BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Application of Nevada Power Company d/b/a NV Energy for approval of a cost-of-service study and net metering tariffs.	)	Docket No. 15-07041
Application of Sierra Pacific Power Company d/b/a NV Energy for approval of a cost-of-service study and net metering tariffs.	)	Docket No. 15-07042

At a general session of the Public Utilities Commission of Nevada, held at its offices on February 12, 2016.

PRESENT: Chairman Paul A. Thomsen
Commissioner Alaina Burtenshaw
Commissioner David Noble
Assistant Commission Secretary Trisha Osborne

ORDER ON RECONSIDERATION AND REHEARING

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

I. INTRODUCTION

Nevada Power Company d/b/a NV Energy ("NPC") filed an Application for approval of a cost-of-service study and net energy metering ("NEM") tariffs. Sierra Pacific Power Company d/b/a NV Energy ("SPPC," and together with NPC, "NV Energy") filed an Application for approval of a cost-of-service study and NEM tariffs.

II. SUMMARY

The Commission grants in part and denies in part the Petitions for Reconsideration and modifies the final Order issued on December 23, 2015, based on the discussion and findings herein pursuant to reconsideration and rehearing.

III. PROCEDURAL HISTORY

• On July 31, 2015, NPC filed an Application for approval of a cost-of-service study and NEM tariffs.

DOCUMENT REVIEW AND APPROVAL ROUTING

INITIATED BY: DSN

DATE/TIME: 2.12.16 at 5:00 P.M.

REVIEWED & APPROVED BY: DATE

[ ] HUMAN FACTORS

[X] HW/GW 2.17.16

[ ] SECURITY / ADMIN

• On July 31, 2015, SPPC filed an Application for approval of a cost-of-service study and NEM tariffs.

• The Applications were filed pursuant to the Nevada Revised Statutes ("NRS") and Nevada Administrative Code ("NAC") Chapter 703 and 704, including but not limited to Section 4.5 of Senate Bill ("SB") 374 of the 78th Session of the Nevada Legislature (2015) and NAC 703.535.

• On August 3, 2015, the Commission issued Notices of Application in Docket Nos. 15-07041 and 15-07042.

• The Regulatory Operations Staff ("Staff") of the Commission participates as a matter of right pursuant to NRS 703.301.

• On August 4, 2015, the Attorney General's Bureau of Consumer Protection ("BCP") filed a Notice of Intent to Intervene pursuant to NRS 228.360 in Docket Nos. 15-07041 and 15-07042.

• On August 14, 2015, the Sierra Club filed a Petition for Leave to Intervene ("PLTI") in Docket Nos. 15-07041 and 15-07042.

• On August 17, 2015, the Alliance for Solar Choice ("TASC") filed a PLTI in Docket Nos. 15-07041 and 15-07042.

• On August 17, 2015, Bombard Renewable Energy ("Bombard") filed a PLTI in Docket No. 15-07041.

• On August 17, 2015, Travis G. Miller filed a PLTI in Docket No. 15-07042.

• On August 17, 2015, Nevadans for Clean Affordable Reliable Energy ("NCARE") filed a PLTI in Docket Nos. 15-07041 and 15-07042.

• On August 17, 2015, the Southern Nevada Homebuilders Association ("SNHBA") filed a PLTI in Docket Nos. 15-07041 and 15-07042.

• On August 17, 2015, the United States Green Building Council, Nevada Chapter ("USGBC") filed a PLTI in Docket No. 15-07041.

• On August 17, 2015, Vote Solar filed a PLTI in Docket Nos. 15-07041 and 15-07042.

• On August 18, 2015, Shawn O'Meara (on behalf of SUNworks, Black Rock Solar, Inc., The Power Company, and Alternative Energy Solutions) filed a late-filed PLTI in Docket No. 15-07042.

• On August 18, 2015, the Solar Energy Industries Association ("SEIA") filed a late-filed PLTI in Docket No. 15-07042.

• On August 18, 2015, the Washoe County School District ("WCSD") filed a PLTI in Docket

No. 15-07042.

• On August 19, 2015, the Commission held a prehearing conference. BCP, Bombard, Mr. Miller, NCARE, NV Energy, SEIA, SNHBA, Staff, TASC, USGBC, Vote Solar, and WCSD made appearances. The Presiding Officer excused the Sierra Club and Mr. O'Meara from appearing. The Presiding Officer consolidated Docket Nos. 15-07041 and 15-07042 for hearing purposes. The Presiding Officer granted the PLTIs filed by Bombard, NCARE, TASC, Vote Solar, and WCSD. The Presiding Officer conditionally granted the PLTIs filed by Mr. O'Meara, SEIA, Sierra Club, SNHBA, and USGBC, subject to those parties filing supplemental information. The Presiding Officer denied the PLTI filed by Mr. Miller.

• On August 19, 2015, the Sierra Club filed a Reply to Staff Response to Petition to Intervene in Docket Nos. 15-07041 and 15-07042.

• On August 20, 2015, the Great Basin Solar Coalition ("GBSC"), formerly Mr. O'Meara, filed supplemental information in Docket No. 15-07042.

• On August 20, 2015, SEIA filed a Supplement to Late-Filed Petition for Leave to Intervene in Docket Nos. 15-07041 and 15-07042.

• On August 20, 2015, SNHBA filed a Supplement to the Petition for Leave to Intervene in Docket Nos. 15-07041 and 15-07042.

• On August 20, 2015, USGBC filed a letter rescinding its PLTI in Docket No. 15-07041.

• On August 20, 2015, Vote Solar filed a Supplemental and Errata Filing in Support of Vote Solar's Petition for Leave to Intervene in Docket Nos. 15-07041 and 15-07042.

• On August 21, 2015, the Commission held a hearing in Docket Nos. 15-07041 and 15-07042. BCP, Bombard, GBSC, NCARE, NV Energy, SEIA, Sierra Club, SNHBA, Staff, TASC, and Vote Solar made appearances. Exhibits 1-28 were admitted into the record pursuant to NAC 703.730.

• On September 1, 2015, the Commission issued an Interim Order.

• On September 4, 2015, the Presiding Officer issued a Procedural Order establishing a procedural schedule in Docket Nos. 15-07041 and 15-07042.

• On October 26, 2015, the Presiding Officer held a discovery conference with NV Energy and TASC.

• On October 28, 2015, the Presiding Officer issued Procedural Order No. 2.

• On November 2, 2015, NV Energy and Vote Solar notified the Presiding Officer, via electronic mail to the Administrative Attorney, of an agreement to revise the procedural schedule as it pertains to work papers.

• On November 6, 2015, Sierra Club submitted a letter requesting to withdraw as a party and participate as a commenter.

• On November 12, 2015, the Presiding Officer issued Procedural Order No. 3.

• On November 18-20, 2015 the Commission held a continued hearing in Docket Nos. 15-07041 and 15-07042. BCP, Bombard, GBSC, NCARE, NV Energy, SEIA, SNHBA, Staff, TASC, Vote Solar, and WCSD made appearances. Exhibits 1A-102A were admitted to the record pursuant to NAC 703.730.

• On December 1, 2015, the Presiding Officer issued Procedural Order No. 4.

• On December 2, 2015, BCP, NCARE, NV Energy, SEIA, Staff, TASC, and Vote Solar filed legal briefs. On December 9, 2015, BCP, NCARE, NV Energy, Staff, TASC, and Vote Solar filed reply briefs.[1]

• On December 21, 2015, the Presiding Officer issued a Draft Order.

• At the December 22, 2015 Agenda, the Commission voted to approve the Draft Order. The Commission issued the Final Order on December 23, 2015 ("December 23rd Order").

• On December 24, 2015, BCP filed a Motion for Stay and Request for Order Shortening Time for Responses. On December 29, 2015, BCP filed an Amendment to Motion for Stay and Request for Order Shortening Time for Responses and Request for Modification of Procedural Order No. 5. On December 29, 2015, BCP filed a Corrected Amendment.

• On December 24, 2015, TASC filed a Motion for Stay of Final Order and Tariffs and Request for Order Shortening Time. On December 30, 2015, TASC filed an Amendment to Motion for Stay of Final Order and Tariffs and Request for Order Shortening Time and Request for Modification of Procedural Order No. 5.

• On December 28, 2015, the Presiding Officer issued Procedural Order No. 5, establishing an expedited timeframe for filing responses and replies to the Motions for Stay and a hearing date.

• On December 29, 2015, SNHBA filed a Response to BCP's Motion to Stay. On December 30, 2015, Vote Solar and SEIA filed Responses to the Motions for Stay. On January 4, 1016, NCARE, NV Energy, and Staff filed Responses to the Motions for Stay. On January 6, 2016, BCP and TASC filed Replies.

---

[1] Several parties also included analyses of SB 374 and the relevant statutes and regulations in witness testimony. (See Ex. 29A (NV Energy) at 15-17; Ex. 30A (NV Energy) at 15-17; Ex. 40A (WCSD) at 3; Ex. 41A (SNHBA) at 3-4; Ex. 44A (Vote Solar) at 7-9, 11, 13, 46-47, 50-51, 60, 62; Ex. 49A (TASC) at 6-7, 9-10; Ex. 62A (BCP) at 2; Ex. 64A (Staff) at 3, 11-12, 23-24; Ex. 76A (TASC) at 34, 48; Ex. 99A (NV Energy) at 5, 7-15, 79; Ex. 101A (NV Energy) at 6-7, 21-23, 26-31, 35-37, 39, 41-42; Tr. at 89-90 (NV Energy), 99-100 (NV Energy), 357-359 (TASC), 406 (Bombard), 442-443 (BCP), 474-477 (Staff), 503-505 (Staff), 552-554 (Staff), 580-583 (Staff), 595-596 (Staff), 1103-1104 (NV Energy), 1132-1133 (NV Energy), 1140-1144 (NV Energy).)

• On December 31, 2015, the Presiding Officer issued Procedural Order No. 6, suspending GBSC's representative, Shawn O'Meara, from further participation in these proceedings.

• On January 7, 2016, the Commission held a hearing on the Motions for Stay. BCP, Bombard, GBSC, NV Energy, SEIA, SNHBA, Staff, TASC, and Vote Solar made appearances. NCARE and WCSD were excused.

• On January 8, 2016, the Presiding Officer issued Procedural Order No. 7, requiring NV Energy to file notification that it has updated its website with customer education explaining the December 23rd Order.

• On January 8, 2016, BCP filed a Petition for Reconsideration and/or Rehearing,

• On January 8, 2016, SNHBA filed a Petition for Rehearing and Reconsideration.

• On January 8, 2016, SEIA filed a Petition for Reconsideration.

• On January 8, 2016, TASC filed a Petition for Reconsideration.

• On January 8, 2016, Vote Solar filed a Petition for Reconsideration.

• On January 13, 2016, GBSC late-filed a Petition for Reconsideration.[2]

• On January 19, 2016, the Commission issued an Order, denying the Motions to Stay.

• On January 20, 2016, the Presiding Officer issued a draft Order on BCP's Petition for Reconsideration and/or Rehearing, granting rehearing on grandfathering, and SNHB's Petition for Rehearing and Reconsideration, denying rehearing.

• On January 21, 2016, BCP filed a letter withdrawing the rehearing portion of its Petition for Reconsideration. On January 22, 2016, BCP filed a supplement to its letter.[3]

• On January 22, 2016, SNHBA filed an Errata to its Petition for Rehearing and Reconsideration, removing all references to rehearing.

• On January 22, 2016, SNHBA filed a letter with the Commission regarding the draft

---

[2] Pursuant to NAC 703.530(3), the Commission will liberally construe the pleadings and disregard any defects that do not affect the substantial rights of any party. GBSC's late-filed Petition for Reconsideration affects the substantial rights of all other parties because it responds to the Petitions for Reconsideration filed on or before the deadline prescribed in NAC 703.801(3). The Commission construes GBSC's late-filed Petition for Reconsideration as an Answer to the Petitions for Reconsideration.

[3] Pursuant to NAC 703.530(3), the Commission will liberally construe the pleadings and disregard any defects that do not affect the substantial rights of any party. Portions of BCP's letter and supplement to the letter affect the substantial rights of all other parties because they respond to the draft Order issued by the Presiding Officer on January 20, 2016. There is no regulation allowing a party to comment on a draft order filed by a commissioner. The portions of the letter and supplement that respond to the draft Order (beyond withdrawing the request for rehearing) are impermissible and, therefore, are stricken from the record.

Order.[4]

• On January 22, 2016, TASC filed a letter with the Commission regarding the draft Order.[5]

• On January 25, 2016, NV Energy filed an Answer to Petitions for Rehearing.

• On January 25, 2016, BCP, NV Energy, NCARE, Staff, and TASC filed Answers to the Petitions for Reconsideration.

• On January 25, 2016, GBSC filed an Answer to Petitions for Reconsideration. On January 26, 2015, GBSC filed an Amendment. [6]

• On January 25, 2016, the Commission issued an Order to conduct a rehearing in Docket Nos. 15-07041 and 15-07042 to allow the parties to present additional evidence on grandfathering.

• On January 25, 2016, the Commission issued a Notice of Hearing.

• On January 27, 2016, Staff filed a Motion to Strike New Evidence Presented in GBSC's Answer to Petitions for Reconsideration and Amendment Thereto.[7]

• On January 28, 2016, Vote Solar filed a letter responding to Staff's Answer to Petitions for Reconsideration, attempting to explain why the Commission should not suspend Vote Solar's representatives from further participation in these proceedings for the misrepresentations in its Petition for Reconsideration.

• On January 28, 2016, TASC filed a Motion for Extended Procedural Schedule Regarding Rehearing. On January 29, 2016, TASC filed an Errata. On January 29, 2016, NV Energy filed a Response. On February 2, 2016, TASC filed a Reply. On February 8, 2016, the Presiding Officer denied the Motion.

---

[4] Pursuant to NAC 703.530(3), the Commission will liberally construe the pleadings and disregard any defects that do not affect the substantial rights of any party. SNHBA's letter affects the substantial rights of all other parties because it responds to the draft Order issued by the Presiding Officer on January 20, 2016. There is no regulation allowing a party to comment on a draft order filed by a commissioner. The letter is a fugitive document and, therefore, is stricken from the record.

[5] Pursuant to NAC 703.530(3), the Commission will liberally construe the pleadings and disregard any defects that do not affect the substantial rights of any party. TASC's letter affects the substantial rights of all other parties because it responds to the draft Order issued by the Presiding Officer on January 20, 2016. There is no regulation allowing a party to comment on a draft order filed by a commissioner. The letter is a fugitive document and, therefore, is stricken from the record.

[6] On February 1, 2016, GBSC filed the same information as supplemental direct testimony.

[7] The Commission grants Staff's Motion to Strike New Evidence Presented in GBSC's Answer to Petitions for Reconsideration and Amendment Thereto. GBSC filed the same information as supplemental direct testimony on February 1, 2016, asserting that Staff's Motion was rendered moot by the filing. However, GBSC did not withdraw its Answer and Amendment filed on January 25 and 26, 2016. GBSC attempts to impermissibly introduce new evidence, ignoring the fact that the Commission takes evidence through a formal hearing process that guarantees due process to all parties involved.

• On February 1, 2016, NV Energy filed a Motion to Strike Portions of "Answers" to Petitions for Reconsideration. On February 8, 2016, BCP and TASC filed Responses.[8]

• On February 1, 2016, SNHBA filed a Response to PUC's January 25, 2016, Order.[9]

• On February 2, 2016, TASC filed a Motion Requesting Adequate Public Notice of Proposed Rate Adjustment. On February 3, 2016, NV Energy and Staff filed Responses. On February 8, TASC provided an oral Reply. On February 8, 2016, the Presiding Officer denied the Motion.

• On February 2, 2016, Staff filed a Motion to Strike Portions of the Supplemental Direct Testimonies Filed On Behalf of Vote Solar, GBSC and BCP. On February 4, 2016, Vote Solar filed a Response. On February 5, 2016, NV Energy filed a Joinder in Staff's Motion. On February 5, 2016, BCP filed a Response to Staff's Motion. On February 5, 2016, BCP filed a Response to NV Energy's Joinder. On February 8, 2016, TASC filed a Response. On February 8, 2016, GBSC provided an oral Response. On February 8, 2015, Staff and NV Energy provided oral Replies. On February 8, 2016, the Presiding Officer granted in part and denied in part the Motion and Joinder.

• On February 5, 2016, BCP filed a Legal Brief in Lieu of Rebuttal on Particular Issue Raised by Regulatory Operations Staff. On February 8, 2016, the Presiding Officer struck the document from the record.

• On February 8, 2016, the Commission held a rehearing. BCP, Bombard, GBSC, NCARE, NV Energy, SEIA, Staff, TASC, Vote Solar, and WCSD made appearances. SNHBA was excused. Exhibits 103A-137A were admitted into the record pursuant to NAC 703.730.

///

///

///

---

[8] The Commission grants NV Energy's Motion to Strike Portions of "Answers" to Petitions for Reconsideration. GBSC attempts to impermissibly introduce new evidence, ignoring the fact that the Commission takes evidence through a formal hearing process that guarantees due process to all parties involved. The Commission notes that GBSC's Answer was also the subject of Staff's Motion to Strike New Evidence Presented in GBSC's Answer to Petitions for Reconsideration and Amendment Thereto; the Commission granted Staff's Motion (*see* footnote 7). TASC's arguments starting at page 1, line 18, through page 6, line 3, are an improper attempt to address the Commission's January 19, 2016, Order that is not subject to the Petitions for Reconsideration. BCP's counterarguments at page 4, lines 3-14, are in response to hypothetical arguments that no party made in the Petitions for Reconsideration. All are impermissible answers to the Petitions for Reconsideration.

[9] Pursuant to NAC 703.530(3), the Commission will liberally construe the pleadings and disregard any defects which do not affect the substantial rights of any party. SNHBA's filing affects the substantial rights of all other parties because it responds to the Order in a manner not prescribed by the Commission's regulations. The filing is a fugitive document and, therefore, is stricken from the record.

IV. PARTY POSITIONS ON RECONSIDERATION AND REHEARING

A. SB 374

BCP's Petition

1. BCP states that the Commission's December 23rd Order fails to balance the State of Nevada's policy support of renewable energy and distributed generation with the SB 374 requirement to consider whether there is an unreasonable cost shift. This debate is not just about cost shifts; it is a product of NV Energy recognizing there is a potential competitive threat to their business model from rooftop solar. Nevada statutes are full of provisions promoting renewable energy and distributed generation, including NRS 701B.190, NRS 703.151, and NRS 704.756. Although SB 374 requires the Commission to ensure that rates and charges NEM do not unreasonably shift costs from customer-generators to other utility customers, the key word is "unreasonably." SB 374 does not prohibit all levels of cost shift. In passing SB 374, the Legislature delegated the ratemaking and policymaking authority for this issue to the Commission, which incorrectly ignores the statutes that must be considered and applied to determine the reasonableness of a cost shift. The Commission's conclusion in Paragraph 86 of the December 23rd Order is erroneous and unreasonable and shows that the Commission did not apply the other state laws and policies in making its determination as to whether there was an unreasonable cost shift. (BCP Petition at 6-7.)

2. BCP states that it recommended the Commission not make dramatic changes in this Docket and wait for a rate case to determine what, if any, subsidy exists, but the Commission imposed a charge for a subsidy and says it will look at the benefit sometime later. This is unreasonable and unlawful, and does not correctly implement SB 374. (BCP Petition at 8.)

///

SEIA's Petition

3. SEIA states that although Section 2.3 of SB 374 authorizes the Commission to consider a number of permissive factors and prohibits the Commission from approving a new tariff that unreasonably shifts costs, SB 374 does not render the defined meaning of NEM inapplicable. Nothing in SB 374 changes the meaning of NEM or the structure of NEM. The prohibition against an unreasonable cost shift is not inconsistent with the requirement that NEM be based on the netting of electricity. (SEIA Petition at 7, 19.)

4. SEIA states that the Commission did not adequately consider how NRS 704.775, 704.773, and 704.774 apply after the 235 megawatt ("MW") threshold was met. Under SB 374, after the threshold is met, NEM must be offered under a tariff approved by the Commission. SB 374 is not an indication that the Legislature intended the Commission to approve the tariff without considering other statutory requirements. Nothing in the language or structure of SB 374 suggests that the additional considerations in Section 2.3 of SB 374 displace pre-existing requirements. It is not unusual that the Legislature allowed for additional complimentary considerations, as certain considerations have always been taken into account under existing statutes. Additionally, SB 374 amends NRS 704.773, which the Legislature surely would not have done if they did not intend for any existing statutory provision to apply to the new NEM tariff. The December 23rd Order interprets SB 374 in such a way that previously applicable provisions are inapplicable to NEM, which is an implicit repeal of those sections and is inconsistent with a harmonious reading of the statute. Therefore, the Order's disregard of the statutory restrictions on the new NEM tariffs is erroneous. (SEIA Petition at 8, 10-12.)

5. SEIA states that the December 23rd Oder fails to advance Nevada's policy goals for NEM and is therefore contrary to law. Nevada's state policy goals for NEM are found in

NRS 704.766 and were made specifically applicable to the new NEM tariff by Section 2.8 of SB 374. The December 23rd Order fails to advance any of these policy goals. By eliminating NEM, the Order has discouraged private investment, which has led to layoffs, and ensured that there will be no future applications to install NEM. The Commission's decision does not streamline the process for installing rooftop solar. The December 23rd Order's assertions regarding possible growth of other renewable technologies like utility-scale solar and storage technologies are unpersuasive and not based on evidence in the record. Additionally, the policy objectives outlined in statute relate to NEM, not renewable energy in general. Even if there is growth in other renewable sections, the policy requirements related to NEM will remain unfulfilled under the December 23rd Order. (SEIA Petition at 19-21.)

TASC's Petition

6. TASC states that the Commission's December 23rd Order eliminates NEM in violation of plain statutory language and imposes a new regulatory scheme to govern rooftop solar systems. Nevada law, including SB 374, does not allow the Commission to eliminate NEM. (TASC Petition at 4.)

Vote Solar's Petition

7. Vote Solar states that the Commission's interpretation of SB 374 is inconsistent with the plain language of existing statute, specifically as to how SB 374 modifies NRS 704.766. The December 23rd Order appears to reject the argument that NRS 704.766, as modified by Section 2.8 of SB 374, is proof that the Legislature reiterated its prior purpose and policy of implementing NEM. This is unreasonable and inconsistent with the plain language of existing statutes. NRS 704.766, as amended by SB 374, ascribes the same purpose and policy to Section 2.3 of SB 374 as to the rest of the NEM statutes. The Commission's interpretation also appears

to ignore how the NRS will appear after the Legislative Counsel updates it to incorporate SB 374. (Vote Solar Petition at 41.)

8. Vote Solar also states that the December 23rd Order's interpretation and application of Section 2.8 of SB 374 is unreasonable because it assumes that increasing the cost of rooftop solar will encourage investment in other renewable technologies. There is no evidence that explains how investments in rooftop solar could be diverted to utility-scale solar. The December 23rd Order also unreasonably assumes that the legislative policy of encouraging private investment in renewable energy resources (as established in Section 2.8 of SB 374) can be achieved without investment in NEM systems. The Order's interpretation of SB 374 and its failure to properly consider the legislative declarations in existing statutes are the basis of the Order's approval of new rates and rate designs that increase costs for rooftop solar. Therefore, the Commission must reconsider its approval of the new tariffs and adopt tariffs that effectively encourage private investment in distributed renewable energy resources in a way that stimulates Nevada's economy and diversifies its energy resources. (Vote Solar Petition at 42-44.)

GBSC's Answer

9. GBSC supports the statements by TASC and Vote Solar. GBSC states that the Commission's decision "is a dramatic deviation from the intent of SB 374 and that the inclusion of NEM1 customers results in a finding of deceptive practices against those parties." (GBSC Answer at 1.)

NCARE's Answer

10. NCARE agrees with BCP, SEIA, and Vote Solar that the December 23rd Order is inconsistent with the declared legislative policy in enacting Nevada's NEM laws. (NCARE Answer at 8.)

B. The Marginal Cost of Service Study ("MCSS") as Evidence of a Cost Shift

BCP's Petition

11. BCP states that the Commission erroneously fully accepts NV Energy's MCSS even though witnesses from BCP, Staff, and other parties testified that the study was flawed. Indeed, a Staff witness stated that the MCSS should be rejected. The Commission accepted the MCSS without questions and comes to a conclusion regarding an amount of subsidy and uses that amount to set new NEM rates without considering the value of solar that would reduce the claimed subsidy. (BCP Petition at 8.)

12. BCP also states that the Commission's acceptance of NV Energy's "selective" cost of service studies for small NEM customers and not requiring large NEM customers to be included leads to skewed and unreasonable results and impressions. NV Energy did not conduct a MCSS for all NEM ratepayers but instead selected only those ratepayers from the Single-Family Residential Class, Multi-Family Residential Class, Large Residential Class, and the Small General Service Class. The Commission acknowledges this limitation and claims that the rate structures for larger ratepayer classes have other ways of recovering costs. Given the existence of a variable base tariff general rate for medium and large customer classes, it is clear that these customers do not pay their full cost-of-service through fixed and demand charges. Leaving the medium and large customers out of the MCSS results in intended and unintended consequences as it fails to consider the comparatively enormous subsidies these customers may have received for their NEM equipment and installation. (BCP Petition at 9-10.)

SNHBA's Petition

13. Citing Nevada case law, SNHBA states that the decisions of an administrative agency must be reasonably supported by "worthy" evidence of "sufficient quality and quantity"

and that the December 23rdOrder's conclusion that a new tariff for NEM customers is required because non-NEM customers subsidize NEM customers is not supported by sufficient worthy evidence. (SNHBA Petition at 17-18.)

14. SNHBA states that NPC failed to meet the burden, as established in NAC 703.2231, to present actual evidence that its rates are just and reasonable. The MCSS acknowledges that NPC does not have evidence to support its estimates and assumptions and failed to provide evidence of certain issues, including the load demand differences between new-build and retro-fit solar or the value of excess energy produced by NEM customers. The MCSS does not constitute worthy evidence sufficient to support a conclusion that NEM customers and even Staff recommended against using it as a basis for the development of NEM customer rates. (SNHBA Petition at 18.)

15. SNHBA states that the MCSS contains numerous logical and factual flaws and provides a list several of those flaws. Despite these significant and obvious flaws, the Commission relied on the MCSS to find that NEM customers have been subsidized by non-NEM customers. (SNHBA at 18-20.)

16. SNHBA states that NPC failed to actually show that the price charged to NEM customers does not equate to the cost to provide service to NEM customers but that that disparity had been shown, it could only be because the flat/volumetric rate does not reflect NPC's and SPPC's costs to provide service. (SNHBA at 20.)

17. SNHBA states that a fundamental flaw in the Commission's reasoning is that it apparently believes that a lack of use somehow lowers (and therefore creates a benefit to) what would otherwise have been a specific, high, power bill. No reasonable person would accept as reasonable the inference that NPC's ability to provide as much power to NEM customers as they

could need creates an obligation to pay for power not received. (SNHBA at 20-21.)

18. SNHBA also states that there is no basis for finding any purported cost shift unreasonable. Even if there had been evidence to support the Commission's determination that a cost shift exists, the Commission failed to conduct any analysis of the reasonableness of such a cost shift. A determination of reasonableness requires the Commission to review more than just the amount of the cost shift. There are other factors, including the investment made by NEM customers, the environmental benefits of solar production, the Commission's obligation to regulate electrical service in a manner that encourages the development and use of renewable energy resources, and the fact that a similar cost shift would necessarily occur with a reduction in power usage. (SNHBA at 21.)

TASC's Petition

19. TASC states that the MCSS does not comply with Nevada law and that the Commission erred in accepting it. Several parties have testified that NV Energy's MCSS fails to meet the requirement set by SB 374 of accurately reflecting the cost of providing service to rooftop solar customers. Parties, including Staff, recommended that the Commission not use the study to set rates. The load shapes NV Energy used to assign marginal distribution and transmission demand costs do not reflect the actual load served by the utility, which is acknowledged in the December 23rd Order. Thus, the Commission's use of the MCSS to set rates goes against statute and casts doubt on the validity of the Order itself and the newly implemented rates. (TASC at 20-21.)

20. TASC states that it proposed a number of corrections to the MCSS, but that the Commission accepted the MCSS with no meaningful discussion of the parties' criticisms. Therefore, the December 23rd Order inappropriately relies on the MCSS to quantify an alleged

cost shift. The Commission's decision disregards the significant value of the electricity that customer-generators provide to the utility—both in terms of revenue and deliverable electricity that can be used to serve neighboring customers. NEM systems also provide significant generation, transmission, and distribution capacity cost savings, which the MCSS does not reflect. Although TASC believes the Commission should not rely on the MCSS at all, if the MCSS is corrected to show these values and cost savings, a lower cost shift is shown. (TASC Petition at 21-22.)

Vote Solar's Petition

21. Vote Solar states that the Commission's approval of NV Energy's flawed MCSS and related findings is unreasonable and based on mistaken facts. The evidence presented in this case demonstrates that NV Energy's MCSS suffers from several deficiencies and should not be relied upon to establish separate NEM rate classes or to set rates. The MCSS formed the basis of NV Energy's NEM2 proposals, but no other party recommended approval of the MCSS for use in this case. Despite all of the evidence presented by the parties, the Commission found that the MCSS was a reasonable basis upon which to allocate costs and establish rates for NEM ratepayers. These findings are unreasonable in light of the evidence presented by Vote Solar and other parties. Therefore, the Commission should reconsider its approval of the MCSS. (Vote Solar Petition at 4-5.)

22. Additionally, Vote Solar states that the MCSS demonstrates that there is no unreasonable cost shift, regardless of whether corrections are applied to the study. The December 23rd Order incorrectly concludes that there is an existing unreasonable cost shift based solely on the data presented in NV Energy's flawed MCSS. This finding should be reconsidered for three reasons. First, NV Energy's MCSS results show that the cost to serve NEM residential

customers is just slightly higher than the comparable non-NEM residential rate. This level of cost difference does not reflect an unreasonable cost shift from NEM to non-NEM customers. Second, when just some of the flaws of the MCSS are corrected, the changes show that NEM customers cost less to serve than their non-NEM counterparts. Third, setting aside the MCSS, no evidence exists to support the December 23rd Order's conclusion of an unreasonable cost shift. (Vote Solar Petition at 9-10.)

BCP's Answer

23. BCP states that the MCSS should be rejected. Many of the Petitioners pointed out that Staff did not support the use of the MCSS. Additionally, the MCSS is unreasonably limited to only residential and small commercial NEM customers. BCP states that it agrees with other Petitions that the December 23rd Order incorrectly concludes that there is an unreasonable cost shift, since this alleged cost shift is based solely on the data presented in the flawed MCSS. Lastly, BCP agrees with other Petitions that the alleged cost shift should be kept in the proper perspective since the Order failed to consider the value of solar. (BCP Answer at 4-5.)

GBSC's Answer

24. GBSC supports the statements by TASC and Vote Solar. (GBSC Answer at 1.)

NCARE's Answer

25. NCARE agrees with Petitioners that NV Energy's MCSS suffers from several deficiencies and should not be relied upon by the Commission to set rates for separate NEM rate classes. (NCARE Answer at 2.)

26. NCARE agrees with BCP that NV Energy's MCSS is selective and its use in applying the "buy/sell" rate structure to small NEM customers only is arbitrary and unreasonable. (NCARE Answer at 11.)

NV Energy's Answer

27. NV Energy states that the record supports the Commission's finding that NEM customers have unique service and cost characteristics that result in an unreasonable cost shift in favor of NEM customers. In petitioning for a reconsideration of the evidence about the MCSS laid out in the December 23rd Order at paragraphs 1-81, none of the Petitioners points to a misstatement of fact or to any missing fact from those paragraphs. After considering all of the evidence in the record, including the criticisms of and alternatives to the MCSS offered by Petitioner's witnesses, the Commission found the MCSS to be an analytically sound and credible basis upon which to make findings regarding a NEM cost shift. Each Petitioner asks the Commission to reweigh the evidence of record and reach a different conclusion, and these requests should be rejected as inconsistent with NAC 703.801(1)(a). (NV Energy Answer at 11-12, 15.)

Staff's Answer

28. Staff states that while the Petitions disagree with the Commission's decision regarding the unreasonable cost shift from NEM customers to non-NEM customers and/or the use of the MCSS for purposes of allocating costs and establishing rates in this Docket, they fail to cite any portions of the record, law, or Commission rules that are unlawful, unreasonable, or based on erroneous conclusions of law or mistaken facts. Staff identified its concerns with the MCSS, but recognizes that the Commission found that the MCSS provides reasonable estimates for the marginal cost of providing service to NEM ratepayers. Petitioners' disagreement with a legally and factually supported Order does not justify reconsideration. (Staff Answer at 19.)

29. Additionally, Staff states that BCP's argument that larger NEM customers who already pay a demand charge should have redesigned NEM rates is illogical and confuses

legislative policy. BCP errs in stating that larger NEM customers who already pay three-part rates should not have been omitted from the MCSS. BCP does not cite to anywhere in the record to supports this claim or that it previously raised this issue prior to its Petition. Additionally, although BCP expresses concern over the appropriate noticing of NEM1 customers about this Docket, it appears unconcerned with any potential lack of notice to the larger NEM customers it seeks to include in reconsideration. (Staff at 16.)

TASC's Answer

30. TASC agrees with Vote Solar's argument that the Commission is incorrect in determining that the MCSS shows that NEM results in an unreasonable cost shift. NEM provides net benefits to non-NEM customers. (TASC Answer at 10.)

C. Net Excess Energy Mechanism

SEIA's Petition

31. SEIA states that the "buy/sell" arrangement imposed by the Commission's December 23rd Order violates the plain meaning of NEM. SB 374 mandates the availability of NEM before and after applications have met the 235 MW cap. For the purposes of SB 374, net metering has the meaning laid out in NRS 704.769. Under that definition, NEM customers have been billed for the difference between the energy the customer delivered to the utility and the energy the utility delivered to the customer at the retail rate—net electricity. However, the new two-part rate approved by the Commission abandons this definition. Under the new arrangement, NEM customers sell unused energy they generate to NV Energy at wholesale rates, which the utility then delivers to other customers at the retail rate. NEM customers must buy energy for their own consumption from NV Energy at retail rates. NEM customers are entitled to a monthly credit for the energy sold to the utility against their monthly electric bill for each

kilowatt hour of energy delivered to the customer by NV Energy. This is a departure from the historical definition of NEM and is not founded in any way on measuring the difference between electricity supplied and electricity generated. It is inconsistent with the plain meaning of the law and must be rejected. (SEIA Petition at 3-5.)

32. In addition, SEIA states that the "buy/sell" arrangement violates other NEM provisions already in statute, including NRS 704.775, which pertains to the NEM billing mechanism. The "buy/sell" arrangement does not net electricity and the customer is not billed for the net electricity supplied by NV Energy. The December 23rd Order calls for hourly settlement of transactions, rather than the statutorily mandated monthly billing period. Additionally, if a customer generates more electricity than he receives from NV Energy, the Order calls for both the customer and the utility to be compensated for the energy they deliver to the other, which is a clear violation of existing statute. (SEIA Petition at 5-6.)

33. SEIA also states that the December 23rd Order erroneously ignores the requirements of NRS 704.769 and 704.775, but those provisions do apply. NEM must be based on the netting of electricity, not a "buy/sell" arrangement. (SEIA Petition at 7.)

SNHBA's Petition

34. SNHBA states that the December 23rd Order violates NRS 704.775(4) by using the value of excess electricity to reduce other fees or charges. The service charge component of the newly-approved rate does not match the monthly subsidy found in the December 23rd Order. Thus, the difference between the amount of the subsidy and the service charge must be recovered through the decrease in the credit paid for excess energy that rooftop solar customers put back to the grid. NRS 704.775(2)(c)(4) prohibits the value of excess electricity from being used to reduce any other fee or charge imposed by the utility. NV Energy must, therefore, recover its

costs, fees, and charges through a rate design that recovers the cost of serving NEM customers through charges and fees that may not be offset by some or all of the value of the energy the NEM customers put back to the grid. The rate design in the December 23rd Order can only recover the utilities' fees and charges in one of three ways—one recovers only a portion of NPC's fees and charges, one decreases NPC's recovery, and the third is a reduction in the credit paid to the customer for excess energy, which is prohibited under Nevada Law. The rate design contemplated by the December 23rd Order should be reversed and the proposed rate design rejected. (SNHBA Petition at 14-15.)

TASC's Petition

35. TASC states that the December 23rd Order fails to fully value solar customer exports to the grid and is unjust and unreasonable. Although the Commission acknowledged eleven categories of value that rooftop solar systems can provide, the Order assigns a value to only two—avoided energy and energy losses/line losses. The Commission ignored the value of other criteria, and did not take into consideration NEM customers' avoided generation capacity and transmission capacity costs or the value of renewable energy carbon mitigation. It is inappropriate for the Commission to claim that these benefits have not been quantified as they are part of the adopted marginal cost-based rate design. If the Commission had summed the values for the eleven criteria, it would have concluded that the value provided by rooftop solar is higher than the residential retail rate. Therefore, the adopted export rate is well below the value of electricity delivered to NV Energy by rooftop solar customers. This decision denies their right to be fairly compensated. (TASC Petition at 18-19.)

36. TASC states that the Commission invited testimony on the societal benefits of NEM and then dismissed that evidence without analysis or consideration. The Commission's