the following year.

NAC 538.360 “Power” defined. (NRS 538.201) “Power” includes both capacity and energy.

NAC 538.370 “Program for increasing capacity” defined. (NRS 538.201) “Program for increasing capacity” means the program for increasing the capacity of existing generating

equipment and appurtenances at the Hoover power plant authorized by 43 U.S.C. § 619. This is equivalent to the uprating program referred to in Public Law 98-381.

NAC 538.371 “Schedule A” defined. (NRS 538.201) “Schedule A” means the schedule appearing at 43 U.S.C. § 619a (a)(l)(A) which specifies the amount of:

- 1. Contingent capacity of the Hoover power plant; and*
- 2. Associated firm energy, allocated to the Commission under Schedule A.*

~~NAC 538.380~~ *NAC 538.372 “Schedule B” defined. (NRS 538.201) “Schedule B” means the schedule appearing at 43 U.S.C. § 619a (a)(l)(B) which specifies the amount of:*

- 1. Contingent capacity of the Hoover power plant ~~{resulting from the program for increasing capacity}~~; and*
- 2. Associated firm energy, allocated to the Commission **under Schedule B.***

NAC 538.373 “Schedule C” defined. (NRS 538.201) “Schedule C” means the schedule appearing at 43 U.S.C. § 619a (a)(l)(C) which specifies the priority of entitlement of the States of Arizona, California and Nevada, to excess energy generated at the Hoover power plant.

NAC 538.374 “Schedule D” defined. (NRS 538.201) “Schedule D” means the schedule appearing at 43 U.S.C. § 619a (a)(l)(D) which specifies the amount of:

- 1. Contingent capacity of the Hoover power plant; and*
- 2. Associated firm energy, allocated to new allottees pursuant to the HPA 2011.*

NAC 538.375 “WECC” defined. (NRS ___) “WECC” means the Western Electricity Coordinating Council, which is the regional entity responsible for coordinating and promoting bulk electric system reliability in the western United States pursuant to a delegation agreement with the North American Electric Reliability Corporation (NERC).

NAC 538.~~390~~**376 “Western” defined. (NRS 538.201) “Western” means the Western Area Power Administration of the United States Department of Energy.**

NAC 538.395 Applicability. (NRS 538.181, 538.201)

- 1. The provisions of NAC 538.340 to 538.740, inclusive, apply to power allocated ~~by the Commission~~ to Nevada Contractors from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.**
- ~~2. The provisions of~~ **NAC 538.744 and 538.746 apply to power allocated ~~by the Commission~~ to Nevada Contractors from any source.**

NAC 538.400 Marketing area for resources. (NRS 538.181, 538.201) The Commission’s marketing area for the resources of the Boulder Canyon Project, Parker-Davis Project and Southern District of the Salt Lake City Area Integrated Projects is the same as Western’s marketing area in this State for those resources.

NAC 538.410 Requirements of applicant seeking to contract with the Commission for ~~allocation of~~ Schedule A, B and C power delivered from ~~Commission~~ the Boulder Canyon

Project, and from the Parker-Davis Project and the Salt Lake City Area Integrated Projects.
(NRS 538.181, 538.201)

An applicant ***seeking to contract with the Commission*** for ~~an allocation of~~ ***delivery of Schedule A, B and C*** power from the ~~Commission~~ ***Boulder Canyon Project, and from the Parker-Davis Project and the Salt Lake City Area Integrated Projects,*** must supply information as requested by the Commission and must:

1. Be an entity to which the Commission is authorized by law to sell electricity or provide transmission service or distribution service, or both;
2. Be able to receive energy from one or more of the Commission's points of delivery, including, without limitation, Amargosa substation, Basic substation, Boulder City switchyard, Boulder City tap, Clark tie, Eastside substation, Mead substation or Newport substation, ***and any other point of delivery authorized by the Commission;***
3. Be able to maintain a ratio between "real power" in kilowatts and "apparent power" in kilovoltamperes ("power factor") within at least 95 percent, if called upon to do so;
4. Meet the requirements for a program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by:
 - (a) Regulations adopted by Western pursuant to 42 U.S.C. § 7276;
 - (b) Federal statute; or
 - (c) The Commission; and
5. If the applicant is an electric utility:
 - (a) Have a principal load that:
 - ~~(1)~~**(b)** Has a peak demand of at least 8 megawatts; and
 - ~~(2)~~**(c)** Is located within Western's marketing area in this State for power from the Boulder Canyon Project, Parker-Davis Project or Southern Division of the Salt Lake City Area Integrated Projects; and
 - ~~(b)~~**6.** Be qualified to receive preference power under the applicable provisions of federal law relating to preference power when applying for electric power from the Parker-Davis Project or Salt Lake City Area Integrated Projects.

NAC 538.411 Requirements of Applicant seeking to contract with the Commission for Schedule D power delivered from the Boulder Canyon Project beginning October 1, 2017
(NRS 538.181, 538.201)

1. An electric utility applicant seeking to contract with the Commission for delivery of Schedule D power from the Boulder Canyon Project beginning October 1, 2017 must supply information as requested by the Commission and must demonstrate that, as of a date set by the Executive Director, it:

- (a) Is an entity to which the Commission is authorized by law to sell electricity or provide transmission service or distribution service, or both;***
- (b) Is able to receive energy from one or more of the Commission's points of delivery, including, without limitation, Amargosa substation, Basic substation, Boulder City switchyard, Boulder City tap, Clark tie, Eastside substation, Mead substation or Newport substation, and any other point of delivery authorized by the Commission;***
- (c) Is able to maintain a ratio between "real power" in kilowatts and "apparent power" in kilovoltamperes ("power factor") within at least 95 percent, if called upon to do so, or to receive power over the facilities of a utility that is able to maintain that ratio;***

(d) Meets the requirements for any program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by federal and state law;

(e) Has an annual peak load of at least 1 megawatt; and,

(f). Is located within Western's marketing area in this State for power from the Boulder Canyon Project.

2. An applicant that is not an electric utility which is seeking to contract with the Commission for delivery of Schedule D power from the Boulder Canyon Project beginning October 1, 2017 must supply information as requested by the Commission and must demonstrate that, as of a date set by the Executive Director, it:

(a) Is an entity to which the Commission is authorized by law to sell electricity or provide transmission service or distribution service, or both;

(b) Is able to receive energy from one or more of the Commission's points of delivery, including, without limitation, Amargosa substation, Basic substation, Boulder City switchyard, Boulder City tap, Clark tie, Eastside substation, Mead substation or Newport substation, and any other point of delivery authorized by the Commission within Western's Boulder Canyon Project marketing area located in the State of Nevada;

(c) Will receive power from the Commission over the facilities of an electric utility that is able to maintain a ratio between "real power" in kilowatts and "apparent power" in kilovoltamperes ("power factor") within at least 95 percent, if called upon to do so, or to receive power over the facilities of a utility that is able to maintain that ratio;

(d) Will receive power from the Commission over the facilities of an electric utility that meets the requirements for any program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by federal and state law;

(e) Has an annual peak load of at least 1 megawatt; and,

(f) Is located within Western's marketing area in this State for power from the Boulder Canyon Project.

All applicants for Schedule D power must comply with the applicable requirements of paragraphs 1 and 2 of this section and with such other requirements as may be approved by the Commission.

NAC 538.420 Summer season and winter season. (NRS 538.181, 538.201)

1. Power from the Boulder Canyon Project and Parker-Davis Project will be marketed by the Commission during two seasons as ~~follows~~ *these two seasons are defined by Western*.

~~[(a) The summer season for any calendar year is the 7-month period beginning the first day of the Commission's billing period for March and continuing through the last day of its billing period for September.~~

~~—(b) The winter season for any calendar year is the 5-month period beginning the first day of the Commission's billing period for October and continuing through the last day of its billing period for February in the next succeeding calendar year.~~

~~2. Power from the Salt Lake City Area Integrated Projects will be marketed by the Commission during the following seasons:~~

~~—(a) The summer season for any calendar year is the 6-month period beginning the first day of the Commission's billing period for April and continuing through the last day of its billing period for September.~~

~~—(b) The winter season for any calendar year is the 6-month period beginning the first day of the Commission's billing period for October and continuing through the last day of its billing period for March of the next succeeding calendar year.]~~

NAC 538.430 Transmission of power for delivery beyond designated points of delivery. (NRS 538.181, 538.201) The transmission of power, including costs and losses, for delivery of power beyond the Commission's designated points of delivery are the responsibility of the ~~{contractor}~~ *Contractor*.

NAC 538.440 Reallocation of power if ~~{contractor}~~ Contractor loses entitlement to power. (NRS 538.181, 538.201) If a ~~{contractor}~~ *Contractor* loses *or surrenders* its entitlement to power allocated to it by the Commission pursuant to NAC 538.340 to 538.670, inclusive, the Commission will reallocate that power in the manner provided in those provisions.

NAC 538.450 Reallocation of power if entity fails to enter into contract with Commission. (NRS 538.181, 538.201)

*1. If an entity that has been offered an allocation of power from the Commission fails, within 90 days ~~{a reasonable time as determined by the Commission}~~, to enter into a contract with the Commission in accordance with the terms and conditions set by the Commission, the Commission will reallocate the amount of power offered to that entity in the manner ~~{provided in NAC 538.340 to 538.670, inclusive}~~ *it determines to be in the best interest of the State of Nevada.**

2. If an entity that has been offered an allocation of the Schedule D power allocated to the State of Nevada prior to September 30, 2017, fails to enter into a contract with the Commission in accordance with the terms and conditions set by the Commission within 90 days, the Commission shall allocate this power in the manner that it determines to be in the best interest of the State of Nevada. (NRS 538.181, 538.201)

3. If an entity that has been offered an allocation of the Schedule D power after September 30, 2017 fails, within 90 days to enter into a contract with the Commission in accordance with the terms and conditions set by the Commission, or if Schedule D power become available to the Commission after September 30, 2017 for other reasons, the Commission will reallocate the amount of available power in the manner that it determines to be in the best interest of the State of Nevada.

NAC 538.451 Procedures for reallocation of power (NRS 538.181, 538.201) The Commission will perform a reallocation of power in a public proceeding consistent with the requirements of the Commission's regulations, the State of Nevada's Administrative Procedures Act set forth in NRS 233B, and the Open Meeting Law set forth in NRS Chapter 241, sections .010-.040, and with the following requirements:

1. Staff will initiate the reallocation of power by issuing a public notice which describes the power to be reallocated, the proposed criteria for reallocation, and the proposed application form, and sets the date for submission of applications.

2. Each Applicant for such reallocated power shall set forth on the form provided by the Commission the Applicant's full name and mailing address, and any facts and exhibits required by statute, regulation, or order of the Commission. Each such Application must be signed by the Applicant.

3. *Staff will prepare a draft order for consideration by the Commission which will set forth the proposed disposition of applications for reallocation of power.*
4. *Applicants may file comments on the draft order with the Commission within 30 days of issuance by Staff.*
5. *The Commission will issue a notice of its hearing on the draft order, which will include a copy of the draft order.*
6. *The Commission will conduct a hearing on the draft order.*
7. *The Commission will issue its decision on the Applications for reallocations, following the hearing on the draft order.*
8. *Following the Commission's decision on the draft order, Staff will issue notice of the approved reallocations as required in NRS 538.181(4).*
9. *If the Commission receives objections to the Commission's decision within ten days of the last publication of the notice required by NRS 538.181(4), the Commission will conduct a hearing on the objections pursuant to NRS 538.181(4) within 30 days of this publication date.*

NAC 538.460 Minimum reserves of ~~contractor~~ Contractor~~;~~ supply of capacity if Hoover power plant reduces capacity. (NRS 538.181, 538.201)

1. Each contractor must meet the minimum recommendation for reserves set by the ~~Western Systems Coordinating Council~~ WECC, *unless it receives power from the Commission over the facilities of a utility that meets the WECC minimum reserves.*

~~2. If there is a reduction in capacity from the Hoover power plant, each contractor may supply its own needs for capacity.~~

NAC 538.470 Capacity offered at varying load factors; identification. (NRS 538.181, 538.201) Capacity from the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects will be:

1. Offered by the Commission at varying load factors; and
2. Identified by the Commission in an exhibit to the contract to purchase power.

NAC 538.480 Offer of certain energy when available to certain entities; observance of restrictions. (NRS 538.181, 538.201) All energy from the Boulder Canyon Project designated in Schedule *A, B, C or D* at 43 U.S.C. § 619a(a)(1) ~~(C)~~ and any additional power from the Parker-Davis Project or Salt Lake City Area Integrated Projects offered to the Commission may be accepted by the Executive Director of the Commission on behalf of the Commission and will be offered by the Executive Director of the Commission on behalf of the Commission at the time those resources become available and in the most equitable manner as determined by the Executive Director of the Commission, first, to entities that hold contracts for hydroelectric power from the Commission, and then, to any other entity to which the Commission is authorized by law to sell electricity. All entities must observe whatever restrictions are placed on that power.

Terms and Conditions ~~Not Subject to Change~~ Applicable Generally to the Commission's Power Marketing

~~NAC 538.490 General rule. (NRS 538.181, 538.201) The terms and conditions set forth in NAC 538.500 to 538.570, inclusive, for contracts for power are not subject to change during the contractual period.~~

NAC 538.500 Term of contracts; expiration and renewal. (NRS 538.181, 538.201)

1. Contracts for the delivery of long-term power from the Boulder Canyon Project allocated under NAC 538.340 to 538.740, inclusive, ~~become effective on the day they are executed and~~ *through September 30, 2017*, expire on the last day of the billing period for September 2017, unless terminated before that date by the ~~contractor~~ *Contractor* or the Commission in accordance with the terms of the contract.
2. Contracts for the delivery of long-term power from the Parker-Davis Project allocated under NAC 538.340 to 538.740, inclusive, become effective on the day they are executed and expire on the last day of the billing period for September 2028, unless terminated before that date by the ~~contractor~~ *Contractor* or the Commission in accordance with the terms of the contract.
3. Contracts for the delivery of long-term power from the Salt Lake City Area Integrated Projects allocated under NAC 538.340 to 538.740, inclusive, become effective on the first day of the billing period for October 1989 and expire on the last day of the billing period for September 2024, unless terminated before that date by the ~~contractor~~ *Contractor* or the Commission in accordance with the terms of the contract.
4. The term of contracts for short-term power will be determined by the Executive Director of the Commission for each contract.
5. The Commission will ~~offer to the contractor the opportunity to enter into a new contract to be effective~~ upon the expiration of a contract described in subsection 1 ~~offer to the contractor the right to renew the contract.~~ This ~~right~~ *opportunity to enter into a new contract* is subject to the conditions set forth in subsection 7 of NRS 538.181 and *other applicable laws, and* the terms *and conditions* for such ~~renewal provided in the~~ *new* contract.

NAC 538.510 Transfer of excess power; observance of restrictions; proceeds credited to ~~contractor~~ *Contractor*; **obligation not relieved.** (NRS 538.181, 538.201) If a ~~contractor~~ *Contractor* cannot use a portion of the power allocated to it by the Commission in any month, the Commission will, in cooperation with the ~~contractor~~ *Contractor*, endeavor to find markets for that power and arrange for the necessary transfer of delivery. Purchasers of that power must observe whatever restrictions are placed on the use of that power. The money received by the Commission from the sale of that power to others will be credited to the ~~contractor~~ *Contractor*, except that the Commission will collect no more than the ~~contractor's~~ *Contractor's* cost of the power. The failure by the Commission in whole or in part to make such an arrangement does not relieve the ~~contractor~~ *Contractor* of its obligation to pay the Commission for the full amount of the power for which it contracted, whether the power is delivered to the ~~contractor~~ *Contractor* or to others.

NAC 538.520 Firming energy. (NRS 538.181, 538.201) If the actual generation at the Hoover power plant in any year is less than that needed to fulfill the contractual entitlement of any ~~contractor~~ *Contractor*, the Commission will, at the request of the ~~contractor~~ *Contractor*, purchase energy to meet the deficiency at the contractor's *Contractor's* expense. If the ~~contractor~~ *Contractor* can provide firming energy from its own resources, the Commission will, annually, allow it to provide its own firming energy and will reduce proportionately the Commission's obligation to the ~~contractor~~ *Contractor* for energy. The cost of firming energy that is provided by the Commission must be paid for in the year in which it is incurred.

NAC 538.530 Establishment and maintenance of program for integrated resource planning or similar program. (NRS 538.181, 538.201)

1. Except as otherwise provided in subsection 3, each ~~{contractor}~~ **Contractor** shall, within 1 year after entering into a contract with the Commission pursuant to NAC 538.340 to 538.740, inclusive, establish and maintain a program for integrated resource planning or a similar program, however designated, set forth as a condition to the purchase of power by:

- (a) Regulations adopted by Western pursuant to 42 U.S.C. § 7276;
- (b) Federal statute; or
- (c) The Commission.

2. When requested, the Commission, with the help of Western and to the extent possible, will guide and assist the ~~{contractor}~~ **Contractor** in the development of its program.

3. The provisions of subsection 1 do not apply if Western accepts a program for integrated resource planning or a similar program, however designated, established and maintained by the Commission on behalf of the ~~{contractor}~~ **Contractor**.

NAC 538.540 Limitations on resale of hydropower ~~{;Nevada Power Company to pass benefits through to residential class of ratepayers}~~. (NRS 538.181, 538.201)

1. ~~{No retail contractor}~~ **A Contractor** ~~{that contracts with the Commission for}~~ **which purchases power provided by Commission for its own use**, from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects ~~{for its own use,}~~ may resell any of that power ~~with~~**out** ~~the prior approval of the Commission~~.

2. **An** ~~{No}~~ electric utility that contracts with the Commission for power from the Boulder Canyon Project, **the** Parker-Davis Project or Salt Lake City Area Integrated Projects **must receive such power within Western's Boulder Canyon Project marketing area located in the State of Nevada. Such electric utility may resell that power within its service area with the prior approval of the Commission.** ~~{may resell any of that power outside of its service area without the approval of the Commission.}~~

3. ~~{The Nevada Power Company shall pass through to its residential class of ratepayers the benefits of power from Schedule B.}~~ **An electric utility Contractor may only use power provided by the Commission to serve the load of its utility customers located in Nevada who are outside Western's Boulder Canyon Project marketing area, with the prior approval of the Commission.**

NAC 538.541 Nevada Power Company to pass benefits of Schedule B power through to residential class ratepayers. (NRS 538.181, 538.201)

The Nevada Power Company shall pass through the economic benefits of Schedule B power to its residential class of ratepayers located in Western's Boulder Canyon Project marketing area.

NAC 538.550 Assignment or ~~{other}~~ **transfer of contract** ~~{rights}~~. (NRS 538.181, 538.201) No ~~{contractor}~~ **Contractor** may assign or otherwise transfer its ~~{rights under its}~~ contract with the Commission without the prior written approval of the Commission. Before approval will be granted by the Commission, the transfer must be consistent with the provisions of NAC 538.340 to 538.740, inclusive.

NAC 538.551 Sharing or lease of power received pursuant to contract.

No Contractor may share or lease power obtained under its contract with the Commission without the prior written approval of the Commission. The Commission may approve such arrangements for terms up to three years.

NAC 538.560 Reduction of allocation of power to ~~Contractor~~ Contractor. (NRS 538.181, 538.201) Except as otherwise provided in this section, if, for 3 consecutive operating years, a ~~retail customer~~ Contractor does not use the full allocation of power made available to it by the Commission *at its designated delivery point*, the Commission, after notifying the ~~Contractor~~ Contractor, may reduce its allocation to that ~~Contractor~~ Contractor to the extent of the ~~Contractor's~~ Contractor's failure to use that full allocation. A reduction will not be made if the ~~Contractor's~~ Contractor's failure to use that full allocation is caused by the implementation of a program for integrated resource planning or a similar program, however designated, described in [NAC 538.530](#) and approved for the ~~Contractor~~ Contractor by Western or the Commission.

NAC 538.570 Meters. (NRS 538.181, 538.201)

1. A ~~Contractor shall~~ Contractor must provide *the Commission with the meter data and other information needed for provision and billing of electrical services, by :*

(a) Utilizing suitable equipment for metering power ~~allocated~~ delivered to it ~~pursuant to NAC 538.340 to 538.740, inclusive, to provide data as required~~ by the Commission, which equipment meets all applicable electric utility industry standards, complies with Commission staff requirements for the periodic testing of the meters witnessed by Commission staff (including replacement of the meters when needed); and meets such other standards as shall be approved by the Executive Director ~~of the Commission~~, or ~~and~~

~~2. The equipment for metering must be installed at the contractor's designated points for measuring and must be maintained, tested and repaired as required by the Executive Director of the Commission.~~ *(b) Obtaining interconnection to the Commission's transmission system through an electric distribution provider which meets all applicable electric utility industry standards and such other standards as shall be approved by the Executive Director, and which is party to an interconnection agreement with the Commission by October 1, 2017.*

2. A Contractor must provide Commission staff with prompt physical access to the metering equipment utilized to measure Contractor's load for purposes of inspection and verification of accuracy, at the request of Commission staff during all hours of the day and night.

3. The Executive Director of the Commission shall provide for the ~~full adjustment~~ *just resolution* of claims between the Commission and a ~~Contractor~~ Contractor arising from the inaccuracy of a meter.

4. By October 1, 2017, every Contractor which obtains all of its electric power from the Commission, must provide the Commission with the ability to physically disconnect the Contractor's power for non-timely payment of the Commission's power invoices, without adversely impacting delivery of power to other Contractors.

~~[NAC 538.580 General rule. (NRS 538.181, 538.201) The contractual provisions set forth in NAC 538.590 to 538.670, inclusive, are subject to change as necessary throughout the contractual period.]~~

NAC 538.590 Capacity and energy available each month; scheduling and accounting procedures; patterns of usage; allowance for certain reductions in capacity. (NRS 538.181, 538.201)

1. The capacity and energy available to the ~~{contractors}~~**Contractors** for each month by the Commission will be shown by an annual report or by exhibits to the contracts for power from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.
2. Scheduling and accounting procedures will be established by the Commission to adjust for any variations between the contractual energy available for delivery and the actual deliveries.
3. If requested by the ~~{contractor}~~**Contractor**, the Commission, in preparing the exhibits, will endeavor to approximate that ~~{contractor's}~~**Contractor's** seasonal and monthly pattern of usage of energy. The extent to which the Commission is able to accommodate these patterns is contingent upon the monthly availability of energy.
4. The Commission will, in the contracts for power from the Boulder Canyon Project, allow for a reduction in capacity due to loss of head or flow or to outages of generating units or other factors. Such a reduction will be apportioned by the Commission among the ~~{contractors}~~**Contractors** for capacity from the Boulder Canyon Project. The Commission will not discriminate between the capacity designated in Schedule A, **B or D** at 43 U.S.C. § 619a (a)(1)~~{(A) and Schedule B}~~ in apportioning the shortages. The pro rata share of any ~~{contractor}~~**Contractor** is the proportion its capacity bears to the total capacity available under Schedules A ~~{and}~~, **B and D**.

NAC 538.610 Rates, charges and costs. (NRS 538.181, 538.191, 538.201)

1. The rates or charges payable by a ~~{contractor}~~**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}~~**Contractors** of the change.
3. The administrative charge is based on a projection for 2 years of all costs for the Commission's operations relating to the ~~{contractors}~~**Contractors**. Those estimated costs are divided by the total estimated number of kilowatt-hours of all energy, including both hydroelectric and ~~{nonhydroelectric}~~**non-hydroelectric**, to be delivered to ~~{contractors}~~**Contractors** to arrive at a rate per kilowatt-hour. The administrative charge may be increased or decreased after the Commission ~~{notifies}~~**provides 90 days prior notice of a change to the {contractor of} administrative charge, the effective date of the change, and** the grounds for the increase or decrease.
4. *In addition to the setting of and any revision of the administrative charge provided for in paragraph 3, the Commission shall conduct a review and consider whether to increase the administrative charge in the event that actual revenues from the administrative charge are 30 percent less than the level of projected revenues used to develop that charge. The Commission*

shall provide to the Contractors 60 days prior notice of a proposed increase to the administrative charge, the effective date of the increase, and the grounds for the increase. The Commission may increase or revise the administrative charge after considering the comments of the Contractors and all other relevant information.

5. Any Contractor planning, projecting or experiencing a decrease of 30 percent or more in its load for 90 days or more, shall notify the Commission of such change in load as soon as possible.

NAC 538.620 Scheduling and accounting procedures; delivery of power. (NRS 538.181, 538.201)

1. The Commission, in cooperation with the ~~contractor~~ **Contractor**, will establish scheduling~~and~~, accounting, *and delivery* procedures ~~based upon standard practices~~*for receipt of utilities*~~power from the Commission that meet the needs of each individual Contractor.~~ These procedures must be set forth in an agreement approved by the Executive Director of the Commission.

2. Deliveries of power from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects will be scheduled by the Commission in advance in accordance with the procedures set forth in separate scheduling instructions which will provide for schedules to meet the needs of day-to-day or hour-by-hour operations. The instructions must include procedures for determining amounts of power from the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects delivered to the ~~contractor~~ **Contractor** at each point of delivery and procedures for delivery of losses. The procedures must also specify the conditions under which actual deliveries, which are greater or less than scheduled deliveries during the month of a particular season, will be adjusted in later deliveries in subsequent months of that season.

NAC 538.630 Maximum rate of delivery. (NRS 538.181, 538.201)

1. Each ~~contractor~~ **Contractor** will have a maximum rate of delivery for its point of receipt set out in an exhibit to its contract. If a ~~contractor~~ **Contractor** has more than one point of receipt, a maximum rate of delivery will be set out for each. This maximum rate of delivery will be determined by the Commission.

2. The setting of maximum rates of delivery at more than one point of receipt which results in a total rate of delivery higher than the contractual rate of delivery does not obligate the Commission to increase the availability of capacity to the ~~contractor~~ **Contractor**. The ~~contractor~~ **Contractor** is limited to the contractual rate of delivery.

3. The method for determining the maximum rate of delivery at each point of receipt is included in the scheduling and accounting procedures.

NAC 538.640 Minimum rate of delivery. (NRS 538.181, 538.201) If the Commission requires, a ~~contractor~~ **Contractor** must schedule a minimum rate of delivery during off-peak hours of load, as defined in the contract. The percentage of energy to be taken by the ~~contractors~~ **Contractors** at the minimum scheduled rate of delivery will be established by the Commission on a seasonal basis and may be increased or decreased as conditions dictate. The monthly minimum rate of delivery for each ~~contractor~~ **Contractor** is computed by dividing the number of kilowatt-hours to be taken during the month by a ~~contractor~~ **Contractor** at the minimum rate of delivery by the number of off-peak hours of load in the month. The number of kilowatt-hours

to be taken during off-peak hours of load at the minimum rate of delivery from the Boulder Canyon Project must not exceed 25 percent of the ~~{contractor's}~~ *Contractor's* monthly entitlement of energy. The minimum hourly rate of delivery for capacity scheduled from the Salt Lake City Area Integrated Projects must be 35 percent of the ~~{contractor's}~~ *Contractor's* scheduled rate of delivery. At no time may the required minimum rate of delivery be greater than the ~~{contractor's}~~ *Contractor's* actual load.

NAC 538.650 Points of delivery and voltages. (NRS 538.181, 538.201)

1. The points of delivery and voltages for the marketing area for the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects are:

Location	Kilovolts
Boulder Canyon Project	
Mead substation	69.0
Mead substation	230.0
Location	Kilovolts
Parker-Davis Project	
Amargosa substation	138.0
Clark tie	230.0
Henderson substation	230.0
Mead substation	230.0
Location	Kilovolts
Salt Lake City Area Integrated Projects	
Amargosa substation	138.0
Boulder City tap	230.0
Clark tie	230.0
Henderson substation	230.0
Mead substation	230.0
Pinnacle Peak/Rogers substation	230.0

and any other points of delivery and voltages authorized by the Commission.

2. Delivery will be made at designated points on Western's "Parker-Davis Project Southern Nevada Facilities" at rates of delivery not to exceed the available capability of the facilities. The designated points of delivery and Western's "Parker-Davis Project Southern Nevada Facilities" may be modified as required.

3. The designation of a point of delivery does not imply any obligation on the Commission's part to furnish additional facilities or to increase the capabilities of transmission or of the transformer at the designated points. Each ~~{contractor}~~ *Contractor* must obtain the permission of the Commission for any modification to existing facilities and alternate or additional points of delivery. Requests for taps on Western's "Parker-Davis Project Southern Nevada Facilities" will be considered by the Commission individually.

4. Any cost associated with obtaining points of delivery or voltage at other than those set forth in subsection 1 is the obligation of the ~~{contractor}~~ *Contractor*.

5. Power from the Boulder Canyon Project will be delivered at the Mead substation. If a ~~{contractor}~~ *Contractor* cannot accept delivery of power from the Boulder Canyon Project at the Mead substation, arrangements for transmission service to other points of delivery are the obligation of the ~~{contractor}~~ *Contractor*.

NAC 538.660 Losses. (NRS 538.181, 538.201)

1. Losses for the system will be determined for each ~~{contractor}~~ **Contractor** by the Commission and will be set out in exhibits to each contract or in a separate agreement.
2. Losses may be accounted for by determining the ~~{contractor's}~~ **Contractor's** load at its meters and then increasing that load by an assigned factor for losses, back to the contractual point of delivery or by using other methods agreed to by the Commission and the ~~{contractor}~~ **Contractor**.
3. The assigned factor for losses will be reviewed periodically by the Commission and may be increased or decreased if it is determined to be necessary to meet actual losses.

NAC 538.670 Points of receipt; charge for transmission. (NRS 538.181, 538.201)

1. The ~~{contractor}~~ **Contractor** shall, in its application, designate the point or points of receipt required to service its load and any facilities for transmission from point of receipt to the point or points for metering the load.
2. The ~~{contractor}~~ **Contractor** is financially responsible for acquiring any rights of transmission between its designated point of receipt and its points for metering the load.
3. A charge for transmission may be imposed on deliveries of power from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects to the ~~{contractor's}~~ **Contractor's** designated points of receipt.

Additional Terms and Conditions Applicable to the Commission's Marketing of Power from the Boulder Canyon Project for Delivery beginning October 1, 2017

NAC 538.680 Additional Terms and Conditions Applicable to the Commission's Marketing of Power from the Boulder Canyon Project for Delivery beginning October 1, 2017

NAC 538.681 Term of contracts; expiration and renewal. (NRS 538.181, 538.201)

1. *Contracts for the delivery of power from the Boulder Canyon Project for the term beginning October 1, 2017 and ending September 30, 2067, become effective on the date they are executed and expire on the date stated in the contract, unless terminated before that date by the Contractor or the Commission in accordance with applicable laws and the terms of the contract.*
2. *The Commission will determine the term of each contract for power from the Boulder Canyon Project beginning October 1, 2017 if it is for a term of less than fifty years.*

NAC 538.682 Allocation of Schedule A and B Hoover Power. (NRS 538.181, 538.201)

The Commission shall offer to a Contractor who has an existing contract for Schedule A and B Hoover power prior to September 1, 2017, a contract for delivery commencing October 1, 2017 and ending on September 30, 2067, of ninety-five (95) percent of its existing allocation of Schedule A and B Hoover power.

NAC 538.683 Allocation of Schedule C Hoover Power. (NRS 538.181, 538.201)

In the event Schedule C excess energy is available pursuant to HPAA 2011 section 2 (c)_____, the Commission will allocate Schedule C energy in accordance with the priorities set forth in that section and other applicable laws.

NAC 538.684 Allocation of Schedule D Power. (NRS 538.181, 538.201)

The Commission will conduct proceedings to allocate Schedule D Power in compliance with its adopted criteria, the HPA 2011, and the requirements of NRS 538 and these regulations.

NAC 538.686 Terms and Conditions applicable to Contractors receiving power under Schedule A and Schedule B beginning October 1, 2017 (NRS 538.181, 538.201)

The contract offered by the Commission to Contractors receiving Schedule A or B Hoover power beginning October 1, 2017 shall include the terms and conditions requiring the Contractor to:

- 1. Comply with the terms and conditions required by NAC 538.340 through NAC 538.746.*
- 2. Pay a proportionate share of the State of Nevada's contribution to the cost of the Lower Colorado River Multi-Species Conservation Program; and,*
- 3. To the extent Western requires the Commission to participate in integrated resource planning or similar programs, the Commission may require its Contractors to enter into a contract with the Commission to establish and maintain such programs.*

NAC 538.690 Terms and Conditions applicable to Contractors Receiving Power under Schedule D beginning October 1, 2017 (NRS 538.181, 538.201)

The contract offered by the Commission to Contractors receiving Schedule D power shall include terms and conditions requiring the Contractor to:

- 1. Comply with the terms and conditions required by NAC 538.340 through NAC 538.746.*
- 2. Comply with the terms and conditions of the HPA 2011 including but not limited requirements to:*
 - (a) Pay a proportionate share of the State of Nevada's contribution to the cost of the Lower Colorado River Multi-Species Conservation Program;*
 - (b) Participate through the Commission in the Boulder Canyon Project Implementation Agreement;*
 - (c) Pay a pro rata share of Hoover Dam repayable advances paid for by Contractors prior to October 1, 2017;*
 - (d) To the extent Western requires the Commission to participate in integrated resource planning or similar programs, the Commission may require its Contractors to enter into a contract with the Commission to establish and maintain such programs; and,*
 - (e) Comply with the requirements of NRS 704.787 in the following manner;*
 - (i) A Contractor which receives electricity, transmission service or distribution service from the Commission pursuant to NRS 704.787 (1)(a) or (b), shall comply with the requirements of NRS 704.787(1)(a), (b), and (4) (a) in obtaining electric distribution service from an electric utility that primarily serves densely populated counties and complying with other requirements of these paragraphs.*
 - (ii) A Contractor which receives electricity, transmission service or distribution service from the Commission pursuant to NRS 704.787 (1)(c), shall comply with the requirements applicable to Contractors under NRS 704.787(1)(c), 2, 3 and (4)(b) in obtaining electric distribution service from an electric utility that primarily serves densely populated counties.*

Allocation of Marketable Long-Term Capacity and Energy

NAC 538.~~680~~691 Division of resources into pools. (NRS 538.181, 538.201) The marketable long-term capacity and energy from the Commission’s share of power from the Boulder Canyon Project, Parker-Davis Project and Salt Lake City Area Integrated Projects are divided into three pools as set forth in NAC 538.690 to 538.740, inclusive.

NAC 538.692 Abbreviation of names of Contractors receiving pool resources. (NRS 538.181, 538.201)

The following abbreviations are used to designate the Contractors receiving pool resources:

- Ampac = American Pacific Corporation*
- BWC = Basic Water Co.*
- BC = Boulder City*
- Lhoist = Lhoist North America, Inc.*
- LCPD = Lincoln County Power District No.1*
- NPC = Nevada Power Company*
- OPD = Overton Power District No. 5*
- SNWA = Southern Nevada Water Authority*
- TM = Titanium Metals Corp*
- TR = Tronox LLC*
- VEA = Valley Electric Association*

NAC 538.~~690~~693 Pool 1: Applicable resource; allocation. *(Effective through September 30, 2017)* (NRS 538.181, 538.201)

1. *Effective through September 30, 2017*, Pool 1 consists of a total of 377,000 kilowatts of capacity and 1,057,989,000 kilowatt-hours of energy from the following sources of the Boulder Canyon Project:

Schedule A		Schedule B	
Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
189,000	645,989,000	188,000	412,000,000

2. This resource is reserved for allocation to the named entities as follows:

Contractors	Hoover Capacity and Energy			
	Schedule A		Schedule B	
	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
American Pacific Corp. <i>Ampac</i>	10,625	49,952,389	0	0
Basic Water Co. <i>BWC</i>	4,827	9,738,148	0	0
Boulder City <i>BC</i>	0	0	8,500	17,870,400
Chemical Lime Co. <i>Lhoist</i>	382	2,164,033	0	0
Lincoln County Power District No. 1 <i>LCPD</i>	4,828	20,726,814	21,339	77,521,529
Nevada Power Company	100,232	240,098,311	135,000	283,824,000

Contractors	Hoover Capacity and Energy			
	Schedule A		Schedule B	
	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
<i>NPC</i>				
{Overton Power District No. 5}				
<i>OPD</i>	6,507	27,936,142	13,007	20,946,270
{Southern Nevada Water Authority} <i>SNWA</i>	15,207	75,200,137	0	0
{Titanium Metals Corp.} <i>TM</i>	21,397	113,070,710	0	0
{Tronox LLC} <i>TR</i>	17,649	75,561,510	0	0
{Valley Electric Association} <i>VEA</i>	7,346	31,540,806	10,154	11,837,801
Totals	189,000	645,989,000	188,000	412,000,000

NAC 538.693 Pool 1: Applicable resource; allocation [Effective October 1, 2017]. (NRS 538.181, 538.201)

1. Beginning October 1, 2017, Pool 1 consists of a total of 392,239 kilowatts of capacity and 1,032,202,000 kilowatt-hours of energy from the following sources of Boulder Canyon Project:

<i>Schedule A</i>		<i>Schedule B</i>	
<i>Capacity (KW)</i>	<i>Energy (KWH)</i>	<i>Capacity (KW)</i>	<i>Energy (KWH)</i>
<i>190,869</i>	<i>13,689,000</i>	<i>189,860</i>	<i>341,400,000</i>

<i>Schedule D</i>	
<i>Capacity (KW)</i>	<i>Energy (KWH)</i>
<i>11,510</i>	<i>25,113,000</i>

2. This resource is reserved for allocation to the named entities as follows:

Hoover Capacity and Energy

<i>Contractors</i>	<i>Schedule A</i>		<i>Schedule B</i>	
	<i>Capacity (KW)</i>	<i>Energy (KWH)</i>	<i>Capacity (KW)</i>	<i>Energy (KWH)</i>

Hoover Capacity and Energy

Contractors	Schedule A		Schedule B	
	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
Ampac	10,730	47,454,729	0	0
BWC	4,874	9,251,239	0	0
BC	0	0	8,584	16,976,897
Lhoist	386	2,055,858	0	0
LCPD	4,876	19,690,457	21,550	73,645,433
NPC	101,223	228,093,166	136,336	269,632,798
OPD	6,571	26,539,288	13,136	19,898,972
SNWA	15,357	71,440,089	0	0
TM.	21,609	107,417,054	0	0
TR	17,824	71,783,386	0	0
VEA	7,419	29,963,734	10,254	11,245,900
Totals	190,869	613,689,000	189,860	391,400,000

Contractors	Schedule D	
	Capacity (KW)	Energy (KWH)
New Allotees	11,510	25,113,000

~~[NAC 538.700 Pool 2: Applicable resource; allocation. (Effective through September 30, 2008.) (NRS 538.181, 538.201) Pool 2 consists of power from the Parker-Davis Project in the amounts of 56,950 kilowatts of capacity and 195,964,950 kilowatt hours of energy in the summer season and 41,010 kilowatts of capacity and 69,840,030 kilowatt hours of energy in the winter season. This resource is reserved for allocation as firm and withdrawable power to the named entities as follows:~~

~~Parker-Davis Capacity in KW~~

Contractors¹	Summer Season			Winter Season		
	Firm	Withdrawable	Total	Firm	Withdrawable	Total
BWC	-2,750	—272	-3,022	-1,968	—162	-2,130
CL	-218	—21	-239	-156	—13	-169
OPD	-4,528	—0	-4,528	-3,690	—0	-3,690
SNWA	-8,664	—857	-9,521	-6,202	—511	-6,713
TM	-12,190	—1,206	-13,396	-8,727	—719	-9,446
TR	-16,108	—1,594	-17,702	-11,532	—950	-12,482
VEA	-8,542	—0	-8,542	-6,380	—0	-6,380
Totals	-53,000	—3,950	-56,950	-38,655	—2,355	-41,010

~~Parker-Davis Energy in KWH~~

Contractors ¹	Summer Season			Winter Season			Annual
	Firm	Withdrawable	Total	Firm	Withdrawable	Total	
BWC	4,076,594	406,404	4,482,998	1,477,780	119,917	1,597,697	6,080,695
CL	905,910	90,312	996,222	328,395	26,649	355,044	1,351,266
OPD	16,272,104	0	16,272,104	5,799,222	0	5,799,222	22,071,326
SNWA	31,480,365	3,138,340	34,618,705	11,411,748	926,027	12,337,775	46,956,480
TM	47,333,785	4,718,800	52,052,585	17,158,670	1,392,372	18,551,042	70,603,627
TR	52,542,765	5,238,094	57,780,859	19,046,945	1,545,600	20,592,545	78,373,404
VEA	29,761,477	0	29,761,477	10,606,705	0	10,606,705	40,368,182
Totals	182,373,000	13,591,950	195,964,950	65,829,465	4,010,565	69,840,030	265,804,980

Key: BWC = Basic Water Co.
CL = Chemical Lime Co.
OPD = Overton Power District No. 5
SNWA = Southern Nevada Water Authority
TM = Titanium Metals Corp.
TR = Tronox LLC
VEA = Valley Electric Association

NAC 538.700 Pool 2: Applicable resource; allocation. ~~Effective October 1, 2008.~~ (NRS 538.181, 538.201) Pool 2 consists of power from the Parker-Davis Project in the amounts of 56,560 kilowatts of capacity and 194,622,960 kilowatt-hours of energy in the summer season and 40,752 kilowatts of capacity and 69,400,656 kilowatt-hours of energy in the winter season. This resource is reserved for allocation as firm and withdrawable power to the named entities as follows:

Contractors ¹	Parker-Davis Capacity in KW						Annual
	Summer Season			Winter Season			
	Firm	Withdrawable	Total	Firm	Withdrawable	Total	
BWC	2,756	245	3,001	1,972	144	2,116	
CL	218	19	237	156	12	168	
OPD	4,497	0	4,497	3,667	0	3,667	
SNWA	8,684	772	9,456	6,216	455	6,671	
TM	12,217	1,087	13,304	8,747	640	9,387	
TR	16,144	1,437	17,581	11,557	846	12,403	
VEA	8,484	0	8,484	6,340	0	6,340	
Totals	53,000	3,560	56,560	38,655	2,097	40,752	

Contractors ¹	Parker-Davis Energy in KWH						Annual
	Summer Season			Winter Season			
	Firm	Withdrawable	Total	Firm	Withdrawable	Total	
BWC	4,086,020	366,278	4,452,298	1,480,866	106,780	1,587,646	6,039,944
CL	908,005	81,395	989,400	329,081	23,729	352,810	1,342,210
OPD	16,160,671	0	16,160,671	5,762,738	0	5,762,738	21,923,409
SNWA	31,553,153	282,479	34,381,632	11,435,579	824,577	12,260,156	46,641,788
TM	47,443,230	4,252,893	51,696,123	17,194,503	1,239,832	18,434,335	70,130,458
TR	52,664,254	4,720,915	57,385,169	19,086,721	1,376,273	20,462,994	77,848,163
VEA	29,557,667	0	29,557,667	10,539,977	0	10,539,977	40,097,644
Totals	182,373,000	12,249,960	194,622,960	65,829,465	3,571,191	69,400,656	264,023,616

NAC 538.730 Pool 3: Applicable resource; allocation. (NRS 538.181, 538.201) Pool 3 consists of power from the Salt Lake City Area Integrated Projects, at Pinnacle Peak, in the amounts of 20,851 kilowatts of capacity and 46,054,700 kilowatt-hours of energy in the summer season and 27,414 kilowatts of capacity and 61,011,134 kilowatt-hours of energy in the winter season. This resource is reserved for allocation to the named entities as follows:

Salt Lake City Area Integrated Projects Capacity and Energy				
Contractor {H}	Summer Season		Winter Season	
	Capacity(KW)	Energy(KWH)	Capacity(KW)	Energy(KWH)
Ampac	2,756	6,086,817	3,623	8,063,533
BC	5,537	12,228,710	7,279	16,200,029
OPD	6,279	13,869,586	8,256	18,373,786
VEA	6,279	13,869,587	8,256	18,373,786
Totals	20,851	46,054,700	27,414	61,011,134

~~{H}Key” Ampac—American Pacific Corporation
BC—Boulder City
OPD—Overton Power District No. 5
VEA—Valley Electric Association}~~

NAC 538.740 Pool 3: Sharing increase or decrease in available power. (NRS 538.181, 538.201) Any increase or decrease in the amount of power available to the Commission from the Salt Lake City Area Integrated Projects must be shared by the ~~{contractors}~~ **Contractors** according to the following percentages:

{American Pacific Corporation} Ampac	13.21649485
{Boulder City} BC	26.55257732
{Overton Power District No. 5} OPD	30.11546391
{Valley Electric Association} VEA	30.11546392

Contractors

NAC 538.744 Risk Management: Determination of creditworthiness; requirements for collateral and other financial measures. (NRS 538.181, 538.201)

1. *The Commission may determine the appropriate mix of measures needed to implement sound risk management policies and protect the financial health of the agency and the State of Nevada.*

(a) 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:}~~ **Contractors.**

~~{(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. ~~{(b)}~~ After ~~{a}~~ **the creditworthiness** review conducted pursuant to ~~{subsection 1,}~~ **paragraph (a),** the Commission will establish the amount **of collateral** and prescribe the manner in which the

~~{contractor}~~ *Contractor* is required to furnish collateral pursuant to its contracts with the Commission, *except*:

(i) A federal or state agency or political subdivision; and,

(ii) Any other Contractor regularly engaged in the business of buying electric power for use in providing electric power services to its retail customers.

. In no case will the amount of collateral established by the Commission be less than one-fourth of the ~~{contractor's}~~ *Contractor's* gross annual purchases.

~~{3-}~~*(c) In addition to the creditworthiness review and the establishment of any collateral amount conducted pursuant to paragraphs (a) and (b), the Commission may also establish a cash working capital fund which the Contractor will be required to fund and/or establish advance pre-payment requirements as the Commission deems necessary.*

2. If a ~~{contractor}~~ *Contractor* does not provide and maintain the full amount of the *required* collateral, *or fund cash working capital as may be* required, the Commission may, in addition to its other remedies and in the course of its normal invoicing, bill the ~~{contractor}~~ *Contractor* for an amount necessary to furnish ~~{a-cash}~~ *the required* collateral *or fund working capital* within a period established by the Commission, but not to exceed 6 months.

~~{4-Notwithstanding}~~ 3. *If a Contractor fails to provide and maintain any required collateral with in the period authorized by the Commission, fails to provide required funds to support a working capital fund, or, fails to make timely advance pre-payments established by the Commission, notwithstanding* any other provision of NAC 538.340 to 538.746, inclusive, the Commission may at any time require a ~~{contractor}~~ *Contractor* to furnish collateral, *within 30 days of written demand*, in an amount that is ~~{greater than the minimum amount set forth in subsection 2, as may be}~~ necessary to protect the *Commission, its Contractors or the* State of Nevada from any loss that it might suffer as a result of the ~~{contractor's}~~ *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}~~4. 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}~~ *Contractor* must furnish pursuant to its contracts with the Commission.

(b) "Gross annual purchases" means the total amount of a ~~{contractor's}~~ *Contractor's* actual purchases of power, transmission and other related services, if any, 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.

NAC 538.746 Nonperformance: Notice; suspension and reinstatement of allocation of power; termination of allocation and reallocation of power. (NRS 538.181, 538.201)

1. If a ~~{contractor}~~ *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 *or expose the State of Nevada to financial risk*, the Executive Director shall provide written notice of the nonperformance to the ~~{contractor}~~ *Contractor*.

2. If the ~~{contractor}~~ **Contractor** fails ~~{or refuses}~~ to cure the nonperformance within 15 days after the date of the written notice, the ~~{Commission}~~**Executive Director** may, after *providing three days prior written notice to* ~~{notifying}~~ the ~~{contractor}~~ **Contractor**, suspend the ~~{contractor's}~~**Contractor's** allocation of hydroelectric power under NAC 538.340 to 538.746, inclusive, and *immediately* discontinue furnishing electric service specified in its contracts with the ~~{contractor}~~ **Contractor** pending any further action ~~{taken by the Commission pursuant to this section}~~.
3. *Following suspension of the Contractor's allocation of hydroelectric power under paragraph 2 above, the Executive Director may reallocate this power to another Contractor or Contractors on a short term basis. A Contractor receiving such a short term allocation must comply with all terms and conditions applicable to this power under the terms of the contract between the Commission and the nonperforming Contractor.*
4. Within 30 days after the suspension of the ~~{contractor's}~~ **Contractor's** allocation of hydroelectric power, the ~~{contractor}~~ **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.
- ~~5~~⁴. If the ~~{contractor}~~ **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}~~ **Contractor's** allocation of hydroelectric power and permanently discontinue electric service to the ~~{contractor}~~ **Contractor**.
- ~~6~~⁵. Upon the permanent termination of a ~~{contractor's}~~ **Contractor's** allocation of hydroelectric power, the Commission will reallocate the hydroelectric power as authorized by *NAC 538.450*~~{Haw}~~.
- ~~7~~⁶. This section does not preclude the Commission from pursuing at any time any other remedy for breach of ~~{contractor}~~ **Contractor** that is available to the Commission.