

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Joint Petition of the Regulatory Operations Staff and )  
Sierra Pacific Power Company d/b/a NV Energy )  
("Sierra") requesting the Commission accept a )  
stipulation regarding violations of NRS 704.865 by ) Docket No. 22-11025  
Sierra. )  
\_\_\_\_\_ )

At a general session of the Public Utilities Commission of Nevada, held at its offices on January 10, 2023.

PRESENT: Chair Hayley Williamson  
Commissioner C.J. Manthe  
Commissioner Tammy Cordova  
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 Regulatory Operations Staff ("Staff") of the Commission and Sierra Pacific Power Company d/b/a NV Energy ("Sierra" or "SPPC," together, the "Parties") filed a joint petition, designated as Docket No. 22-11025 ("Joint Petition"), requesting the Commission accept stipulation, attached hereto as Attachment A ("Stipulation"), regarding violations of Nevada Revised Statute ("NRS") 704.865 by SPPC.

**II. SUMMARY**

The Commission grants the Joint Petition and accepts the Stipulation.

**III. PROCEDURAL HISTORY**

- On November 17, 2022, the Parties filed the Joint Petition.
- The Parties filed the Joint Petition pursuant to the NRS and the Nevada Administrative Code ("NAC") Chapters 703 and 704, including, but not limited to, NRS 703.380 and NAC 703.540.
- On November 28, 2022, the Commission issued a Notice of Joint Petition.

- On January 5, 2023, the Commission's Office of General Counsel ("General Counsel") filed a Briefing Memorandum.
- On January 10, 2023, at a regularly scheduled utility agenda meeting, Agenda 01-23, the Commission adopted General Counsel's recommendation to grant the Joint Petition and accept the Stipulation.

#### IV. JOINT PETITION AND STIPULATION

##### Parties' Position

1. The Parties state that on April 11, 2022, SPPC commenced construction of a 40-foot, 12-inch, steel pipeline section at the Tracy Power Plant site to interconnect the new 16-inch Sierra South Reno Second Source high pressure distribution pipeline with TC Energy's Tuscarora Interstate Pipeline. (Stip. at 1.) The Parties further state that the pipeline section is designed to operate at the same pressure as the Tuscarora Interstate Pipeline (approximately 1000 PSI) which results in the pipeline operating at a 24.5 percent specified minimum yield strength ("SMYS") making it a transmission line pursuant to definitions contained in 49 Code of Federal Regulations §192.3. (*Id.*) The Parties note that construction of the 12-inch steel transmission pipeline was completed on or about May 1, 2022. (*Id.*)

2. The Parties state that the foregoing facts are not in dispute. (*See* Joint Petition and Stipulation.) The Parties agree that SPPC violated NRS 704.865, which states that a person shall not construct a utility facility in Nevada without first obtaining a permit to construct from the Commission. (*Id.* at 1.) Pursuant to NRS 704.860, the term "utility facility" includes gas transmission lines. (*Id.*) The Parties agree that SPPC did not obtain a permit to construct the pipeline section at the Tracy Power Plant and failed to comply with NRS 704.865. (*Id.*)

3. SPPC consents to the imposition of a civil penalty in the amount of \$10,000.00 for the violations of NRS 704.865, wherein it will deduct \$10,000.00 from the final cost of the South Reno Second Gas Source project and will not seek recovery of that \$10,000.00 deduction

from ratepayers. (*Id.* at 3.)

4. The Parties provide that, in reaching a mutually acceptable settlement and consistent with NRS 703.380(2), the follow factors were considered:

(a) Size of Business. SPPC is the largest utility in northern Nevada, with operating revenues exceeding \$900,000,000 annually.

(b) Nature of violation. A Utility Environmental Protection Act permit to construct is required prior to construction on any utility facility in Nevada. Here, SPPC failed to obtain such a permit. The gas pipeline constructed in this instance was approximately 40 feet in length and was constructed at the existing Tracy Power Plant site. There was little probability of environmental disturbance in this instance because the pipeline was located entirely on already disturbed land. As confirmed with SPPC, no other environmental permits would have been required for the construction of the pipeline.

(c) Willfulness of violation. SPPC failed to obtain the required permit to construct.

(d) Good faith in disclosure of violation. Staff approached SPPC regarding the potential violation after construction of the pipeline was completed. SPPC was cooperative and forthcoming.

(e) Good faith in coming into compliance and future compliance. The subject gas transmission is already in operation, so there is no compliance remaining. Staff believes that SPPC understands the importance of compliance with the Utility Environmental Protection Act for future projects.

(f) History of compliance. Staff is unaware of any recent similar violations by SPPC.

(g) Economic benefit of the violation. Staff is unaware of any material economic benefit of the violation.

(h) History of previous administrative fines. As stated above, Staff is unaware of any recent similar violations.

(i) Other Factors. Staff does not propose that any other factors be considered.

(*Id.* at 2.)

5. The Parties request that the Commission issue an order finding that SPPC did not comply with NRS 704.865. (Joint Petition at 2.)

**APPLICABLE LAW**

6. Pursuant NRS 703.380, the Commission may impose fines against persons who violate provisions of NRS Chapter 704. The instant Joint Petition and accompanying Stipulation seek to resolve issues which implicate certain provisions of NRS 704.865. Therefore, the Commission has jurisdiction over this matter.

7. NRS 704.865 states that a person shall not construct a utility facility in Nevada without first obtaining a permit to construct from the Commission. Pursuant to NRS 704.860, the term “utility facility” includes gas transmission lines.

8. The Parties seek the imposition of civil penalty pursuant to NRS 703.380(2). In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the Commission shall consider: (a) the appropriateness of the fine to the size of the business of the person charged; (b) the nature, circumstances and gravity of the violation, including, without limitation, the actual or potential financial impact and actual or potential impact on public health and safety of the violation; (c) whether the violation was willful; (d) the good faith of the person charged in detecting and voluntarily disclosing the violation to the Commission; (e) good faith of the person charged in attempting to achieve compliance after notification of the violation and to prevent the reoccurrence of similar violations in the future; (f) the history of compliance or noncompliance, including, without limitation, any repeated violations committed by the person charged; (g) the economic benefit of the violation, or lack thereof, to the person charged; (h) the amounts of administrative fines assessed previously by the Commission for similar violations, if any; and (i) such other factors as are necessary to determine the reasonableness of the administrative fine. (NRS 703.380(2)).

**Commission Discussion and Findings**

9. The Commission agrees with the Parties that SPPC violated NRS 704.865 in the incident detailed above. The Commission finds that the civil penalty in the amount of \$10,000.00, wherein SPPC will deduct \$10,000.00 from the final cost of the South Reno Second Gas Source project and will not seek recovery of that \$10,000.00 deduction from ratepayers, is appropriate and adequately considers list of factors subsumed under NRS 703.380(2).

10. The Commission orders, as a directive, that SPPC shall not seek recovery of the \$10,000.00 deduction from ratepayers in its next general rate case or other proceeding before the Commission.

11. The Commission finds that the Stipulation complies with the requirements of NAC 703.845 in that it settles issues related to the instant proceedings and does not seek relief that the Commission is not otherwise empowered to grant. The Commission finds that the Stipulation is a reasonable, consensus resolution of the issues in this proceeding. Therefore, the Commission accepts the Stipulation.

12. 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 give the Commission's acceptance of the Stipulation.

THEREFORE, it is ORDERED that:

1. The Joint Petition filed by Regulatory Operations Staff of the Commission and Sierra Pacific Power Company d/b/a NV Energy is granted.
2. The Stipulation filed the Regulatory Operations Staff of the Commission and Sierra Pacific Power Company d/b/a NV Energy, attached hereto as Attachment A, is accepted.
3. The Commission's approval of the Stipulation does not constitute precedent

regarding any legal or factual issue.

**Directive**


4. Sierra Pacific Power Company d/b/a NV Energy shall not seek recovery of the \$10,000.00 deduction from ratepayers of the costs of the incident in a future general rate case or other proceeding before the Public Utilities Commission of Nevada.

By the Commission,

  
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HAYLEY WILLIAMSON, Chair

  
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C.J. MANTHE, Commissioner

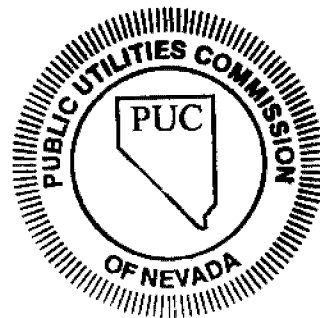
  
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TAMMY CORDOVA, Commissioner

Attest:   
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TRISHA OSBORNE  
Assistant Commission Secretary

Dated: Carson City, Nevada

11/13/23

(SEAL)



# Attachment A

1 **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

2 Joint Petition of the Regulatory Operations Staff and  
3 Sierra Pacific Power Company d/b/a NV Energy  
4 requesting the Commission accept a stipulation  
regarding a violation of the Utility Environmental  
Protection Act by Sierra Pacific Power Company. /

Docket No. 22-110 \_\_\_\_\_

5 **STIPULATION**

6 COMES NOW, the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission of  
7 Nevada (“Commission”) and Sierra Pacific Company d/b/a NV Energy (“Sierra,” and collectively with  
8 Staff, the “Parties”), pursuant to Nevada Revised Statutes (“NRS”) 703.380, and hereby submit this  
9 Stipulation to the Commission in full settlement of the matters at issue.

10 WHEREAS, on or about April 11, 2022, Sierra commenced construction of a 40 foot, 12 inch,  
11 steel pipeline section at the Tracy Power Plant site to interconnect the new 16-inch Sierra South Reno  
12 Second Source high pressure distribution pipeline with TC Energy’s Tuscarora Interstate Pipeline. The  
13 pipeline section is designed to operate at the same pressure as the Tuscarora Interstate Pipeline  
14 (approximately 1000 PSI) which results in the pipeline operating at a 24.5 percent specified minimum  
15 yield strength (“SMYS”) making it a transmission line pursuant to definitions contained in 49 C.F.R.  
16 §192.3. Construction of the 12-nch steel transmission pipeline was completed on or about May 1, 2022.

17 WHEREAS, pursuant to NRS 704.865, a person shall not construct a utility facility in Nevada  
18 without first obtaining a permit to construct from the Commission. Pursuant to NRS 704.860, the term  
19 “utility facility” includes gas transmission lines. Sierra did not obtain a permit to construct the pipeline  
20 section at the Tracy Power Plant and failed to comply with NRS 704.865.

21 WHEREAS, pursuant to NRS 703.380(2), in determining the amount of the penalty or the amount  
22 agreed upon in a settlement or compromise, the Commission shall consider:

- 23
- 24 (a) The appropriateness of the fine to the size of the business of the person charged;
  - 25 (b) The nature, circumstances and gravity of the violation, including, without limitation, the  
26 actual or potential financial impact and actual or potential impact on public health and safety  
of the violation;
  - 27 (c) Whether the violation was willful;
  - 28 (d) The good faith of the person charged in detecting and voluntarily disclosing the violation  
to the Commission;



- 1 (e) The good faith of the person charged in attempting to achieve compliance after  
2 notification of the violation and to prevent the reoccurrence of similar violations in the future;  
3 (f) The history of compliance or noncompliance, including, without limitation, any repeated  
4 violations committed by the person charged;  
5 (g) The economic benefit of the violation, or lack thereof, to the person charged;  
6 (h) The amounts of administrative fines assessed previously by the Commission for similar  
7 violations, if any; and  
8 (i) Such other factors as are necessary to determine the reasonableness of the administrative  
9 fine.

10 In reaching a settlement, the Parties considered the following:

11 (a) Size of Business. Sierra is the largest utility in northern Nevada, with operating revenues  
12 exceeding \$900,000,000 annually.

13 (b) Nature of violation. A Utility Environmental Protection Act permit to construct is required  
14 prior to construction on any utility facility in Nevada. In this instance, Sierra failed to  
15 obtain such a permit. The gas pipeline constructed in this instance was approximately 40  
16 feet in length and was constructed at the existing Tracy Power Plant site. There was little  
17 probability of environmental disturbance in this instance since the pipeline was located  
18 entirely on already disturbed land. As confirmed with Sierra, no other environmental  
19 permits would have been required for the construction of the pipeline.

20 (c) Willfulness of violation. Sierra failed to obtain the required permit to construct.

21 (d) Good faith in disclosure of violation. Staff approached Sierra regarding the potential violation  
22 after construction of the pipeline was completed. Sierra was cooperative and forthcoming.

23 (e) Good faith in coming into compliance and future compliance. The subject gas transmission is  
24 already in operation, so there is no compliance remaining. Staff believes that Sierra understands  
25 the importance of compliance with the Utility Environmental Protection Act for future projects.

26 (f) History of compliance. Staff is unaware of any recent similar violations by Sierra.

27 (g) Economic benefit of the violation. Staff is unaware of any material economic benefit of the  
28 violation.

(h) History of previous administrative fines. As stated above, Staff is unaware of any recent similar  
violations.

(i) Other Factors. Staff does not propose that any other factors be considered.

1 WHEREAS, the Parties negotiated a mutually acceptable settlement of this matter, which includes  
2 a civil penalty.

3 NOW THEREFORE, in light of the foregoing recitals and mutual agreement reflected in this Stipulation,  
4 the Parties agree and recommend that the Commission accept the following:

5 1. The Parties agree that Sierra did not comply with NRS 704.865.

6 2. The Parties agree that pursuant to NRS 703.380, Sierra will deduct \$10,000.00 from the  
7 final cost of the South Reno Second Gas Source project and will not seek recovery of that \$10,000.00  
8 deduction from ratepayers.

9 3. Neither this Stipulation, nor its terms, nor the Commission's acceptance of the recommendations  
10 contained in this Stipulation, shall have any precedential effect in any other proceeding before the Commission, a  
11 court of law, or any other state government regulatory body, nor shall it be admissible or otherwise described or  
12 used in any proceeding hereafter for any purpose.

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24 4. This Stipulation is made upon the express understanding that it constitutes a negotiated settlement.  
25 The provisions of this Stipulation are not severable. In the event this Stipulation is not accepted by the Commission  
26 without change, it shall be deemed withdrawn without  
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**REGULATORY OPERATIONS STAFF OF THE  
PUBLIC UTILITIES COMMISSION OF NEVADA**

By: /s/ Donald Lomoljo Dated: 11/17/22  
Donald Lomoljo  
Staff Counsel

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

By: /s/ Tim Clausen Dated: 11/17/22  
Tim Clausen  
Senior Attorney