

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

LCB File No. R187-24 (PUCN Docket No. 23-11008)

- 1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

N/A. See Informational Statement accompanying the Regulation, Question Nos. 2-5 and 12.

Pursuant to NRS 233B.0608 (1), the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission of Nevada (“PUCN”) conducted an investigation to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business. In a memorandum filed on August 22, 2024, Staff memorialized its conclusion that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. See Attachment A of Attachment 1.

On September 11, 2024, the PUCN issued an order adopting the findings of Staff and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. See Attachment 1.

NRS 233B.0608 (2)(a) only requires an agency to consult with owners and officers of small businesses “*if* an agency determines pursuant to subsection 1 that a proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business ...” (emphasis added). Given the PUCN’s determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry, as no such “affected” small businesses exist.

- 2. The manner in which the analysis was conducted.**

See Attachment 1. Staff used a version of the Delphi method that incorporates elements of the Staff Delphi method to determine the potential impact of a regulation on small businesses.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- (a) Both adverse and beneficial effects; and**
- (b) Both direct and indirect effects.**

See Informational Statement accompanying the Regulation, Question No. 7. *See also* Attachment 1.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

N/A. *See* Attachment 1.

Pursuant to NRS 233B.0608 (1), Staff conducted an investigation to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

On September 11, 2024, the PUCN issued an order adopting the findings of Staff and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. *See* Attachment 1.

NRS 233B.0608 (2)(c) only requires an agency to consider methods to reduce the impact of a proposed regulation on small businesses “*if* an agency determines pursuant to subsection 1 that a proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business” (emphasis added). Given the PUCN’s determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry as there are no impacts on small businesses and no methods that were considered for reducing the non-existent impacts.

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

See Informational Statement accompanying the Regulation, Question No. 8. *See also* Attachment 1.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

N/A. *See also* Informational Statement accompanying the Regulation, Question No. 11.

7. **If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

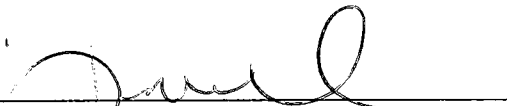
See Informational Statement accompanying the Regulation, Questions Nos. 9 and 10. See also Attachment 1.

8. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The PUCN complied with NRS 233B.0608 by making a concerted effort to determine whether the proposed regulation imposes a direct and significant economic burden upon small businesses or directly restricts the formation, operation, or expansion of a small business. The PUCN concluded that no such impacts would occur from the adoption of the proposed regulation based upon the well-reasoned investigation of Staff.

I, STEPHANIE MULLEN, Executive Director of the PUCN, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement was prepared properly and is accurate.

DATED this 3rd day of December, 2024.


STEPHANIE MULLEN,
Executive Director
PUBLIC UTILITIES COMMISSION OF NEVADA

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Rulemaking to amend and/or repeal regulations in accordance with Governor Lombardo’s Executive Order No. 2023-003.)
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Docket No. 23-11008

At a special session of the Public Utilities Commission of Nevada, held at its offices on December 3, 2024.

PRESENT: Chair Hayley Williamson
Commissioner Tammy Cordova
Commissioner Randy J. Brown
Assistant Commission Secretary Trisha Osborne

ORDER

The Public Utilities Commission of Nevada (“Commission”) makes the following findings of fact and conclusions of law:

I. INTRODUCTION

On November 8, 2023, the Commission opened a rulemaking, designated as Docket No. 23-11008, to amend and/or repeal regulations in accordance with Governor Lombardo’s Executive Order 2023-003 (2023) (“Exec. Order 2023-003”) which requires agencies to streamline, clarify, reduce, or otherwise improve regulations to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth.

II. SUMMARY

The proposed regulation, attached as Attachment A, is adopted as a permanent regulation.

III. PROCEDURAL HISTORY

- On November 8, 2023, the Commission opened a rulemaking, designated as Docket No. 23-11008, to amend and/or repeal regulations in accordance with Exec. Order. 2023-003.
- The rulemaking is being conducted pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code (“NAC”) Chapters 233B, 703, 704, including, but not limited to, NRS 703.025, NRS 704.210, and Exec. Order 2023-003.
- On December 18, 2023, the Commission issued a Notice of Rulemaking and Notice of Workshop.

- On January 24, 2024, the Presiding Officer issued Procedural Order No. 1, establishing a procedural schedule and requesting comments.
- On January 29, 2024, Angel DeFazio (“Ms. DeFazio”), Southwest Gas Corporation (“Southwest Gas”), Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (together “NV Energy”), and the Regulatory Operations Staff of the Commission (“Staff”) each filed comments in response to Procedural Order No. 1.
- On January 30, 2024, the Presiding Officer held a workshop. Ms. DeFazio, Southwest Gas, NV Energy, Staff, Walmart Inc. (“Walmart”), Nevada Telecommunications Association (“NTA”), Pahrump Utility Company, Inc. (“Pahrump Utilities”) and Desert Utilities, Inc. (“DUI”) all made appearances. The participants discussed the filed comments, other regulations, and a procedural schedule.
- On March 4, 2024, the Commission issued a Notice of Workshop. On this same day, the Presiding Officer issued Procedural Order No. 2, seeking additional comments on the proposed regulations.
- On April 3, 2024, Pahrump Utilities filed a comment.
- On April 9, 2024, NV Energy, Southwest Gas, and Staff each filed comments.
- On April 10, 2024, Southwest Gas filed an errata to its comment.
- On April 23, 2024, Staff filed reply comments.
- On May 2, 2024, the Commission held a workshop. Staff, NV Energy, Southwest Gas, NTA, and Ms. DeFazio made appearances. The participants discussed a procedural schedule.
- On May 3, 2024, the Presiding Officer issued Procedural Order No. 3, establishing a procedural schedule for filing consensus language.
- On June 12, 2024, NV Energy and Staff filed consensus regulation language consistent with Procedural Order No. 3.
- On July 18, 2024, the draft regulation language was sent to the Legislative Council Bureau (“LCB”) for pre-adoption review, pursuant to NRS 233B.063. On this same day, the draft regulations were designated as R187-24 by LCB.
- On July 23, 2024, the Commission issued Procedural Order No. 4, requesting Staff make a concerted effort to determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation, or expansion of a small business.
- On August 22, 2024, Staff filed with the Commission its Small Business Impact Report (“Staff Report”).

- On August 27, 2024, the Commission approved the Staff Report and adopted its findings.
- On October 10, 2024, the LCB returned the regulations in revised form.
- On October 18, 2024, the Commission filed the revised regulations.
- On October 23, 2024, the Commission issued a Notice of Workshop and Notice of Hearing.
- On November 25, 2024, the Presiding Officer held a workshop. NV Energy, Southwest Gas, and Staff made appearances and discussed the proposed regulation.
- On November 26, 2024, the Presiding Officer held a hearing. NV Energy, Southwest Gas, and Staff made appearances and discussed the proposed regulation.

IV. REGULATION

1. Exec. Order 2023-003 required the Commission to repeal and/or amend pre-existing regulations that can potentially be streamlined, clarified, reduced, or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth. The proposed regulation resulting from the opening of this docket is LCB File No. R187-24, attached as Attachment A.

2. Section 1 of the proposed regulation makes conforming changes to NAC 701B.050 by removing references to provisions eliminated by Section 6.

3. Section 3 of the proposed regulation makes conforming changes to NAC 704.75911 by removing references to provisions eliminated by Section 6.

4. Section 4 of the proposed regulation makes conforming changes to Section 8 of LCB File No. R022-18 by removing references to provisions eliminated by Section 6.

5. Section 2 of the proposed regulation relieves a utility of the requirement to file an annual plan containing the specified information and plans after the effective date of this regulation. Section 2 of the proposed regulation instead requires a utility to file, on or before

February 1 of each year, a limited informational filing to report on outstanding incentive liabilities and relieves a utility of the requirement to file a limited informational filing if there are no further incentives to be paid.

6. Section 5 of the proposed regulation relieves a utility of the requirement to file an annual plan containing the specified information and plans after the effective date of this regulation. Section 5 of the proposed regulation instead requires a utility to file, on or before February 1 of each year, a limited informational filing to report on outstanding incentive liabilities and relieves a utility of the requirement to file a limited informational filing if there are no further incentives to be paid.

7. Section 6 of the proposed regulation relieves a utility of the requirement to file an annual plan containing the specified information and plans after the effective date of this regulation. Section 6 also eliminates various requirements for energy systems which are part of the Solar Program and energy storage systems which are part of the Energy Storage Program, and eliminates provisions providing the establishment of a working group to make various recommendations concerning the Energy Storage Program. Section 6 of the proposed regulation also eliminates the regulations governing the Solar Thermal Systems Demonstration Program. Section 6 of the proposed regulations also eliminates the regulations governing the Renewable Energy School Pilot Program. Section 6 of the proposed regulation also eliminates the regulations governing the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

8. Section 6 of the proposed regulation eliminates a requirement for certified telecommunication providers who provide listings to their customers in certain white and yellow pages to allow identical listings to be purchased on a nondiscriminatory basis by certain other

providers or customers. Section 6 also eliminates requirements for a provider who subscribes to a shared tenant service and redistributes the service to end users to: (1) at the request of a user, subscribe to a telephone directory and contact the local exchange company to initiate new listings and cancel existing listings in the directory, (2) provide access and instructions for access to certain emergency services, and (3) allow access to certain long distance services under certain circumstances.

9. Section 6 of the proposed regulation eliminates procedures by which the Commission may act to correct failures in the market for payphone service. Section 6 of the proposed regulation eliminates authority for a utility to propose, and for the Commission to approve, a performance-based methodology for recovery of costs for natural gas used as fuel for electric generation.

Summary of Public Comments in 233B Workshop and Hearing

10. At the workshop and hearing, no participant objected to the proposed regulation and all participants agreed that the proposed regulation as returned by LCB was appropriate. Overall, the participants generally supported the objectives behind the proposed regulation and Exec. Order 2023-003.

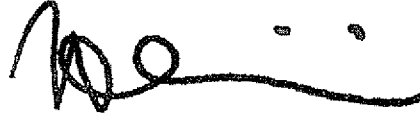
Commission Discussion and Findings

11. The Commission finds that it is in the public interest to adopt as permanent the proposed regulation to conform with the requirements of Exec. Order 2023-003. The proposed regulation eliminates outdated provisions regarding certain renewable energy programs that have ended or are ending, while clarifying how those programs will be wrapped up. Additionally, it clarifies through elimination certain provisions regarding payphones and written directories.

Therefore, it is ordered:

1. The proposed regulation, attached as Attachment A, is adopted as permanent.

By the Commission,



HAYLEY WILLIAMSON, Chair




TAMMY CORDOVA, Commissioner



RANDY J. BROWN, Commissioner and Presiding Officer

Attest:

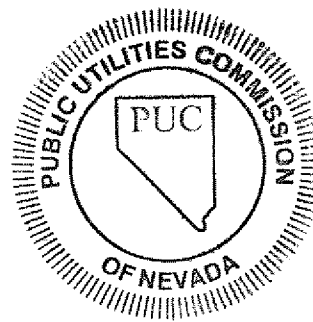


TRISHA OSBORNE,
Assistant Commission Secretary

Dated: Carson City, Nevada

12/3/24

(SEAL)



**PUBLIC UTILITIES COMMISSION OF NEVADA
MEMORANDUM**

DATE: August 5, 2024

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

FROM: Shelly Cassity, Assistant Staff Counsel

SUBJECT: Small Business Impact Report
Agenda 16-24; Item No. 5B; Docket No. 23-11008;
Rulemaking to amend and/or repeal regulations in accordance with Governor
Lombardo’s Executive Order No. 2023-003.

I. Summary

The Public Utilities Commission of Nevada (“Commission”) opened a rulemaking docket to amend and/or repeal regulations in accordance with Governor Lombardo’s Executive Order No. 2023-003 (“Executive Order”). The Commission designated the matter as Docket No. 23-11008.

On December 18, 2023, the Commission issued a Notice of Rulemaking and Notice of Workshop.

On January 24, 2024, the Commission issued a Procedural Order setting forth a procedural schedule requesting comments.

On January 29, 2024, comments were filed by the Regulatory Operations Staff (“Staff”), Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (together “NV Energy”), Southwest Gas Corporation (“SWG”), and NTEF USA.

On January 30, 2024, a workshop was conducted by the Commission.

On March 4, 2024, the Commission issued a Notice of Workshop. In addition, the Presiding Officer issued Procedural Order No. 2, seeking additional comments from the parties on the proposed regulation.

In response to Procedural Order No. 2, comments were filed by certain parties as follows: Pahrump Utility Company, Inc. (“PUCI”) filed comments on April 3, 2024; NV Energy, SWG, and Staff filed comments on April 9, 2024; SWG filed an errata to its comments on April 10, 2024; and Staff filed reply comments on April 23, 2024.

On May 3, 2024, the Presiding Officer issued Procedural Order No. 3, establishing a schedule for filing consensus regulation language.

On June 12, 2024, NV Energy filed consensus regulation language in response to Procedural Order No. 3.

On July 18, 2024, the draft regulation language was sent to the Legislative Counsel Bureau (“LCB”) for pre-adoption review, pursuant to NRS 233B.063. LCB designated the draft proposed regulation as LCB File No. R187-24.

On July 23, 2024, the Presiding Officer issued Procedural Order No. 4, directing Staff to conduct an investigation pursuant to Nevada Revised Statutes (“NRS”) 233B.0608(1) regarding whether the proposed regulation, attached as Attachment 1 to that procedural order, is likely to impact small businesses.

The Order directed Staff to conduct an investigation into whether the proposed regulation is likely to affect small businesses as contemplated in NRS 233B.0608(1) and to present a report of the results of this investigation along with a statement identifying the methodology used in determining the impact on small business. Staff was further directed to place this report on an agenda for Commission consideration no later than September 10, 2024.

NRS 233B.0608(1) requires an agency to make a concerted effort to determine whether a proposed regulation is likely to:

- a. Impose a direct and significant economic burden upon small businesses; or
- b. Directly restrict the formation, operation or expansion of small business.

A small business is defined in NRS 233B.0382 as a business conducted for profit which employs fewer than 150 full-time or part-time employees. NRS 233B.0608(1) further requires that the assessment must be made prior to conducting a workshop regarding the proposed regulation.

NRS 233B.0608(3) requires that an agency considering a proposed regulation “shall prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency.”

One Staff Engineer and one Staff Attorney, both of whom were involved in the rulemaking in this Docket and are the most knowledgeable about the proposed regulation, participated in this analysis.

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

II. Investigation and Analysis

In accordance with NRS 233B.0608(3), Staff used a version of the Delphi method that incorporates elements of the Policy Delphi method to determine the potential impact of the regulation on small businesses. The Delphi method is a systematic, interactive forecasting method based on independent inputs of selected experts. It recognizes the value of expert

opinion, experience and intuition and allows the use of limited information when full scientific knowledge is lacking.

In this instance, the participants were members of the Regulatory Operations Staff, each of whom were involved in the rulemaking in this Docket and are the most familiar with the subject matter of the rulemaking. Each participant in the exercise used his or her background and expertise to reflect upon and analyze the impact of the regulation on small businesses. The participants noted the following:

Immediate Adverse Effects:

Staff does not anticipate that the proposed regulation will have a direct and significant immediate adverse effect on small businesses. The proposed regulation repeals entire sections of the regulation and certain portions of other sections that are no longer needed. The repealed language pertains to renewable energy incentive programs that are no longer available, and telecommunications features that are no longer within the Commission's purview.

Immediate Beneficial Effects:

Staff does not anticipate that the proposed regulation will have a direct and significant immediate beneficial effect on small businesses. Any economic benefit from the regulation would be de minimus and largely apply to NV Energy due to entire sections being repealed and/or resulting in reduced reporting requirements. There would likely be no beneficial effect from the regulation proposing to repeal certain telecommunication features as those regulations are no longer being used.

Long-Term Adverse Effects:

Similar to short-term adverse effects, Staff does not anticipate that the proposed regulation will have direct and significant long-term adverse effects on small businesses for the reasons discussed above.

Long-Term Beneficial Effects:

Similar to the short-term beneficial effects outlined above, Staff does not anticipate that the proposed regulation will have direct and significant long-term beneficial effects on small businesses for the reasons discussed above.

Cost to the Commission to enforce or administer the proposed regulation, including start-up and ongoing costs:

Under the proposed regulation, the Commission and Staff are not likely to incur any additional workload to administer the proposed regulation. However, any additional costs or workload to the Commission and Staff associated with the proposed regulation can be absorbed by the Commission's and Staff's existing resources.

III. Notice and Subsequent Action

On July 23, 2024, the Presiding Officer issued Procedural Order No. 4, directing Staff to conduct an investigation pursuant to NRS 233B.0608(1) to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

IV. Conclusions and Recommendations

Staff recommends that, in accordance with NRS 233B.0608(1), the Commission find that the proposed regulation is not likely to impose any direct or significant economic burden on a small business, and the proposed regulation will not restrict the formation, operation or expansion of small businesses.

Staff further recommends that, pursuant to NRS 233B.0608(3), the Commission state that the Delphi method was used in the determination of the impact of the proposed regulation on small business.