

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Joint Petition of the Regulatory Operations Staff and)
Nevada Power Company d/b/a NV Energy (“Nevada)
Power”) requesting the Commission accept a)
stipulation regarding violations of Nevada’s One Call) Docket No. 22-05019
Law by Nevada Power.)
_____)

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on June 28, 2022.

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

On May 16, 2022, the Regulatory Operations Staff (“Staff”) of the Commission and Nevada Power (together, the “Parties”) filed with the Commission a joint petition, designated as Docket No. 22-05019 (“Joint Petition”), requesting that the Commission accept a stipulation, attached hereto as Attachment 1 (the “Stipulation”), regarding violations of Nevada’s One Call Law by Nevada Power.

II. SUMMARY

The Commission grants the Joint Petition and accepts the Stipulation.

III. PROCEDURAL HISTORY

- On May 16, 2022, the Parties filed the Joint Petition. The Parties filed the Joint Petition pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code (“NAC”) Chapters 703 and 704, including, but not limited to, NRS 455.170 and NAC 703.540.
- On May 20, 2022, the Commission issued a Notice of Joint Petition.
- On June 23, 2022, the Commission’s Office of General Counsel (“General Counsel”) filed a briefing memorandum.

- On June 28, 2022, at a regularly-scheduled agenda meeting, the Commission adopted General Counsel's recommendation to grant the Joint Petition and accept the Stipulation.

IV. JOIINT PETITION AND STIPULATION

1. The Parties provide that Staff investigated whether Nevada Power adhered to Nevada's One Call Law during the following incident:

On December 2, 2021, an excavator damaged an electric service line at 2551 South Fort Apache Road in Las Vegas, Nevada near the intersection of Sahara Avenue. The association for operators submitted a notification to Nevada Power pursuant to NRS 455.110 on November 23, 2021, for the excavation area at 2551 South Fort Apache Road in Las Vegas, Nevada. According to maps in the possession of Nevada Power, the company, through its line locating contractor US Infrastructure Company ("USIC"), should have marked the electric service line no later than 5:00 pm on November 29, 2021. However, Nevada Power's contractor responded to the notification on November 23, 2021, as "CLEAR - NO CONFLICT," indicating that Nevada Power did not have any subsurface installations in the area, and the electric service line was not marked. As a result of the line not being marked, on December 2, 2021, an excavator struck and damaged an electric service line in the excavation area.

In response to the incident, Nevada Power immediately sent personnel to the site of the damage to investigate. Even though Nevada Power's maps indicated that the service line was owned by Nevada Power, Nevada Power claims that the electric service line was a customer-owned service line based on a visual inspection of the line made by Nevada Power personnel. Thereafter, Nevada Power informed the owner of the Speedee Mart that the Speedee Mart was the owner of the electric service line and was responsible to repair the damaged lines. Because the incident resulted in the immediate loss of power at the Speedee Mart, the business owner was forced to take immediate action and submitted a claim through its property insurance carrier to rent a portable diesel electric generator so that its business operations could continue until it could make the necessary arrangements to repair the service line. Subsequently, the Speedee Mart submitted an oral complaint with the Division.

One week (on December 10, 2021) after the Speedee Mart was forced to operate its business through the use of the rented generator, Nevada Power acknowledged that, based on its own facilities maps, it should have marked the electric service line and immediately agreed to repair the electric service line to restore electric service to the Speedee Mart. That same day, the electric line was repaired and permanent electric service was restored to the Speedee Mart.

(Stip. at 1-2.)

2. The foregoing, relevant facts are not in dispute. The Parties agree that Nevada

Power violated NRS 455.130 and NAC 455.125 when its contractor did not mark an electric service line after the association for operators submitted notification to Nevada Power of the excavation area as described above. (*Id.* at 1-2, 4.) Nevada Power consents to the imposition of a civil penalty in the amount of \$23,500 for these violations of Nevada's One Call Law, which it agrees to pay within 30 days from the date of the issuance of a Commission order granting the Joint Petition and accepting the Stipulation. (*Id.* at 4-5.) Nevada Power further consents to resolve the claim submitted to it by the Speedee Mart's insurance carrier on January 19, 2022, for the amounts paid to the Speedee Mart pursuant to its insurance policy. (*Id.* at 5.) As a compliance item, Nevada Power shall file documentation showing that it resolved the claim submitted to it by the Speedee Mart's insurance carrier on January 19, 2022, for the amounts paid to the Speedee Mart pursuant to its insurance policy within thirty (30) days from the date of issuance of a Commission order accepting the Stipulation. (*Id.*) Nevada Power agrees to not seek recovery of any costs or penalties incurred in this matter in a future general rate case. (*Id.*)

3. The Parties provide that, in reaching a settlement, and consistent with NRS 455.170(5), the following factors were considered:

(1) the gravity of the violation, including the fact that Nevada Power failed to mark the electric service line in accordance with its own maps, which resulted in an excavator striking and damaging the electric service line at a gasoline filling station. As a result of the damage, the Speedee Mart experienced a power outage from December 2, 2021, to December 10, 2021. However, no injuries were caused by the violation.

(2) the good faith in attempting to achieve compliance with NRS 455.080 through 455.180, inclusive, both before and after the violation, including the fact that Nevada Power failed to mark an electric service line in accordance with its own maps, which resulted in an excavator striking and damaging the service line. Nevada Power immediately responded to the damage incident on December 2, 2021. Although Nevada Power did not immediately accept liability for the cost of repairing the damage to the line because it claims its personnel determined that the service line was a customer-owned facility, Nevada Power did eventually agree to repair the damaged service line when it was contacted by Staff;

(3) Nevada Power's history of previous violations of Nevada's One Call Law, including the fact that Nevada Power was previously assessed a civil penalty for violation of Chapter 455 of the NRS and NAC most recently in Docket No. 20-08005;

(4) the willfulness or negligence of the person charged with the violation, including the fact that Nevada Power failed to mark an electric service line in accordance with its own maps, which resulted in an excavator striking and damaging the service line. According to Nevada Power, the service line was installed in 1993 and was installed and owned by the customer. Nevada Power also claims the service line was mistakenly designated on its maps as a company-owned line. The line runs from a Nevada Power transformer to an electrical cabinet with an NV Energy sticker on it on the side of the Speedee Mart that housed the Nevada Power electric meter. According to Nevada Power, the panel is customer-owned and has the NV Energy sticker on it consistent with its company practice of placing stickers on customer-owned cabinets when they are energized. Staff was unable to confirm that the panel is customer-owned based on the records or responses provided by Nevada Power; however, Nevada Power has updated its maps to identify the service line as customer-owned equipment;

(5) the timeliness of the notification of the violations, including the fact that Staff was notified of the damage on or about December 8, 2021, when Nevada Power's line locating contractor called to inform Staff that the Speedee Mart owner would be filing a complaint with the Commission. On December 9, 2021, the complaint was made with the Division;

(6) the cooperation of the person charged with the violation, including the fact that Nevada Power cooperated with Staff's investigation, including responding to numerous formal data requests that were served on it by Staff. Nevada Power provided detailed information to Staff regarding the incident resulting from the violations of Nevada's One Call Law; and

(7) whether interruption of service occurred, including the fact that the Speedee Mart owner was out of electric service from December 2, 2021, to December 10, 2021.

(Id. at 3-4.)

Applicable Law

4. Pursuant to NRS 455.170, the Commission is charged with enforcing Nevada's One Call Law, which is subsumed under Chapters 455 of the NRS and NAC. The instant Joint Petition and accompanying Stipulation seek to resolve issues which implicate certain provisions of Nevada's One Call Law, specifically, NRS 455.130 and NAC 455.125. Therefore, the Commission has jurisdiction over this matter.

5. Pursuant to NRS 455.130 and NAC 455.125, if an operator receives notification from the association of operators pursuant to NRS 455.110, the operator is required to locate and identify the subsurface installations that are affected by the proposed excavation to the extent and degree of accuracy of the information available in the records of the operator within two (2) working days.

6. The Parties agree to the imposition of a civil penalty pursuant to NRS 455.170. Pursuant to NRS 455.170(4), “the propriety of any settlement or compromise concerning a penalty” for a violation of Nevada’s One Call Law shall be determined by the Commission after considering whether the amount agreed upon in the settlement is consistent with the required considerations listed under NRS 455.170(5).

Commission Discussion and Findings

7. The Commission agrees with the Parties and finds that Nevada Power violated Nevada’s One Call Law, specifically, NRS 455.130 and NAC 455.125, in the December 2, 2021, incident detailed above. The Commission further agrees with the Parties and finds that a settlement consisting of a civil penalty in the amount of \$23,500.00 is appropriate and adequately considers the factors detailed in NRS 455.170(5). Therefore, the Commission finds that the imposition of the Parties' recommended civil penalty is appropriate and that Nevada Power shall, as compliance items: 1) submit to the Commission payment of the \$23,500.00 civil penalty for deposit in the State General Fund within 30 days of the issuance of this Order; and 2) resolve and file documentation that it resolved the claim submitted to it by Speedee Mart’s insurance carrier on January 19, 2022, for the amounts paid to the Speedee Mart pursuant to its insurance policy within thirty (30) days from the date of issuance of the Commission’s order accepting the

Stipulation. As a directive, Nevada Power shall not seek recovery of any costs or penalties incurred in this matter in a future general rate case.

8. The Commission finds that the Stipulation complies with the requirements of NAC 703.845 in that it only settles issues related to the instant proceeding 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.

9. 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.

THEREFORE, it is ORDERED:

1. The Joint Petition filed by the Regulatory Operations Staff of the Commission and Nevada Power Company d/b/a NV Energy, designated as Docket No. 22-05019, is GRANTED.

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

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

Compliances

4. Within thirty (30) days of the date of the issuance of this Order, Nevada Power Company d/b/a NV Energy shall submit to the Public Utilities Commission of Nevada payment of a civil penalty in the amount of \$23,500.00 for deposit into the State General Fund.

5. Within thirty (30) days of the date of the issuance of this Order, Nevada Power Company d/b/a NV Energy shall resolve and file documentation that it resolved the claim submitted to it by the Speedee Mart's insurance carrier on January 19, 2022, for the amounts paid to the Speedee Mart pursuant to its insurance policy.

Directive

6. Nevada Power shall not seek recovery of any costs or penalties incurred in this matter in a future general rate case.

By the Commission,

HAYLEY WILLIAMSON
Chair

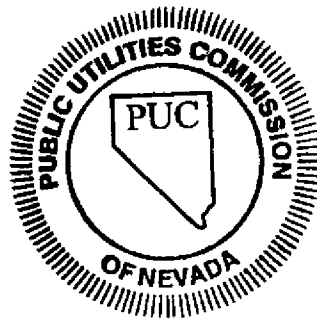
C.J. MANTHE
Commissioner

TAMMY CORDOVA
Commissioner

Attest:
TRISHA OSBORNE
Assistant Commission Secretary

Dated: Carson City, Nevada

7/7/22
(SEAL)



ATTACHMENT 1

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

2 Joint Petition of the Regulatory Operations Staff and
3 Nevada Power Company d/b/a NV Energy requesting
4 the Commission accept a stipulation regarding
violations of Chapter 455 of the Nevada Revised
Statutes and Nevada Administrative Code. _____ /

Docket No. 22-050 ____

6 **STIPULATION**

7 COME NOW, the Regulatory Operations Staff ("Staff") of the Public Utilities Commission
8 of Nevada ("Commission") and Nevada Power Company d/b/a NV Energy ("Nevada Power")
9 (collectively, the "Parties"), pursuant to Nevada Revised Statutes ("NRS") 455.170, and hereby
10 submit this Stipulation to the Commission in full settlement of the matters at issue.

11 WHEREAS, on December 2, 2021, an excavator damaged an electric service line at 2551
12 South Fort Apache Road in Las Vegas, Nevada near the intersection of Sahara Avenue. On
13 December 9, 2021, the owner of the Speedee Mart, Inc. ("Speedee Mart"), and owner of the property
14 on which the damage occurred, submitted an oral complaint with the Commission's Consumer
15 Complaint Resolution Division ("Division") regarding the damage incident. Thereafter, Staff's Gas
16 Pipeline Engineering Division investigated the incident for adherence with Chapter 455 of the NRS
17 and Nevada Administrative Code ("NAC").

18 WHEREAS, pursuant to NRS 455.130 and NAC 455.125, if an operator receives notification
19 from the association for operators pursuant to NRS 455.110, the operator is required to locate and
20 identify the subsurface installations that are affected by the proposed excavation to the extent and
21 degree of accuracy of the information available in the records of the operator within two (2) working
22 days.

23 WHEREAS, based upon information gathered through Staff's investigation, the association
24 for operators submitted a notification to Nevada Power pursuant to NRS 455.110 on November 23,
25 2021, for the excavation area at 2551 South Fort Apache Road in Las Vegas, Nevada. According to
26 the maps in possession of Nevada Power, which are company records, showing the line was owned
27 by Nevada Power, Nevada Power, through its line locating contractor US Infrastructure Company
28 ("USIC") should have marked the electric service line no later than 5:00 pm on November 29, 2021.

1 See also NRS 455.110, NRS 455.105. However, Nevada Power's contractor responded to the
2 notification on November 23, 2021, as "CLEAR – NO CONFLICT," indicating that Nevada Power
3 did not have any subsurface installations in the area, and the electric service line was not marked.

4 WHEREAS, as a result of the subsurface installations not being marked, on December 2,
5 2021, an excavator struck and damaged an electric service line in the excavation area. In response to
6 the damage incident, Nevada Power immediately sent personnel to the site of the damage to
7 investigate. Even though Nevada Power's maps, which are company records, indicated that the
8 service line was owned by Nevada Power, Nevada Power claims that the electric service line was a
9 customer-owned service line based on a visual inspection of the line made by Nevada Power
10 personnel. Thereafter, Nevada Power informed the owner of the Speedee Mart that the Speedee Mart
11 was the owner of the electric service line and was responsible to repair the damaged line.

12 WHEREAS, because the damage incident resulted in the immediate loss of power at the
13 Speedee Mart, the business owner was forced to take immediate action and submitted a claim through
14 its property insurance carrier to rent a portable diesel electric generator so that its business operations
15 could continue until it could make the necessary arrangements to repair the service line.

16 Subsequently, the Speedee Mart owner also submitted an oral complaint with the Division.

17 WHEREAS, after one week of the Speedee Mart operating its business through the use of the
18 diesel electric generator, on December 10, 2021, Nevada Power acknowledged that, based on its own
19 facilities maps, which are company records, it should have marked the electric service line. Nevada
20 Power agreed to immediately repair the electric service line to restore electric service to the Speedee
21 Mart. That same day, the electric line was repaired and permanent electric service was restored to the
22 Speedee Mart.

23 WHEREAS, pursuant to NRS 455.170(5), in determining the amount of the penalty or the
24 amount agreed upon in a settlement or compromise, the Commission shall consider:

- 25 (a) The gravity of the violation;
26 (b) The good faith of the person charged with the violation in
27 attempting to comply with the provisions of NRS 455.080 to 455.180,
28 inclusive, before and after the violation;
(c) Any history of previous violations of the provisions of NRS 455.080
to 455.180, inclusive, by the person charged with the violation;

1 The willfulness or negligence of the person charged with the violation in failing to
2 comply with the provisions of NRS 455.080 to 455.180, inclusive;
3 (e) The timeliness of notification of the violation to the Public Utilities
4 Commission of Nevada by the person charged with the violation;
5 (f) The cooperation of the person charged with the violation in the
6 investigation and repair of any damage caused by the violation;
7 and
8 (g) Whether an interruption of services occurred as a result of the
9 violation.

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

- 8 (a) Gravity of violation. Nevada Power failed to mark the electric service line in accordance
9 with its own maps, which are company records, which resulted in an excavator striking
10 and damaging the electric service line at a gasoline filling station. As a result of the
11 damage, the Speedee Mart experienced a power outage from December 2, 2021, to
12 December 10, 2021. Fortunately, no injuries were caused by the violation.
- 13 (b) Good faith in attempting to comply before/after violation. Nevada Power failed to mark
14 an electric service line in accordance with its own maps, which are company records,
15 which resulted in an excavator striking and damaging the service line. Nevada Power
16 immediately responded to the damage incident on December 2, 2021. Although
17 Nevada Power did not immediately accept liability for the cost of repairing the damage
18 to the line because it claims its personnel determined that the service was a customer
19 owned facility, Nevada Power did eventually agree to repair the damaged service line
20 when it was contacted by Staff on December 10, 2021.
- 21 (c) History of violations. Nevada Power was previously assessed a civil penalty for violation
22 of Chapter 455 of the NRS and NAC most recently in Docket No. 20-08005.
- 23 (d) Willfulness or negligence in failing to comply. Nevada Power failed to mark an electric
24 service line in accordance with its own maps, which are company records, which resulted
25 in an excavator striking and damaging the service line. According to Nevada Power, the
26 service line was installed in 1993 and the service line was installed and owned by the
27 customer. Nevada Power also claims the service line was mistakenly designated on
28 Nevada Power's maps, which are company records, as a company-owned line. The line

1 runs from a Nevada Power transformer to an electrical cabinet with an NV Energy sticker
2 on it on the side of the Speedee Mart that housed the Nevada Power electric meter.
3 According to Nevada Power, the panel is customer owned, and has an NV Energy sticker
4 on it consistent with the Company's practice of placing stickers on customer owned
5 cabinets when they are energized. Staff was unable to confirm that the panel is customer
6 owned based on the records or responses provided by Nevada Power. Nevertheless,
7 Nevada Power has updated its maps to identify the service line as customer owned
8 equipment.

9 (e) Timeliness of notification to Staff of violation. Staff was notified of the damage on or
10 about December 8, 2021, when Nevada Power's line locating contractor called to inform
11 Staff that the Speedee Mart owner would be filing a complaint with the Commission. On
12 December 9, 2021, a complaint was made by the owner of the Speedee Mart with the
13 Division.

14 (f) Cooperation in the investigation and repair of any damage. Nevada Power cooperated
15 with Staff's investigation, including responding to numerous formal data requests that
16 were served on it by Staff. Nevada Power provided detailed information to Staff regarding
17 the incident resulting from the violations of Chapter 455 of the NRS and NAC.

18 (g) Interruption of services. The Speedee Mart was out of electric service from December 2,
19 2021, to December 10, 2021.

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

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

- 24 1. The Parties agree that Nevada Power violated NRS 455.130 and NAC 455.125.
- 25 2. The Parties agree that pursuant to NRS 455.170, Nevada Power will pay a civil
26 penalty for the violations listed in Paragraph 1 above. The Parties agree that a settlement consisting
27 of a total civil penalty in the amount of \$23,500 is appropriate.

1 3. As a compliance item, Nevada Power agrees to submit payment in the total amount of
2 \$23,500 to the Commission for deposit in the State General Fund within thirty (30) days from the
3 date of issuance of the Commission's Order accepting this Stipulation.

4 4. Nevada Power agrees to resolve the claim submitted to it by the Speedee Mart's
5 insurance carrier on January 19, 2022, for the amounts paid to the Speedee Mart pursuant to its
6 insurance policy as a result of the damage suffered in the incident described above.

7 5. As a compliance item, Nevada Power shall file documentation showing that Nevada
8 Power has resolved the claim submitted to it by the Speedee Mart's insurance carrier on January 19,
9 2022, for the amounts paid to the Speedee Mart pursuant to its insurance policy within thirty (30)
10 days from the date of issuance of the Commission's Order accepting this Stipulation.

11 6. Nevada Power agrees to not seek recovery of any costs or penalties incurred in this
12 matter in a future general rate case.

13 7. Neither this Stipulation, nor its terms, nor the Commission's acceptance of the
14 recommendations contained in this Stipulation, shall have any precedential effect in any other
15 proceeding before the Commission, a court of law, or any other state government regulatory body.

16 8. This Stipulation is made upon the express understanding that it constitutes a
17 negotiated settlement. The provisions of this Stipulation are not severable. In the event this
18 Stipulation is not accepted by the Commission without change, it shall be deemed withdrawn
19 without prejudice to any claims or contentions which may have been made by any Party.

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

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

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This Stipulation is entered into by each Party as of the date entered below.

**REGULATORY OPERATIONS STAFF OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

By: /s/ Shelly Cassity Dated: 5/16/2022
Shelly Cassity
Assistant Staff Counsel

**NEVADA POWER COMPANY D/B/A
NV ENERGY**

By:  Dated: May 16, 2022
Michael Knox
Senior Attorney