

- 
- 
- 

18-09015

Public Utilities Commission of Nevada  
Electronic Filing

Submitted: 1/10/2019 1:36:02 PM

Reference: 3becafda-e02f-44ba-8199-61f43abd490c

Reference:

Filed For: NPC

In accordance with NRS Chapter 719,  
this filing has been electronically signed and filed  
by: /s LoriPetersen

-----  
By electronically filing the document(s),  
the filer attests to the authenticity of the electronic signature(s) contained therein.

-----  
This filing has been electronically filed and deemed to be signed by an authorized  
agent or  
representative of the signer(s) and  
NPC

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Nevada Power Company d/b/a NV Energy  
Docket No. 18-09015  
Georgia Pacific Gypsum LLC  
NRS Chapter 704B Departure Application  
Prepared Direct Testimony of

**SHAWN M. ELICEGUI**

1  
2  
3  
4  
5  
6  
7  
8 **1. Q. PLEASE STATE YOUR NAME, OCCUPATION, BUSINESS ADDRESS**  
9 **AND PARTY FOR WHOM YOU ARE FILING TESTIMONY.**

10 A. My name is Shawn M. Elicegui. My current position is Senior Vice President,  
11 Regulation and Business Planning for Sierra Pacific Power Company d/b/a NV  
12 Energy (“Sierra”) and Nevada Power Company d/b/a NV Energy (“Nevada  
13 Power,” and together with Sierra, the “Companies” or “NV Energy”). My business  
14 address is 6100 Neil Road in Reno, Nevada. I am filing testimony on behalf of  
15 Nevada Power.

16  
17 **2. Q. PLEASE DESCRIBE YOUR JOB RESPONSIBILITIES.**

18 A. My responsibilities include supervision of NV Energy’s regulatory pricing,  
19 regulatory policy, resource planning functions and the development of business,  
20 regulatory, legislative policies and positions. I am also responsible for supervising  
21 the preparation of filings with the Public Utilities Commission of Nevada  
22 (“Commission”), including energy supply plans, integrated resource plans and fuel  
23 and purchased power prudence review and general rate review filings.

1 3. Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE IN THE  
2 UTILITY INDUSTRY.

3 A. I hold a Bachelor of Arts Degree with a major in Political Science and International  
4 Affairs. The degree was conferred by the University of Nevada, Reno. I earned a  
5 law degree from the University of California, Davis. Before joining the Companies  
6 in 2009, I was a shareholder in the law firm of Lionel Sawyer and Collins. Between  
7 2009 and 2013, I served as an Associate General Counsel for the Companies,  
8 focusing on matters related to ratemaking and resource planning. Since 2014, I have  
9 held several positions with NV Energy, including positions in the customer  
10 operations, regulatory and resource planning functions.

11  
12 4. Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?

13 A. Yes, I have.

14  
15 5. Q. ARE YOU SPONSORING ANY EXHIBITS?

16 A. Yes. I sponsor the following exhibits:

- 17 ▪ Exhibit Elicegui-Direct 1, Statement of Qualifications

18  
19 6. Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

20 A. I provide support for the Company's position regarding the transaction proposed  
21 by Georgia-Pacific Gypsum, LLC (the "Applicant"). The Applicant filed an  
22 application pursuant to Chapter 704B of the Nevada Revised Statutes (the  
23 "Application") requesting approval of a proposed transaction with a provider of a  
24 new electric resource.

1 7. Q. HOW IS YOUR TESTIMONY ORGANIZED?

2 A. My testimony is separated into three sections. Section I discusses the history and  
3 goals of NRS Chapter 704B. Section II discusses the Application’s legal  
4 deficiencies and assesses whether the application is in the public interest. In Section  
5 III, I discuss adjustments to the Regulatory Operation Staff’s (“Staff”) final impact  
6 analysis and support the Company’s alternative analysis.  
7

8 **SECTION I. NRS 704B BACKGROUND AND OBJECTIVES**

9 8. Q. WHAT IS THE GOAL OF THE COMMISSION’S REVIEW OF THE  
10 APPLICATION THAT INITIATED THIS DOCKET?

11 A. As provided for in Chapter 704B of the Nevada Revised Statutes (“NRS”), the  
12 Commission’s role is to “protect the electric utilities in this state and their remaining  
13 customers . . .”<sup>1</sup> “[A]ll transactions proposed by eligible customers pursuant to  
14 [Chapter 704B] *must* be carefully reviewed by the [Commission] to *ensure* that . .  
15 . remaining customers are not subject to increased costs as a result of the transaction  
16 and that the proposed transactions are not otherwise contrary to the public  
17 interest.”<sup>2</sup>  
18

19 9. Q. WHO IS RESPONSIBLE FOR DEMONSTRATING THAT THE  
20 PROPOSED TRANSACTION IS NOT CONTRARY TO THE PUBLIC  
21 INTEREST?

22 A. The Applicant. Because the transaction must be carefully reviewed to make certain  
23 that Nevada Power’s customers will not experience price increases as a result of the  
24 transaction, the bar should be a high one.  
25

26 \_\_\_\_\_  
27 <sup>1</sup> 2001 Statutes of Nevada 3223, Chapter 604.

<sup>2</sup> Id. (emphasis added).

1 The regulatory process has been and is functioning well in Nevada. The Company,  
2 subject to the Commission's supervision and oversight, has implemented the  
3 State's energy policy objectives. At the same time, electricity prices have remained  
4 reasonable. According to the Department of Energy's Energy Information  
5 Administration, the average price of electricity for Nevada's industrial sector was  
6 6.35 cents per kilowatt-hour for the first 10 months of 2018, which was about 8.8  
7 percent below the national average. The average commercial sector electric price  
8 in Nevada was 7.89 per kWh, which was 26 percent below the national average.  
9

10 NV Energy has, subject to the Commission's oversight, achieved the State's goals  
11 of advancing renewable energy and diversifying the economy by attracting new  
12 businesses while reliably producing and delivering reasonably priced electricity.  
13 Applicants who propose to secure their own supply of electricity should  
14 demonstrate that the transactions they propose will benefit Nevadans.  
15

16 **10. Q. WHAT STANDARDS DOES CHAPTER 704B ESTABLISH FOR**  
17 **EVALUATING A PROPOSED TRANSACTION.**

18 A. NRS 704B.310 establishes the decision-making standard in this proceeding: the  
19 Commission has to determine whether the transaction proposed by the Applicant  
20 will be contrary to the public interest. In making that determination, the  
21 Commission must consider at least five items:

- 22 1. Whether NV Energy will be burdened by increased costs as a result of the  
23 proposed transactions;
- 24 2. Whether any remaining customers will pay increased rates for electric service as  
25 a result of the proposed transaction;
- 26 3. Whether the proposed transaction will impair system reliability;
- 27

1 4. Whether the proposed transaction will impair NV Energy’s ability to provide  
2 electric service to its remaining customers; and

3 5. Whether the proposed transaction will add energy, capacity or ancillary services  
4 to the supply of this State.

5 This list is not exhaustive.

6  
7 The Commission’s review of the transaction proposed by the Applicant should  
8 center on how approval of the application would affect Nevada Power and its  
9 remaining customers. A key question is whether granting the application and  
10 reducing the scope of the Company’s operations (relative to not granting the  
11 Application) will increase the price of electricity to the Company’s remaining  
12 customers. Where the Commission identifies consequences of the proposed  
13 transaction that run counter to or undermine the public interest, the Commission  
14 may deny the application or order terms, conditions and payments as it deems  
15 necessary and appropriate to ensure that the proposed transaction will not be  
16 contrary to the public interest.

17  
18 **11. Q. WHAT WAS THE CONTEXT IN WHICH THE LEGISLATURE**  
19 **ESTABLISHED CHAPTER 704B?**

20 A. The Legislature adopted NRS Chapter 704B in 2001. The energy industry in  
21 general and the energy market, both in Nevada and the western United States, were  
22 quite different. The Legislature recognized this, making several findings when it  
23 adopted NRS Chapter 704B. Some of those findings are:

24  
25 1. The electric utilities in this state depend on regional energy markets to  
26 purchase approximately 50 percent of the electricity needed to serve their  
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

customers in this state, and such purchases are often made pursuant to agreements with terms of 1 year or less.

2. The energy markets in the western United States currently are characterized by critical shortages in the supply of electricity and extremely high prices for electricity, both of which are damaging to the strength of the economy of this state and to the well-being of the residents of this state.
3. The residents of this state would benefit from construction of new generation assets in this state and from access to other new electric resources, wherever located, that provide lower-priced electricity.
4. The development and use of new generation assets and other new electric resources by eligible customers would permit the electric utilities in this state to reduce their dependence on purchases of excessively priced electricity from dysfunctional, short-term energy markets and would thereby reduce the average system costs for such electric utilities.
5. The development and use of new generation assets and other new electric resources can be encouraged by allowing eligible customers to use their own resources, initiative, expertise and credit to develop, access and enter into agreements for the purchase of electricity from new generation assets and other new electric resources.

**12. Q. HAVE THE UNDERLYING FACTUAL CIRCUMSTANCES CHANGED?**

A. Yes. First, Nevada Power and Sierra are not dependent on regional energy markets; while Nevada Power and Sierra purchase energy in regional energy markets, the Companies generally do so for economic reasons. Second, the energy markets in the western United States are generally not viewed as “dysfunctional.” Third, eligible customers recently have not proposed transactions in which they are using

1 their own resources, initiative, expertise and credit to develop new generation  
2 resources within the Nevada balancing area authority.<sup>3</sup>

3  
4 **13. Q. WHY ARE SOME OF THESE CHANGES IMPORTANT?**

5 A. In 2001, it was very clear that a proposed transaction by an eligible customer to  
6 purchase energy in a regional market could benefit remaining customers. This is  
7 because each of the Companies had *significant* avoidable short-run costs – namely,  
8 “excessively” priced energy (or, “extremely high priced”) purchased in  
9 “dysfunctional markets.” This assumed benefit no longer exists. Second, another  
10 foundational benefit upon which the Legislature grounded Chapter 704B – that  
11 eligible customers would use their financial resource to bring new, lower-priced  
12 energy resources to Nevada’s market – also has not proven true.

13  
14 **SECTION II: THE APPLICATION IS DEFICIENT**

15 **A. THE APPLICATION CONTAINS SEVERAL LEGAL DEFICIENCIES**  
16 **THAT SHOULD BE REMEDIED BEFORE THE COMMISSION RENDERS**  
17 **A DECISION**

18  
19 **14. Q. DOES THE APPLICANT’S APPLICATION MEET THE LEGAL**  
20 **STANDARDS FOR THE COMMISSION TO APPROVE THE**  
21 **APPLICATION?**

22 A. No. The Applicant is required to include in the application the 10-percent contract  
23 information as required by NRS 704B.320. Specifically, NRS 704B.320 requires:

24  
25  
26 <sup>3</sup> A resource and load does not need to be geographically located in Nevada in order to be in the Nevada balancing area  
27 authority (i.e., the Nevada market). For instance, load in California is within the Nevada balancing authority area and  
generating resources physically located in Nevada are in the California Independent System Operator’s balancing area  
authority.



1 An eligible customer that is a nongovernmental commercial or industrial  
2 end-use customer whose load is in the service territory of an electric utility  
3 that primarily serves densely populated counties shall not purchase energy,  
4 capacity or ancillary services from a provider of new electric resources  
5 unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of  
6 the total amount of energy that the eligible customer is purchasing for its  
7 own use under the proposed transaction and which is purchased at the same  
8 price, terms and conditions as the energy purchased by the eligible customer  
9 for its own use; and

(2) The capacity and ancillary services associated with the  
10 additional amount of energy at the same price, terms and conditions as the  
11 capacity and ancillary services purchased by the eligible customer for its  
12 own use; and

(b) Offers to assign the rights to the contract to the electric utility for  
13 use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2,  
14 the eligible customer shall include with its application filed pursuant to NRS  
15 704B.310 all information concerning the contract offered to the electric  
16 utility that is necessary for the Commission to determine whether it is in the  
17 best interest of the remaining customers of the electric utility for the electric  
18 utility to accept the rights to the contract. Such information must include,  
19 without limitation, the amount of the energy and capacity to be purchased  
20 under the contract, the price of the energy, capacity and ancillary services  
21 and the duration of the contract.

17 **15. Q. DID THE APPLICANT INCLUDE ANY INFORMATION OF THE 10-**  
18 **PERCENT CONTRACT TO ITS APPLICATION AS REQUIRED BY NRS**  
19 **704B.320?**

20 A. No. The Applicant did not include any information about the 10-percent contract  
21 with its application. In fact, the Applicant acknowledges that, at the time it filed the  
22 application, it did not have that information to provide because it was still  
23 negotiating its contract with Tenaska, its proposed provider.

25 **16. Q. COULD THE APPLICANT HAVE FILED THE APPLICATION AFTER IT**  
26 **FINALIZED THE TERMS OF THE AGREEMENT WITH TENASKA?**

1 A. Yes. The Applicant determines when it files the application pursuant to NRS  
2 Chapter 704B. It could have finalized the agreement with Tenaska and then filed  
3 the application to ensure it met the statutory requirements.  
4

5 **17. Q. WHAT REMEDIES DOES THE COMMISSION HAVE TO ADDRESS**  
6 **THIS DEFICENCY?**

7 A. The Commission has two remedies: (1) it can require the Applicant to amend the  
8 application to include the information required in NRS 704B.320 and reset the 150-  
9 day timeframe to review the application or (2) deny the application as filed and  
10 allow the Applicant to refile the application when it can provide the information  
11 required in NRS 704B.320.  
12

13 **18. Q. DOES THE APPLICANT PROVIDE SUFFICIENT INFORMATION IN THE**  
14 **APPLICATION TO MEET ITS BURDEN THAT THE PROPOSED**  
15 **TRANSACTION IS NOT CONTRARY TO THE PUBLIC INTEREST?**

16 A. No. NRS 704.310(6) provides the criteria that the Commission must determine to  
17 ensure the proposed transaction is not contrary to the public interest. Specifically,  
18 NRS 704.310(6) states:

19 In determining whether the proposed transaction will be contrary to the public interest,  
20 the Commission shall consider, without limitation:

21 (a) Whether the electric utility that has been providing electric service to  
22 the eligible customer will be burdened by increased costs as a result of the  
23 proposed transaction or whether any remaining customer of the electric  
24 utility will pay increased costs for electric service as a result of the proposed  
25 transaction;

26 (b) Whether the proposed transaction will impair system reliability or the  
27 ability of the electric utility to provide electric service to its remaining  
28 customers; and

(c) Whether the proposed transaction will add energy, capacity or ancillary  
services to the supply in this State.

1 19. Q. DOES THE APPLICATION PROVIDE ANY INFORMATION ON HOW  
2 THE PROPOSED TRANSACTION WILL NOT INCREASE COSTS FOR  
3 THE ELECTRIC UTILITY OR REMAINING CUSTOMERS OF THE  
4 COMPANY?

5 A. No. The Applicant has provided no evidence or information on how the proposed  
6 transaction will not increase costs for the electric utility or remaining customers of  
7 the Company. The Applicant acknowledges that this is a requirement, however, it  
8 then discusses how the proposed transaction will financially benefit the Applicant.<sup>4</sup>  
9

10 20. Q. DOES GRANTING 704B APPLICATIONS INHERENTLY PUT UPWARD  
11 PRESSURE ON ELECTRIC PRICES?

12 A. Yes. Nevada Power proposed and this Commission approved investments in long-  
13 lived assets and long-term obligations with the expectation that Nevada Power  
14 would serve customers in the State of Nevada. Base tariff general revenue  
15 requirement and Nevada Power's fuel and purchased power revenue requirement  
16 will be spread over fewer billing determinants, resulting in electric prices that are  
17 higher than they need to be and, more importantly, were expected to be. One way  
18 the Commission has attempted to address this fact is through the assessment of an  
19 impact fee. However, the Application is silent as to whether or not the Applicant  
20 will pay an impact fee or if the impact fee is a sufficient amount to ensure that the  
21 Company's and remaining customer's costs are not increased.  
22

23 21. Q. COULD GRANTING THE APPLICATION IMPOSE COSTS ON NV  
24 ENERGY?  
25  
26

---

27 <sup>4</sup> See Application at 4 & 5.

1 A. Yes. In Nevada Power’s 2017 general rate review proceeding, the Commission  
2 directed Nevada Power to begin calculating “carrying charges” on “the  
3 unamortized BTGR portion of the impact fees paid to Nevada Power ....”<sup>5</sup> Nevada  
4 Power is now experiencing increased interest expense because of transactions  
5 proposed by eligible customers. This outcome is inconsistent with Chapter 704B.  
6 To the extent the Commission directs the Company to accrue carrying charges on  
7 an impact fee payment, NV Energy requests that the Commission gross up the  
8 impact fee payment to reflect the carrying charges and impose this cost on the  
9 Applicant. The Applicant proposed the transaction that is the subject of this  
10 proceeding, not NV Energy.

11  
12 **22. Q. DOES THE APPLICATION PROVIDE ANY EVIDENCE THAT THE**  
13 **PROPOSED TRANSACTION WILL NOT IMPAIR SYSTEM**  
14 **RELIABILITY OR THE ABILITY TO PROVIDE ELECTRIC SERVICE**  
15 **TO REMAINING CUSTOMERS?**

16 A. No. The Applicant once again glosses over this requirement. As of the date of this  
17 testimony, the Applicant has not requested the Company conduct a distribution or  
18 transmission system impact study.

19  
20 **23. Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**  
21 **REGARDING THESE LEGAL DEFICIENCIES?**

22 A. The application contains legal deficiencies in that it does not contain all of the  
23 information required by Chapter 704B. The Commission should require the  
24 Applicant to amend its application by curing the deficiencies. This will ensure that  
25

26  
27 <sup>5</sup> Application of Nevada Power Company, P.U.C.N. Docket No. 17-06003, Order at ¶ 182 (iss. December 29, 2017).

1 the Commission has a completed record and is able to carefully review the proposed  
2 transaction, as required by Chapter 704B.

3  
4 **B. THE PROPOSED TRANSACTION DOES NOT ADVANCE THE GOALS**  
5 **(OR OBJECTIVES) OF CHAPTER 704B.**

6  
7 **24. Q. DOES THE PROPOSED TRANSACTION ADD ENERGY, CAPACITY**  
8 **AND ANCILLARY SERVICES TO THE SUPPLY IN THIS STATE?**

9 A. No. In determining whether the transaction proposed by the Applicant will be  
10 contrary to the public interest, Chapter 704B also requires that the Commission  
11 consider whether the “proposed transaction will add energy, capacity or ancillary  
12 services to the supply in this State.” The transaction proposed by the Applicant does  
13 not add any energy, capacity or ancillary services to the supply in this State.

14  
15 The Applicant proposes to purchase energy from Tenaska pursuant to a WSCC  
16 Schedule C contract. The Applicant has not proposed to: (a) build or contract with  
17 a to-be-built generation resource located within the Nevada balancing authority  
18 area or (b) invest in transmission assets that would provide access to a different  
19 regional energy market. Instead, the Applicant proposes to buy energy that might  
20 be available in a regional market to which NV Energy already has access. In the  
21 following questions and answers, I will explain why this proposed transaction does  
22 not does not add “energy, capacity or ancillary services *to the supply in this State*”  
23 as contemplated by Chapter 704B.<sup>6</sup>

24  
25  
26  
27 <sup>6</sup> Nev. Rev. Stat. § 704B.310(6)(c).

1 **25. Q. PLEASE EXPLAIN NV ENERGY’S POSITION.**

2 A. The Legislative findings contained in Assembly Bill 661 (now Chapter 704B)  
3 makes it clear that the Legislature believed all Nevadans would benefit from  
4 transactions proposed by eligible customers if either (a) the proposed transaction  
5 involved the addition of new generating resources located in Nevada or (b) involved  
6 a transaction with resource located in another market if, but only if, the resource  
7 “provide[d] lower-priced electricity.”<sup>7</sup>  
8

9 **26. Q. HAVE THE TRANSACTIONS PROPOSED BY ELIGIBLE CUSTOMERS  
10 MET EITHER OF THESE STANDARDS.**

11 A. No. First, since 2014, no applicant has proposed in their application to build (or  
12 support the construction of) a new generating resource located in Nevada. Second,  
13 Staff’s analysis of and recommendations regarding “10-percent” contracts,<sup>8</sup> in  
14 several recent 704B applications demonstrates that this statutory objective is not  
15 being met.

16  
17 In Docket No. 15-05017, when Staff analyzed the 10-percent contract, it first found  
18 that “the pricing, term and conditions contained in the 10-percent contract are  
19 substantially similar to the price, terms, and conditions that are contained within  
20 the Retail Services Agreement between MGM and Tenaska.”<sup>9</sup> Then Staff  
21 concluded:  
22

---

23 <sup>7</sup> See 2001 Statutes of Nevada at 3222.

24 <sup>8</sup> The 10-percent contract is not a defined term but it is an additional amount of energy which is equal to 10 percent of the  
25 total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which  
26 is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use, the  
27 capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as  
the capacity and ancillary services purchased by the eligible customer for its own use; and offers to assign the rights to  
the contract to the electric utility for use by the remaining customers of the electric utility. See Nev. Rev. Stat. §  
704B.320(2).

<sup>9</sup> See Docket No. 15-05017, Staff’s Final Analysis, filed March 21, 2016, p. 3.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

But quantitatively, Nevada Power has the credit and operations ability to procure market based products. Additionally, since the 10-percent contract would only be for approximately 17 MWs, *and comes with a substantial cost adder*, it would be *uneconomical* and administratively burdensome for Nevada Power to execute, manage, and enforce such a small contract.<sup>10</sup>

Stated simply, Staff implicitly concluded that the 10-percent contract proposed by the applicant (and, therefore, the transaction proposed by the applicant) did not offer electricity at a price lower than that already available to Nevada Power.

27. **Q. DOES NV ENERGY PURCHASE ENERGY AND CAPACITY PRODUCED IN OTHER MARKETS AND DELIVER THAT ENERGY TO NEVADA?**

A. Yes. NV Energy makes economic purchases in regional markets and delivers that energy to Nevada. NV Energy has, in the past, entered into capacity contracts with generating resources located outside of the Nevada balancing authority area. Finally, NV Energy’s energy supply plan does rely on forward firm energy purchases to close open summer capacity positions.

28. **Q. WHY DOESN’T A SIMILAR TRANSACTION PROPOSED BY AN ELIGIBLE CUSTOMER “ADD ENERGY” TO “THE SUPPLY IN THIS STATE?”**

A. The answer is found, in my view, in the Legislative findings, the purpose of Chapter 704B and the changes that have occurred since 2001. In 2001, there was insufficient electric generating capacity located within the two Nevada balancing authority areas and regional markets. At the same time, NV Energy’s two operating

---

<sup>10</sup> *Id.*, p. 4.

1 subsidiaries were on the verge of bankruptcy; they lacked the credit and financial  
2 resources to purchase extremely high priced energy needed to serve customers. The  
3 basic purpose of Chapter 704B was to remedy this situation by allowing large,  
4 sophisticated corporations to use their initiative, financial resources and credit to  
5 bring new supplies of energy and capacity to Nevada, either through the  
6 construction of new resources within the balancing authority areas or by securing  
7 lower-priced contracts from suppliers in regional markets. If eligible customers  
8 proposed transactions that accomplished either of these goals, the objectives of  
9 Chapter 704B were met – *all* residents of Nevada benefited. The conditions that  
10 resulted in the adoption of Chapter 704B no longer exist; moreover, the transaction  
11 proposed by the Applicant does not meet either of the goals of Chapter 704B.

12  
13 Thus, I believe that when an eligible customer proposes to purchase and import  
14 financially firm energy from a regional market to which NV Energy already has  
15 access, the transaction does not add energy or capacity to the *supply* of energy and  
16 capacity in Nevada. The transaction may result in the delivery of energy to Nevada,  
17 but it does not increase the supply-side equation. The same level of generation and  
18 transmission system capacity that existed prior to the 704B application remains.  
19 Stated differently, Chapter 704B , at its core, has a resource planning objective; the  
20 objective was to improve resource adequacy. The transaction proposed by this  
21 Applicant does not do that; indeed, it results in a deterioration of resource adequacy  
22 by shifting the resource balance through reduced optimization opportunities  
23 between internal generation and market purchases available<sup>11</sup> to existing  
24 customers.

25  
26  
27 <sup>11</sup> The 704B customer’s specific Point of Delivery can have a direct and or indirect impact on native loads ability to  
purchase from system tie lines - therefore, restricting existing access to multiple external markets



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

To illustrate this point, the transaction proposed by the Applicant includes the ability to import 100 percent of the Applicant’s energy and capacity needs. NV Energy does not have the ability to import 100 percent of the energy and capacity needs of its native load customers. This realization highlights a simple point: the need to evaluate 704B transactions and determine whether they improve or reduce resource adequacy. If a transaction improves resources adequacy within the Nevada balancing authority area, it adds to the supply of energy, capacity and ancillary services. If a transaction does not improve resource adequacy, it does not add to the “supply in this state” as contemplated by Chapter 704B.

**29. Q. WHAT CONCLUSION SHOULD THE COMMISSION REACH IF AN ELIGIBLE CUSTOMER IS PROPOSING TO PURCHASE THE SAME PRODUCT THAT NV ENERGY CAN PURCHASE ON THE WHOLESALE MARKET?**

A. When an eligible customer proposes to buy energy at indexed prices in a market where NV Energy “has the credit and operations ability to procure” energy in the same market without a substantial cost adder, the Commission should reach the logical conclusion that the transaction does not add energy or capacity (let alone ancillary services) to the “supply” in Nevada. Delivering energy from a regional market – where NV Energy has the credit and operations ability to buy energy and deliver that energy to Nevada – does not add any new supply to the state as contemplated by Chapter 704B.

**30. Q. PLEASE EXPLAIN WHY YOU CONCLUDE THAT A CUSTOMER WHO PROPOSES TO PURCHASE ENERGY PURSUANT TO A WSCC**

**SCHEDULE C CONTRACT IN A REGIONAL MARKET TO WHICH NV ENERGY ALREADY HAS ACCESS DOES NOT ADD TO THE “SUPPLY” OF ENERGY, CAPACITY OR ANCILLARY SERVICES “IN THIS STATE.”**

A. If a customer proposed to build a generation resource within the balancing authority area – as did Barrick Gold and Newmont – the transaction would add a supply to the state. If, on the other hand, the customer proposes to purchase energy in a regional market, with which NV Energy currently has an interconnection, then there is no new energy being added to the supply in this state unless NV Energy is incapable for some reason – e.g., its credit characteristics – of purchasing energy in that market. This very well could have been the case in 2001; however, the fact is that NV Energy has the operational ability and the financial characteristics to purchase energy in the same markets that the Applicant’s supplier, Tenaska plans to access.<sup>12</sup>

The Legislative findings make it clear that one important purpose of Chapter 704B was to either (a) result in the development of new generation resources within Nevada or (b) because of the specific initiative and financial attributes of an applicant, result in the delivery of lower-priced energy (than that which NV Energy is capable of purchase) to both the Applicant and NV Energy.<sup>13</sup> The Applicant has not shown that either of these objectives will be satisfied. Therefore, the Commission has two remedies I can identify: (1) It can require the Applicant to

---

<sup>12</sup> There are transactions in which a supplier might have control of a specific resource or might be proposing a transmission investment that would inject new supply into Nevada. The Applicant has not produced any evidence that Tenaska will be adding to the supply of low-priced energy in Nevada by dedicating a new resource – one not otherwise available to NV Energy – or bringing a new transmission investment that provides access to a new regional market.

<sup>13</sup> This is the reason why the Legislature included the 10-percent contract provision – so that applicants who entered into power purchase agreements would also deliver additional, lower-cost energy to Nevada, benefiting *all* of the residents of this state, not just the Applicant.

1 amend the application to address this issue and reset the 150-day timeframe to  
2 review the application or (2) deny the application as filed and require the Applicant  
3 to refile the application when it can provide the information to meet its burden of  
4 proof.

5  
6 **SECTION III: ALTERNATIVE ANALYSIS**

7 **31. Q. PLEASE SUMMARIZE THE COMPANY’S ALTERNATIVE ANALYSIS.**

8 A. The Company’s alternative analysis removes from the Base Tariff Energy Rate  
9 component of the impact fee “credits” associated with putative efficiency gains  
10 embedded in Staff’s Final analysis.

11  
12 **32. Q. WHY DID THE COMPANY REMOVE THE IMPACT FEE CREDITS?**

13 A. Staff’s directive requires the Company to remove all “placeholders” from the  
14 supply portfolio when conducting production cost modeling. This direction results  
15 in a supply plan that relies more heavily on wholesale markets for the purchase of  
16 energy and capacity than NV Energy’s approved energy supply plan and integrated  
17 resource planning philosophy. Removal of the credits provides a more accurate  
18 depiction of the Company’s energy supply plan an integrated resource plans  
19 approved by the Commission.

20  
21 **33. Q. IN ADDITION TO THE REMOVAL OF THE CREDITS, DOES THE**  
22 **COMPANY HAVE ANY OTHER RECOMMENDATIONS THE**  
23 **COMMISSION SHOULD IMPOSE ON THE APPLICANT’S IMPACT**  
24 **FEE?**

25 A. Yes. If the Commission concludes that the transaction will not be contrary to the  
26 public interest, it should assess an impact fee using a 10-year time period, compared  
27

1 to Staff's recommended six-year time period. In addition, the Commission should  
2 modify Staff's "lump sum" analysis by requiring the Applicant to pay a non-  
3 bypassable RBTER charge beginning in April 2029 for the remainder of the life of  
4 the RBTER contracts or, if the Commission uses the "non-bypassable charge  
5 methodology, to pay a the RBTER charge for the life of the underlying contracts.  
6

7 **34. Q. WHY SHOULD THE COMMISSION ASSESS A 10-YEAR IMPACT FEE?**

8 A. A large factor on determining the time period for the impact fee is the assumption  
9 that the Company will have steady load growth to off-set the impact of the  
10 Applicant no longer being a fully bundled customer. However, due to the  
11 Commission's recent order in Docket No. 18-06009, and a number of existing large  
12 customers expressing interest in filing an NRS 704B application, the steady load  
13 growth assumption must be revisited.  
14

15 **35. Q. WHY DID THE COMMISSION'S ORDER IN DOCKET NO. 18-06009**  
16 **MAKE THE COMPANY RECOMMEND A LONGER TIME PERIOD FOR**  
17 **THE IMPACT FEE ANALYSIS?**

18 A. The Commission's order in Docket No. 18-06009 specifically differentiated  
19 between incremental load (i.e. new customers) and existing load (i.e. existing  
20 customers) and who is required to pay an impact fee. Specifically, the Commission  
21 found that new businesses to Nevada do not have to pay an impact fee or non-  
22 bypassable charges for their incremental load because the Company did not  
23 specifically plan for that entity in its load forecast. The Company believes that this  
24 finding will impact its load growth in its large commercial and industrial class and  
25 that the previous assumptions of load growth to determine the impact fee time  
26 period need to be expanded.  
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**36. Q. IS IT YOUR TESTIMONY THE COMPANY WILL NOT EXPERIENCE ANY LOAD GROWTH?**

A. No. I am stating the fact that large commercial and industrial customer load growth has changed since the Commission adopted the six-year time period analysis for the impact fee. Although the Company will experience load growth, the rate is not nearly as large when the Commission first used the six-year time period. As a result, the assumptions made to justify the six-year time period have changed, which mean the time period should also change.

**37. Q. DOES THE APPLICANT’S CONSULTANT AGREE THAT DUE TO THE RECENT ORDERS FROM THE COMMISSION NOT ASSESSING IMPACT FEES ON NEW LOAD WILL IMPACT LOAD GROWTH?**

A. Yes. In Docket No. 18-06003, the Applicant’s consultant and witness recommended that the Company not include any new large commercial and industrial customers in its load forecast due to the Commission’s recent orders distinguishing incremental load from existing load.<sup>14</sup>

**38. Q. WHY SHOULD THE COMMISSION REQUIRE THE APPLICANT TO PAY THE RBTER CHARGES FOR THE REMAINDER OF THE LIFE OF THE REBER CONTRACTS?**

A. The RBTER is the portion of the Base Tariff Energy Rate that represents the costs for “out of the money” renewable energy power purchase agreements that the Company entered into to comply with Nevada’s Renewable Portfolio Standard.

---

<sup>14</sup> See Docket No. 18-06003, Prepared Direct Testimony of Bradley G. Mullins, p. 4

