BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Show Cause Proceeding to determine why Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy should not be administratively fined pursuant to NRS 703.380 and examining other potential remedies to address the funding shortfall for energy storage incentives. Docket No. 19-06050

At a general session of the Public Utilities Commission of Nevada, held at its offices on December 18, 2019.

PRESENT: Chairwoman Ann Pongracz
Commissioner C.J. Manthe
Commissioner Hayley Williamson
Assistant Commission Secretary Trisha Osborne

FINAL ORDER

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

I. INTRODUCTION

Consistent with ordering paragraph 2 of its June 27, 2019, Order in Docket No. 19-02001, the Public Utilities Commission of Nevada ("Commission") opened this docket for the purpose of requiring Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (together, "NV Energy") to appear and show cause why they should not be assessed administrative fines for failing to comply with the Commission's Orders in Docket Nos. 17-08021 and 18-02002 to set aside $10,000,000.00 for incentives for energy storage systems. This docket will also allow for examination of potential remedies to address the funding shortfall for energy storage incentives created by NV Energy's failure to set aside $10,000,000.00 as ordered. This matter has been designated as Docket No. 19-06050.

On December 10, 2019, NV Energy and the Regulatory Operations Staff of the Commission ("Staff") together ("the "Parties") filed a stipulation (the "Stipulation").

II. SUMMARY

The Commission accepts the Stipulation, which is attached hereto as Attachment 1.

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III. PROCEDURAL HISTORY

- On June 27, 2019, in Docket No. 19-02001, the Commission opened this Order to Show Cause Docket.

- On July 3, 2019, the Commission issued a Notice of Show-Cause Proceedings and Notice of Prehearing Conference.

- On September 3, 2019, the Presiding Officer held a prehearing conference. The Parties made appearances. The prehearing conference was continued to November 22, 2019.

- On November 22, 2019, the Presiding Officer held a continued prehearing conference. Staff and NV Energy made appearances and a procedural schedule was discussed.

- On November 25, 2019, the Commission issued a Procedural Order No. 1.

- On December 10, 2019, the Parties filed the Stipulation.

- On December 11, 2019, the Commission held a continued prehearing conference. The Parties made appearances and discussed the Stipulation. Pursuant to NAC 703.730, the Presiding Officer accepted Exhibit 1 into the record.

IV. STIPULATION

Parties’ Position

1. The Parties agree that NV Energy did not comply with the Commission’s Order in Docket No. 17-08021 and the Stipulation approved in Docket No. 18-02002 when it did not set aside the ordered amount of incentive funds for each of the two categories of energy storage programs. (Exhibit 1 at 4.) NV Energy agrees to the imposition of an administrative fine in the amount of $100,000.00 pursuant to NRS 703.380(1)(c) for the noncompliance. (Id.)

2. The Parties agree that as a compliance item, NV Energy agrees to submit payment in the amount of $100,000.00 to the Commission for deposit in the State General Fund within thirty days from the date of issuance of a Commission Order accepting this Stipulation. (Id.)

3. The Parties agree that they have been unable to formulate a resolution that would restore the incentive funding shortfall to the energy storage programs without violating NRS
However, the Parties note that demand for the two categories of energy storage programs has not been as robust as originally contemplated.\(^1\) \((Id.\ at\ 5)\). In presenting the Stipulation at the prehearing conference, Staff stated that the Stipulation makes no determination with respect to the prudence of the costs incurred and paid from the incentive programs. (December 11, 2019, Tr. at 13-14.) The Parties agree that the disposition of any remaining funds in the energy storage systems program will be addressed in the next annual plan filing by NV Energy. (Ex. 1 at 5.)

**Commission Discussion and Findings**

4. The Commission finds that the Stipulation complies with the requirements of NAC 703.845, in that it settles only issues relating to the instant proceeding and does not seek relief the Commission is not otherwise empowered to grant. The Stipulation is a consensus resolution of the issues pursuant to the Parties' negotiations and is a reasonable recommendation and resolution of the issues in this proceeding.

5. All arguments of the Parties raised in these proceedings not expressly addressed herein have been considered and either rejected or found to be non-essential for further discussion in this Order. Any agreements and recommendations contained in the Stipulation, but not expressly addressed herein, are either agreements by the Parties regarding matters non-essential to the disposition of this Docket, or are recommendations for specific findings that do not require delineation given the Commission’s acceptance of the Stipulation and corresponding approval of the Application.

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\(^1\) NV Energy confirmed at the prehearing conference it had not included a program budget for the energy storage programs in its initial filing in Docket No. 19-02001. (December 11, 2019, Tr. at 14-15.)
6. The Commission notes that the Stipulation does not change the Commission’s review of costs associated with the incentive programs in the annual Deferred Energy Accounting Adjustment filing.

THEREFORE, it is ORDERED:

1. The Stipulation filed by Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy and the Regulatory Operations Staff of the Commission, attached hereto as Attachment 1, is ACCEPTED.

2. The procedural schedule adopted in Procedural Order No. 1 is VACATED.

3. The Commission’s acceptance of the Stipulation does not constitute precedent regarding any legal or factual issue.

By the Commission,

[Signature]
ANN PONGRACZ, Chairwoman

[Signature]
C.J. MANTHE, Commissioner

[Signature]
HAYLEY WILLIAMSON
Commissioner and Presiding Officer

Attest: [Signature]
TRISHA OSBORNE,
Assistant Commission Secretary

Dated: Carson City, Nevada
12/19/19
(SEAL)
ATTACHMENT 1
BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Show Cause Proceeding to determine why Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy should not be administratively fined pursuant to NRS 703.380 and examining other potential remedies to address the funding shortfall for energy storage incentives.  

Docket No. 19-06050

STIPULATION

Pursuant to Nevada Administrative Code ("NAC") §§ 703.750 and 703.845, Nevada Power Company, d/b/a NV Energy ("Nevada Power") and Sierra Pacific Power Company d/b/a NV Energy ("Sierra" and together with Nevada Power, "NV Energy" or the "Companies") and the Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada ("Commission") (Staff together with Nevada Power and Sierra, the "Parties") hereby submit this Stipulation to the Commission as a resolution of all issues raised by this Show Cause Proceeding, and request and recommend that the Commission approve the Stipulation.

RECITALS

WHEREAS, Nevada Power is a public utility providing electric service in southern Nevada, pursuant to a certificate of public convenience and necessity issued by the Commission. Sierra is a public utility providing electric service in central and northern Nevada and gas service in northern Nevada, pursuant to certificates of public convenience and necessity issued by the Commission.

WHEREAS, Senate Bill 145 ("SB 145") from the 2017 Legislative Session of the Nevada Legislature amended Chapter 701B of the Nevada Revised Statutes ("NRS") stating that the Commission will adopt regulations to establish, as part of the Solar Energy Incentives Program ("Solar Program"), a program for the payment of incentives by the Companies for the installation of energy storage systems for residential and small commercial customers,
new construction, public entities, and any other category determined by the Commission
("small-scale systems"); and a program for large-scale energy storage systems that have a
nameplate capacity of at least 100 kilowatts but not more than 1,000 kilowatts ("large-scale
systems"). The statutes authorize payments of incentives for all programs under the Solar
Program up to $295,270,000. NRS 701B.005. However, the statutes prohibit the
Commission from authorizing the payment of any incentive if the total amount of incentives
under each category of energy storage systems exceeds $5,000,000. NRS 701B.223,
701B.226.

WHEREAS, on May 11, 2018, in Docket No. 17-08021, the Commission issued an
order requiring the Companies to "set aside $5,000,000 for each of the [two] categories of
storage systems listed [in the Order] from the other [renewable] programs to ensure that the
purpose of [Senate Bill 145 or] SB 145 is realized."\(^1\) The two categories include the small-
scale systems and large-scale energy storage systems.\(^2\)

WHEREAS, on May 29, 2018, a Stipulation was filed in Docket No. 18-02002
wherein the settling parties sought Commission approval of the parties' agreement regarding
the funds available for incentives under NRS 701B.005, which again quoted the
Commission's order in Docket No. 17-08021 requiring $5,000,000 be set aside for the small-
scale storage systems and $5,000,000 be set aside for the large-scale storage systems.

WHEREAS, NV Energy did not set aside the total $10,000,000 for the two categories
of energy storage systems.

WHEREAS, although NV Energy did not set aside the entire $10,000,000 for the
energy storage systems program, it continued to provide $4,712,012 of those monies to
customers within the Solar Program, which were incentives for solar systems on the
customer’s side of the meter.

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\(^1\) Docket No. 17-08021, Order at ¶ 13 (issued May 11, 2018).
\(^2\) Id. at ¶ 8(a)-(b).
WHEREAS, during the hearing in Docket No. 19-02001, it was discovered that NV Energy did not comply with the Commission's Order requiring it to set aside the $10,000,000 in incentives for the energy storage systems. Thereafter, the Commission issued an Order in Docket No. 19-02001 finding NV Energy in violation of the Commission's Order in Docket Nos. 17-08021 and 18-02002. Because incentive money that should have gone to the energy storage systems was paid out to customers to incentivize other programs, the Commission found that there is no longer adequate funding available to remedy the required set-aside, and further ordered the opening of the instant show cause proceeding. The Commission ordered NV Energy to "continue to fund the energy storage incentives with any funds still available after those set aside for the LISEP." The Commission further ordered that the show cause proceedings would "determine whether NV Energy should be assessed an administrative fine pursuant to NRS 703.380 for not complying with the Commission order, in addition to any other remedies to address the funding shortfall."

WHEREAS, according to NV Energy's Clean Energy Programs monthly report for October 2019, there remains $3,346,117 in unpaid incentive funds set aside by NV Energy that are still available for the energy storage systems through the end of the Solar Program. Additionally, $936,700 has either been paid to or reserved as incentives for customers for the energy storage systems. In June 2019, $5,287,988 was properly set aside by NV Energy out of the required $10,000,000 per the Commission's order. 

WHEREAS, on July 3, 2019, the Commission issued a Notice of Show Cause Proceeding and Notice of Prehearing Conference in the instant Docket.

WHEREAS, Staff participates as a matter of right pursuant to NRS 703.301.

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3 Docket No. 19-02001, Order at ¶ 96 (issued June 27, 2019).
4 Id. at ¶ 110.
5 As of June 2019, the Companies have paid $10,425 in incentives for energy storage systems program, has $646,458 reserved incentives and has $4,631,105 incentives available for the energy storage systems program. The Commission’s Order in Docket No. 19-02001 also required NV Energy to set aside $1,000,000 of the remaining available non-EVID funds on July 1, 2019 for LISEP. (Order at ¶ 106 (issued June 27, 2019).)
WHEREAS, on September 3, 2019, the Commission held a prehearing conference during which it continued the prehearing conference to November 22, 2019. The Parties were excused by the Presiding Officer from making appearances.

WHEREAS, on November 22, 2019, the Commission held a prehearing conference. Appearances were made by NV Energy and Staff. The Commission again continued the prehearing conference to December 9, 2019 to allow the Parties to finalize a settlement agreement resolving the issues in this Docket.

WHEREAS, the Parties have negotiated a mutually acceptable resolution of this matter, which is set forth in more detail below.

WHEREAS, the Parties agree that the public interest supports acceptance of this Stipulation as approval of this Stipulation provides an appropriate resolution of issues in this show cause proceeding.

NOW THEREFORE, in light of the foregoing considerations, the Parties agree and recommend the following:

AGREEMENT OF THE PARTIES

1. The Parties agree that NV Energy did not comply with the Commission’s Order in Docket No. 17-08021 and the Stipulation approved in Docket No. 18-02002 when it did not set aside the ordered amount of incentive funds for each of the two categories of energy storage programs. NV Energy agrees to the imposition of an administrative fine in the amount of $100,000 pursuant to NRS 703.380(1)(c) for the noncompliance.

2. As a compliance item, NV Energy agrees to submit payment in the amount of $100,000 to the Commission for deposit in the State General Fund within thirty (30) days from the date of issuance of a Commission Order accepting this Stipulation.

3. The Parties have been unable to formulate a resolution that would restore the incentive funding shortfall to the energy storage programs without violating NRS
However, the Parties also note that demand for the two categories of energy storage programs has not been as robust as originally contemplated. Therefore, the disposition of any remaining funds in the energy storage systems program will be addressed in the next annual plan filing by NV Energy.


a. This Stipulation shall not serve as precedent for the resolution of any issue in the future by the Commission.

b. In accordance with NAC § 703.845, this Stipulation settles only issues relating to the present proceeding and seeks relief that the Commission is empowered to grant.

c. This Stipulation is entered for the purpose of resolving all the issues in this Docket by and among the Parties as set forth above. This Stipulation is made upon the express understanding that it constitutes a negotiated settlement. The provisions of this Stipulation are not severable.

d. This Stipulation represents a compromise of the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this Docket or any other proceeding. Except as set forth herein, neither this Stipulation, nor its terms, nor the Commission’s acceptance or rejection of the terms contained in this Stipulation shall have any precedential effect in future proceedings.

e. This Stipulation may be executed in one or more counterparts, all of which together shall constitute the original executed document. This Stipulation may be executed by the Parties by electronic transmission, which signatures shall be as binding and effective as original signatures.

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6 NRS 701B.005 provides that the total incentives paid for all renewable energy incentive programs cannot exceed $295,270,000.
5. This Stipulation is entered by each Party as of the date entered below:

SIERRA PACIFIC POWER COMPANY
d/b/a NV ENERGY
NEVADA POWER COMPANY
d/b/a NV ENERGY

By: Tim Clausen, Esq.
Senior Attorney

12/10/19
Date

REGULATORY OPERATIONS STAFF
OF THE PUBLIC UTILITIES
COMMISSION OF NEVADA

By: Shelly Cassity, Esq.
Assistant Staff Counsel

12/9/19
Date