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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Application of Nevada Power Company d/b/a NV Energy
and Sierra Pacific Power Company d/b/a NV Energy for Docket No. 24-12016
Approval of their First Amendment to the Joint Natural
Disaster Protection Plan.

REGULATORY OPERATIONS STAFF'S
LEGAL BRIEF

The Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada ("Commission")—pursuant to Procedural Order No. 4 issued in this docket May 8, 2025—respectfully submits this Legal Brief to address the proper application of LCB File No. R181-24 and LCB File No. R085-19 (the "Regulations")¹ to Nevada Power Company d/b/a NV Energy ("Nevada Power") and Sierra Pacific Power Company d/b/a NV Energy ("Sierra"), together ("NV Energy's"), request to approve labor resource positions in the First Amendment to the Joint Natural Disaster Protection Plan ("NDPP"). Staff's Brief is made and based on the pleadings and papers filed herein and the records of NDPP filings incorporated by reference.²

¹ See Attachment 1, LCB File No. R181-24 (Nov. 15, 2024); Attachment 2, LCB File No. R085-19RP1 (Dec. 6, 2019).

² Docket No. 23-03003, the Joint Application of NV Energy for approval of their NDPP for the period 2024-2026; Docket No. 23-03004, Joint Application of NV Energy for approval of the cost recovery of the regulatory assets relating to the development and implementation of their Joint Natural Disaster Protection Plan in 2022; Docket No. 24-03006, Joint

1 **I. The Regulations Do Not Authorize NV Energy to Use the Plan Amendment Process to**
2 **Adjust Its Implementation of Elements in Its Already Approved NDPP.**

3 NDPPs are programmatic documents comprised of statutorily and regulatorily required
4 elements.³ Once approved by the Commission, an NDPP's scope is fixed by these elements. NDPPs
5 approved by the Commission include procedures, protocols, and measures allowing the utility to make
6 adjustments to its implementation of approved elements without having to resort to the detail-driven
7 and long plan-amendment process. However, if a utility wishes to expand the scope of an NDPP, it
8 may submit an amendment application that addresses all plan elements and provides additional required
9 information.⁴ Here, NV Energy's labor resources requests are inappropriate to include in a plan
10 amendment because it may adjust its labor resources without an amendment, and the labor resources
11 requested are not "elements" or "incremental." Regardless, these requests cannot be sustained because
12 they are not supported by substantial evidence.

13 **A. The Regulations Require NV Energy's Labor Resources Requests to Be Addressed**
14 **in a Cost-Recovery Docket Because the Requests are Corrective Actions from**
15 **Monitoring and Auditing the Approved Plan, Not Amendments to That Plan.**

16 The Commission interprets regulations according to their plain meaning, read as a whole, and
17 without rendering words meaningless.⁵ "When a word has more than one plain and ordinary meaning,
18 the context and structure inform which meanings apply." ⁶ Here, the regulations are clear. To submit
19 an approvable NDPP application, a utility must comply with the Regulations and include specific plan
20 elements, information, and support.⁷ Amendments to NDPPs must satisfy the same requirements.⁸

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24 Application of NV Energy for approval of the cost recovery of the regulatory assets relating to the development and
25 implementation of their NDPP in 2023.

25 ³ NRS 704.7983(2); Att. 1, Section 7(2)(a)-(o).

26 ⁴ *See id.*

26 ⁵ *See* Docket No. 20-07008, Commission's Modified Final Order at ¶111 (Mar. 10, 2021) (citations omitted); *see*
27 also *Diamond Nat. Res. Prot. & Conservation Ass'n v. Diamond Valley Ranch, LLC*, 138 Nev. 436, 440–41 (2022).

27 ⁶ *Id.*

28 ⁷ *See, e.g.,* Att. 1, Section 7(2)(a)-(o) (explaining informational items requiring detailed descriptions, analytics,
costs, proposed budgets, implementation correctional actions, and stakeholder feedback, all tied back to how the NDPP will
address wildfire prevention).

⁸ *See id.* at Section 7(1) (stating "[a] natural disaster protection plan may be an amended version of a previous plan").

1 The Regulations require applications to address how an approved plan will be implemented,
2 including by showing that the utility has an “adequately sized and trained workforce;”⁹ detailing “the
3 processes and procedures that the electric utility will use to monitor and audit the implementation of
4 the natural disaster protection plan and to take actions, as soon as practicable, to correct any deficiency
5 that is identified;”¹⁰ and identifying “any element of the natural disaster protection plan that is
6 incremental to the normal course of business of the electric utility.”¹¹

7 The Commission intended that these processes and procedures in an approved NDPP would
8 allow a utility to monitor, audit, and adjust how it implements approved plan elements without the need
9 for plan amendments. Stated differently, once the Commission approves the scope of an NDPP, the
10 utility must use its already-approved processes and procedures to “correct any deficiency that is
11 identified.”¹² Importantly, taking those corrective actions does and should not require an NDPP
12 amendment. Thus, if NV Energy needs to adjust its labor resources to implement an element of its
13 already-approved NDPP, it cannot accomplish this through a plan amendment. Instead, NV Energy
14 makes needed adjustments using its approved plan’s processes, and, if necessary, can seek cost
15 recovery in an appropriate proceeding.

16 Here, NV Energy repeatedly says that it is not seeking to amend the scope or purpose of its
17 approved NDPP, characterizing the majority of its requested labor positions as mere adjustments to
18 implementing its already approved NDPP.¹³ The Application states that the First Amendment does not
19 change the approved Plan’s scope of work. The Application further emphasizes that its implementation
20 adjustments do not require an increase to approved NDPP budgets.¹⁴ NV Energy also concedes that the
21 “incremental NDPP programs do[] not include the Labor Resources Plan for Approved Programs,”
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23 ⁹ *Id.* at Section 7(2)(k).

24 ¹⁰ *Id.* at Section 7(2)(m).

25 ¹¹ *Id.* at Section 7(2)(o).

26 ¹² *Id.* at Section 7(2)(m).

27 ¹³ *See, e.g.*, Ex. 100, Refiled Application at 2 (“The First Amendment requests approval of new labor resources plan
28 to implement the Plan’s scope of work.” (emphasis added)); *id.* at 19 of 336 (“Add internal resources for administration of
the Plan...to administer approved programs, support community outreach, focus on achieving scheduled milestones, and
coordinate or harmonize potentially competing priorities.” (emphasis added)); *id.* (“Labor Resource Plan for Approved
Programs. The labor resource plan funding request includes Full Time Equivalent (“FTE”) labor resources to implement
the existing approved NDPP initiatives. . . . these additional positions are needed to ensure timely implementation of the
various capital and OMAG programs approved in the Plan.” (emphasis added)).

○ ¹⁴ *Id.* at 2 (“[T]he labor resource plan . . . [does not] require an increase to approved NDPP budgets.”).

1 which applies to 31 of the 46 requested positions.¹⁵ During hearing, NV Energy witness Jesse Murray
2 stated, “[w]e are requesting these positions within the existing budget, so essentially a no-cost change
3 to the plan, in order to ensure we are adequately providing the benefits that we seek in the plan that
4 was approved by the Commission in 2024.”¹⁶

5 These concessions show that NV Energy’s attempt to separate 15 positions for the Hazard
6 Awareness Desk “Program” from the 31 other positions is pretense. In fact, the Joint Application did
7 not even reference these 15 additional personnel until the Corrected Joint Application was filed on
8 March 27, 2025.¹⁷ Based on these concessions and the Regulations, NV Energy improperly presented
9 its labor resources requests in an application to amend its NDPP.¹⁸

10 **B. Labor Resources Are Not NDPP “Elements” Subject to Amendment**
11 **Because They Are Not a “Program, Activity or Investment.”**

12 Under the Regulations, NDPP amendments should be used only for scope-altering changes to
13 the plan that materially alter major elements. Here, the labor resources requests are not appropriate for
14 an amendment because they do not fit within the Regulations’ meaning of “element.”¹⁹ For example,
15 consider Section 7(2)(o) in conjunction with Section 2. Section 7(2)(o) requires an application to
16 identify “any element of the natural disaster protection plan that is incremental to the normal course of
17 business of the electric utility.”²⁰ In turn, Section 2 defines this phrase in a manner that clearly conveys
18 “element” refers to “a program, activity or investment.”²¹ Notably absent from that definitional list is
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20 ¹⁵ Ex. 302, Direct Testimony of Andrew Greene at Q&A 8.

21 ¹⁶ Tr. Vol. 1 of 2, 91:11-16 (Jesse Murray).

22 ¹⁷ In the Joint Application, the “Resource and Technology Plan—Proposed Programs” section, which provides the
23 support for these positions, did not provide the total number of positions requested or any meaningful information about
24 each position. Joint Application at 19-21. Table 11: Proposed Resource and Technology Headcount and Programs, listing
25 15 new personnel, was not provided until the Corrected Joint Application was filed on March 27, 2025. Corrected Joint
26 Application at 1, 35-36 of 336. Without Table 11, Page 20 refers to five Hazard Awareness Analysts, and then the section
27 only broadly references a “distribution automation group” / “distribution automation personnel” / “distribution automation
28 team.” On page 21, it states the need for a “leader and engineer” in 2025, and that NV Energy “then plans to onboard line
personnel and a communication technician in early 2026 to meet the anticipated first wave implementation.” Tables 11, 12,
and 14 only have a “Forecast Incremental Labor” column with lump total costs, but no breakdown or supporting analyses
or documentation (e.g., scope of work, underlying need, why existing positions are insufficient, emergency response
redundancies, cost-benefit analysis, etc.).

¹⁸ Instead of engaging with Section 7, NV Energy focuses on Sections 12 and 13, conflating cost-recovery with plan-
amendment requirements.

¹⁹ See Att. 1, Section 7(3).

²⁰ *Id.* at Section 7(2)(o).

²¹ *Id.* at Section 2.

1 “labor resources,” “individual,” “job position,” or other “OMAG” expenses—and consistent with
2 interpretive principles—“the expression of one thing is the exclusion of another.”²²

3 Based on a plain-language interpretive approach, the labor resources requested by NV Energy
4 cannot reasonably be understood to be either a program, activity, or investment. Indeed, this language
5 is consistent with Staff’s position that the labor resources requested by NV Energy are not programs,
6 activities, or investments.²³ Additionally, Staff’s interpretation conforms to other uses of the word
7 “element” throughout the Regulations, including Section 7(3), which requires detailed analyses for
8 each “element,” including how it specifically reduces fire risks and equipment damage, a cost-benefit
9 analysis, and input from agencies. It would be unreasonable for “element” to include labor resources
10 adjustments because it would require dozens of granular analyses to comply with Section 7(3). Thus,
11 any other interpretation would violate the absurd-results interpretive canon.²⁴

12 Accordingly, NV Energy’s labor resources requests are not plan elements appropriate to address
13 in NDPP amendments. Instead, the requested amounts are needed only to adjust implementation of an
14 already-approved plan element. Such adjustments are merely corrective actions capable of being
15 completed without plan amendments.

16 **C. Even If the Requested Labor Resources Were an “Element” and**
17 **“Incremental,” the Requests for Them Are Informationally Deficient and**
18 **Do Not Comply with the Regulations.**

19 NV Energy’s labor resources requests are also inappropriate because they do not comply with
20 the informational requirements found in Section 7 of the Regulations. “[F]or each element of the
21 [NDPP] that is incremental to the normal course of business of the electric utility,” NV Energy must
22 identify how each element is expected to reduce ignition events in high risk areas and extreme fire risk
23 areas and equipment damage and loss of power caused by a natural disaster, provide a cost-benefit
24 analysis that measures the reduction in the risk of natural disaster, and incorporate input from specified
25 government agencies.²⁵ NV Energy must also provide a summary of the 3-year projected budget, the

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27 ²² *Doe Dancer I v. La Fuente, Inc.*, 137 Nev. 20, 34, 481 P.3d 860, 873 (2021).

28 ²³ Ex. 302, Direct Testimony of Andrew Greene at Q&A 8.

²⁴ *Young v. Nevada Gaming Control Bd.*, 136 Nev. 584, 586, 473 P.3d 1034, 1036 (2020) (stating courts interpret statutes to avoid “an absurd result”).

²⁵ Att. 1, Section 7(3).

1 cost elements and projected cost for each element, supporting documentation and analysis of
2 incremental costs for each element, the projected impact of the elements of the plan on rates, the
3 proposed allocation of incremental costs, and annual data tracking trends.²⁶ A review of NV Energy's
4 Corrected Joint Application shows it does not comply with these requirements.²⁷

5 The Application fails to define which, if any, aspects of its "plan amendment" implicate
6 elements appropriate for amendment. Nor does the Application explain how the requests fit within the
7 meaning of "program, activity or investment."

8 Nevertheless, even assuming the 46 distinct labor resources positions could be considered
9 collectively as one "element," NV Energy did not provide the required information outlined in Sections
10 7(3) or (4). While NV Energy provided a summary of the projected budget in Tables, there was no
11 supporting documentation or analysis of either the projected costs, the projected impact of the elements
12 of the NDPP on rates, or proposed cost allocations. There also was no cost-benefit analysis that
13 measures the reduction in the risk of natural disaster resulting from the implementation of the labor
14 resources. Nor does the Application mention or provide supporting documentation showing it solicited
15 and incorporated input for the requested labor resources from each fire protection district; each county
16 office of emergency management; the Divisions of Forestry, State Lands, and State Parks under the
17 State Department of Conservation and Natural Resources; and the State Division of Emergency
18 Management.²⁸

19 Absent compliance with these regulatory requirements, the labor resources requests cannot be
20 sustained (assuming they are properly considered in this amendment at all).

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²⁶ *Id.* at Section 7(4).

²⁷ *See, supra*, FN 17. The Tables only have lump total costs. There is no other breakdown or supporting analyses or documentation (*e.g.*, scope of work, underlying need, why existing positions are insufficient, other potential redundancies and inefficiencies, cost-benefit analysis, etc.).

²⁸ *See generally* Ex. 100, Refiled Application.

1 **II. The Regulations Do Not Authorize Regulatory-Asset Recovery for the Requested**
2 **NDPP-Dedicated Labor Resource Positions.**

3 NV Energy's labor resources requests are ineligible for regulatory-asset recovery and must be
4 addressed in a cost-recovery docket. Regardless, regulatory-asset treatment would be inappropriate
5 because the request is not supported by substantial evidence.

6 **A. According to the plain language of the Regulations, NV Energy “shall include in each**
7 **general rate application...the cost of operations, maintenance, administrative and**
8 **general expenses to comply with the natural disaster protection plan....”**

9 Given this proceeding is not a cost-recovery docket, all costs requested to be recovered in a
10 future cost-recovery docket must comply with Section 12 of the Regulations. Section 12 addresses
11 project development costs directly and requires that, starting March 2, 2025, NV Energy “*shall include*
12 *in each general rate application...a request to recover the cost of prudent and reasonable expenditures*
13 *made by [NV Energy] to develop and implement any element of a [NDPP] during the most recent 12*
14 *months,”* and specifically “*the cost of operations, maintenance, administrative and general expenses*
15 *to comply with the natural disaster protection plan....*”²⁹

16 All the requested labor resources at issue fall squarely within the operations, maintenance,
17 administration, and general (“OMAG”) expenses category. None of NV Energy's labor resources
18 requests in this Application can be reasonably characterized or considered to be new capital projects
19 per Section 13(1).³⁰ Therefore, according to the plain language of the Regulations, these costs must be
20 included in a general rate application filed pursuant to NRS 704.110.

21 When asked whether NV Energy would still hire these positions and include those costs under
22 general rates (*e.g.*, operations and maintenance revenue requirement costs), NV Energy responded
23 “[y]es, for the 46 positions in the resource plan, the Companies would proceed with filling the positions
24 and include the costs under general rates.”³¹ Additionally, and most problematic is that, according to
25 NV Energy, if an employee is labeled as NDPP-specific or performing hours dedicated to the NDPP
26 program, then NV Energy is entitled to regulatory asset treatment for either of those costs. However,

27 ²⁹ Att. 1, Section 12(4)—(5)(a)(2). NV Energy filed its application to amend its NDPP 16 days before March 2, 2025.

28 ³⁰ “Table 12 identifies the OMAG-related costs associated with the hazard awareness desk. There are no anticipated
capital costs for this program.” Corrected Joint Application at 35 of 336.

³¹ See Ex. 302, Direct Testimony of Andrew Greene at ASG-5, NV Energy's Response to Staff DR 46.

1 this desire to obtain regulatory asset treatment for OMAG costs conflicts with Section 12(4)-(5)(a)(2),
2 which specifically requires NV Energy to seek recovery of such costs in a general rate case.³²

3 NV Energy's request for 46 additional NDPP-specific employees is perhaps an overreaction to
4 a distinction made by the Commission in 2022, applying prior Regulations, that excluded labor costs
5 from NDPP regulatory asset recovery because they were "derived from a subset of existing employees
6 who allocate[d] a portion of their time to NDPP activities and not new positions solely dedicated to the
7 NDPP."³³ While past decisions are sometimes persuasive, in this case they offer little guidance since
8 the Commission amended its prior regulations to require OMAG cost recovery to occur in general rate
9 applications.

10 NV Energy incorrectly characterizes Staff's position as a denial of cost recovery of the labor
11 resources requested—rather, NV Energy chose to improperly include the requests in a plan amendment
12 filing. NV Energy's apparent concern with regulatory lag does not justify departing from the
13 Regulations. That concern also disingenuously discounts that the lag goes both ways. Presently, NV
14 Energy has 139 vacant positions.³⁴ Yet the Corrected Joint Application is seeking 46 additional NDPP-
15 specific positions for which NV Energy is requesting carry. Further, as NV Energy's NDPP risk profile
16 evolves with the changes to its service territory, and related NDPP programs and investments need to
17 be implemented, related labor resources additions should be an organic process similar to that noted
18 for a general rate case proceeding.³⁵ Regardless, any related arguments in this particular docket are
19 premature or tenuous at best as NV Energy has not even hired these employees and can better establish
20 the proper test year and determine the timing for the recovery of these positions in a subsequent annual
21 general rate case as has been the recent practice once they are hired, consistent with the requirements
22 of the Regulation.

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26 ³² *Id.* at Q&A 8. While the statute does require a separate line item on customer bills for NDPP, it seems that creating
27 46 new NDPP-specific positions only complicates this requirement. Nevertheless, the general rate case is the appropriate
28 venue to discuss the content of customer bills.

³³ Ex. 108, Rebuttal Testimony of Jesse Murray at Q&A 8 (citing Docket No. 22-03006, Commission's Modified
Final Order at ¶¶ 28-30).

³⁴ Ex. 303, Docket No. 25-02016, NV Energy's Response to Staff DR 148.

³⁵ *See* Docket No. 25-02016, Commission's Order at ¶ 38 (April 17, 2025).

1 Independently, regulatory-asset recovery is improper because the Commission does not
2 predetermine implementation costs/prudency before it receives an appropriate cost recovery filing. The
3 Commission does not monitor the day-to-day implementation of an approved NDPP. Instead, NV
4 Energy must run its business, and, to the extent its decisions affect the budget or plan as submitted, it
5 is up to NV Energy to make prudent and reasonable decisions and explain the rationale during the
6 appropriate cost-recovery docket.³⁶ The associated costs of those corrective actions do not come back
7 before the Commission in the form of an NDPP amendment.

8 NV Energy's statements are consistent with Staff's position:

9 I do not agree that the Commission should prospectively deem any expenditures above
10 budgeted amounts to be ineligible to accrue carrying costs. The regulations do not limit
11 carrying costs to the amount budgeted and the Commission should not prejudge any
12 potential future expenditures without reviewing underlying facts. The Companies must
13 manage the NDPP to respond effectively to evolving risks—if quick action is necessary
14 to address risk, expenditures may not align with the approved budget, but the
15 Commission will have an opportunity to consider cost recovery and carry in an
16 appropriate proceeding. There is no basis to exclude potential carry in advance.³⁷

17 Similarly, there is no basis to award or prejudge carry in advance of the appropriate proceeding.
18 This is the crux of Staff's position that the labor resources requests are not properly before the
19 Commission in the context of an NDPP amendment. NV Energy claims a goal of its application is
20 "transparency."³⁸ However, transparency occurs in annual informational reports (Section 10).³⁹

21 Here, NV Energy's labor resources requests improperly included in the plan amendment are
22 akin to the inappropriate "continued approval" request in Docket 24-05041. In Docket No. 24-05041,
23 the Commission explained that "continued approval" of the Greenlink Nevada Project was
24 "unnecessary, as the Commission has not revoked any approval of the Greenlink Nevada"; would

25 ³⁶ Docket No. 24-08030, 2024 Progress Report (Aug. 30, 2024); Docket No. 24-08030 at 1 (conceding that "cost-
26 recovery for some initiatives has transferred to... General Rate Cases").

27 ³⁷ Ex. 103, Direct Testimony of Jesse Murray at Q&A 9.

28 ³⁸ Ex. 108, Rebuttal Testimony of Jesse Murray at Q&A 9 ("Arguably, the Companies could have hired the 31 labor
resource positions necessary to implement the previously approved NDPP programs without Commission approval because
adding these positions will not increase the approved budgets. However, the Companies believe it is necessary to provide
the Commission and stakeholders adequate transparency and advance notice regarding its efforts to improve the NDPP
administration and to ensure an adequately sized and trained workforce to execute the existing plan.").

³⁹ See, e.g., Docket No. 24-07003 (First Report); 24-08030 (Second Report).

1 “equate to a prudency approval for unvetted costs”; and was unnecessary under the law.⁴⁰ Instead, the
2 Commission concluded “all costs expended to construct the previously-approved Greenlink Nevada
3 Project are subject to a prudency review in a future GRC.”⁴¹

4 Therefore, the Commission should reject this inappropriate use of the regulatory process
5 outright and reach the same conclusion—the relief sought by NV Energy must be sought in a cost-
6 recovery action.

7 **B. Regulatory Asset Treatment Also Is Inappropriate Because NV Energy’s Requests**
8 **Are Unsupported by Substantial Evidence.**⁴²

9 In support of its requests, NV Energy merely provided a summary and tables showing the costs
10 of additional positions. The information provided is insufficient.

11 First, NV Energy claims the internal audit report⁴³ adequately supports the labor resources
12 requests. But that report indicated only medium risk control issues, and management concluded the
13 approved NDPP was sufficient to remedy them.⁴⁴ However, the audit report concluded the invoice-
14 review process issues were already resolved. New contracts were effective on February 1, 2024; “the
15 new process [was] already in place” to “develop an improved invoice review process ensuring that
16 invoices are substantially validated, adequately documented, and reconciled with supporting details
17 prior to submission or payment”; and “[t]he next two billing cycles w[ould] be used to refine the newly
18 implemented process improvements.”⁴⁵ In other words, the audit report only cited the need for
19 coordination with the legal, supply chain management, and business support teams—all of whom
20 already review and process various third-party contracts across NV Energy.

21 Second, contrary to statements made in rebuttal testimony, NV Energy admitted during hearing
22 that it failed to perform any analysis to determine whether it is reasonable for it to have 139 regular
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24 ⁴⁰ Docket No. 24-05041, Commission’s Order at ¶ 892 (Dec. 27, 2024).

25 ⁴¹ *Id.* at ¶¶ 891-92.

26 ⁴² See NRS 233B.125 (“A decision or order adverse to a party in a proceeding must be in writing...[and] a final
27 decision must include findings of fact and conclusions of law, separately stated.”); NRS 704.895 (The “grounds for and
28 scope for review of the court” include, in part, “whether the opinion and order of the Commission are supported by
substantial evidence in the record.”).

⁴³ Ex. 301, KAB-4, Docket No. 24-03006, NDPP Fire Agencies Transactions (Project 23-SP6), Internal Audit Report
(March 6, 2024).

⁴⁴ Ex. 302, Direct Testimony of Andrew Greene at Q&A 10.

⁴⁵ Late-filed Ex. 110, NDPP Fire Agencies Audit Report at 13 (Mar. 6, 2024).

1 business unit positions vacant while requesting 46 new positions to perform NDPP-only activities.⁴⁶
2 At hearing, witness Jesse Murray was asked: “[I]f you have an individual who would come in that
3 would qualify for a position ... we would all call the normal course of business and going out and
4 performing that very technical work, but that’s also that skill set that you’re looking for in [the] NDPP,
5 how is that going to work?”⁴⁷ Mr. Murray merely responded that it would abide by emergency response
6 roles and requirements, but otherwise speculated on potential criteria that could be analyzed, but that
7 had not been performed as required for each element under Section 7(3). This analysis is crucial to any
8 determination of which functions are normal business functions versus incremental.

9 Third, and most importantly, Staff requested all decision documents supporting witness
10 Danyale Howard’s Q&A 10.⁴⁸ In response, NV Energy only provided a draft Key Decision Report.⁴⁹
11 When asked about that draft Key Decision Report during hearing, NV Energy witness Jesse Murray
12 stated that NV Energy substantially relied on a previously undisclosed internal audit.⁵⁰ Despite the
13 Master Data Requests⁵¹ and Staff DR requests for this specific information, NV Energy not only
14 withheld the audit (that it alleged was privileged at hearing), but also failed to disclose its very
15 existence.⁵² Staff agrees with the statements made by Commissioner Cordova that this missing—but
16 admittedly decision-driving—information cannot be relied upon to support the application.⁵³ Given
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20 ⁴⁶ Ex. 108, Rebuttal Testimony of Jesse Murray at Q&A 8 (“This demonstrates that the Companies are not leaving
21 regular business unit positions vacant while requesting new staff to perform NDPP activities as Casinos’ witness Mr. Regan
22 asserts in his testimony. Instead, it shows that even with a fully staffed regular business unit, the NDPP has required
23 additional labor resources to implement the scope of work in the approved plan.” (emphasis added)).

24 ⁴⁷ Tr. Vol. 1 or 2, 234:16-22 (Kim Lighthart).

25 ⁴⁸ Ex. 400 NML-12, Direct Testimony of Nichole Loar, NV Energy’s Response to Staff 44 with attachment, Draft
26 Key Decision Report dated July 25, 2024; Late-filed Ex. 111, NV Energy’s Supplemental Response to WynnSEA 14.

27 ⁴⁹ *Id.*

28 ⁵⁰ For clarity, contrary to the response provided by NV Energy in Late-filed Ex. 111, NV Energy’s Supplemental
Response to Wynn SEA 14, this previously undisclosed internal audit is separate and apart from Ex. 301, KAB-4, Docket
No. 24-03006, NDPP Fire Agencies Transactions (Project 23-SP6), Internal Audit Report (March 6, 2024).

⁵¹ Master Data Request 11 (Management and Operations Audit); Master Data Request 12 (“Internal Audit. Provide
a subject list of all regulated company internal audit reports made since the last rate case or the most recent three years,
whichever is less, through the end of the test period. If the regulated company was not subject to a stand-alone audit, provide
relevant excerpts from appropriate affiliated companies.”).

⁵² See Tr. Vol. 1 of 2, at 144:18-145:12; 155:1-24; 156:9-11 (Commissioner Cordova acknowledging nobody has
seen the audit relied on); 158:12-25 (NV Energy Witness Jesse Murray conceding materiality of the undisclosed, allegedly
privileged audit); 162:4-11 (declining to produce privileged audit report at Commission’s request).

⁵³ See Tr. Vol. 1 of 2, at 200:1-204:23; Vol. 2 of 2, at 477:9-481:8.

1 that NV Energy has conceded it predominantly relied on this undisclosed document to support its
2 application, the related requests in the Application cannot be substantiated and necessarily fail.

3 **III. Conclusion**

4 Based on the foregoing, the requested labor resources requests are not appropriate for
5 consideration in this NDPP-amendment application or for receiving regulatory-asset recovery. NV
6 Energy must move forward to prudently and reasonably implement the NDPP and may seek recovery
7 of its labor resources costs in a general rate case as required by the Regulations in Section 12(4) and
8 (5).

9 RESPECTFULLY SUBMITTED this 16th day of May, 2025.

10
11 PUBLIC UTILITIES COMMISSION OF NEVADA
12 REGULATORY OPERATIONS STAFF

13 By: /s/ Jared R. Wigginton
14 Jared R. Wigginton, Assistant Staff Counsel
15 Tori N. Sundheim, Assistant Staff Counsel
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Attachment 1

**ADOPTED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R181-24

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1-8, NRS 703.025, 704.210 and 704.7983.

A REGULATION relating to electric utilities; revising requirements for an application by an electric utility to recover its prudent and reasonable expenditures to develop and implement a natural disaster protection plan; requiring an electric utility to submit a progress report concerning the natural disaster protection plan; revising provisions governing the creation of a regulatory asset or liability account for certain costs incurred to carry out the natural disaster protection plan; revising provisions governing the clearance of the accumulated balance in certain regulatory asset or liability accounts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires an electric utility, on or before June 1, 2020, and on or before June 1 of every third year thereafter, to submit a natural disaster protection plan to the Public Utilities Commission of Nevada. Existing regulations require a natural disaster protection plan to contain certain information, procedures and protocols relating to the efforts of the electric utility to prevent or respond to a fire or other natural disaster. (NRS 704.7983; section 7 of LCB File No. R085-19) **Section 5** of this regulation revises the information which is required to be included in a natural disaster protection plan.

Section 2 of this regulation defines the term “element of a natural disaster protection plan that is incremental to the normal course of business of the electric utility” for the purpose of determining the expenditures made by the electric utility that may be recovered through certain rates. **Section 4** of this regulation makes this definition applicable to existing regulations and makes the definitions in existing regulations apply to new sections created by this regulation.

Existing law requires an electric utility to recover all prudent and reasonable expenditures to develop and implement a natural disaster protection plan as a separate monthly rate charged to customers. (NRS 704.7983) Existing regulations require the electric utility to separately track and account for those expenditures in its books and records and annually submit to the Commission a request to recover the cost of those expenditures. (Section 12 of LCB File No. R085-19) **Section 7** of this regulation requires an electric utility, or two or more affiliated electric utilities that share a jointly-filed natural disaster protection plan, until and including

March 1, 2025, to submit annually an application to recover the cost of prudent and reasonable expenditures made by the electric utility or utilities to develop and implement any element of a natural disaster protection plan that is incremental to the normal course of business of the electric utility. **Section 7** requires an electric utility, after March 1, 2025, to include a request to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement the natural disaster protection plan in the general rate application filed by the electric utility. **Section 7** establishes requirements for the allocation of such costs between affiliated electric utilities that share a jointly-filed natural disaster protection plan.

Section 3 of this regulation requires an electric utility to include and respond to a master document for the request of data in the general rate application that includes a request to recover the cost of prudent and reasonable expenditures made by the electric utility.

Existing regulations authorize an electric utility in certain years after the filing of a natural disaster protection plan to file with the Commission a progress report concerning the natural disaster protection plan. (Section 10 of LCB File No. R085-19) **Section 6** of this regulation makes the filing of this progress report mandatory and specifies that the progress report is informational.

Existing regulations authorize an electric utility to create a separate regulatory asset or liability account for a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan. Existing regulations require an electric utility to submit to the Commission an annual request to clear the accumulated balance in such a regulatory asset or liability account. (Section 13 of LCB File No. R085-19) **Section 8** of this regulation authorizes the creation of a separate regulatory asset or liability account only until the effectiveness of a rate to recover certain costs to develop and implement a natural disaster protection plan that is established as part of a general rate application filed by the electric utility. **Section 8** also: (1) revises certain amounts which are required to be recorded in a regulatory asset or liability account; and (2) requires an electric utility to cease recording carrying charges on certain costs recorded in the account upon the effectiveness of a rate to recover those costs that is established as part of a general rate application filed by the electric utility.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Element of a natural disaster protection plan that is incremental to the normal course of business of the electric utility” means a program, activity or investment included in an approved natural disaster protection plan the cost of which is not otherwise reflected in the rates of an electric utility.*

Sec. 3. 1. *An electric utility which files an application pursuant to subsection 2 or 4 of section 12 of LCB File No. R085-19 to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement an element of a natural disaster protection plan that is incremental to the normal course of business of the electric utility must include with the application a master document for the request of data, with answers to the questions contained in the master document.*

2. *The electric utility shall:*

(a) *Provide answers to the questions in the master document based on the available applicable data.*

(b) *Concurrently with the submission of the application pursuant to section 12 of LCB File No. R085-19, provide the electronic executable files with all links intact for any schedules submitted in the master document for the request of data to:*

(1) *The Commission;*

(2) *The Consumer's Advocate; and*

(3) *The Regulatory Operations Staff of the Commission.*

(c) *Provide the electronic executable files with all links intact for any schedules submitted in the master document for the request of data to any person who has been granted leave to intervene within 2 calendar days after the person is granted leave to intervene by the Commission.*

3. *Except as otherwise provided in this subsection, the master document for the request of data must be submitted in the illustrative format required by the Commission. The illustrative format for a particular master document for the request of data may be changed if the*

Consumer's Advocate, the Regulatory Operations Staff of the Commission and the electric utility agree to the change. The illustrative format for the master document for the request of data may be obtained at the offices of the Commission or on the Internet website of the Commission.

4. The following entities may request that the Commission change the illustrative format for the master document for the request of data:

(a) The Consumer's Advocate;

(b) The Regulatory Operations Staff of the Commission; or

(c) The electric utility.

5. Any changes which the Commission makes to the illustrative format for the master document for the request of data do not apply to a master document for the request of data submitted by an electric utility within 90 days after the Commission approves the changes.

Sec. 4. Section 2 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 2. As used in sections 2 to 14, inclusive, of LCB File No. R085-19, ***and sections 2 and 3 of this regulation***, unless the context otherwise requires, the words and terms defined in sections 3 to 6 inclusive, of LCB File No. R085-19 ***and section 2 of this regulation*** have the meanings ascribed to them in those sections.

Sec. 5. Section 7 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 7. 1. An electric utility shall, on or before March 1, 2020, and on or before March 1 of every third year thereafter, submit a natural disaster protection plan to the Commission. Two or more electric utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity may submit a

joint natural disaster protection plan. A natural disaster protection plan may be an amended version of a previous plan.

2. An electric utility shall include in its natural disaster protection plan all of the following information:

(a) A description ***and analysis*** of a risk-based approach used by the electric utility to identify areas within the service territory of the electric utility that are prone to different types of natural disasters and an identification of potential threats in the foreseeable future, including, without limitation, an identification of areas within the service territory of the electric utility that are subject to a heightened threat of a fire or other natural disaster.

(b) A description ***and analysis*** of the preventive strategies and programs, including, without limitation, operational practices, inspections and corrections, and system hardening that the electric utility will adopt to minimize the risk of its electric lines and equipment causing catastrophic wildfires. In determining which preventive strategies and programs to include in the description required by this paragraph, the electric utility shall consider dynamic climate change and other natural disaster risks.

(c) A description of the metrics that the electric utility plans to use to evaluate the performance of the natural disaster protection plan and the assumptions underlying the use of those metrics.

(d) The threshold criteria for the de-energization of portions of the distribution and transmission system of the electric utility due to a natural disaster that considers the associated impacts on public safety ~~and~~ ***and costs to ratepayers.***

(e) The protocols that the electric utility plans to use:

(1) For disabling reclosers and de-energizing portions of the distribution and transmission system of the electric utility that considers the associated impacts on public safety; and

(2) To mitigate the public safety impacts of the protocols described in subparagraph (1), including, without limitation, impacts on critical first responders and on health and communication infrastructure.

(f) A description of the procedures the electric utility intends to use to restore its distribution and transmission systems in the event of the de-energization of those systems or a portion of those systems.

(g) A communication plan related to public safety outage management, which includes, without limitation, communication plans specific to customers, stakeholders and communication infrastructure providers. Before filing a natural disaster protection plan, each electric utility shall meet with communication infrastructure providers in an effort to develop a mutually agreeable plan for public safety outage management notification *timelines*, protocols and format.

(h) A description of the standard for vegetation management to be used by the electric utility and, if that standard exceeds any other standard for vegetation management required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(i) A description of the standard for patrols and detailed inspections of electric utility infrastructure and, if that standard exceeds any other standard for such patrols and

inspections required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(j) A description of the actions that the electric utility will take to ensure that its system will achieve a reasonable level of safety, reliability and resiliency and to ensure that its system is prepared for a natural disaster, including, without limitation, vegetation management, patrols, inspections, testing, and hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment and facilities, such as undergrounding, insulation of distribution wires, pole replacement and other measures. An electric utility shall use prudent practices commonly used in the electric utility industry for utility design, operating practices and telecommunications to prevent its infrastructure from causing a fire and to maintain resiliency during a natural disaster.

(k) An explanation that the electric utility has an adequately sized and trained workforce to execute the natural disaster protection plan and promptly restore service after a major event, taking into account employees of other utilities available to the electric utility pursuant to mutual aid agreements and employees of entities with which the electric utility has entered into contracts.

(l) A description of how the natural disaster protection plan is consistent with the emergency response plan submitted by the electric utility pursuant to NRS 239C.270.

(m) A description of the processes and procedures that the electric utility will use to monitor and audit the implementation of the natural disaster protection plan and to take actions , ***as soon as practicable***, to correct any deficiency that is identified.

(n) A description of the participation of the electric utility, including, without limitation, any commitments made, in any community wildfire protection plans, as defined in 16 U.S.C. § 6511, established in this State.

(o) An identification of any element of the natural disaster protection plan that is incremental to the normal course of business of the electric utility.

3. For each element that an electric utility is required by subsection 2 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) An identification of how the element is expected to reduce:

(1) Ignition events in high fire risk areas and extreme fire risk areas during critical fire weather conditions; and

(2) Equipment damage and loss of power caused by a natural disaster;

(b) A cost-benefit analysis for the element ~~that~~ ***that measures the reduction in the risk of natural disaster resulting from the implementation of the element;*** and

(c) The input relating to the element that has been provided by:

(1) Each fire protection district in the service territory of the electric utility that is covered by the plan;

(2) The office of emergency management for each county covered by the plan;

(3) The Division of Forestry, Division of State Lands and Division of State Parks of the State Department of Conservation and Natural Resources; and

(4) The Division of Emergency Management of the ~~Department of Public Safety.~~ ***Office of the Military.***

4. In addition to the information that an electric utility is required by subsections 2 and 3 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) A summary of the projected 3-year budget for the natural disaster protection plan, an identification of the projected cost elements of the plan and the projected cost for each element that the electric utility is required by subsection 2 to include in the plan;

(b) *The projected costs, including, without limitation, supporting documentation and analysis, of any element of the natural disaster protection plan that is incremental to the normal course of business of the electric utility;*

(c) *The projected impact of the elements of the plan on rates;*

(d) If two or more electric utilities submit a joint natural disaster protection plan, the proposed ~~joint and direct~~ allocation of *the costs identified in paragraph (b)* between the service territories of the electric utilities ~~to~~, *consistent with the requirements for the allocation of such costs pursuant to subsection 3 or 5, as applicable, of section 12 of LCB File No. R085-19;* and

~~to~~ (e) Annual data tracking trends associated with:

(1) Ignition events, separated for ignition events:

(I) During critical fire weather conditions and during all other days in high and extreme risk fire areas; and

(II) The involvement of transmission or distribution infrastructure; and

(2) Equipment damage and loss of power caused by natural disasters.

Sec. 6. Section 10 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 10. On or before September 1 of the first and second years after an electric utility has submitted a natural disaster protection plan to the Commission pursuant to section 7 of LCB File No. R085-19, the electric utility ~~may~~ **shall** file with the Commission ~~an~~ **an informational** progress report concerning the natural disaster protection plan that will apply to each year remaining for the period covered by the natural disaster protection plan.

Sec. 7. Section 12 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 12 1. An electric utility shall separately track and account for in its books and records all prudent and reasonable expenditures made by the electric utility to develop and implement its natural disaster protection plan.

2. On or before March 1 of each year, ***until and including March 1, 2025***, an electric utility ***or, if two or more affiliated electric utilities share a jointly-filed natural disaster protection plan, the affiliated electric utilities***, shall submit to the Commission an application to recover the cost of prudent and reasonable expenditures made by the electric utility ***or utilities*** during the immediately preceding year to develop and implement ~~the~~ ***any element of a*** natural disaster protection plan ~~of the electric utility pursuant to subsection 6 of NRS 704.7983.~~ ***that is incremental to the normal course of business of the electric utility or utilities. The electric utility or utilities must demonstrate that the expenditures are incremental to the costs incurred in the normal course of business.*** The Commission will issue a final decision on the application not later than ~~{180}~~ **210** days after the date on which the application was submitted.

3. For an application submitted pursuant to subsection 2 that is submitted jointly by affiliated electric utilities, the costs of the incremental expenditures must be allocated based on where the expenditures occurred, with the costs of investments made within the service territory of an electric utility being allocated entirely to the customers of that electric utility. For expenditures applicable to service territories of multiple electric utilities, including, without limitation, manager salaries, the application must clearly identify the methodology used to allocate the cost of such expenditures between the electric utilities.

4. An electric utility shall include in each general rate application filed pursuant to NRS 704.110 on or after March 2, 2025, a request to recover the cost of prudent and reasonable expenditures made by the electric utility to develop and implement any element of a natural disaster protection plan during the most recent 12 months for which data were available when the general rate application was prepared. The application must include a proposed separate rate to recover the costs from the customers of the electric utility through a uniform kilowatt-hour rate.

5. For an application filed pursuant to subsection 4 by an electric utility that shares a jointly-filed natural disaster protection plan with an affiliated electric utility:

(a) The proposed separate rate shall be set to recover:

(1) The cost of all capital investments made to comply with a natural disaster protection plan within the service territory of the electric utility filing the request; and

(2) The cost of operations, maintenance, administrative and general expenses to comply with the natural disaster protection plan within the service territory of the electric utility filing the request.

(b) For expenditures described in subparagraph (2) of paragraph (a) that are applicable to the service territories of multiple electric utilities, including, without limitation, manager salaries, the request must clearly identify the methodology used to allocate such expenditures between the electric utilities.

Sec. 8. Section 13 of LCB File No. R085-19 is hereby amended to read as follows:

Sec. 13. 1. ~~Until the rate-effective period for the separate rates established after an electric utility filed its initial request pursuant to subsection 4 of section 12 of LCB File No. R085-19, the~~ electric utility may, upon placing into operation a new capital project constructed or acquired by and owned by the electric utility pursuant to *an element of a natural disaster protection plan ~~that is incremental to the normal course of business of the electric utility,~~* create a regulatory asset or liability account for the capital project.

2. Beginning 1 month after the date on which a new capital project for which a regulatory asset or liability account is created pursuant to subsection 1 is placed into plant in service, the electric utility that maintains the account shall separately calculate and record in the account:

(a) A return on investment for the capital project using the most recently authorized pretax rate of return on the net plant balance of the capital project. The net plant balance of the capital project must be calculated by subtracting from the costs of the capital project

the sum of the accumulated depreciation and the accumulated deferred income tax for the capital project.

(b) Depreciation expenses related to capital projects included in the natural disaster protection plan pursuant to paragraph (c) of subsection 2 of NRS 704.7983.

(c) Actual incremental *or decremental* monthly operations and maintenance costs , *in comparison to the costs incurred by the electric utility in the normal course of business, that are* incurred to carry out the natural disaster protection plan.

(d) ~~{Carrying}~~ *Except as otherwise provided in this paragraph, carrying* charges on the costs described in paragraph (c) at the most recently authorized rate of return ~~{+}~~ , *excluding the equity component of such authorized rate of return. The electric utility shall cease recording carrying charges pursuant to this paragraph upon the beginning of the rate-effective period for the separate rates established after the electric utility filed its initial request pursuant to subsection 4 of section 12 of LCB File No. R085-19.*

3. The amounts recorded in a regulatory asset or liability account pursuant to subsection 2 must be separately identified ~~{and excluded from a general rate case.}~~ *until included in a rate established pursuant to section 12 of LCB File No. R085-19. Once costs have been transferred from the regulatory asset or liability account into rates, the electric utility shall cease recording the amounts described in subsection 2 in the regulatory asset or liability account.*

4. An electric utility shall ~~{annually submit}~~ *include in each application submitted* to the Commission *pursuant to section 12 of LCB File No. R085-19* a request to clear the

accumulated balance in a regulatory asset or liability account created pursuant to subsection 1 and include the account in the request. The request must include:

(a) A proposed period for recovery and amortization of the regulatory asset or liability that ensures that the utility does not recover more than the actual accumulated balance of the account;

(b) A detailed reconciliation of the amount of recovery requested to the approved budget items, showing carrying charges separately; ~~and~~

(c) ***The projected impact of the recovery requested on the amounts billed to customers; and***

(d) Proposed rate design and rates by customer class ~~for the annual recovery requested in~~ ***as*** a separate line item on a customer's bill.

Attachment 2

**REVISED PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R085-19

December 6, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, sections 1.3 and 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at pages 555-56, and NRS 703.025 and 704.210; §§2-13, section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, and NRS 703.025 and 704.210; §14, section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556, and NRS 703.025 and 704.210.

A REGULATION relating to the prevention of natural disasters; prescribing requirements relating to natural disaster protection plans of certain electric utilities; requiring an electric utility to report certain information to the Public Utilities Commission of Nevada; authorizing an electric utility to create a regulatory asset or liability account for certain capital projects; prescribing requirements relating to the use of certain persons to perform tree trimming for an electric utility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an electric utility to, on or before June 1, 2020, and on or before June 1 of every third year thereafter, submit a natural disaster protection plan to the Public Utilities Commission of Nevada. A natural disaster protection plan is generally required to contain certain information, procedures and protocols relating to the efforts of the electric utility to prevent or respond to a fire or other natural disaster. (Section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555) **Sections 2-6** of this regulation define terms relating to natural disaster protection plans. **Section 7** of this regulation: (1) authorizes two or more commonly owned electric utilities that have an interconnected system for the transmission of electricity to submit a joint natural disaster protection plan; and (2) prescribes the date by which an electric utility is required to submit a natural disaster protection plan to the Commission. **Section 7** also prescribes the information that is required to be included in a natural disaster protection plan. Finally, **section 7** requires an electric utility to use prudent practices commonly used in the utility industry to prevent fires and maintain resiliency during a natural disaster.

Section 8 of this regulation authorizes an electric utility to request expedited treatment of an element of a natural disaster protection plan if the utility requires additional time to implement the element before the next fire season. **Section 8** additionally prescribes processes

for: (1) the approval or modification of a natural disaster protection plan after submission; and (2) the amendment or modification of a natural disaster protection plan after its approval.

Existing law authorizes a rural electric cooperative to submit a natural disaster protection plan to the Commission for the purpose of obtaining advice and recommendations. (Section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555) **Section 9** of this regulation provides that the Commission will issue an advisory opinion on a natural disaster protection plan submitted by a rural electric cooperative not later than 150 days after the date of submission.

Section 10 of this regulation authorizes an electric utility to file a progress report concerning its natural disaster protection plan. **Section 11** of this regulation requires an electric utility to report to the Commission certain information relating to fires and other natural disasters and public safety.

Existing law requires an electric utility to recover all prudent and reasonable expenditures to develop a natural disaster protection plan as a separate monthly rate charged to customers. (Section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555) **Section 12** of this regulation requires an electric utility to: (1) separately track and account for those expenditures in its books and records; and (2) annually submit to the Commission a request to recover the cost of those expenditures. **Section 13** of this regulation authorizes an electric utility to create a separate regulatory asset or liability account for a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan. If an electric utility maintains such an account, **section 13** requires the utility to obtain the approval of the Commission annually before obtaining recovery for the balance of the account accrued during the previous year.

Existing law prohibits a person from performing tree trimming related to line clearance in an easement or right-of-way dedicated or restricted for use by an electric utility unless the person: (1) is a qualified electrical worker; or (2) is not an employee of the electric utility, is approved by the Commission and works under the direction of an arborist certified by the International Society of Arboriculture. (Section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556) **Section 14** of this regulation prescribes the requirements for an application for approval by the Commission of a person who is not an employee of the electric utility. **Section 14** also requires an electric utility that utilizes such an approved person to perform tree trimming to maintain documentation of compliance with statutory requirements.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Critical fire weather conditions” means a combination of weather and fuel conditions that are ideal for the ignition and rapid spread of wildfires.*

Sec. 4. *“Ignition event” means an event in which electric utility infrastructure starts a fire or scorches combustible material.*

Sec. 5. *“Natural disaster” means any natural catastrophe, including, without limitation, wind, wildfire, storm, high water, earthquake, avalanche, landslide, mudslide or heat wave.*

Sec. 6. *“Natural disaster protection plan” means a natural disaster protection plan submitted to the Commission pursuant to section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555.*

Sec. 7. 1. *An electric utility shall, on or before March 1, 2020, and on or before March 1 of every third year thereafter, submit a natural disaster protection plan to the Commission. Two or more electric utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity may submit a joint natural disaster protection plan. A natural disaster protection plan may be an amended version of a previous plan.*

2. *An electric utility shall include in its natural disaster protection plan all of the following information:*

(a) *A description of a risk-based approach used by the electric utility to identify areas within the service territory of the electric utility that are prone to different types of natural disasters and an identification of potential threats in the foreseeable future, including, without limitation, an identification of areas within the service territory of the electric utility that are subject to a heightened threat of a fire or other natural disaster.*

(b) A description of the preventive strategies and programs, including, without limitation, operational practices, inspections and corrections, and system hardening that the electric utility will adopt to minimize the risk of its electric lines and equipment causing catastrophic wildfires. In determining which preventive strategies and programs to include in the description required by this paragraph, the electric utility shall consider dynamic climate change and other natural disaster risks.

(c) A description of the metrics that the electric utility plans to use to evaluate the performance of the natural disaster protection plan and the assumptions underlying the use of those metrics.

(d) The threshold criteria for the de-energization of portions of the distribution and transmission system of the electric utility due to a natural disaster that considers the associated impacts on public safety.

(e) The protocols that the electric utility plans to use:

(1) For disabling reclosers and de-energizing portions of the distribution and transmission system of the electric utility that considers the associated impacts on public safety; and

(2) To mitigate the public safety impacts of the protocols described in subparagraph (1), including, without limitation, impacts on critical first responders and on health and communication infrastructure.

(f) A description of the procedures the electric utility intends to use to restore its distribution and transmission systems in the event of the de-energization of those systems or a portion of those systems.

(g) A communication plan related to public safety outage management, which includes, without limitation, communication plans specific to customers, stakeholders and communication infrastructure providers. Before filing a natural disaster protection plan, each electric utility shall meet with communication infrastructure providers in an effort to develop a mutually agreeable plan for public safety outage management notification protocols and format.

(h) A description of the standard for vegetation management to be used by the electric utility and, if that standard exceeds any other standard for vegetation management required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(i) A description of the standard for patrols and detailed inspections of electric utility infrastructure and, if that standard exceeds any other standard for such patrols and inspections required by any applicable statute or regulation, a description of how and why the standard exceeds those requirements.

(j) A description of the actions that the electric utility will take to ensure that its system will achieve a reasonable level of safety, reliability and resiliency and to ensure that its system is prepared for a natural disaster, including, without limitation, vegetation management, patrols, inspections, testing, and hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment and facilities, such as undergrounding, insulation of distribution wires, pole replacement and other measures. An electric utility shall use prudent practices commonly used in the electric utility industry for utility design, operating practices and telecommunications to prevent its infrastructure from causing a fire and to maintain resiliency during a natural disaster.

(k) An explanation that the electric utility has an adequately sized and trained workforce to execute the natural disaster protection plan and promptly restore service after a major event, taking into account employees of other utilities available to the electric utility pursuant to mutual aid agreements and employees of entities with which the electric utility has entered into contracts.

(l) A description of how the natural disaster protection plan is consistent with the emergency response plan submitted by the electric utility pursuant to NRS 239C.270.

(m) A description of the processes and procedures that the electric utility will use to monitor and audit the implementation of the natural disaster protection plan and to take actions to correct any deficiency that is identified.

(n) A description of the participation of the electric utility, including, without limitation, any commitments made, in any community wildfire protection plans, as defined in 16 U.S.C. § 6511, established in this State.

3. For each element that an electric utility is required by subsection 2 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) An identification of how the element is expected to reduce:

(1) Ignition events in high fire risk areas and extreme fire risk areas during critical fire weather conditions; and

(2) Equipment damage and loss of power caused by a natural disaster;

(b) A cost-benefit analysis for the element; and

(c) The input relating to the element that has been provided by:

- (1) Each fire protection district in the service territory of the electric utility that is covered by the plan;*
- (2) The office of emergency management for each county covered by the plan;*
- (3) The Division of Forestry, Division of State Lands and Division of State Parks of the State Department of Conservation and Natural Resources; and*
- (4) The Division of Emergency Management of the Department of Public Safety.*

4. In addition to the information that an electric utility is required by subsections 2 and 3 to include in its natural disaster protection plan, the electric utility shall include in its natural disaster protection plan:

(a) A summary of the projected 3-year budget for the natural disaster protection plan, an identification of the projected cost elements of the plan and the projected cost for each element that the electric utility is required by subsection 2 to include in the plan;

(b) If two or more electric utilities submit a joint natural disaster protection plan, the proposed joint and direct allocation of costs between the service territories of the electric utilities; and

(c) Annual data tracking trends associated with:

(1) Ignition events, separated for ignition events:

(I) During critical fire weather conditions and during all other days in high and extreme risk fire areas; and

(II) The involvement of transmission or distribution infrastructure; and

(2) Equipment damage and loss of power caused by natural disasters.

Sec. 8. 1. *If an electric utility will require additional time to implement an element of a natural disaster protection plan before the next fire season, the electric utility may request expedited treatment of that element.*

2. *The Commission will issue an order approving or modifying a natural disaster protection plan not later than 180 days after the date on which the plan was submitted.*

3. *At any time after a natural disaster protection plan has been approved and before the date on which a new plan must be submitted pursuant to section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555:*

(a) *An electric utility may submit to the Commission a request to amend a natural disaster plan; and*

(b) *Any person may petition the Commission for the modification of a natural disaster protection plan.*

Sec. 9. *The Commission will issue an advisory opinion concerning a natural disaster protection plan submitted by a rural electric cooperative pursuant to subsection 7 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555, not later than 150 days after the date on which the plan is submitted.*

Sec. 10. *On or before September 1 of the first and second years after an electric utility has submitted a natural disaster protection plan to the Commission pursuant to section 7 of this regulation, the electric utility may file with the Commission a progress report concerning the natural disaster protection plan that will apply to each year remaining for the period covered by the natural disaster protection plan.*

Sec. 11. *An electric utility shall:*

1. Submit to the Commission a monthly report of comprehensive data concerning the cause of each event occurring in the service territory of the electric utility during the immediately preceding month that:

(a) Was determined by the agency responsible for fire protection in the area where the event occurred to be an ignition event; and

(b) Took place in an extreme fire risk area or high fire risk area.

2. Notify the Commission not later than 24 hours after:

(a) A power outage initiated to preserve public safety or a proactive de-energization event; or

(b) A wildfire caused by the infrastructure of the electric utility that burns more than 1 acre of land.

3. Not later than 1 month after an event described in subsection 2, submit to the Commission a report containing a full description of the event.

Sec. 12. 1. An electric utility shall separately track and account for in its books and records all prudent and reasonable expenditures made by the electric utility to develop and implement its natural disaster protection plan.

2. On or before March 1 of each year, an electric utility shall submit to the Commission an application to recover the cost of prudent and reasonable expenditures made by the electric utility during the immediately preceding year to develop and implement the natural disaster protection plan of the electric utility pursuant to subsection 6 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555. The Commission will issue a final decision on the application not later than 180 days after the date on which the application was submitted.

Sec. 13. 1. An electric utility may, upon placing into operation a new capital project constructed or acquired by and owned by the electric utility pursuant to a natural disaster protection plan, create a regulatory asset or liability account for the capital project.

2. Beginning 1 month after the date on which a new capital project for which a regulatory asset or liability account is created pursuant to subsection 1 is placed into plant in service, the electric utility that maintains the account shall separately calculate and record in the account:

(a) A return on investment for the capital project using the most recently authorized pretax rate of return on the net plant balance of the capital project. The net plant balance of the capital project must be calculated by subtracting from the costs of the capital project the sum of the accumulated depreciation and the accumulated deferred income tax for the capital project.

(b) Depreciation expenses related to capital projects that are preventive measures and programs included in the natural disaster protection plan pursuant to paragraph (c) of subsection 2 of section 1.3 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 555.

(c) Actual incremental monthly operations and maintenance costs incurred for the capital project to carry out the natural disaster protection plan.

(d) Carrying charges on the costs described in paragraph (c) at the most recently authorized rate of return.

3. The amounts recorded in a regulatory asset or liability account pursuant to subsection 2 must be separately identified and excluded from a general rate case.

4. An electric utility shall annually submit to the Commission a request to clear the accumulated balance in a regulatory asset or liability account created pursuant to subsection 1 and include the account in the request. The request must include:

(a) A proposed period for recovery and amortization of the regulatory asset or liability that ensures that the utility does not recover more than the actual accumulated balance of the account;

(b) A detailed reconciliation of the amount of recovery requested to the approved budget items, showing carrying charges separately; and

(c) Proposed rate design and rates by customer class for the annual recovery requested in a separate line item on a customer's bill.

Sec. 14. 1. An electric utility may apply to the Commission for authorization for a person who is not an employee of the electric utility to perform tree trimming related to line clearance in an easement or right-of-way dedicated or restricted for use by the electric utility pursuant to subsection 3 of section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556, in the form prescribed by the Commission. The application must include:

(a) The name, telephone number, mailing address, electronic mail address and physical street address of the person;

(b) A copy of each business license or certificate issued by this State or any political subdivision thereof to the person; and

(c) Proof that the tree trimming will be performed under the direction of an arborist certified by the International Society of Arboriculture.

2. An electric utility that utilizes a person who is not an employee of the electric utility to perform tree trimming related to line clearance in an easement or right-of-way dedicated or

restricted for use by the electric utility shall maintain records confirming that the person meets the requirements of subsection 3 of section 1.7 of Senate Bill No. 329, chapter 102, Statutes of Nevada 2019, at page 556.

PROOF OF SERVICE

I hereby certify that I have on this day served the foregoing document upon all parties of record in this proceeding by electronic mail to the recipient's current electronic mail address.

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DATED at Las Vegas, Nevada, on the 16th day of May 2025.

/s/ Michelle Jackson
An employee of the Public Utilities
Commission of Nevada