

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation and rulemaking to implement Senate)
Bill 204 (2017).) Docket No. 17-07014
_____)

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on March 11, 2020.

PRESENT: Chair Hayley Williamson
Commissioner C.J. Manthe
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

The Commission opened an Investigation and Rulemaking Docket, designated as Docket No. 17-07014, to implement Senate Bill 204 (2017) (“SB 204”).

II. SUMMARY

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

III. PROCEDURAL HISTORY

- On August 21, 2017, the Commission opened the Investigation and Rulemaking Docket.
- The Commission is conducting the Rulemaking in accordance with Chapters 703 and 704 of the NRS and the Nevada Administrative Code (“NAC”), including but not limited to NRS 703.025, NRS 704.210, and SB 204.
- On August 21, 2017, the Commission issued a Notice of Investigation and Rulemaking and Notice of Workshop.
- On November 9, 2017, the Hearing Officer held a workshop. The participants agreed to hold informal exchanges of information and meetings. The participants also agreed that the workshop should be continued to February 21, 2018.
- On November 17, 2017, the Hearing Officer issued a Procedural Order, memorializing the continued workshop set for February 21, 2018.

- On November 21, 2017, the Hearing Officer invited the participants to participate in a teleconference on November 30, 2017, to further discuss the proposal made by Tesla, Inc. (“Tesla”) during the November 9, 2017 workshop, to conduct a third party study of the costs and benefits of storage in Nevada.
- On November 30, 2017, the Hearing Officer held a teleconference. Tesla, the Energy Storage Association (“ESA”), Western Resource Advocates (“WRA”), the Nevada Bureau of Consumer Protection (“BCP”), the Regulatory Operations Staff (“Staff”) of the Commission, and Sierra Pacific Power Company d/b/a NV Energy and Nevada Power Company d/b/a NV Energy (jointly “NV Energy”) participated and discussed the merits of conducting a third party study of the costs and benefits of storage in Nevada. The participants agreed on a process and schedule to determine a scope of work for a third-party study of the costs and benefits of energy storage in Nevada (“Scope of Work”).
- On December 1, 2017, the Hearing Officer issued Procedural Order No. 2, setting a schedule for the participants to file information and suggestions regarding the Scope of Work.
- On December 20, 2017, the Hearing Officer held a teleconference to discuss the Scope of Work information submitted by the participants. Tesla, WRA, BCP, Staff, and NV Energy participated in the teleconference.
- On February 1, 2018, the Hearing Officer inquired with the participants via electronic mail regarding the deadline contained in Section 7 of SB 204, which reads as follows: “On or before October 1, 2018, the Commission shall determine whether it is in the public interest to establish by regulation biennial targets for the procurement of energy storage systems by an electric utility.” Specifically, the Hearing Officer inquired whether any participant would object to not meeting the October 1, 2018, deadline in order to allow for a third-party study of the costs and benefits of storage in Nevada to be conducted. The Hearing Officer suggested a deadline of December 31, 2018, to allow completion of the study and input from participants. In response to the inquiry, no participant objected, but some did suggest that the Commission issue an order memorializing the delay.
- On February 5, 2018, the Governor’s Office of Energy (“GOE”) issued the “2018 Nevada Energy Storage Study Request for Proposals” (“RFP”).
- On February 21, 2018, the Hearing Officer held a workshop. The participants discussed the RFP and the progress to date on exchange of information.
- On March 20, 2018, the Hearing Officer notified the participants via electronic mail that the Brattle Group had been selected to conduct the third-party energy storage study.
- On September 7, 2018, the Hearing Officer issued Procedural Order No. 3, concluding that it was in the public interest to allow additional time beyond October 1, 2018, but no later than December 31, 2018, for the Commission to make the determination required by Section 7 of SB 204.

- On October 2, 2018, the Brattle Group’s Nevada energy storage study was filed in this Docket.¹
- On October 2, 2018, the Hearing Officer issued Procedural Order No. 4, setting a schedule for the filing of comments and reply comments regarding whether it is in the public interest to establish by regulation biennial targets for the procurement of energy storage systems.
- On October 30, 2018, the Interwest Energy Alliance (“IWEA”) filed comments.
- On October 31, 2018, BCP, the ESA, NV Energy, Tesla, WRA, and Staff filed comments.
- On November 14, 2018, BCP, ESA, NV Energy, Tesla, WRA, and Staff filed reply comments.
- On December 24, 2018, the Commission issued an Order accepting an attached “Report on Whether it is in the Public Interest to set Biennial Energy Storage System Procurement Targets” (“Report”). The Report determined that, in line with the guidelines set forth in SB 204, it is in the public interest to establish biennial procurement targets for energy storage systems. The Report determined that a rulemaking phase to accomplish that purpose should proceed.
- On March 6, 2019, the Commission issued a Notice of Workshop.
- On May 1, 2019, the Hearing Officer held a workshop. BCP, ESA, NV Energy, Tesla, WRA, and Staff made appearances and discussed a stakeholder process for developing a regulation. The participants agreed to engage in an informal stakeholder driven process with progress reports to be sent to the Hearing Officer.
- On May 31, 2019, NV Energy sent a progress report to the Hearing Officer via electronic mail reporting general progress on developing a regulation.
- On August 19, 2019, NV Energy sent a progress report to the Hearing Officer via electronic mail requesting guidance from the Hearing Officer as to how to submit a draft regulation and how to reflect areas where consensus had not been reached.
- On August 22, 2019, the Hearing Officer issued Procedural Order No. 5, adopting a procedural schedule.
- On August 22, 2019, the Commission issued a Notice of Workshop.
- On September 12, 2019, NV Energy filed a draft consensus regulation.

¹ The Brattle Group’s study was conducted at the request of certain participants in this matter. The GOE and the Commission jointly developed the scope of work with input from participants in this matter and selected the Brattle Group to conduct the study pursuant to a public RFP process. The Brattle Group’s study is intended to provide further information compiled by a third party that the participants in this matter and ultimately the Commission may use, as appropriate, in making the determinations required by SB 204. The Brattle Group’s study and conclusions therein do not necessarily reflect the views of the GOE or the Commission.

- On October 10, 2019, Able Grid Energy Solutions (“Able Grid”), BCP, ESA, NV Energy, Tesla, WRA, and Staff filed comments.
- On October 24, 2019, Able Grid, BCP, ESA, NV Energy, Tesla, WRA, and Staff filed reply comments.
- On November 14, 2019, the Hearing Officer held a workshop. The participants discussed the proposed regulation submitted by NV Energy and the comments filed in response.
- On November 26, 2019, the Hearing Officer sent a proposed regulation to the Legislative Counsel Bureau (“LCB”) for pre-adoption review.
- On January 8, 2020, the LCB returned the regulation to the Commission in revised form.
- On January 13, 2020, the Hearing Officer issued Procedural Order No. 6 with the proposed regulation attached. Staff was directed to conduct an investigation pursuant to NRS 233B.0608 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 January 13, 2020, the Commission issued a Notice of Intent to Act Upon a Regulation, Notice of Workshop, and Notice of Hearing for the Adoption, Amendment, and Repeal of Regulations of the Public Utilities Commission of Nevada.
- On February 19, 2020, BCP filed comments.
- On February 19, 2020, Staff filed a briefing memo regarding the small business impact statement required to be considered pursuant to NRS 233B.0608(2).
- On March 2, 2020, the Hearing Officer held a workshop. Able Grid, BCP, NV Energy, Tesla, and Staff made appearances and discussed the proposed regulation.
- On March 3, 2020, the Commission issued an Order finding that the proposed regulation is not likely to impose a direct and significant economic burden upon small businesses, nor is it likely to directly restrict the formation, operation, or expansion of a small business.
- On March 3, 2020, the Hearing Officer held a hearing. Able Grid, BCP, NV Energy, Tesla, and Staff made appearances and discussed the proposed regulation.

IV. SUMMARY OF PUBLIC RESPONSE

1. BCP filed comments regarding the proposed regulation and expressed support for the proposed regulation. (BCP February 19, 2020, Comments.) At the Workshop, BCP, NV Energy, Tesla, and Staff expressed support for the proposed regulation. NV Energy stated that

its understanding of the word “target” as used in the regulation was a goal and not a mandate as stated in the Commission’s proposed regulation submitted to LCB and as contemplated by SB 204. Able Grid made no comment. (See Transcript of March 2, 2020, Workshop and Transcript of March 3, 2020 Hearing.)

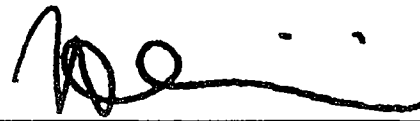
V. REGULATION

2. The attached regulation establishes biennial targets for the procurement of energy storage systems starting at 100 megawatts by December 31, 2020, and increasing to 1,000 megawatts by December 31, 2030. As contemplated by SB 204, the targets established by the proposed regulation are goals and not mandates.

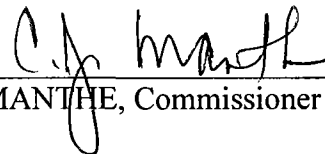
THEREFORE, it is ORDERED:

1. The proposed regulation, attached hereto as Attachment 1, is ADOPTED AS PERMANENT.


By the Commission,



HAYLEY WILLIAMSON, Chair



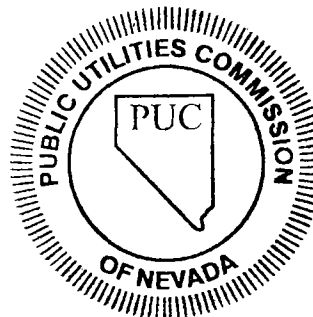
C.J. MANTHE, Commissioner

Attest: 
TRISHA OSBORNE
Assistant Commission Secretary

Dated: Carson City, Nevada

3/12/20

(SEAL)



ATTACHMENT 1

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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January 6, 2020

Donald Lomoljo
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701-3109

RECEIVED
PUBLIC UTILITIES COMMISSION
OF NEVADA
CARSON CITY
2020 JAN - 8 AM 10: 02

Re: LCB File No. R106-19

Dear Mr. Lomoljo:

A proposed regulation, R106-19 of the Public Utilities Commission of Nevada, has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Sincerely,

Jessica F. Dummer
Deputy Legislative Counsel

Bryan J. Fernley
Senior Principal Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

JFD/ah
Enclosure

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R106-19

January 6, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-9 and 11-15, NRS 703.025, 704.210 and 704.796; §10, NRS 703.025, 704.210, 704.796 and 704.797.

A REGULATION relating to energy storage; establishing biennial targets for the procurement of energy storage systems by certain electric utilities; requiring certain electric utilities to include an energy storage plan in the integrated resource plan of the utilities; requiring these electric utilities to periodically update the energy storage plan; authorizing the Public Utilities Commission of Nevada to waive or defer compliance with the biennial storage targets under certain circumstances; authorizing the Commission to modify the biennial energy storage targets under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to establish by regulation biennial targets for the procurement of energy storage systems by an electric utility which has had a gross annual operating revenue of \$250,000,000 or more if the Commission determines that the establishment of such targets is in the public interest. (NRS 704.187, 704.792, 704.796) **Section 10** of this regulation establishes biennial targets for the procurement of energy storage systems by such electric utilities, with a target for the procurement of 1,000 megawatts by December 31, 2030. **Section 10** also establishes requirements for the types of energy storage systems which may be used to meet the biennial energy storage targets established by the Commission.

Existing law requires the Commission, in establishing biennial energy storage targets, to also establish requirements for the filing by an electric utility of annual or biennial plans to meet those targets. (NRS 704.796) **Section 11** of this regulation requires the electric utilities subject to the biennial energy storage targets to include an energy storage plan in the integrated resource plan of the electric utilities.

Section 12 of this regulation requires the electric utilities subject to the biennial energy storage targets to submit an update of the energy storage plan as part of the electric utilities' energy supply plan.

Section 13 of this regulation authorizes the electric utilities subject to the biennial energy storage targets to seek and obtain a waiver or deferral of an energy storage target that falls within the 3-year period covered by the electric utilities' action plan.

Section 14 of this regulation provides that the requirements of this regulation do not apply to the electric utilities subject to the biennial energy storage targets after the earlier of December 31, 2030, or after the date on which the energy storage system resources procured by the utility meet or exceed the amount of the energy storage target for the biennial period ending on December 31, 2030. **Section 15** of this regulation provides that this regulation expires by limitation on the earlier of those dates.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Action plan” has the meaning ascribed to it in NAC 704.9006.*

Sec. 4. *“Affiliated utilities” means the electric utilities required by NRS 704.741 to file a joint resource plan.*

Sec. 5. *“Biennial energy storage targets” means the biennial targets for the procurement of cost-effective energy storage systems by the affiliated utilities, which are established by the Commission in subsection 1 of section 10 of this regulation or in an order described in subsection 5 of section 10 of this regulation.*

Sec. 6. *“Distributed resources plan” has the meaning ascribed to it in section 3 of LCB File No. R029-19.*

Sec. 7. *“Energy storage plan” means a plan developed by the affiliated utilities to meet or exceed the biennial energy storage targets.*

Sec. 8. *“Energy storage system” has the meaning ascribed to it in NRS 704.793.*

Sec. 9. *“Resource plan” has the meaning ascribed to it in NAC 704.9156.*

Sec. 10. 1. Except as otherwise provided in subsection 5 or section 13 of this regulation, pursuant to NRS 704.796, the Commission establishes the following biennial targets for the procurement of energy storage systems by the affiliated utilities:

- (a) 100 megawatts by December 31, 2020;**
- (b) 200 megawatts by December 31, 2022;**
- (c) 400 megawatts by December 31, 2024;**
- (d) 600 megawatts by December 31, 2026;**
- (e) 800 megawatts by December 31, 2028; and**
- (f) 1,000 megawatts by December 31, 2030.**

2. To meet the biennial energy storage targets:

(a) Affiliated utilities may procure energy storage systems that are either centralized or distributed and either owned by the affiliated utilities or by any other person.

(b) An energy storage system must satisfy the requirements of subsection 2 of NRS 704.797 and may be connected to and used as a component of the transmission and distribution system of an affiliated utility.

(c) When units of storage for a particular energy storage system and technology need to be converted, equivalent megawatts and megawatt hours will be reported.

3. The biennial energy storage targets are cumulative and include energy storage system resources approved by the Commission and procured by the affiliated utilities via contract before and after the effective date of this regulation.

4. The biennial energy storage targets do not limit the amount of energy storage system resources that may be procured by an electric utility.

5. When reviewing the resource plan submitted by the affiliated utilities, the Commission will also review the biennial energy storage targets and determine whether the biennial energy storage targets should be altered. The Commission may establish new biennial energy storage targets in an order denying, approving or modifying the resource plan.

Sec. 11. 1. Except as otherwise provided in section 14 of this regulation, affiliated utilities shall include an energy storage plan in the resource plan filed by the affiliated utilities. The energy storage plan must be consistent with the action plan and the distributed resources plan submitted by the affiliated utilities.

2. The energy storage plan must include, without limitation:

(a) A proposal by the affiliated utilities to meet or exceed the biennial energy storage targets that fall within the period covered by the action plan;

(b) A summary of all energy storage system projects for which the affiliated utilities are seeking approval in the action plan or distributed resources plan of the affiliated utilities;

(c) A description of how energy storage system resources are being modeled and considered in the existing planning process;

(d) An evaluation of the costs and benefits of the deployment of energy storage, which must include, without limitation, a description of the affiliated utilities' cost-benefit analysis framework where benefits include all reductions in resource costs as well as cost savings associated with other services or alternatives that would otherwise have been procured. The cost-benefit analysis must include, without limitation:

(1) Recent and relevant publicly available storage price and storage performance information; and

(2) Findings from any relevant request for proposals, if applicable.

Sec. 12. Except as otherwise provided in section 14 of this regulation, beginning in calendar year 2022, the affiliated utilities shall, in each year following a biennial energy storage target, submit an energy storage update within the energy supply plan of the affiliated utilities. The energy storage update must include a description of the progress of the affiliated utilities in meeting biennial energy storage targets, including, without limitation:

1. The cumulative level of installed and operational energy storage and energy storage under contract, including, without limitation, energy storage projects previously identified in a distributed resources plan;

2. A description of where energy storage projects that are under contract but are not yet operational are in the development timeline;

3. The type of technology being deployed for each energy storage project;

4. The procured equivalent nameplate capacity of the energy storage projects in both megawatts and megawatt-hours;

5. The location of the project, including, without limitation, the city and zip code, if that information is public;

6. The primary and, if applicable, secondary application of each energy storage project;

7. The process through which the energy storage project was procured including, without limitation, an identification of whether the project was procured through a request for proposal, bilateral negotiations or other means;

8. Relevant dates for each energy storage project including, without limitation, the contract date, the estimated commercial operation date for planned projects and the actual commercial operation date for projects that are already in operation;

9. The project owner and the operator of each energy storage project, including, without limitation, the product manufacturer;

10. Actual equivalent capacity in both megawatts and megawatt-hours of projects with a capacity greater than 20 megawatts;

11. An update on the energy storage procurement activities included in the most recent resource plan of the affiliated utilities; and

12. The results of annual storage capacity tests of installed energy storage systems with an initial capacity greater than 1 megawatt, including, without limitation, a report of actual capacity expressed in megawatts, the actual storage capacity expressed in megawatt-hours, and the annual degradation level, if any.

Sec. 13. The affiliated utilities may seek and obtain a waiver or deferral of a biennial energy storage target that falls within the 3-year period covered by the action plan. The request for a waiver or deferral must include, without limitation:

1. An explanation of why the procured cumulative amount of energy storage did not meet the biennial energy storage target, along with data and analysis supporting the assertions in this explanation.

2. A demonstration that an effort was made to solicit or develop the resources needed to meet the biennial energy storage target under consideration, with an explanation of why energy storage was not solicited or not selected if other resources were selected. The explanation may include, without limitation, the cost and benefits for energy storage, where benefits include all reductions in resource costs as well as cost savings associated with other services or alternatives that would have otherwise been procured.

Sec. 14. *The affiliated utilities are not subject to the requirements of sections 2 to 14, inclusive, of this regulation after the earlier of:*

1. The date on which the sum total of energy storage system resources approved by the Commission and procured by the affiliated utilities meets or exceeds 1,000 megawatts; or

2. December 31, 2030.

Sec. 15. 1. This regulation expires by limitation on the earlier of:

(a) The date on which the sum total of energy storage system resources approved by the Commission and procured by the affiliated utilities meets or exceeds 1,000 megawatts; or

(b) December 31, 2030.

2. As used in this section, “affiliated utilities” has the meaning ascribed to it in section 4 of this regulation.