Agenda 15-23; Item No. 2D Draft Order for discussion at agenda

THIS ORDER IS NOT A FINAL ORDER AND MAY BE SUBSTANTIALLY REVISED PRIOR TO ENTRY OF A FINAL ORDER BY THE PUBLIC UTILITIES COMMISSION OF NEVADA

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Joint Application of Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy for approval of the cost recovery of the regulatory assets relating to the development and implementation of their Joint Natural Disaster Protection Plan.	)	Docket No. 23-03004

At a general session of the Public Utilities Commission of Nevada, held at its offices on August 28, 2023.

PRESENT: Chair Hayley Williamson
Commissioner Tammy Cordova
Assistant Commission Secretary Trisha Osborne

COMMISSIONER CORDOVA'S PROPOSED MODIFICATIONS TO THE [PROPOSED] ORDER
(Deleted material in ~~strikethrough~~; additional material in *bold italics*)

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VIII. RATE DESIGN / COST ALLOCATION

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Commission Discussion and Findings

205. The Commission ***finds that*** ~~approves~~ NV Energy's proposed allocation of costs, whereby capital investments are recovered from the service territory in which the capital investment is made, and OMAG costs are recovered from all NV Energy ratepayers ***is not supported by the evidentiary record. Although, t***~~T~~he public policy behind the NDPP has statewide implications, ***NV Energy did not provide sufficient evidence to warrant deviation from cost-of-service principles.***~~that necessitate at least partial socialization of the NDPP. The NDPP is managed as a statewide program for PSOM, IMT, cameras, weather stations, risk assessment software, and personnel.~~ NV Energy has a statewide footprint with shared facilities and joint dispatch; therefore, cost-causation for natural disasters is not a simple equation. ***Accordingly, in Docket No. 22-03006, the Commission approved NV Energy's requested cost-allocation, but ordered NV Energy in Directive 4 from the Modified Final Order in Docket No. 22-03006 to "...provide detailed analysis and supporting testimony with their 2023 [NDPP] Annual Cost Recovery filing addressing how to assess or quantify the socialized benefits associated with the [NDPP] costs." As discussed in more detail below in Section IX.(A.), the usefulness of the analysis provided in the instant docket in quantifying the socialized benefits is limited.***~~Furthermore, if there is a statewide cost associated with response and recovery related to a natural disaster, then costs associated with mitigating the risk of natural disasters would appropriately be recovered statewide.~~

206. SB 329 addresses the statewide significance of natural disasters, such as wildfires. On April 9, 2019, when introducing SB 329 to the Senate Committee on Growth and Infrastructure, Senator Brooks, the sponsor of SB 329 stated:

> Nevada is no stranger to natural disasters. From increased wildfires which have burned north to south to earthquakes…such events have often posed a danger to our public safety, our economy, and critical infrastructure such as the electric grid. Because of this reality, we owe it to ourselves to take proactive measures against natural disasters.

However, NRS 704.7983 does not dictate that the allocation of the costs incurred under the NPDD should deviate from cost-of-service.

207. In Nevada, NRS 704.110 outlines the general process for an electric utility to change its rates for service. As discussed further in exhibit 800, at pages 8-11, cost-of-service ratemaking is the standard in Nevada, "cost causer pays for the cost". (Exhibit 800 at 9.) Mr. Garrett further cites from the NARUC Electric Utility Cost Allocation Manual at footnote 6 of Exhibit 800, in explaining what cost-of-service principles are for electric ratemaking. As discussed by BCP, SNMC, and Wynn and SEA in their respective testimonies, cost recovery in Nevada is founded in principles of used and useful, cost-causation, and avoidance of cross-subsidization. In the absence of evidence warranting deviation from these principles, costs incurred by NPC must be allocated to NPC ratepayers and costs incurred by SPPC must be allocated to SPPC ratepayers.

208. The evidentiary record does include a general discussion of ~~The Legislature, in passing SB 329, clearly indicated that mitigating natural disasters is a statewide issue. The Commission finds that SB 329 protects the entire state from natural disasters and thus has statewide implications, whether the expenses are incurred in NPC's or SPPC's service territories. The Commission acknowledges that some parties deny the existence of a statewide societal benefit, arguing that any socialization of rates would be borne disproportionally based upon the aridification in SPPC's service territory. However, the Commission notes that NV Energy is unique in that~~ ***the fact that*** NPC and SPPC share an interrelated system wherein NV Energy's On-Line connects both its north and south service territories, and the two utilities engage in joint planning, even jointly dispatching their combined generation facilities. If a significant fire were to strike in the Lake Tahoe Basin, similar to the Camp Fire in California, there *c*~~w~~ould be ~~obvious and significant conceivable~~ consequences to all residents within Nevada, such as economic calamities, and, most importantly, consequences affecting public health and safety, including loss of life, resulting directly from fire and smoke and indirectly from NV Energy's inability to provide power to its customers ***or necessitating obtaining power at a higher cost***.

209. ***T***~~Furthermore, t~~he Commission has, in Docket Nos. 21-03004 and 22-03006, approved a single statewide rate for OMAG costs and a jurisdictional rate for capital costs. Along with NV Energy, Staff is recommending the same allocation of costs in this Docket. ***However, the Commission has never adopted a specific allocation of costs for costs incurred pursuant to NRS 704.7983,***~~NV Energy's calculations for the NDPP rate design in this instant Docket are based on the Commission approved cost allocation and Staff's hybrid rate methodology first presented in Docket No. 21-03004. Though~~ ***and*** the Commission is not bound by *stare decisis* and must not engage in *ad hoc* rulemaking.~~, it must also not make decisions that are arbitrary or capricious and unsupported by the record evidence. (NRS 703.373).~~ The Commission must set just and reasonable rates, supported by substantial evidence, to avoid an arbitrary or capricious outcome. ***NV Energy attempted to provide substantial evidence to warrant a deviation from cost-of-service principles in the testimony of Mr. Aguero; however, as the Commission discusses in Section IX.(A.) below, Mr. Aguero's testimony was theoretical and did not adequately assess or quantify the socialized benefits associated with NDPP costs.*** The Commission finds insufficient evidence supporting a departure from ***cost-of-service principles in this case***~~a compromise methodology that it adopted in Docket Nos. 21-03004 and 22-03006~~. ~~That methodology treated capital project costs as being caused by the customers~~

~~within the service territory where the capital projects were located, and the costs of those improvements were assigned to and recovered from the customers within the service territory; however, in recognizing the Legislature's policy that natural disaster prevention is a statewide issue, the Commission determined that it was appropriate to recover OMAG costs via a statewide rate. The OMAG cost-allocation methodology reflects the distinction between NDPP costs and the costs associated with utility service generally, where upgrades or improvements occur based on customer demand for service; with the NDPP, the "cost-causer" is not the customer within the specific service territory where the upgrade occurred but, rather, the Legislature, which through state policy directed the Commission to establish the NDPP process requiring NV Energy to spend beyond what would be required in the normal course of business. This compromise of competing principles was supported by the record in Docket Nos. 21-03004 and 22-03006, and it is supported by the underlying record now.~~

210. Finally, NNIEU raises a question regarding rate shock for SPPC customers if a deviation from cost-of-service principles is not approved. The Commission recognizes rate shock as a regulatory principle to be considered in setting just and reasonable rates. The BCP quantifies the rate impact of the costs requested for recovery in this case when allocated based on cost-of-service principles. As quantified in Exhibit 800 at page 24, an average SPPC residential customer's bill would increase by $1.45 per month if the NDPP costs in this case as requested were allocated based on cost-of-service principles. The Commission does not find a deviation from cost-of-service principles is warranted. Accordingly, the Commission orders that 100 percent of the costs incurred in SPPC's service territory will be recovered from SPPC's ratepayers and 100 percent of the costs incurred in NPC's service territory will be recovered from NPC's ratepayers. ~~NRS 704.130 provides that "1) [a]ll rates, charges,~~

~~classifications and joint rates fixed by the Commission are in force, and are prima facie lawful, from the date of the order until changed or modified by the Commission, or pursuant to [judicial review; and] 2) [a]ll regulations, practices and service prescribed by the Commission must be enforced and are prima facie reasonable unless suspended or found otherwise in [a judicial review] action…, or until changed or modified by the Commission itself upon satisfactory showing made, or by the public utility by filing a bond pursuant to NRS 703.374." Staff and NV Energy propose the same cost allocation methodology in this docket as the Commission approved in Docket No. 21-03004 and 22-03006. The Commission finds that the cost-allocation methodology proposed by Staff and NV Energy continues to be the most reasonable cost-allocation methodology supported by the evidence in this Docket and that the other proposed cost allocation methodologies lack the necessary evidentiary support to warrant a change to the current cost allocation, which is prima facie reasonable and results in prima facie lawful rates~~.