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23-03004

Public Utilities Commission of Nevada
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June 26, 2023

Trisha Osborne
Assistant Commission Secretary
Public Utilities Commission of Nevada
1150 East William Street
Carson City, NV 89701

Re: Docket No. 23-03004

Dear Ms. Osborne:

Please accept for filing the Testimony of Patrick A. Morton filed on behalf of the Bureau of Consumer Protection in the above-referenced docket.

Should you have any questions regarding this filing, please contact me at (775) 684-1164.

Sincerely,

ERNEST FIGUEROA
Consumer Advocate

/s/ Michelle Newman
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MN;jw

cc: Parties of Record

1 **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**
2 **JOINT APPLICATION OF NEVADA POWER COMPANY D/B/A/ NV ENERGY AND**
3 **SIERRA PACIFIC POWER COMPANY D/B/A NV ENERGY FOR APPROVAL OF**
4 **THE COST RECOVERY OF THE REGULATORY ASSETS RELATING TO THE**
5 **DEVELOPMENT AND IMPLEMENTATION OF THEIR JOINT NATURAL**
6 **DISASTER PROTECTION PLAN**

7 **DOCKET NO. 23-03004**

8 **PREPARED DIRECT TESTIMONY OF**
9 **PATRICK A. MORTON, SENIOR ECONOMIST**
10 **ON BEHALF OF THE BUREAU OF CONSUMER PROTECTION**

11 **1. Q. PLEASE STATE YOUR NAME, ADDRESS, AND OCCUPATION.**

12 A. My name is Patrick A. Morton. My business address is the Nevada Attorney
13 General’s Bureau of Consumer Protection (“BCP”), 100 North Carson Street,
14 Carson City, Nevada, 89701. I am employed as a Senior Economist with the
15 BCP.

16 **2. Q. DOES ATTACHMENT PAM-1 SUMMARIZE YOUR QUALIFICATIONS?**

17 A. Yes, it does.

18 **3. Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

19 A. I offer testimony regarding the joint application of Sierra Pacific Power
20 Company’s (“SPPC” or “Sierra”) and Nevada Power Company’s (“NPC” or
21 “Nevada Power”), both doing business as NV Energy (collectively “utilities” or
22 “Companies”), cost recovery of the regulatory assets related to the natural
23 disaster protection plan (“NDPP”) resulting from the enactment of SB 329.¹
24 Specifically, I address the utilities’ proffered societal benefits analyses. This
25 analysis was required by Directive No. 4 in the Modified Order in Docket No.
26 22-03006. I provide BCP’s recommendations regarding the NDPP cost
27 recovery.

28 ¹ S.B. 329, 2019 Leg., 80th Sess. (Nev. 2019) (codified in NRS 704.7983).

1 **4. Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

2 A. I recommend that the Public Utilities Commission of Nevada (“Commission” or
3 “PUCN”):

4 1. Find that the attempted analysis and supporting testimony filed
5 pursuant to Directive No. 4 from Docket 22-03006 failed to assess
6 or quantify the socialized benefits associated with the NDPP
7 costs.

8 2. Find that the legal mandate of SB 329 – to mitigate disasters
9 caused by or exacerbated by the utilities’ infrastructure – has
10 imposed an additional production cost on the private good of
11 electricity. A positive externality has been created with spillover
12 benefits. Based on a Commission determination of the benefits,
13 the OMAG (operations maintenance administrative general) costs
14 being sought for recovery should be consistently treated as either:

15 (a) A Public Good, in which the OMAG costs receive no
16 carry;

17 (b) A Private Good, in which the OMAG costs be allocated
18 to the service territory which incurred the costs with carry
19 at the most recently authorized rate of return and where
20 assets, private property, and infrastructure are being
21 maintained and operated; or

22 (c) An Externality Good that shares the characteristics of
23 both a Public and Private good, in which the same carry as
24 used for customer deposits under NRS 704.655 is applied.

25 3. Waive Section 13(2)(d) of LCB File No. R085-19 to accommodate
26 for options in the above recommendation 2, if necessary.

1 **I. BACKGROUND**

2
3 **5. Q. BRIEFLY SUMMARIZE SB 329 FROM THE 80TH SESSION OF THE**
4 **NEVADA LEGISLATURE, CODIFIED IN NRS 704.7983.**

5 A. This senate bill involves the reduction or mitigation of risk of natural disasters
6 from electrical infrastructure and was sponsored by Senator Chris Brooks. This
7 bill requires the Companies to file an NDPP triennially that contains
8 information, procedures and protocols relating to the efforts of the electric
9 utilities to prevent or respond to wildfires or other natural disasters.

10 **6. Q. CAN YOU PLEASE SUMMARIZE DIRECTIVE NO. 4 IN THE**
11 **MODIFIED ORDER FROM DOCKET NO. 22-03006.**

12 A. The Commission directed the utilities to provide a detailed analysis and
13 supporting testimony in their 2023 NDPP cost recovery docket addressing how
14 to assess or quantify the socialized benefits associated with the NDPP costs. As
15 stated in the Order, a failure to provide substantial evidence for the value or
16 benefits of the components of the program may result in a different just and
17 reasonable cost allocation.² Furthermore, the Commission's Order from that
18 docket states that the NDPP is in the early stages and further refinements are
19 necessary in the future to safeguard against inequities.³ Hence, the purpose of
20 my testimony.

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26 ² Docket 22-03006, Modified Final Order, October 12, 2022, page 57, paragraph 151.

27 ³ *Id.* at page 57, paragraph 152.

1 **II. SOCIETAL BENEFITS ANALYSIS AND SUPPORTING TESTIMONY**
2 **PROVIDED BY NPC AND SPPC**

3
4 **7. Q. PER DIRECTIVE NO. 4, DID THE UTILITIES PROVIDE A DETAILED**
5 **ANALYSIS AND SUPPORTING TESTIMONY WITH THEIR 2023 NDPP**
6 **ADDRESSING HOW TO ASSESS OR QUANTIFY THE SOCIALIZED**
7 **BENEFITS ASSOCIATED WITH THE NDPP?**

8 A. The utilities attempted an analysis and did provide supporting testimony.
9 However, the utilities failed to address how to assess or quantify the socialized
10 benefits associated with NDPP costs. In fact, what was provided is overly
11 simplistic, and the Companies seem to rely on key passages from the previous
12 Commission Order for justification for the same cost allocation. The two
13 witnesses providing testimony regarding the societal benefits are Mr. Jesse
14 Murray, the Vice President (“VP”), Electric Delivery and Natural Disaster
15 Protection and Mr. Jeremy Aguero of the companies-hired consulting firm,
16 Applied Analysis.

17 **8. Q. CAN YOU PLEASE SUMMARIZE THE TESTIMONY OF THE VP OF**
18 **ELECTRIC DELIVERY AND NATURAL DISASTER PROTECTION?**

19 A. The VP starts by summarizing SB 329 and the Commission Order from 22-
20 03006.⁴ Mr. Murray states a natural disaster in Nevada will have an impact on
21 tourism, tax revenues, jobs and healthcare cost. Further, he asserts his
22 testimony is supported by Mr. Aguero’s testimony, which includes an analysis
23 of a breakeven point regarding Gross Domestic Product, state property taxes
24 and tourism revenue.⁵ Mr. Murray continues by reciting back to the
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26 ⁴ Q&A 8 of Murray Direct testimony.

27 ⁵ *Id.* at Q&A 9.

1 Commission its own Order on the interconnectivity of the two service territories
2 and discusses examples of other jointly managed NDPP programs.⁶
3 Subsequently, the VP provides examples of natural disasters spilling into
4 another utility's service territory and the recovery from natural disasters
5 coming from revenue sources outside the service territory.⁷ In his testimony,
6 the VP makes the following statement: "*If there would be a statewide cost*
7 *associated with recovery from a natural disaster, then costs associated with*
8 *mitigating the risk of natural disasters would appropriately be recovered*
9 *statewide.*"⁸ Mr. Murray agrees with the Commission's approach to allow for
10 partial socialization of the NDPP program via a single statewide rate⁹ for all
11 OMAG costs and a jurisdictional rate for capital costs.¹⁰ Furthermore, the VP
12 incorrectly states that Mr. Agüero of Applied Analysis has quantified the
13 potential impact of a natural disaster in Nevada and has shown that there is a
14 "clear" precedent for broadly distributing costs of services deemed essential for
15 Nevadans.¹¹ Lastly, he contends that the NDPP is a service deemed essential
16 for Nevadans since it was approved and affirmed by the legislature, and
17 therefore a statewide rate is appropriate.¹² He concludes that the primary goal
18 of this NDPP program is to protect public safety and preserve Nevada's
19 environmental and natural resources.¹³
20

21 ⁶ *Id.* at Q&A 10 through 12.

22 ⁷ *Id.* at Q&A 13 through 14.

23 ⁸ *Id.* at Q&A 13 (emphasis added).

24 ⁹ Statewide Rate (also known as the Holding Company Rate).

25 ¹⁰ Q&A 15 of Murray Direct testimony.

26 ¹¹ *Id.* at Q&A 16.

27 ¹² *Id.*

28 ¹³ *Id.* at Q&A 17.

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9. Q. CAN YOU PLEASE SUMMARIZE THE TESTIMONY OF THE HIRED CONSULTANT, APPLIED ANALYSIS?

A. Mr. Aguero of Applied Analysis discusses the state of Nevada’s government fiscal system and how the state redistributes gaming fees, consolidated taxes, property taxes, and net mineral proceed taxes despite the source of collection (county, urban/nonurban).¹⁴ Mr. Aguero makes an unsubstantiated justification that if a state government can redistribute taxes, there is “clear” precedent for a private entity, which earns profits and carry, to do the same.

Thereafter, Mr. Aguero provides a summary of SB 329, discusses the type of work performed by the NDPP, and provides the spend-to-date amount and anticipated spend amount for the NDPP.¹⁵ The testimony provides Nevada specific statistics regarding residents, business numbers, Gross Domestic Product, property taxes, and tourism.¹⁶ Subsequently, Mr. Aguero provides disaster impact statistics on disasters outside of Nevada.¹⁷ Finally, Mr. Aguero discusses how natural disasters could have an impact on tourism.¹⁸

In his testimony, Mr. Aguero attempts to provide an analysis pursuant to Directive 4 of Docket 22-03006, but ultimately fails. In his attempt, he endeavors to takes each metric of Gross Domestic Product, property values, and tourism, and divide them by the total NDPP spend of \$1.7 billion to quantify

¹⁴ Q&A 8 of Aguero Direct Testimony.

¹⁵ *Id.* at Q&A 11.

¹⁶ *Id.* at Q&A 12.

¹⁷ *Id.* at Q&A 13.

¹⁸ *Id.* at Q&A 14.

1 the NDPP benefits by finding a breakeven point.¹⁹ Subsequently, Mr. Aguero
2 further develops this analysis to arrive at a return-on-investment calculation.²⁰
3 Mr. Aguero concludes with the following summary: *“Thus, if Nevada seeks as a
4 matter of policy to protect people, property and the environment from potential
5 disasters, it will likely need to treat disaster mitigation in a manner similar to
6 how the state treats education, public safety, transportation or healthcare by
7 distributing the cost statewide or through superregional cost recovery zones.”*²¹
8

9 **III. BCP REPLY**

10
11 **10. Q. PLEASE PROVIDE YOUR THOUGHTS REGARDING THE APPLIED**
12 **ANALYSIS QUANTIFICATION OF THE SOCIETAL BENEFITS.**

13 A. The analysis provided by the utilities to the Commission is questionable and is
14 better characterized as an “attempted” analysis that ultimately falls short of
15 the Commission’s requirements. This attempted analysis takes each individual
16 metric (Gross Domestic Product, property values, and tourism) and divides
17 them by the total NDPP spend of \$1.7 billion to quantify the potential NDPP
18 benefits by finding a breakeven point. Dividing Nevada’s Gross Domestic
19 Product (GDP) by the utilities’ Natural Disaster Protection Plan Investment
20 would give you a ratio that compares the size of the state’s economy to the
21 amount of investment made by the utilities towards natural disaster
22 protection. Dividing Nevada’s total value of property by the utilities’ Natural
23 Disaster Protection Plan Investment would give you a ratio that indicates the
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25 ¹⁹ *Id.* at Q&A 15.

26 ²⁰ *Id.*

27 ²¹ *Id.* at Q&A 8 (emphasis added).

1 relative value of the property in comparison to the utilities' investment in
2 natural disaster protection. Similarly, dividing Nevada's Visitor Spending by a
3 utilities' Natural Disaster Protection Plan Investment would give you a ratio
4 that represents the relationship between two distinct variables.

5
6 The ratios, alone, are unhelpful and do not amount to reliable, substantial
7 evidence demonstrating the value and benefit of the components of NDPP.
8 These ratios lack the reduced likelihood of loss.²² The ratios alone cannot
9 quantify the negative outcomes (benefits) that have been avoided due to the
10 implementation of the plan. Nor are the ratios a definitive measure of the
11 **effectiveness** or **value** of those efforts. To say the ratios, in and of themselves,
12 quantify the negative outcomes avoided (viewed as benefits) is far too
13 simplistic. Mr. Aguero builds upon this flawed analysis as the basis for his
14 subsequent and deficient ROI analysis.

15 **11. Q. WHY IS THIS RATIO AS A BREAKEVEN POINT TOO SIMPLISTIC?**

16 The oversimplicity of this approach is best explained by the following example:
17 I decided to run a media campaign to create awareness of properly
18 extinguishing a campfire before leaving the campsite. This involves production
19 costs and significant expenditures for media placement in print, online, radio,
20 and television over a year long period. I could argue my campaign would
21 protect property, Gross Domestic Product, and tourism. I create ratios of Gross
22 Domestic Product (and the other metrics) by my media campaign cost. The
23 more I spend, the higher the negative outcome avoidance (benefits), supposedly.
24 My ad campaign does not tell me if my treatment (awareness) resulted in a

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26 ²² The reduced likelihood of loss needs to look at the probability of loss occurring with no treatment against the
27 probability of loss occurring with treatment.

1 reduction in likelihood of experiencing the negative outcome, nor does it
2 quantify it. What the ratio is telling me is that the spend on my media
3 campaign was equivalent to a certain percentage of Gross Domestic Product.
4 To repeat, the ratios do not demonstrate meaningful information such as the
5 effectiveness in avoiding a negative outcome, the value of the mitigation effort
6 or if spending was appropriate based upon factors such as severity and
7 frequency of the disaster.

8 **12. Q. PLEASE PROVIDE YOUR INITIAL THOUGHTS REGARDING THE**
9 **SPPC AND NPC TESTIMONY ON SOCIETAL BENEFITS.**

10 A. The utilities' proffered testimony is perplexing to say the least. The testimony
11 is one-sided and ignores the fact that the utilities are receiving significant
12 benefits as private companies. The consulting firm provides anecdotal
13 statistics, observations, and examples of redistribution for taxes. The
14 consultant then asserts that the concept of tax redistribution is the "clear"
15 precedent. The consultant's "clear" precedent is gleaned from the concept of tax
16 redistribution by government entities – entities that are not in business to
17 make money. However, this redistribution argument fails to distinguish the
18 critical difference between a government (non-profit) entity and a private (for-
19 profit) entity. Mr. Aguero ultimately defers to the Commission regarding
20 whether NDPP warrants the redistribution of costs. In totality, it may appear
21 that the utilities' efforts still rely upon the passages and momentum of the
22 previous Commission Order.

23 **13. Q. COULD YOU PLEASE CATEGORIZE AND PROVIDE A DISTINCTION**
24 **BETWEEN THE ECONOMIC GOODS?**

25 A. In economics, it is well known that one can classify a good or service using the
26 framework of excludability and rivalry. Excludable means access to the good

1 can be limited. Rivalrous means consumption by one party reduces the ability
2 of another party to consume it or consumption by one party prevents
3 simultaneous consumption by the other party. Private goods are both
4 excludable and rivalrous. Examples of private goods include both electricity and
5 clothing. Public goods are non-excludable and non-rivalrous. Examples of public
6 goods include national defense and clean air.

7 **14. Q. PLEASE EXPLAIN THE CIRCUMSTANCES REGARDING GOODS IN**
8 **THE NDPP.**

9 A. The utilities are owned by private investors and operated for profit. The private
10 good that the utilities produce for profit is electricity. This private good is both
11 excludable and rivalrous. To consume the electricity, you must be a customer
12 with an account, have the proper equipment in place, and hooked up for
13 service. These things act as a fence to exclude non-customers, thereby
14 satisfying the excludability element of a private good. The utilities' production
15 of the electricity is also rivalrous because consumption by one party reduces the
16 availability of electricity for another party, thereby satisfying the rivalrous
17 element of a private good.

18
19 The electric utilities' production process through which it provides electricity²³
20 has the potential to cause a disaster due to their electric infrastructure. SB 329
21 requires investor-owned utilities to mitigate or reduce the potential of disasters
22 from incidents involving electrical infrastructure. As a result of this mandate,
23 an additional cost was added to the electric utilities' production process.²⁴

24
25
26 ²³ This includes purchased Power Agreements ("PPA").

27 ²⁴ NRS 704.7983(6).

1 However, the reduction of potential disasters and the mitigation of risks to
2 people, property, and the environment have positive effects on the broader
3 public beyond the direct beneficiaries of the electricity service, which is known
4 as a positive production externality. A positive production externality occurs
5 when the production of a good or service generates benefits for people beyond
6 those who are directly involved in the production or consumption of that good
7 or service. These benefits are called spillover benefits. Legislative-mandated
8 disaster mitigation measures are not a direct result of producing electricity, but
9 rather a secondary benefit that arises from the utilities' efforts to reduce the
10 risk of disasters caused or exacerbated by its electrical infrastructure.

11 **15. Q. CAN YOU PROVIDE EXAMPLES OF PRIVATE GOODS WITH A**
12 **POSITIVE EXTERNALITY?**

13 **A.** For example, the production of renewable energy sources such as solar panels
14 or wind turbines are private goods that can generate spillover benefits in the
15 form of reduced pollution and greenhouse gas emissions, which benefit society
16 as a whole. The reduction of pollution is a public good because it is non-
17 excludable and non-rivalrous in consumption.

18
19 A common example in economics is the beekeeper who produces honey. The
20 beekeeper's production process involves the pollination of nearby crops, such as
21 apple orchards, which results in increased yields for the apple farmers. The
22 increased yields are a positive externality, as the surrounding apple farmers
23 benefit from the beekeeper's production of honey without paying for it. In this
24 case, the positive externality of the beekeeper's production creates a public good
25 in the form of the increased yields for the apple farmers. This is because the
26 increased yields are non-excludable, meaning that the apple farmers cannot be

1 prevented from enjoying the benefits, and non-rivalrous, meaning that the
2 increased yields do not diminish the benefits available to others.

3
4 Therefore, in some cases, a positive production externality can create a public
5 good if the benefits are large enough, widespread enough and meet the criteria
6 of being non-excludable and non-rivalrous.

7 **16. Q. IN THE NDPP, DID THIS POSITIVE PRODUCTION EXTERNALITY**
8 **CREATE A PUBLIC GOOD BASED ON THE BENEFITS?**

9 A. It is a more complicated situation. The utilities produce electricity as a private
10 good and are required by state law to prevent or reduce disasters as an
11 additional obligation. By preventing or reducing disasters related to utilities'
12 infrastructure, the public benefits in the areas of public health, safety, and
13 property, as well as the environment and local economies. On the other hand,
14 the utilities benefit and financially profit from producing electricity **and** from
15 disaster mitigation.

16
17 The utilities have a financial incentive to invest in disaster mitigation
18 measures that reduce their liability and protect their private property, assets
19 and infrastructure to ensure their profitability. The electrical infrastructure is
20 an extremely valuable asset that generates revenue. As such, disaster
21 mitigation can be considered a private good because it directly benefits the
22 utilities by reducing the risk of disaster damage to their infrastructure (such as
23 power lines, substations, and other equipment). It is only natural that the
24 utilities are incentivized to avoid expensive repairs and revenue loss. In fact,
25 the utilities have an obligation to their shareholders to maximize profit by
26 minimizing costs and revenue loss. To conclude, the utilities infrastructures are

1 privately controlled property. **OMAG costs are for the purpose of running**
2 **and maintaining this property.** More importantly, the utilities are also
3 earning a profit from new capital investments and carry on their OMAG
4 expenses related to disaster mitigation.

5
6 So, if firefighters are lodged during a disaster mitigating event on behalf of the
7 utilities as an OMAG expense, it is not a dollar for dollar pass through in the
8 NDPP, but instead carry is applied based on the weighted cost of capital for
9 each separate utility.²⁵ Food purchased as part of the NDPP receives carry.
10 Salaries receive carry. This is contrary to the stated concept, “The PUCN does
11 not allow electric utilities to earn a profit on fuel and purchased power costs
12 (such as renewable energy power purchase agreements) or on operations and
13 maintenance expenses (such as employee salaries).”²⁶ OMAG expenses, such as
14 labor, do not earn carry in the revenue requirement of a general rate nor should
15 they in the NDPP.

16
17 The Companies’ definition of incremental appears to be about **placement** and
18 is, consequently, problematic. As an example on labor, a salaried individual is a
19 new hire for NDPP purposes. This person is new and, therefore, incremental.
20 Such a characterization is acceptable. However, when the next GRC comes this
21 new hire should be absorbed into the GRC and should no longer be charging
22 labor to the NDPP regulatory asset that receives carry. Currently, under the
23 Companies current business practices, as long as this person is not charging
24 their labor to the utility’s respective GRC, then it is fine that the salary plus

25 ²⁵ This is excluding gross up for taxes on OMAG.

26 ²⁶ PUBLIC UTILITIES COMMISSION OF NEVADA, PUBLIC UTILITIES COMMISSION OF NEVADA 2023 BIENNIAL REPORT,
27 July 1, 2020 - June 30, 2022, at 9.

1 carry is being charged and recovered in the NDPP (placement - as long as it is
2 not in both the NDPP and GRC). Given that the companies have changed their
3 GRC filing timelines at the legislature in the most recent session, there should
4 be minimized regulatory lag in moving the charged labor as soon as possible to
5 avoid carry on salaries.

6 These significant, yet self-serving, benefits that the utilities are receiving are of
7 course not being highlighted in their proffered testimony. There are two sides
8 to the benefits that must be balanced by the Commission. One would be remiss
9 to ignore these facts. For all the above-mentioned reasons, it is complicated.
10

11 IV. RECOMMENDATIONS

12
13 **17. Q. PLEASE PROVIDE RECOMMENDATIONS TO CLARIFY THIS**
14 **SOCIETAL ISSUE SURROUNDING THE NDPP.**

15 A. I will offer recommendations regarding how the Commission should treat a
16 private good, a public good, or an externality good that shares both private and
17 public good characteristics. Overall, investor-owned utility wildfire mitigation
18 can be seen as a complex issue that involves both public and private interests
19 which must be weighed. SB329 is limited in that it mandates only the following
20 in regard to cost recovery:

21
22 *“All prudent and reasonable expenditures made by an*
23 *electric utility to develop and implement a plan submitted*
24 *pursuant to subsection 1 must be recovered as a separate*
25 *monthly rate charged to the customers of the electric utility.*
26 *The electric utility shall designate the amount charged to*

1 disaster mitigation efforts reduce the likelihood of disasters **to the utilities'**
2 **individual infrastructure**, which means that these benefits are only
3 captured by the individual utilities. This is understood given that they are
4 monopolies; being the sole de facto receiver of these benefits interferes with
5 another's ability to receive these benefits. Additionally, the utilities can control
6 the level of disaster mitigation it chooses to propose, which further supports the
7 characterization of the measures as a private good. This disaster mitigation is
8 not being produced for free. The utilities are producing the private good of
9 disaster mitigation because ratepayers do have to pay for this, allowing the
10 utilities to sell the disaster mitigation good for a profit/carry.

11
12 Further, earnings from disaster mitigation are excludable from the public. If
13 the Commission views disaster mitigation more as a private good, which is
14 supported by the reasons articulated above, the BCP recommends that OMAG
15 expenses with carry be assigned to the service territory (that is at higher risk
16 for disasters) which incurred the cost. This assignment appropriately avoids
17 dulling the price signal related to cost. Ratepayers in each service territory can
18 now assign value and a willingness to pay (a fundamental concept for free
19 markets) for the disaster mitigation efforts.

20 **19. Q. PLEASE PROVIDE YOUR OMAG COST RECOVERY**
21 **RECOMMENDATION FOR THE PUBLIC GOOD.**

22 A. It is possible the positive production externality of a private good has led to the
23 creation of a public good (non-excludable and non-rivalrous) due to the benefits
24 being large enough and widespread enough. It is evident that the utilities
25 certainly believe this to be the case in the context of the NDPP. VP Murray
26 states the primary goal of this NDPP program is to protect public safety and
27

1 preserve Nevada’s environmental and natural resources.²⁸ The utilities have
2 remained consistent throughout the years regarding their position that NDPP
3 is a public good.²⁹ In the prepared rebuttal testimony of John (Jack) McGinley,
4 he stated the following:

5 *“The main attributes of the NDPP, the protection of natural*
6 *resources and human life, transcend the concept of cost*
7 *causation. Protection of natural resources is considered a*
8 *public good, and is not typically subject to the concept of cost*
9 *causation. A public good is defined as a good or service from*
10 *which people may benefit from and also cannot be excluded*
11 *from, regardless of if they have paid for it. Correspondingly,*
12 *a public good can be used simultaneously by more than one*
13 *person. Due to these characteristics, costs of public goods are*
14 *appropriately socialized rather than assigned individually.*
15 *As Nevadans travel throughout the state, they utilize and*
16 *benefit from various natural resources, regardless if they*
17 *paid for them directly, and their enjoyment of the benefits of*
18 *the protection of natural resources does not prevent others*
19 *from enjoying the same benefits.”³⁰*

20
21 One thing is clear – the utilities are legally mandated to mitigate disasters that
22 can result from its infrastructure. It has a responsibility to do so regardless of
23 whether it can make a **profit/carry** from it or not. Mitigating disasters that
24

25 ²⁸ Q&A 17 of Murray Direct Testimony.

26 ²⁹ Docket 20-02031, Rebuttal Testimony, McGinley Q&A 18.

27 ³⁰ *Id.* (emphasis added).

1 can result from utilities' infrastructure is a form of corporate social
2 responsibility, and the utilities should not seek profit or carry if they genuinely
3 believe this to be a public good.
4

5 If the Commission views the spillover benefits more as a public good, the BCP
6 recommends that OMAG expenses receive no carry. Instead, the OMAG
7 expenses should be a dollar-for-dollar pass through especially given that SB329
8 mandate did not make this a requirement. This approach has been used by the
9 Commission before in the Docket 22-09006, Third Amendment to the
10 Companies' 2021 Joint Integrated Resource Plan.³¹ Since disaster mitigation
11 produces a public good, one could further argue that the utilities should not be
12 the sole financial beneficiary of **any** earnings generated from this activity.
13 Instead, the Companies' earnings should be reinvested back into the disaster
14 mitigation infrastructure and operations of the utilities to ensure ongoing
15 effectiveness and sustainability. A fund could be created by the profits much
16 like the universal energy charge, UEC. This view is consistent with the
17 Commission finding that the NDPP costs are not a function of cost causation,
18 but costs incurred by a legislative mandate that benefits ratepayers of both
19 service territories, citing the UEC as an example. ³²

20 **20. Q. PLEASE PROVIDE YOUR OMAG COST RECOVERY**
21 **RECOMMENDATION FOR THE EXTERNALITY GOOD THAT SHARES**
22 **BOTH PRIVATE AND PUBLIC GOOD CHARACTERISTICS.**

23 A. Disaster mitigation provides benefits to the utilities and the public. Disaster
24 mitigation in this scenario has both public and private good characteristics. The
25

26 ³¹ Docket 22-09006, Commission Order, March 24, 2023, page 117, paragraph 296.

27 ³² Docket 21-03004, Commission Order, September 3, 2021, page 101, paragraph 272.

1 prevention or reduction of disasters related to the utilities' infrastructure
2 provides a positive externality by benefiting the public in terms of health,
3 safety, and property, as well as the environment and local economies.
4 Therefore, it can be considered a public good to some extent. However, the
5 utilities also benefit from disaster mitigation by protecting their private
6 property, assets, infrastructure, and ensuring their maintenance, operations,
7 and profitability. This means that disaster mitigation also has private good
8 characteristics as it directly benefits the utilities.

9
10 If the Commission views this externality good as having characteristics of both
11 a private and public good, or as something else, the BCP recommends that
12 OMAG expenses receive the same carry as in NRS 704.655 (1)(a)-(b). If the
13 fixed interest rate based on the six month Treasury Bill is adequate for
14 ratepayers to wait a year or more to have their deposits returned after
15 establishing service, then this is adequate for the utilities' carry regarding
16 OMAG expenses, because the externality good cannot be categorized solely as a
17 public or private good.

18 **21. Q. SHOULD THE COST INCURRED FOR NDPP PROVIDED AN**
19 **ADDITIONAL BENEFIT TO RATEPAYERS?**

20 A. For a presidential statewide major disaster declaration from FEMA, the state
21 of Nevada must have a minimum of \$5.5 million in damages, among other
22 criteria.³³ For 2022, the utilities OMAG expenses with carry was \$35.4 million

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24
25 ³³ FEMA uses a per capita amount as an indicator that the disaster is of such severity and magnitude that it
26 might warrant Federal assistance. FEMA adjusts this figure annually based on the Consumer Price Index.
27 The formula is as follows: \$1.77 (2023 per capita IMPACT indicator) X 3,104,614 (2020 census) = \$5.5 million
28 Federal Fiscal Year.

1 or 6.43 times the major disaster declaration threshold.³⁴ From 2019 to 2023,
2 OMAG approved expenses are \$159 million or nearly 29 times the major
3 disaster declaration threshold.³⁵ From 2024 to 2026, the OMAG request was
4 \$202 million or nearly 37 times the major disaster declaration threshold. This
5 begs the question – On what is considered just and reasonable for recovery
6 from ratepayers? With this amount of spend, it is logical that ratepayers should
7 be seeing a corresponding reduction in liability expense. However, the dollars
8 already spent by the Companies have done absolutely nothing to date to reduce
9 liability insurance costs at the utilities (PAM-2 or BCP DR 1-7).

10 **22. Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

11 **A. I recommend that the Commission:**

- 12 1. Find that the attempted analysis and supporting testimony filed
13 pursuant to Directive No. 4 from Docket 22-03006 failed to assess
14 or quantify the socialized benefits associated with NDPP costs.
- 15 2. Find the legal mandate of SB 329 – to mitigate disasters caused or
16 exacerbated by the utilities’ infrastructure – has imposed an
17 additional production cost on the private good of electricity. A
18 positive externality has been created with spillover benefits.
19 Based on a Commission determination of the benefits, the OMAG
20 (operations maintenance administrative general) costs being
21 sought for recovery should be consistently treated as either:

- 22 (a) A Public Good, in which the OMAG costs receive no
23 carry;

24
25 ³⁴ Application of the Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV
26 Energy for Approval of their Cost Recovery for the 2021 Natural Disaster Protection Plan Regulatory Asset
Account, Docket No. 22-03006, Volume 1, Summary and introduction, Table 1, page 3.

27 ³⁵ Q&A 11, Table 2 of Aguero Direct Testimony.

1 (b) A Private Good, in which the OMAG costs be allocated
2 to the service territory which incurred the costs with carry
3 at the most recently authorized rate of return and where
4 assets, private property, and infrastructure are being
5 maintained and operated; or

6 (c) An Externality Good that shares the characteristics of
7 both a Public and Private good, in which the same carry as
8 used for customer deposits under NRS 704.655 is applied.

9 3. Waive Section 13(2)(d) of LCB File No. R085-19 to accommodate
10 for options in the above recommendation 2, if necessary.

11 **23. Q. DOES THIS COMPLETE YOUR PREFILED DIRECT TESTIMONY?**

12 A. Yes, it does.
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Patrick A. Morton
Summary of Qualifications

EXPERIENCE

Nevada Attorney General Bureau of Consumer Protection (3/08 to present)

Senior Economist – Conduct economic analyses and evaluations of public utility plans and filings. Prepare expert witness testimony and testify before the Public Utilities Commission.

Washoe County (7/05 to 3/08)

Senior Fiscal Analyst - Lead for a group of departments with varied funding sources, complex budget accounts, grant monies, revenue sources and bonds. Prepared and administered budgets in order to ensure efficient and effective public services. Ensured compliance with budget guidelines by monitoring expenditure reports and other accounting records of departments through automated systems. Analyzed the productivity and operational performance of departments and programs through the review of work methods, procedures and other metrics. Developed recommendations for changes in organizational structure, work procedures, services, workflow and equipment to ensure cost effective non-duplicative operations. Addressed management and budget issues on grants, fee increases, debt financing, services and operations by conducting statistical analyses, research, comparative statistics, forecasting revenues and expenditures. Managed the countywide capital improvements plan and debt.

Nevada Department of Employment, Training and Rehabilitation (6/04 to 7/05)

Economist III - Conducted research and analysis on economic, social, and fiscal factors to identify trends and their implications on the State. Produced forecasts used by agencies for budgets and service delivery levels. Advised administrators on taxation and budgets for strategic planning. Developed econometric models to forecast business cycles, the effects of tax legislation, wages, and other demands on the unemployment insurance system. Spokesperson for the Trust Fund providing testimony at hearings. Responsible for accuracy, reporting and meeting deadlines for all federal and state unemployment insurance and work performance reports.

Harrah's Entertainment (1/01 to 6/04)

Yield Manager – Achieved optimal hotel and gaming revenue by forecasting and yielding room inventory. Provided financial, strategic, operational and analytical expertise to property and corporate management. Developed and enhanced models and applications to increase the efficiency of revenue management. Directed weekly yield meetings to review and discuss reservation patterns, room rates, room inventory and forecasting. Directed revenue management and annual hotel budget process.

Planning & Analysis Senior Financial Analyst - Analyzed data and provided recommendations on the financial impact of projects and in profitability improvement strategies. Created financial statements to determine present and pro forma performance. Identified industry and market trends for strategic positioning. Analyzed and presented recommendations to operating committee regarding financial plans, new business planning, and operating forecasts. Managed the property's capital budgeting process. Created the monthly operating report to the division president.

Gannett Co. (6/98 to 1/01)

Research Manager - Capitalized on research to drive revenue, enhance products, develop new products, and plan marketing communications strategy. Designed and implemented print, broadcast, online, and direct mail campaigns. Formulated and managed the research budget. Identified industry trends and monitored competitor activities. Developed and capitalized on use of market research databases.

Market Development Manager - Responsible for leading strategic activities cross departmentally to increase circulation and advertising revenue, improve readership, and increase customer satisfaction/retention. Analyzed economic, technological, and demographic factors to capitalize on opportunities and to increase market share. Branded products and services through media promotion, public affairs, event marketing, and corporate giving. Developed the unit's strategic plan and marketing budget.

EDUCATION

Master of Business Administration, Finance, Auburn University, Montgomery, AL, November 1997
Bachelor of Arts in Economics, University of Chicago, Chicago, IL, June 1990

NV Energy

RESPONSE TO INFORMATION REQUEST

DOCKET NO: 23-03004 **REQUEST DATE:** 03-17-2023
REQUEST NO: BCP 1-07 **KEYWORD:** Aguero Testimony QA11; de facto responsible emergency management disaster mitiga
REQUESTER: **RESPONDER:** Wiggins, Jay

REQUEST:

Reference: Aguero Testimony QA11; de facto responsible emergency management disaster mitigation

Question: (Reference Aguero Direct Testimony, Q&A 11) – Mr. Aguero testimony states, “As stated by the Companies, the natural disasters included in NDPP for risk assessment are grassland fires and wildfires; blizzards, snowstorms and winter storms; wind events; earthquakes and seiches; monsoons, floods and precipitation; microbursts and thunderstorms; and landslides and avalanches.”

(A) Is NV Energy the de facto responsible for emergency management disaster mitigation on behalf of the state of Nevada?

(B) Is the State of Nevada providing any budgetary/fiscal support regarding disaster mitigation to NV Energy?

(C) Is NV Energy making payments to state agencies or county agencies or other governmental entities? If so, please provide the memorandum of understanding for all the entities involved. Please provide an excel list of all the state/county/or other governmental agencies that NV Energy has made payments to regarding OMAG expenses, provide a description for the reason for these payments, and the amount paid each month since inception of NDPP OMAG for both NPC and SPPC separately.

(D) Is NV Energy now responsible for disaster insurance mitigation on behalf of the State of Nevada?

(E) Please provide the expense reduction regarding insurance premiums that NPC and SPPC have received since implementing the NDPP in and excel spreadsheet by year. Please provide each subsequent insurance contacts and their renewals which show the changes in expense for insurance premiums for SPPC and NPC by year regarding its disaster mitigation efforts.

(F) Has the State of Nevada or Counties received a reduction in insurance premiums?

RESPONSE CONFIDENTIAL (yes or no): No

TOTAL NUMBER OF ATTACHMENTS: None

RESPONSE:

A) No. Senate Bill 329 and the Nevada Revised Statutes at 704.7983 require NV Energy to submit a plan to the Commission that addresses fires and other natural disasters as it relates to an electric utility.

B) Yes. The State of Nevada has provided funding to offset costs in the NDPP. See Jay Wiggins' testimony at Question 12, Table 4, that shows State of Nevada Senate Bill 508 matching grant funds that were used in the vegetation management program.

C) Yes. NV Energy has numerous contracts with various agencies to perform work as it relates to the NDPP. Details on these agencies and payments are contained in the Company's external discovery site.

D) No. See response to question A) above.

E) There has been no expense reduction regarding insurance premiums.

F) NV Energy is not privy to information regarding State or County insurance positions.

AFFIRMATION

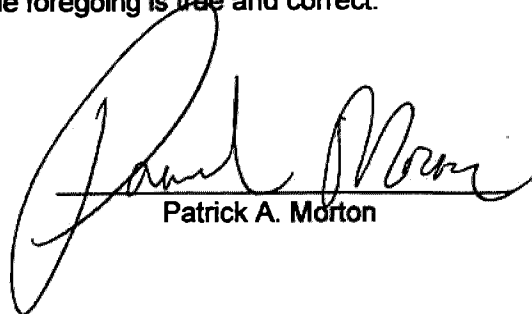
STATE OF NEVADA)
) ss
CLARK COUNTY)

Pursuant to the requirements of NRS 53.045(1) and NAC 703.710, Patrick A. Morton, being first duly sworn under penalty of perjury, says that he is the person identified in the foregoing prepared direct testimony and/or exhibits; that such direct testimony and/or exhibits were prepared by or under the direction of said person; that the answers and/or information appearing therein are true to the best of his knowledge and belief; and that if asked the questions appearing therein, his answer thereto would, under oath, be the same.

I declare under penalty of perjury that the foregoing is true and correct.

Further affiant sayeth naught.

Dated: 6/26/23



Patrick A. Morton

CERTIFICATE OF SERVICE

Docket No. 23-03004

I certify that I am an employee of the Bureau of Consumer Protection and that on this day I have served the foregoing document upon all parties of record in this proceeding by emailing or mailing a true copy thereof, properly addressed with postage prepaid or forwarded as indicated below to:

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Dated: June 26, 2023

/s/ Jana Whitson
An Employee of the
Bureau of Consumer Protection