

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

**LCB FILE NO. R033-18I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 02/22/2018**

**NAC 538.333 is hereby repealed.**

NAC 538.333 Commission to develop criteria: Draft order; public meeting; comments; hearing; decision. (NRS 538.181, 538.201)

~~[1. The Commission will develop criteria for the allocation of power designated in Schedule D in accordance with this section.~~

~~2. The Commission's staff must prepare a draft order setting forth proposed criteria for the allocation by the Commission of power designated in Schedule D. To prepare the draft order, the Commission's staff must:~~

~~(a) Conduct a public meeting that complies with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must:~~

~~(1) Describe the power designated in Schedule D for which allocation criteria is being developed;~~

~~(2) Set forth the proposed criteria to be used by the Commission for the allocation of power designated in Schedule D;~~

~~(3) Include a proposed form for applying for an allocation of power designated in Schedule D;~~

~~(4) State that, at the public meeting, the Commission's staff will accept questions and oral comments from persons attending the meeting; and~~

~~(5) State a deadline for the submission of written comments to the Commission's staff.~~

~~(b) Consider written comments submitted to the Commission's staff on or before the deadline for the submission of written comments and the questions and oral comments presented at the public meeting.~~

~~3. After preparing the draft order described in subsection 2, the Commission's staff must:~~

~~(a) Serve a copy of the draft order on each person who submits:~~

~~(1) Written comments to the Commission's staff on or before the deadline for the submission of written comments or submitted questions or oral comments at the public meeting conducted pursuant to subsection 2.~~

~~—————(2) A request to the Executive Director to be included on a service list for proceedings related to the development of criteria for the allocation of power designated in Schedule D.~~

~~—————(b) Post a copy of the draft order on the Commission's Internet website.~~

~~—————4. The Commission will conduct a hearing and issue a decision on the draft order prepared by the Commission's staff pursuant to subsection 1. The hearing will be conducted, and the Commission's decision issued, in accordance with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must include, without limitation, a copy of the draft order prepared by the Commission's staff pursuant to subsection 2.~~

~~—————5. The proceeding described in this section is not a contested case as defined in NRS 233B.032.]~~

**NAC 538.336 is hereby repealed.**

NAC 538.336 Application process: Public meeting to discuss process; review of applications; preparation of draft order; Commission hearing and decision; reallocation of power if entity fails to enter into contract with Commission. (NRS 538.181, 538.201)

~~[1. The Commission's staff must conduct a public meeting that complies with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, to discuss the process of allocating power designated in Schedule D and accept questions and comments concerning that process. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must state:~~

~~—————(a) That applications for an allocation of power designated in Schedule D may be submitted after the public meeting;~~

~~—————(b) A deadline for the submission of applications for an allocation of power designated in Schedule D; and~~

~~—————(c) That, at the public meeting, the Commission's staff will accept questions and oral comments from persons attending the meeting.~~

~~—————2. After the public meeting conducted pursuant to subsection 1, a person who wishes to apply for an allocation of power designated in Schedule D may submit an application to the Commission's staff. The application must:~~

~~—————(a) Be on a form provided by the Commission.~~

~~—— (b) Set forth the applicant's full name and mailing address and any facts and exhibits required by law.~~

~~—— (c) Be signed by the applicant.~~

~~—— 3. The Commission's staff must review any application submitted pursuant to subsection 2 and prepare a draft order containing a recommendation for the Commission's disposition of each application. The Commission's staff must provide a copy of the draft order to each applicant. An applicant must file any comments on the draft order with the Commission within 30 days after the Commission's staff issues the draft order.~~

~~—— 4. The Commission will conduct a hearing and issue a decision on the draft order prepared by the Commission's staff pursuant to subsection 3. The hearing will be conducted, and the Commission's decision issued, in accordance with the provisions of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive. In addition to satisfying the requirements of chapters 241 and 538 of NRS and NAC 538.075 to 538.336, inclusive, the notice must include, without limitation, a copy of the draft order prepared by the Commission's staff pursuant to subsection 3.~~

~~—— 5. After the issuance of the Commission's decision on the draft order prepared by the Commission's staff pursuant to subsection 3, the Commission's staff must advertise the notice required by subsection 4 of NRS 538.181. If the Commission receives an objection to its decision on the application within 10 days after the date of the last publication of the notice required by subsection 4 of NRS 538.181, the Commission will conduct a hearing on the objection not later than 30 days after the date of the last publication of the notice.~~

~~—— 6. If an applicant that has been offered an allocation of power designated in Schedule D from the Commission fails to enter into a contract with the Commission within 90 days after being offered the allocation of power, the Commission will reallocate the amount of power offered to that applicant to other applicants at the Commission's discretion.~~

~~—— 7. Except for a hearing conducted pursuant to subsection 5, the proceeding described in this section is not a contested case as defined in NRS 233B.032.]~~

**NAC 538.450 is hereby repealed.**

NAC 538.450 Reallocation of power if entity fails to enter into contract with Commission.

~~[Except as otherwise provided in subsection 6 of NAC 538.336 and subsection 7 of NAC 538.455, if an entity that has been offered an allocation of power from the Commission fails, within 90 days after being offered the allocation of power, 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 538.455.]~~

**NAC 538.680 is hereby repealed.**

NAC 538.680 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 538.690 is hereby repealed.**

NAC 538.690 Pool 1: Applicable resource; allocation. [Effective through September 30, 2017.]

~~[1. 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:~~

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

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

~~Hoover Capacity and Energy~~

<del>Contractors</del>	<del>Schedule A</del>		<del>Schedule B</del>	
	<del>Capacity (KW)</del>	<del>Energy(KWH)</del>	<del>Capacity(KW)</del>	<del>Energy (KWH)</del>
<del>American Pacific Corp.</del>	<del>10,625</del>	<del>49,952,389</del>	<del>0</del>	<del>0</del>
<del>Basic Water Co.</del>	<del>4,827</del>	<del>9,738,148</del>	<del>0</del>	<del>0</del>
<del>Boulder City</del>	<del>0</del>	<del>0</del>	<del>8,500</del>	<del>17,870,400</del>

Chemical Lime Co.	382	2,164,033	0	0
Lincoln County Power District No. 1	4,828	20,726,814	21,339	77,521,529
Nevada Power Company	100,232	240,098,311	135,000	283,824,000
Overton Power District No. 5	6,507	27,936,142	13,007	20,946,270
Southern Nevada Water Authority	15,207	75,200,137	0	0
Titanium Metals Corp.	21,397	113,070,710	0	0
Tronex LLC	17,649	75,561,510	0	0
Valley Electric Association	7,346	31,540,806	10,154	11,837,801
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Totals	189,000	645,989,000	188,000	412,000,000

NAC 538.690 Pool 1: Applicable resource; allocation. [Effective October 1, 2017.]

[1. 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 the Boulder Canyon Project:

Schedule A	Schedule B	Schedule D			
Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
190,869	613,689,000	189,860	391,400,000	11,510	25,113,000

2. The resource specified for Schedule A and Schedule B is reserved for allocation to the named entities as follows:

Hoover Capacity and Energy

Contractors Schedule A Schedule B

	Capacity (KW)	Energy (KWH)	Capacity (KW)	Energy (KWH)
American Pacific Corp.	10,730	47,454,729	0	0
Basic Water Co.	4,874	9,251,239	0	0

Boulder City	0	0	8,584	16,976,897
Chemical Lime Co.	386	2,055,858	0	0
Lincoln County Power District No. 1	4,876	19,690,457	21,550	73,645,433
Nevada Power Company	101,223	228,093,166	136,336	269,632,798
Overton Power District No. 5	6,571	26,539,288	13,136	19,898,972
Southern Nevada Water Authority	15,357	71,440,089	0	0
Titanium Metals Corp.	21,609	107,417,054	0	0
Trox LLC	17,824	71,783,386	0	0
Valley Electric Association	7,419	29,963,734	10,254	11,245,900
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Totals	190,869	613,689,000	189,860	391,400,000

[3. The resource specified for Schedule D is reserved for allocation to new allottees as follows:

Contractors Schedule D

	Capacity (KW)	Energy (KWH)
New Allottees	11,510	25,113,000

**NAC 538.700 is hereby repealed.**

NAC 538.700 Pool 2: Applicable resource; allocation (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:

	Parker-Davis Capacity in KW	
	Summer Season	Winter Season

Contractors	1 Firm	Withdrawable	Total	1 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

#### Parker-Davis Energy in KWH

Contractors	Summer Season		Winter Season		Total Annual
	1 Firm	Withdrawable	1 Firm	Withdrawable	
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	2,828,479	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	<del>52,664,254</del>	<del>4,720,915</del>	<del>57,385,169</del>	<del>19,086,721</del>
	<del>1,376,273</del>	<del>20,462,994</del>	<del>77,848,163</del>	

VEA	<del>29,557,667</del>	<del>0</del>	<del>29,557,667</del>	<del>10,539,977</del>	<del>0</del>
	<del>10,539,977</del>	<del>40,097,644</del>			

Totals	<del>182,373,000</del>	<del>12,249,960</del>	<del>194,622,960</del>	<del>65,829,465</del>
	<del>3,571,191</del>	<del>69,400,656</del>	<del>264,023,616</del>	

~~1Key: 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 538.730 is hereby repealed.**

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~~

	<del>Summer Season</del>	<del>Winter Season</del>
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<del>Contractor</del>	<del>Capacity(KW)</del>	<del>Energy(KWH)</del>	<del>Capacity(KW)</del>	<del>Energy(KWH)</del>
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<del>Ampac</del>	<del>2,756</del>	<del>6,086,817</del>	<del>3,623</del>	<del>8,063,533</del>
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<del>BC</del>	<del>5,537</del>	<del>12,228,710</del>	<del>7,279</del>	<del>16,200,029</del>
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<del>OPD</del>	<del>6,279</del>	<del>13,869,586</del>	<del>8,256</del>	<del>18,373,786</del>
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~~VEA 6,279 13,869,587 8,256 18,373,786~~

~~Totals 20,851 46,054,700 27,414 61,011,134~~

~~Key: Ampac = American Pacific Corporation~~

~~BC = Boulder City~~

~~OPD = Overton Power District No. 5~~

~~VEA = Valley Electric Association]~~

**NAC 538.740 is hereby repealed.**

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 according to the following percentages:~~

~~American Pacific Corporation 13.21649485~~

~~Boulder City 26.55257732~~

~~Overton Power District No. 5 30.11546391~~

~~Valley Electric Association 30.11546392]~~

**NAC 538.455 is hereby amended to read as follows:**

NAC 538.455 Procedures for *allocation or* reallocation of power: Notice requirements; application and review; hearing; Commission decision.

1. The Commission *will allocate power* or reallocate power that becomes available ~~[for reallocation pursuant to NAC 538.440 and 538.450]~~ in accordance with the provisions of this section and to achieve the greatest possible benefit to this State.

2. As soon as practicable after power becomes available for *allocation or* reallocation ~~[by the Commission pursuant to NAC 538.440 and 538.450]~~, the Commission's staff ~~[must notify the public of the availability of the power]~~ *shall draft a public notice for Commission approval.* The *draft public* notice must:

- (a) Describe the power to be allocated;
- (b) Set forth the proposed criteria to be used by the Commission for the allocation of the power;
- (c) Include a proposed form for applying for an allocation of the power; and
- (d) Set forth the dates during which applications may be submitted *and must be received*.

3. *The Commission's staff shall notice and conduct a public information meeting to review the draft public notice and solicit comments prior to presenting the draft notice to the Commission for approval. Notice of the public information meeting shall be posted 15 days in advance and in accordance with NRS 241.020(3) as well as sent to all potential applicants identified by Commission staff. Written comments on the draft public notice shall be due 10 days after the public information meeting. The Commission's staff shall review the comments received at the meeting and in writing and may revise the draft public notice.*

4. *The draft public notice shall then be placed on a Commission agenda for the Commission's review, potential revision and approval. Once approved, the public notice shall be posted in accordance with NRS 241.020(3) as well as sent to all potential applicants identified by Commission staff. The public notice shall have the due date of the application clearly indicated.*

[3] 5. [~~A person who wishes to~~] Any entity [apply] applying for an allocation of power from the Commission pursuant to this section must submit an application to the Commission's staff *by the due date*. The application must:

- (a) Be on [a] *the* form [~~provided~~] *approved* by the Commission.
- (b) Set forth the applicant's full name and mailing address and any facts and exhibits required [~~by law~~].
- (c) Be signed by the applicant.

[4] 6. The Commission's staff must review any application submitted pursuant to subsection [3] 5 and prepare a draft order containing [a] *recommendations* for the Commission's [~~disposition of each application~~] *allocation of the power. The draft order must contain specific references to each of the applications received for the power.* The Commission's staff must provide a copy of the draft order to each applicant. An applicant must file any comments on the draft order with the Commission within [30] *20* days after the Commission's staff [~~issues~~] *provides* the draft order. *The Commission's staff may revise the draft order in response to comments received from an applicant.*

[5] 7. The Commission will conduct a hearing and issue a decision on the draft order [~~prepared by the Commission's staff pursuant to subsection 4~~]. *The Commission may revise, approve, or reject in whole or in part the draft order. The Commission's staff shall prepare a notice of hearing on the draft order.* The notice of [the] hearing must include, without limitation, a copy of the draft order prepared by the Commission's staff [~~pursuant to subsection 4~~]. *The Notice of Hearing shall be posted 20 days in advance of the date set for the hearing and in accordance with NRS 241.020(3) as well as provided to each applicant.*

[6] 8. After the issuance of the Commission's decision on [a] *the* draft order [~~prepared by the Commission's staff pursuant to subsection 4~~], the Commission's staff must advertise the notice required by subsection 4 of NRS 538.181. If the Commission receives an objection to its *Order* [~~decision on the application~~] within 10 days after the date of the last publication of the notice required by subsection 4 of NRS 538.181, the Commission will conduct a hearing on the objection not later than 30 days after the date of the last publication of the notice.

[7] 9. If an applicant that has been offered an allocation of power from the Commission pursuant to this section fails to enter into a contract with the Commission within 90 days after being offered the allocation of power, the Commission [~~will~~] *may* reallocate the amount of power offered to that applicant to other applicants *or recommence the allocation process for the uncontracted for power*, at the Commission's discretion.

[8] 10. Except for a hearing conducted pursuant to subsection [6] 8, the proceedings described in this section [~~is~~] *are* not a contested case as defined in NRS 233B.032.