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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

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) Investigation and rulemaking to implement the provisions of SB 65 (2017).) Docket No. 17-07020
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**JOINT REPLY COMMENTS OF WESTERN RESOURCE ADVOCATES,
ENVIRONMENTAL DEFENSE FUND, AND INSTITUTE FOR POLICY INTEGRITY**

Western Resource Advocates (“WRA”), the Environmental Defense Fund (“EDF”), and the Institute for Policy Integrity (“Policy Integrity”) submit the following Reply Comments in response to the Comments of Nevada Power Company and Sierra Pacific Power Company (“NV Energy Comments”), Regulatory Operation Staff’s Comments (“Staff Comments”), and the Comments of the Bureau of Consumer Protection in the Office of the Attorney General (“BCP Comments”).

1. Section 1 – Meeting to Provide Overview of Anticipated IRP or IRP Amendment Filing

Section 1 of SB 65 requires the utility to meet with all interested persons to provide an overview of an anticipated Integrated Resource Plan (“IRP”) or IRP amendment filing.

WRA, EDF and Policy Integrity in our Joint Comments suggest the language of the Commission’s existing regulation at NAC 704.952 can be amended to comply with this requirement.¹ NV Energy and Staff similarly recommend amendment of NAC 704.952 to meet the requirement of Section 1, and proposed suggested language.² BCP states that they do not believe a regulation is required, but that, to be on the safe side, the Commission could adopt a

¹ *Joint Comments of Western Resource Advocates, Environmental Defense Fund, and Institute for Policy Integrity (“Joint Comments of WRA, EDF & Policy Integrity”)*, p. 4.
² *NV Energy Comments*, pp. 1-2; *Staff Comments*, p. 2 & Ex. A.

1 regulation providing that participating or failing to participate in the required pre-filing meeting
2 will not affect an interested person’s legal standing or permitted arguments in the hearing on the
3 filing.³

4 WRA, EDF and Policy Integrity appreciate the proposed amendments to NAC 704.952
5 offered by NV Energy, Staff and BCP, and look forward to working with the Commission and
6 all interested persons in reaching consensus on the language needed to implement Section 1.

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8 **2. Section 6 - Preference to Resources That Reduce the Potential Costs of Carbon**

9 The Commission should modify its regulations to reflect changes to subsection 5 of NRS
10 704.746 as prescribed in SB 65. In their comments, both NV Energy and BCP suggest that no
11 modifications to the existing regulations are necessary. We respectfully disagree with NV
12 Energy and BCP, and urge the Commission to modify its regulations to accomplish the intent of
13 SB 65.

14 Section 6 of SB 65 amends subsection 5 of NRS 704.746 to require the Commission give
15 preference in resource planning to those measures and sources of supply which provide the
16 greatest economic and environmental benefits to the state, as well as those which provide for
17 diverse electricity supply portfolios and which reduce customer exposure to the price volatility
18 of fossil fuels and the potential costs of carbon.

19 To fulfill the statutory directive provided by SB 65 to provide preference to resources that
20 “provide for diverse electricity supply portfolios and which reduce customer exposure to the price
21 volatility of fossil fuels and the potential costs of carbon,”⁴ WRA, EDF and Policy Integrity
22 recommend that the Commission’s regulations require a utility to evaluate and include the federal
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³ *BCP Comments*, pp. 1-2.
⁴ Section 6, amending NRS 704.746(5).

1 Interagency Working Group Social Cost of Carbon in the Present Worth of Societal Costs
2 (“PWSC”) analysis already required under the resource planning process, and use the PWSC
3 analysis as the primary metric for selecting among resource plan alternatives.⁵

4 NV Energy submits that the changes to NRS 704.746(5) do not require modification to
5 the Commission’s existing regulations, as those regulations already require the utility to provide
6 the Commission with all of the information necessary to give preference to the measures and
7 sources of supply identified.⁶

8 Staff has proposed an amendment to the Commission’s existing regulation at NAC
9 704.937 to include revisions that closely track the amended NRS 704.746(5). In subsection 7,
10 Staff would add language requiring that the utility in identifying and justifying its preferred plan
11 shall give preference to those same measures and sources of supply listed in the amended NRS
12 704.746(5). Staff also proposes a new subsection 8 incorporating the requirement from the
13 amended NRS 704.746(5) that the utility, in determining the preference given, shall consider the
14 cost of those measures and sources of supply to customers.⁷

15 BCP comments that the substitution of “shall” for “may” at the beginning of NRS
16 704.746(5) does not preclude the Commission from considering other criteria consistent with the
17 public interest in its review of IRP filings, and that if the intent of the new language is to require
18 the Commission to make its consideration more explicit when considering an IRP or an
19 amendment, the statutory language, which is clear and unambiguous, will accomplish this
20 without the need for rulemaking.⁸

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⁵ *Joint Comments of WRA, EDF & Policy Integrity*, pp. 1, 5-8.

⁶ *NV Energy Comments*, pp. 2-3.

⁷ *Staff Comments*, p. 2 & Ex. B.

⁸ *BCP Comments*, p. 2.

1 WRA, EDF and Policy Integrity disagree with the comments of NV Energy and BCP that
2 Section 6 requires no change to the Commission’s existing regulations. By going out of its way
3 to amend subsection 5 of NRS 704.746 – by changing the permissive “may” to the mandatory
4 “shall” – SB 65 reflects the legislature’s judgment that the current practice with respect to the
5 cost of carbon is not sufficient.

6 As noted in our initial comments, NV Energy in its IRP filings has interpreted and applied
7 the existing regulations to exclude consideration of the societal cost of carbon pollution from the
8 PWSC analysis. Including the societal cost of carbon in the PWSC is particularly important; by
9 quantifying and monetizing the societal cost of carbon pollution, the Commission has the
10 opportunity to evaluate the full impact of resource decisions, and to compare all relevant costs
11 and benefits of different resource choices.

12 The Commission’s existing regulations require the utility in comparing alternative
13 resource plans with different resource options to quantify *all* environmental costs associated with
14 each alternative plan. This includes not just existing or assumed environmental *compliance costs*,
15 (which are captured in the calculation of “present worth of revenue requirements” (“PWRR”)),
16 but also societal costs *external* to the utility’s cost of service and not included in the PWRR.
17 Those societal costs (to the environment, public health, etc.) are intended to be quantified in the
18 PWSC. As provided in NAC 704.937(4), “[t]he present worth of societal costs of a particular
19 alternative plan must be determined by adding the environmental costs that are not internalized
20 as private costs to the utility pursuant to subsection 3 to the present worth of future requirements
21 for revenue.” However, even if this is the correct way to incorporate, and then evaluate, societal
22 cost, this has not been happening under the existing regulations as interpreted and applied by NV
23 Energy.

1 As a recent example, Sierra Pacific Power Company in its most recent IRP filing provided
2 “illustrative” environmental costs for relevant CO₂ emissions, explained by NERA Economic
3 Consulting as follows:

4 “NERA developed ‘illustrative’ estimates of the potential environmental costs of
5 CO₂ emissions based on the values of the damages caused by the incremental CO₂
6 emissions related to the various plans for the Clean Power Plan and the Mid CO₂
7 Price scenarios. As noted in the NERA report, developing such estimates for CO₂
8 emissions is extraordinarily difficult because of the enormous uncertainties
9 regarding the potential effects of CO₂ and other greenhouse gas emissions. NERA
10 refers to these costs as illustrative to reflect their highly uncertain nature.”⁹

11 But having quantified the potential environmental costs of CO₂ emissions in an appendix to the
12 NERA report, NV Energy then ignores those environmental costs in its PWSC analysis:

13 “As noted above, the PWSC is defined as the sum of PWRR and environmental
14 costs. The environmental costs include air emissions costs and additional water
15 costs; the illustrative CO₂ costs are not included in these calculations.”¹⁰

16 This approach fails to provide the Commission an apples-to-apples comparison of the
17 costs and benefits of each resource plan alternative. In order to have a complete picture of the
18 full environmental costs of NV Energy’s alternative resource choices, the Commission’s
19 regulations should require the utility to include consideration of the full societal cost of carbon
20 emissions in the resource selection process.

21 NERA described the external cost of carbon as “highly uncertain”; however, federal
22 courts of appeal have ruled that uncertainty does not mean an agency can exclude the external
23 cost of carbon. Most notably, the U.S. Court of Appeals for the Ninth Circuit ruled that, because
24 the agency had monetized other uncertain costs and benefits of its vehicle fuel efficiency
standard, its “decision not to monetize the benefit of carbon emissions reduction was arbitrary

⁹ *Application of Sierra Pacific Power Company d/b/a NV Energy for approval of its 2017-2036 Triennial Integrated Resource Plan and its Energy Supply Plan for 2017-2019*, Docket No. 16-07001, Vol. 10, at p. 112 of 396.

¹⁰ *Id.* at p.116 of 396.

1 and capricious.” Specifically, it was arbitrary to “assign[] no value to the most significant benefit
2 of more stringent [vehicle fuel efficiency] standards: reduction in carbon emissions.”¹¹ The court
3 elaborated: “[W]hile the record shows that there is a range of values, the value of carbon
4 emissions reduction is certainly not zero.”¹² Here, NV Energy already includes highly uncertain
5 costs within the PWSC analysis (such as projected *compliance* costs of carbon regulation). It
6 would be arbitrary to completely exclude the societal cost of carbon emissions from that analysis,
7 given that it is clear that the societal cost is not \$0.

8 WRA, EDF and Policy Integrity recommend using the Social Cost of Carbon (“SCC”)
9 developed by the federal Interagency Working Group (IWG) in 2010, and updated in 2013, 2015,
10 and 2016, as the best available estimate of the societal costs of carbon emissions. Several other
11 states, including Colorado, Illinois, Minnesota, Maine, and New York, have all begun using the
12 federal SCC in energy-related analysis, recognizing that the SCC reflects the best available
13 science and economics and is therefore the best available estimate of the marginal economic
14 impact of carbon emission reductions.¹³

15 Colorado provides a recent example of use of the federal SCC. In March 2017, the
16 Colorado Public Utilities Commission ordered that the Public Service Company of Colorado take
17 into account the SCC in its Electric Resource Plan (ERP).¹⁴ ERPs include information on costs
18 associated with generation resources, as well as alternatives. The Colorado PUC had considered
19 externalities, like public health effects, in other ERP proceedings, and has authority under §40-

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22 ¹¹ *Center for Biological Diversity v. National Highway Traffic Safety Administration*, 538 F.3d 1172, 1199, 1203
(9th Cir. 2008).

¹²*Id.* at 1200.

¹³ See ILIANA PAUL ET AL., INSTITUTE FOR POLICY INTEGRITY, THE SOCIAL COSTS OF GREENHOUSE GASES AND
23 STATE POLICY 9-12 (2017), available at http://policyintegrity.org/files/publications/SCC_State_Guidance.pdf.

¹⁴ Colorado PUC, Decision No. C17-0316, IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE
24 COMPANY OF COLORADO FOR APPROVAL OF ITS 2016 ELECTRIC RESOURCE PLAN,
PROCEEDING NO. 16A-0396E, available at
https://www.dora.state.co.us/pls/efi/efi_p2_v2_demo.show_document?p_dms_document_id=863402.

1 2-123(1)(b), C.R.S to include such considerations in resource planning. The Colorado PUC
2 directed the utility to model four carbon costs in the subsequent phases of its resource plan
3 process: 1) a \$0/ton cost of carbon; 2) a low and high estimate of the expected cost of complying
4 with future carbon regulations (a compliance cost); and 3) the societal cost of carbon as measured
5 by the SCC. In its decision, the Commission noted that by modeling the SCC, “we can test the
6 robustness of the portfolios and assess the impact to customers of a broader range of costs from
7 carbon emissions.”¹⁵

8 Minnesota provides a second example. The Minnesota Public Utilities Commission is
9 statutorily mandated to consider externalities for all proceedings.¹⁶ Between 1993, when this
10 provision was enacted, and 2014, Minnesota used its own methodology to determine the costs of
11 PM_{2.5}, SO₂, NO_x, and CO₂.¹⁷ In 2014, after environmental advocacy groups filed a motion
12 requesting that the Minnesota Public Utility Commission update these figures, the commission
13 referred the issue to the Office of Administrative Hearings to assess how to value externalities,
14 including whether the state should use the federal SCC.¹⁸

15 The Administrative Judge who reviewed the matter¹⁹ recommended that “the
16 Commission adopt the Federal Social Cost of Carbon as reasonable and the best available
17 measure to determine the environmental cost of CO₂, establishing a range of values including the
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20 ¹⁵ *Id.* at 30.

21 ¹⁶ 2016 Minnesota Stat. § 216B.2422 subd. 3. “The [Public Utilities] commission shall, to the extent practicable,
22 quantify and establish a range of environmental costs associated with each method of electricity generation. A
23 utility shall use the values established by the commission in conjunction with other external factors, including
24 socioeconomic costs, when evaluating and selecting resource options in all proceedings before the commission,
including resource plan and certificate of need proceedings.”

¹⁷ State of Minnesota, Office of Administrative Hearings, In the Matter of the Further Investigation into
Environmental and Socioeconomic Costs Under Minnesota Statutes Section 216B.2422, Subdivision 3, Docket
No. OAH 80-2500-31888, MPUC E-999/CI-14-643, Findings of Fact, Conclusions, and Recommendations:
Carbon Dioxide Values, 2-3 (Apr. 15, 2016) [hereinafter “Minnesota Opinion”].

¹⁸ *Id.* at 4.

¹⁹ The Matter of the Further Investigation into Environmental and Socioeconomic Costs Under Minnesota Statutes
Section 216B.2422, Subdivision 3.

1 2.5 percent, 3.0 percent, and 5 percent discount rates”²⁰ The decision to use the federal
2 SCC, with some adjustments, was recently adopted by the Commission, and the Minnesota PUC
3 will use a range of \$9.05 to \$43.06 per short ton by 2020.

4 In sum, the Commission should modify its regulations to require calculation of the
5 PWSC to include the federal SCC. Such a requirement would reflect changes to subsection 5 of
6 NRS 704.746 as prescribed in SB 65, would be consistent with best practice among other state
7 resource planning proceedings, and would provide the information the Commission needs to
8 conduct an apples-to-apples comparison of the relative costs of resource plan alternatives. In its
9 comments, NV Energy suggests that modifications are not necessary and contends that all of the
10 information necessary to establish preferences is already part of the analysis. We respectfully
11 disagree with NV Energy and urge the Commission to modify its regulations to accomplish the
12 intent of SB 65. Additionally, NRS 704.746(6)(a) specifically directs the Commission to adopt
13 regulations that determine the level of preference for resources. We recommend that, following
14 the workshops, the Commission proceed to rulemaking to address these issues.

15 DATED October 17th, 2017.

16 Respectfully submitted,

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18
19 ROBERT G. JOHNSTON, ESQ.
20 Nevada Bar No. 2256
21 Senior Staff Attorney
22 Western Resource Advocates
23 550 West Musser Street, Suite H
24 Carson City, NV 89703
(775) 461-3677 / (775) 414-0991 (Fax)
robert.johnston@westernresources.org

²⁰ Minnesota Opinion, *supra* note 30, at 123.

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Pam Kiely
Senior Director of Regulatory Strategy
Environmental Defense Fund
2060 Broadway, Boulder, CO 80302
T 202 572 3284 | C 303 929 8702
pkiely@edf.org



Avi Zevin
Attorney
Denise Grab
Western Regional Director
Burcin Unel, Ph.D
Energy Policy Director
Institute for Policy Integrity
139 MacDougal Street, Third Floor
New York, NY 10012
Tel: (212) 992-8932
avi.zevin@nyu.edu

CERTIFICATE OF MAILING

Docket No. 17-07020

I hereby certify that I have on this date served the foregoing document upon all parties of record in this proceeding by electronic mail to the recipient’s current electronic mail address, facsimile, or mailing a true copy thereof, properly addressed with postage prepaid or forwarded as indicated below to:

Tammy Cordova PUCN – Staff Louise Uttinger	PUCN, Regulatory Operations Staff	tcordova@puc.nv.gov pucn.sc@puc.nv.gov uttinger@puc.nv.gov
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Michael Greene Trevor Dillard Lynn D’Innocenti Janice Baldarelli	NV Energy, Inc. Regulatory Operations	mgreene@nvenergy.com regulatory@nvenergy.com ldinnocenti@nvenergy.com jbaldarelli@nvenergy.com
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NV Attorney General David Norris	Bureau of Consumer Protection	bcpserv@ag.nv.gov dnorris@ag.nv.gov
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Pam Kiely	Environmental Defense Fund	pkiely@edf.org
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Avi Zevin	Institute for Policy Integrity	avi.zevin@nyu.edu
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DATED October 17, 2017.

Completed By:



Regina M. Nichols