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23-03004

Public Utilities Commission of Nevada
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STATE OF NEVADA
BUREAU OF CONSUMER PROTECTION

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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 David S. Chairez 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
MICHELLE NEWMAN
Senior Deputy Attorney General
Bureau of Consumer Protection
100 N. Carson Street
Carson City, NV 89701

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 **DAVID S. CHAIREZ, REGULATORY MANAGER, ON BEHALF OF THE**
10 **BUREAU OF CONSUMER PROTECTION**

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

14 A. My name is David S. Chairez. I am the Regulatory Manager for the Bureau of
15 Consumer Protection (“BCP”). My business address is: Bureau of Consumer
16 Protection, 8945 W. Russell Road, Suite 204, Las Vegas, Nevada 89148.

17
18 2. **Q. DOES ATTACHMENT DSC-1 SUMMARIZE YOUR QUALIFICATIONS?**

19 A. Yes, it does.

20
21 3. **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 A. The purpose of my testimony is to provide BCP’s recommendations on the Joint
23 Application of Nevada Power Company (“NPC”) and Sierra Pacific Power
24 Company (“SPPC”) (collectively referred to as “the public utilities”) for approval
25 from the Public Utilities Commission of Nevada (“Commission”) of cost recovery
26 of their 2022 Natural Disaster Protection Plan (“NDPP”) separate regulatory

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1 asset accounts.¹ My testimony offers recommendations related to the limited
2 purpose of the NDPP in Nevada Revised Statute (“NRS”) 704.7983, including
3 the following matters: 1) Whether the Commission should shift 2022 NDPP costs
4 incurred in SPPC’s service territory to cost recovery from NPC’s customers, and
5 2) The just and reasonable rates to set for the four NDPP regulatory asset
6 accounts at issue in this proceeding.

7
8 **4. Q. WHAT ARE YOUR RECOMMENDATIONS TO THE COMMISSION**
9 **REGARDING THE ISSUES OUTLINED IN Q/A 3?**

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

- 11 1) Find that the purpose of the NDPP is to minimize the risk of the public
12 utilities’ electrical infrastructure causing a fire and to mitigate the risk of
13 the effects of natural disasters on the public utilities’ electrical
14 infrastructure;
- 15 2) Find that all of the NDPP costs incurred in 2022 were direct costs that
16 were incurred in either NPC’s separate service territory or in SPPC’s
17 separate service territory;
- 18 3) Find that it is inappropriate to shift any direct NDPP costs from SPPC’s
19 service territory for cost recovery from NPC’s customers;
- 20

21 ¹ Section 13 of the Commission’s NDPP regulations, LCB File No. R085-19, requires NPC and SPPC to have
22 separate regulatory asset accounts for their NDPP costs given that this section of the regulation refers to: (1)
23 rates of return; (2) depreciation rates; (3) general rates; (4) customer classes; and (5) customers. There is no
dispute that these five items are different and/or separate for NPC and SPPC, and therefore each utility must
have separate NDPP regulatory asset accounts.

24 Furthermore, in Paragraph 391 of the Commission’s Second Modified Final Order in Docket Nos. 20-02031/32,
25 the Commission ordered NPC and SPPC to have separate NDPP regulatory asset accounts consistent with
26 Section 13 of LCB File No. R085-19 and directed each utility to further separate their NDPP regulatory asset
27 accounts into the distribution function and transmission function. Hence, there are four separate NDPP
regulatory asset accounts: (1) NPC-Distribution; (2) NPC-Transmission; (3) SPPC-Distribution; and (4) SPPC-
Transmission. It is improper for the public utilities to refer to the singular NDPP regulatory asset account in its
application. (See the public utilities’ Joint Application at 1:13 – 1:15.)

- 1 4) Consistent with Recommendation #3, set an NDPP rate of \$0.00019 per
2 kilowatt-hour (“kWh”) for NPC’s bundled customers and \$0.00017 per
3 kWh for NPC’s distribution-only service (“DOS”) customers;
- 4 5) Consistent with Recommendation #3, set an NDPP rate of \$0.00295 per
5 kWh for SPPC’s bundled customers and \$0.00249 per kWh for SPPC’s
6 DOS customers;
- 7 6) Alternatively, if the Commission believes it has the legal authority to shift
8 direct NDPP costs from SPPC’s service territory for cost recovery from
9 NPC’s customers, find that there is no electrical service benefit to NPC’s
10 customers for any NDPP work on SPPC’s distribution system, and
11 therefore there is no justification for shifting any NDPP distribution costs
12 from SPPC’s service territory for cost recovery from NPC’s customers;
- 13 7) Alternatively, if the Commission believes it has the legal authority to shift
14 direct NDPP costs from SPPC’s service territory for cost recovery from
15 NPC’s customers, find that no more than 50 percent of the NDPP
16 transmission costs be allocated on a holding company basis;
- 17 8) Consistent with Alternative Recommendations #6 and #7, set an NDPP
18 rate of \$0.00025 per kWh for NPC’s bundled customers and \$0.00017 per
19 kWh for NPC’s DOS customers; and
- 20 9) Consistent with Alternative Recommendations #6 and #7, set an NDPP
21 rate of \$0.00279 per kWh for SPPC’s bundled customers and \$0.00249 per
22 kWh for SPPC’s DOS customers.

1 **RECOMMENDATION #1: FIND THAT THE PURPOSE OF THE NDPP IS TO**
2 **MINIMIZE THE RISK OF THE PUBLIC UTILITIES' ELECTRICAL**
3 **INFRASTRUCTURE CAUSING A FIRE AND TO MITIGATE THE RISK OF THE**
4 **EFFECTS OF NATURAL DISASTERS ON THE PUBLIC UTILITIES' ELECTRICAL**
5 **INFRASTRUCTURE.**

6
7 **5. Q. IS THE PURPOSE OF THE NDPP "TO PREVENT NATURAL**
8 **DISASTERS"?**

9 A. No. No amount of NDPP spending is going to prevent a natural disaster that
10 results from a lightning strike igniting a wildfire in a drought-stricken forested
11 area. No amount of NDPP spending is going to prevent a human-caused disaster
12 that results from a person igniting a wildfire by tossing a cigarette in a drought-
13 stricken forested area. No amount of NDPP spending is going to change the
14 geological science of the causes of earthquakes. Unfortunately, some of the public
15 utilities' witnesses have inaccurately overstated the purpose of the NDPP. For
16 example, Mr. McGinley, testifying in the public utilities' rebuttal case in Docket
17 No. 22-03006, inaccurately stated the following: "Preventing natural disasters is
18 critical to the entire state of Nevada, by protecting all Nevadans."²

19
20 **6. Q. WHAT IS THE PURPOSE OF THE NDPP IF IT IS NOT TO PREVENT**
21 **NATURAL DISASTERS?**

22 A. The purpose of the NDPP is to ensure that the public utilities have a plan to
23 provide safe and reliable electrical service³ by addressing the following issues:
24

25 ² See Updated Exhibit ("Ex.") 117 (Prepared Rebuttal Testimony of John McGinley) in Docket No. 22-03006 at
26 17:2 – 17:3.

27 ³ NPC's and SPPC's statutory obligation to provide safe and reliable electrical service existed prior to the
28 enactment of the NDPP statute in 2019 as clearly delineated in NRS 704.001.

- Identifying areas within the service territory of an electric utility that are subject to a heightened threat of a fire or other natural disaster;⁴
- Minimizing the risks of the public utilities' electrical infrastructure from causing a fire;⁵ and
- Restoration of the distribution system in the event of a natural disaster.⁶

In the petition for reconsideration filed by the public utilities in Docket No. 21-03004, the public utilities succinctly summarized the purpose of the NDPP as follows:

“SB 329 required certain electric utilities in the State of Nevada to file a triennial Natural Disaster Protection Plan (“NDPP”) with the Commission to mitigate the risk of a potential fire or other natural disaster on its infrastructure and to minimize the risk of electric infrastructure causing a fire.”⁷

7. Q. HOW DOES A PUBLIC UTILITY MINIMIZE THE RISK OF ITS ELECTRICAL INFRASTRUCTURE CAUSING A FIRE?

A. The primary method to minimize the risk of the public utilities' electrical infrastructure from causing a fire is through vegetation management. Even in the original safety regulation adopted by the Commission predecessor on December 2, 1911, Rule 27 stated the following:

⁴ NRS 704.7983(2)(a). Please note that this paragraph refers to NPC and SPPC as electric utilities because they have exclusive service territories to provide electric service in Nevada. The direct holding company, NV Energy, Inc., does not have a service territory in Nevada to provide electric service.

⁵ NRS 704.7983(2)(c).

⁶ NRS 704.7983(2)(i).

⁷ See NPC and SPPC Petition for Clarification or in the Alternative Reconsideration filed on September 20, 2021, in Docket No. 21-03004 at 1:16 – 1:19.

SAFETY REGULATIONS FOR ELECTRIC UTILITIES

[Adopted December 2, 1911]

The following regulations are issued for electric utilities in this state, for the purpose of protecting the lives of employees and securing greater safety for the public :

27. Trees should not be permitted to stand within striking distance of high-tension lines should they fall toward the line.

Another equally important method is the Public Safety Outage Management ("PSOM") program in Heightened Threat Areas ("HTAs"). The public utilities' affiliate in Oregon, PacifiCorp, was found by a jury to be responsible for causing wildfires during Labor Day Weekend in 2020 because PacifiCorp failed to deenergize its electrical lines despite extreme wind warnings.

PacifiCorp liable in wildfires

Oregon jury awards millions of dollars to affected homeowners

By Andrew Selsky
The Associated Press

PORTLAND, Ore. — A jury in Oregon has found electric utility PacifiCorp responsible for causing devastating fires during Labor Day 2020 in a civil lawsuit.

The jury returned its decision Monday, saying the utility should be held financially liable for homes destroyed in the blaze. The jury awarded millions of dollars each to 17 homeowners who sued PacifiCorp a month after the fires, with most receiving \$4.5 million and some \$3 million for emotional distress.

The jury also applied its liability finding to a larger class including the owners of nearly 2,500 properties damaged in the fires, which could push the price tag for damages to more than \$1 billion. Those damages will be determined later.

No official cause has been determined for the 2020 Labor Day fires that killed nine people, burned more

than 1,875 square miles in Oregon and destroyed upward of 5,000 homes and structures. The blazes were one of the worst natural disasters in Oregon history.

The Portland utility, owned by Berkshire Hathaway, didn't shut off power to its 600,000 customers during the windstorm over Labor Day weekend in 2020 despite warnings from then-Gov. Kate Brown's chief-of-staff and top fire officials, plaintiffs alleged. Its lines have been implicated in multiple blazes.

The seven-week trial in Multnomah County Circuit Court wrapped with closing arguments June 7, Oregon Public Radio reported.

Jurors in the Multnomah County trial were to determine PacifiCorp's responsibility, if any, in four blazes: the Santiam Canyon fires east of Salem; the Echo Mountain Complex near Lincoln City; the South Oben-chain fire near Eagle Point; and the Two Four Two fire near the southwest Oregon town of Chiloquin.

Plaintiffs allege PacifiCorp was negligent when it didn't shut off its power lines despite extreme wind warnings over the holiday weekend. "(PacifiCorp) started the fires ..." plaintiffs' attorney Cody Berne said during closing statements. "And now they have come before you and are asking not to be held accountable."

In his closing arguments, PacifiCorp lawyer Douglas Dixon detailed "alleged power line fires" in Santiam Canyon, where more than half the class members live, saying they could not have spread to plaintiffs' homes. Plus, PacifiCorp has no equipment in some areas where it is accused of causing damage, he said.

The fires were unprecedented, the result of climate change and were an act of God, PacifiCorp lawyers said.

Nicholas Rosinia, a lawyer for the plaintiffs, asked jurors not to be swayed by claims that climate change was to blame. Without a spark from electrical lines, many of the fires would not have started, he said.

⁸ Las Vegas Review-Journal Print Edition, June 13, 2023, Page 1XB.

1 Finally, selective undergrounding of power lines in HTAs minimizes the risk of
2 electrical infrastructure from causing a fire. The public utilities discuss these
3 three methods in their NDPP.⁹

4
5 **8. Q. HOW DOES A PUBLIC UTILITY MITIGATE THE RISK OF A FIRE OR**
6 **OTHER NATURAL DISASTER ON ITS INFRASTRUCTURE?**

7 A. The primary method is the grid resilience and system hardening projects
8 discussed on pages 69 to 104 of the NDPP filed in Docket No. 23-03003. In
9 addition, vegetation management and selective undergrounding mitigate the
10 risk of a fire or other natural disaster on a public utilities' electrical
11 infrastructure.

12
13 **9. Q. DOES BCP SUPPORT THE NDPP AND ITS STATED PURPOSE?**

14 A. Absolutely. It is BCP's position that all public utilities have an obligation to
15 provide safe and reliable service, and this obligation has always existed in
16 exchange for being granted a government sanctioned monopoly service territory.
17 The Nevada Legislature makes this obligation very clear in NRS 704.001(3).

18 **NRS 704.001 Purpose and policy of Legislature in enacting**
19 **chapter.** It is hereby declared to be the purpose and policy of the
20 Legislature in enacting this chapter:

21 ...
22 3. To provide for the safe, economic, efficient, prudent and reliable
23 operation and service of public utilities;
24 ...

25
26 ⁹ See the NDPP in Docket No. 23-03003 at pages 55 to 60 for vegetation management, pages 52 to 53 for PSOM,
27 and pages 76 to 82 for undergrounding.

1 **10. Q. WHY IS THIS FINDING NECESSARY FOR THE COMMISSION TO SET**
2 **JUST AND REASONABLE NDPP RATES FOR NPC'S AND SPPC'S**
3 **SEPARATE CUSTOMERS?**

4 A. In the past three NDPP cost recovery orders,¹⁰ there has been a focus on spillover
5 benefits¹¹ of the NDPP to set NDPP rates rather than the direct benefits of the
6 NDPP. There is no dispute that the NDPP is about the electrical infrastructure
7 of NPC and SPPC. There is no dispute that the electrical infrastructure for NPC
8 and SPPC is separate, with the exception of the One Nevada Transmission Line
9 (“ON Line”). There is no dispute that electrical infrastructure is used to provide
10 electric service to the customers of an electric utility. Therefore, there should be
11 no dispute that capital expenditures for electrical infrastructure and operations
12 & maintenance (“O&M”) costs incurred on that electrical infrastructure provides
13 a direct benefit to those who receive electric service from that electrical
14 infrastructure.

15
16 Setting NDPP rates based on spillover benefits rather than direct benefits does
17 not result in just and reasonable rates. In this instant proceeding, the public
18 utilities request that NPC’s customers pay 67.4 percent of the 2022 NDPP O&M
19 costs even though NPC’s customers only received 12.0 percent of the direct
20 benefit from the 2022 NDPP O&M spending on electrical infrastructure that
21 provides service to them.

22
23
24
25
26 ¹⁰ Docket Nos. 20-02032, 21-03001, and 22-03006.

27 ¹¹ BCP Economist Patrick Morton provides BCP’s economic testimony for this proceeding and explains the
28 economic concept of spillover benefits.

1 11. Q. PLEASE SUMMARIZE YOUR RECOMMENDATION ON THIS ISSUE?

2 A. I recommend that the Commission find the purpose of the NDPP is to minimize
3 the risk of the public utilities' electrical infrastructure causing a fire and to
4 mitigate the risk of the effects of natural disasters on the public utilities'
5 electrical infrastructure.
6

7 **RECOMMENDATION #2: FIND THAT ALL OF THE NDPP COSTS INCURRED IN**
8 **2022 WERE DIRECT COSTS THAT WERE INCURRED IN EITHER NPC'S**
9 **SEPARATE SERVICE TERRITORY OR IN SPPC'S SEPARATE SERVICE**
10 **TERRITORY.**
11

12 12. Q. HOW IS A DIRECT COST DEFINED ?

13 A. The National Association of Regulatory Utility Commissioners ("NARUC")
14 defines "direct costs" in its Guidelines for Cost Allocations and Affiliate
15 Transactions as follows:

16 **Direct Costs** – costs which can be specifically identified with a
17 particular service or product.¹²

18 13. Q. DO THE WORKPAPERS FOR EXHIBIT D IN THE JOINT
19 APPLICATION, SUMMARY OF 2022 NDPP PLANT IN SERVICE, SHOW
20 THAT ALL OF THE CAPITAL EXPENDITURES WERE DIRECT COSTS
21 IN EITHER NPC'S SEPARATE SERVICE TERRITORY OR IN SPPC'S
22 SEPARATE SERVICE TERRITORY?

23 A. Yes. In these Excel workpapers, there is a tab titled, "Plant adds by month." The
24 first column of this Excel spreadsheet is titled, "Company." Every capital
25

26 ¹² *Guidelines for Cost Allocations and Affiliate Transactions*, NARUC.ORG,
27 <https://pubs.naruc.org/pub.cfm?id=539BF2CD-2354-D714-51C4-0D70A5A95C65> (last visited June 25, 2023).

1 expenditure for plant additions for the 2022 NDPP is specifically identified in
2 the Excel workpapers for Exhibit D as either being incurred in NPC's separate
3 service territory or in SPPC's separate service territory.

4
5 **14. Q. DO THE WORKPAPERS FOR EXHIBIT E IN THE JOINT**
6 **APPLICATION, SUMMARY OF THE 2022 NDPP O&M COSTS, SHOW**
7 **THAT ALL OF THE O&M COSTS WERE DIRECT COSTS IN EITHER**
8 **NPC'S SEPARATE SERVICE TERRITORY OR IN SPPC'S SEPARATE**
9 **SERVICE TERRITORY?**

10 A. In these Excel workpapers, there is a tab titled, "E.3 Data." Excel Column I of
11 this spreadsheet is titled, "Business Unit Description." Every O&M cost
12 contained in this spreadsheet is either specifically identified as NVPWR for NPC
13 or as SPPCO for SPPC.

14
15 **15. Q. WHY IS THIS FINDING NECESSARY FOR THE COMMISSION TO SET**
16 **JUST AND REASONABLE NDPP RATES FOR NPC'S AND SPPC'S**
17 **SEPARATE CUSTOMERS?**

18 A. With respect to affiliated public utilities, direct costs are assigned – not allocated
19 – to the utility that can be specifically identified as where the cost was incurred.
20 Given that the costs can be specifically identified as occurring in the service
21 territory of a public utility, there is no justifiable reason to allocate the costs
22 between the two public utilities. In contrast, indirect costs, or more precisely,
23 common costs, cannot be specifically identified as occurring in the service
24 territory of affiliated public utilities and therefore must be allocated between the
25 affiliated public utilities. For example, the salary of the CEO of NV Energy, Inc.

1 is an indirect cost that is allocated between the holding company, NPC, and
2 SPPC.

3
4 However, if one public utility's customers are required to pay for the direct costs
5 of a different public utility, then this is not a cost allocation, but a cost shifting
6 mechanism. It is important that that the Commission and the public utilities do
7 not misrepresent what is occurring with respect to the NDPP cost recovery by
8 referring to a cost shifting mechanism as a cost allocation.

9
10 **16. Q. DOES THE COMMISSION'S REGULATORY OPERATIONS STAFF**
11 **SHARE YOUR VIEW THAT THE NDPP COST RECOVERY TO DATE**
12 **HAS BEEN A COST SHIFTING MECHANISM?**

13 A. Yes. The economist who testified for the Commission's Regulatory Operations
14 Staff ("Staff") in Docket No. 20-02032 stated the following in her Q/A 15:

15 NV Energy's proposed methodology is less of a cost sharing
16 mechanism and more of a cost shifting mechanism, because a
17 significant portion of the NDPP costs and investments are tied to
18 SPPC's service territory in the Lake Tahoe area yet the majority of
19 billing determinants are in NPC's service territory in the Las Vegas
20 area. Specifically, the rate design proposed by NV Energy shifts
21 \$5,261,657 from SPPC's customers to be paid by NPC's customers.
22 Aside from costs being improperly allocated across SPPC and NPC
23 customers¹³

24 **17. Q. PLEASE SUMMARIZE YOUR RECOMMENDATION ON THIS ISSUE.**

25 A. I recommend that the Commission find that all of the NDPP costs incurred in
26 2022 were direct costs that were incurred in either NPC's separate service
27 territory or in SPPC's separate service territory. This finding is indisputable

28 ¹³ See Ex. 303 (Prepared Direct Testimony of Cristina M. Zuniga) in Docket Nos. 20-02031/32 at 4:22 – 5:3.

1 given that the public utilities have specifically identified in their workpapers all
2 2022 NDPP costs as being incurred for either NPC or for SPPC.

3
4 **RECOMMENDATION #3: FIND THAT IT IS INAPPROPRIATE TO SHIFT ANY**
5 **DIRECT NDPP COSTS FROM SPPC'S SERVICE TERRITORY FOR COST**
6 **RECOVERY FROM NPC'S CUSTOMERS.**

7
8 **18. Q. WHY IS IT INAPPROPRIATE TO SHIFT DIRECT NDPP COSTS**
9 **INCURRED IN SPPC'S SERVICE TERRITORY FOR COST RECOVERY**
10 **FROM NPC'S CUSTOMERS?**

11 A. A shifting of direct costs incurred on the electrical infrastructure that is used to
12 provide electric service for SPPC's customers, which is a direct benefit for these
13 customers, onto NPC's customers on the pretense of spillover benefits, without
14 any finding that the spillover benefits for NPC's customers are greater than the
15 direct benefit for SPPC's customers, does not result in just and reasonable NDPP
16 rates. The justification that spillover benefits – while ignoring the more
17 applicable direct benefits – allows the Commission to shift two-thirds of SPPC's
18 NDPP O&M costs onto NPC's customers is a “tail wagging the dog” form of
19 ratemaking.

20
21 The burden for departing from cost causation principles falls on the joint
22 applicants, not on the interveners.¹⁴ NRS 704.7983 does not exempt NDPP
23
24

25 ¹⁴ Unfortunately, the Commission's Modified Final Order in Docket No. 22-03006, issued on October 12, 2022,
26 places the burden on the interveners arguing against a cost shift in Paragraph 151, which reads as follows:
27 “[T]hose parties fail to present substantial evidence quantifying or adequately comparing the relative benefits of
28 the proposed NDPP programs and projects.”

1 ratemaking from the just and reasonable rate requirement in NRS 704.040.¹⁵ As
2 stated by the United States Court of Appeals for the District of Columbia Circuit
3 (“D.C. Circuit”) in its March 4, 2022 Order in *Long Island Power Authority v.*
4 *Federal Energy Regulatory Commission* (“FERC”), just and reasonable rates
5 must reflect to some degree the costs actually caused by the customer who must
6 pay them.

7 The Federal Power Act required utilities to charge “just and
8 reasonable” rates for the transmission of electricity in interstate
9 commerce. 16 U.S.C. § 824d(a). To be just and reasonable, rates
10 must “reflect to some degree the costs actually caused by the
11 customer who must pay them.” *Midwest ISO Transmission Owners*
12 *v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) (cleaned up). This
13 “cost causation principle” requires “comparing the costs assessed
14 against a party to the burdens imposed or benefits drawn by that
15 party.” *Id.* If FERC determines that a particular rate is unjust or
16 unreasonable, it must “determine the just and reasonable rate.: 16
17 U.S.C. § 824e(a).¹⁶

18 The burden imposed on NPC’s customers has been the cross-subsidy¹⁷ they have
19 paid for NDPP costs incurred in SPPC’s service territory, which provide a direct
20 benefit to SPPC’s customers, and some unquantified spillover benefit to NPC’s
21 customers. To date, the Commission-approved cross-subsidies from NPC’s

22 ¹⁵ NRS 704.040 Public utilities required to provide reasonably adequate service and facilities;
23 charges for services required to be just and reasonable; unjust and unreasonable charges unlawful

24 * * * *
25 1. Every public utility shall furnish reasonably adequate service and facilities. Subject to the provisions of
26 subsection 3, the charges made for any service rendered or to be rendered, or for any service in connection
27 therewith or incidental thereto, must be just and reasonable.

28 2. Every unjust and unreasonable charge for service of a public utility is unlawful

¹⁶ See *Long Island Power Auth. v. FERC*, 27 F.4th 705, 709 (D.C. Cir. 2022) [hereinafter “Long Island”].

¹⁷ BCP’s use of the word “cross-subsidy” is factual and should not be viewed by the public utilities as
inflammatory as stated in the rebuttal testimony of Mr. Jesse Murray in Docket No. 23-03003. There is no
dispute that NDPP costs are being shifted from SPPC’s NDPP regulatory asset accounts onto NPC’s customers.
This is an inter-utility subsidy or cross-subsidy. In contrast, the public utilities, in every general rate case, claim
that there is a residential subsidy because of the results of how a single flawed cost of service study allocates
indirect costs to the customer classes. See the testimony of Samantha Prest in Docket No. 23-06007 at Q/A 21.

1 customers to SPPC's customers for NDPP costs incurred in SPPC's service
2 territory has been \$47.6 million dollars, comprising of the following:

- 3 • 2019 - \$5.4 million
- 4 • 2020 - \$12.0 million
- 5 • 2021 - \$30.2 million.
- 6 • **Total - \$47.6 million.**

7 If the Commission approves the instant joint application as filed, then NPC's
8 customers will add another \$19.6 million dollars for 2022 to the cross-subsidies
9 they have already paid for NDPP costs incurred in SPPC's service territory as
10 shown on Line 27 of Table 1 below. Hence, the total cross-subsidies for the first
11 four years of the NDPP would total \$67.2 million dollars, with 2023 NDPP costs
12 still pending from the initial NDPP.¹⁸

13 //

14 //

15 //

16 //

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24

25 ¹⁸ The Commission's Modified Final Order on Reconsideration in Docket No. 20-02031/32, issued on December
26 22, 2020, found BCP's estimate that the cost shifts for the first five years of the NDPP would total \$72.3 million
27 dollars to be inaccurate in Paragraph 84. Unfortunately, the Commission was correct because it appears that
the cross-subsidies will be above \$72.3 million dollars, not below \$72.3 million dollars that the Commission
believed in 2020.

28

Table 1

NEVADA POWER COMPANY, SIERRA PACIFIC POWER COMPANY, & NV ENERGY, INC. Table Shelton-Patchell Direct - 1
 CALCULATION OF NATURAL DISASTER PROTECTION PLAN RATE ("NDPP") Workpaper 3.0
 FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2022 BCP COST SHIFTS & CROSS SUBSIDIES ADDED
 EFFECTIVE OCTOBER 1, 2023
 (IN THOUSANDS)

Ln No	(a) Description	(b) Reference	(c) NPC	(d) SPPC	(e) Total	Ln No
1						1
2	NDPP Statewide Component					2
3	Total NDPP OMAG Distribution Costs	Page 2 & 3, Col (o), Ln 60	\$ 3,937	\$ 27,082	\$ 31,020	3
4	NDPP Allocated OMAG Transmission Costs ⁽¹⁾	Page 4 & 5, Col (o), Ln 60	324	4,061	4,385	4
5	Total NDPP OMAG Costs		\$ 4,262	\$ 31,143	\$ 35,405	5
6		COSTS WITH SHIFT	23,869	11,536		6
7	NPC & SPPC kWh (Sales) ⁽²⁾	Page 6 & 7, Col (n), Ln 6			35,318,460.991	7
8		% of Direct OMAG	12.0%	88.0%		8
9		% of Shifted OMAG	67.4%	32.6%		9
10						10
11	Total Statewide Component per kWh (Ln 5 ÷ Ln 7)		\$ 0.00100	\$ 0.00100		11
12						12
13	NDPP Capital Component					13
14	Total NDPP Capital Distribution Costs	Page 2 & 3, Col (o), Ln 46	\$ 209	\$ 1,618		14
15	NDPP Allocated Capital Transmission Costs ⁽¹⁾	Page 4 & 5, Col (o), Ln 46	30	(43)		15
16	Total NDPP Capital Costs		\$ 239	\$ 1,575		16
17						17
18	NPC & SPPC kWh (Sales) ⁽²⁾	Page 6 & 7, Col (n), Ln 6	23,810,583.974	11,507,877.017		18
19						19
20	Total NDPP Capital Component per kWh (Ln 15 ÷ Ln 17)		\$ 0.00001	\$ 0.00014		20
21						21
22	Total NDPP per kWh (Ln 9 + Ln 19)		\$ 0.00101	\$ 0.00114		22
23			To 1.0, column (c), line 3	To 1.0, column (c), line 4		23
24	⁽¹⁾ Total adjusted costs (transmission allocated)					24
25	⁽²⁾ Total kWh includes all customers - Retail and DOS					25
26						26
27	CROSS SUBSIDY VS BCP PUBLIC UTILITY RATES		19,607,303	(19,607,303)		27
28						28
29	CROSS SUBSIDY VS BCP HOLDING COMPANY RATES		18,221,178	(18,221,178)		29

19. Q. DOES TABLE 1 PROVIDE ANY INFORMATION ON THE BURDENS IMPOSED OR BENEFITS DRAWN FOR NPC'S AND SPPC'S RESPECTIVE CUSTOMERS?

A. Yes, on Line 8 of Table 1, it shows that NPC's customers received 12.0 percent of the direct benefit of 2022 NDPP O&M spending while SPPC's customers received 88 percent of the direct benefit. However, the public utilities' proposed holding company NDPP rates places a 67.4 percent burden of these costs onto NPC's customers and only 32.6 percent on SPPC's customers. The asymmetrical benefits drawn/burden imposed does not result in just and reasonable NDPP rates and must finally be rejected by the Commission in this proceeding.

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20. Q. DOES THE NDPP STATUTE, NRS 704.7983, REQUIRE THE COMMISSION TO SHIFT NDPP COSTS INCURRED IN SPPC'S SERVICE TERRITORY ONTO NPC'S CUSTOMERS?

A. No. In fact, BCP and the gaming companies have argued in their legal briefs submitted in Docket Nos. 21-03004 and 22-03006 that NDPP cost shifts are unlawful.

21. Q. DO THE NDPP REGULATIONS, LCB FILE NO. R085-19, REQUIRE THE COMMISSION TO SHIFT NDPP COSTS INCURRED IN SPPC'S SERVICE TERRITORY ONTO NPC'S CUSTOMERS?

A. No. Section 13 of LCB File No. R085-19 is the cost recovery section of the NDPP regulations. There is no language in Section 13 that requires, nor even allows, NDPP costs recorded in SPPC's NDPP regulatory asset accounts to be cleared (recovered) from NPC's customers. It is perplexing that this approved regulation is being ignored in the NDPP cost recovery proceedings.

22. Q. DOES SHIFTING COSTS FROM SPPC'S NDPP REGULATORY ASSET ACCOUNTS TO BE RECOVERED FROM NPC'S CUSTOMERS RESULT IN AN INEQUITY FOR NPC'S CUSTOMERS?

A. Yes. Exhibit F in the joint application shows that NPC's single-family residential customers had an average monthly bill of \$193.57 at the time of filing, whereas SPPC's single-family residential customers had an average bill of \$130.02. Why the public utilities believe that it is okay to shift costs onto the customers with the higher monthly bill – \$63.55, or 48.9 percent – from customers with the lower monthly bill is perplexing and inequitable to NPC's customers.

1
2 Likewise, Exhibit F shows that NPC's multi-family residential customers had an
3 average monthly bill of \$114.87 at the time of filing, whereas SPPC's multi-
4 family residential customers had an average bill of \$73.90. Once again, it is
5 inequitable to shift NDPP costs onto customers that pay \$40.97 more per month,
6 or 53.3 percent, from customers with the lower monthly bill.

7
8 **23. Q. WHY ARE ELECTRIC BILLS HIGHER FOR NPC'S CUSTOMERS THAN**
9 **SPPC'S CUSTOMERS?**

10 A. There are two factors. First, the rates are higher for NPC than SPPC. Second,
11 the kWh usage is higher for NPC than SPPC because Las Vegas is located in the
12 hot Mojave Desert, which requires much more air conditioning than that needed
13 in Northern Nevada. For example, NPC's 2022 FERC Form 1 shows that NPC's
14 single-family residential customers consumed an average of 14,227 kWh in 2022
15 with an average cost of 13.27 cents per kWh. In contrast, SPPC's 2022 FERC
16 Form 1 shows that SPPC's single-family residential customers consumed an
17 average of 9,694 kWh in 2022 with an average cost of 12.41 cents per kWh.¹⁹

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20 **24. Q. PLEASE SUMMARIZE YOUR RECOMMENDATION ON THIS ISSUE.**

21 A. I recommend that the Commission find that it is inappropriate to shift any direct
22 NDPP costs from SPPC's service territory for cost recovery from NPC's
23 customers. This cost shift is asymmetrical with respect to benefits drawn/costs
24 imposed and therefore does not result in just and reasonable NDPP rates.

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27 ¹⁹ NPC's and SPPC's 2022 FERC Form 1 are available on the Commission's website in Docket No. 23-01002.

1 **RECOMMENDATION #4: CONSISTENT WITH RECOMMENDATION #3, SET AN**
2 **NDPP RATE OF \$0.00019 PER KWH FOR NPC'S BUNDLED CUSTOMERS AND**
3 **\$0.00017 PER KWH FOR NPC'S DOS CUSTOMERS.**

4
5 **RECOMMENDATION #5: CONSISTENT WITH RECOMMENDATION #3, SET AN**
6 **NDPP RATE OF \$0.00295 PER KWH FOR SPPC'S BUNDLED CUSTOMERS AND**
7 **\$0.00249 PER KWH FOR SPPC'S DOS CUSTOMERS.**

8
9 **25. Q. WHY DO YOU RECOMMEND DIFFERENT RATES FOR BUNDLED AND**
10 **DOS CUSTOMERS AT THE TWO PUBLIC UTILITIES?**

11 A. In three NDPP cost recovery proceedings – Docket Nos. 20-02032, 21-03004, and
12 22-03006 – I have consistently recommended separate NDPP rates for bundled
13 and DOS customers. There is no dispute, as the name implies, that DOS
14 customers only receive distribution service from NPC and SPPC. It is inequitable
15 to charge them a NDPP transmission rate given that DOS customers pay a third
16 party for transmission service.

17
18 Furthermore, NPC and SPPC are required, with limited exceptions, to join a
19 regional transmission organization (“RTO”) before 2030 pursuant to NRS
20 704.79886. At that time, any transmission costs recorded in a state commission
21 approved regulatory asset account will not be recoverable in FERC approved
22 RTO rates. The same principle applies to current DOS customers who pay FERC
23 approved transmission rates through their third-party provider.

