

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Petition for Declaratory Order of)
Nevada Power Company Sierra Pacific Power Company)

Docket No. EL22-73-000

**MOTION TO INTERVENE AND PROTEST
OF THE OFFICE OF THE NEVADA ATTORNEY GENERAL,
BUREAU OF CONSUMER PROTECTION**

Pursuant to the Federal Energy Regulatory Commission’s (“FERC”) Rule 214(a)(3)¹, Rule 211(a)(1)², and the Secretary’s July 7, 2022 Combined Notice of Filings, the Office of the Nevada Attorney General, Bureau of Consumer Protection (“BCP”) hereby submits a Motion to Intervene in the above proceeding and a Protest of the requested incentive rate treatments in the Petition filed by Nevada Power Company (“Nevada Power”) and Sierra Pacific Power Company (“Sierra Pacific” and together the “Companies”).

I. MOTION FOR INTERVENTION

The BCP operates within the Nevada Attorney General’s Office pursuant to NEV. REV. STAT. § 228.310 and represents the interests of Nevada utility consumers before FERC pursuant to NEV. REV. STAT. § 228.360. As the state-designated agency that is statutorily charged with representing the interests of Nevada’s electric ratepayers, the BCP endeavors to ensure that utility costs recovered from ratepayers are necessary to provide service to customers. The Companies’ Petition for incentive rate treatments will most likely increase the costs for transmission service for all Nevada’s bundled electric ratepayers given that NEV. REV. STAT. § 704.79886 directs the Public Utilities Commission of Nevada (“PUCN”) to require all Nevada transmission providers to

¹ 18 C.F.R. § 385.214(a)(3).

² 18 C.F.R. § 385.211(a)(1).

join, with limited exceptions, a regional transmission organization (“RTO”) prior to January 1, 2030.³ In addition, the Companies’ Petition for incentive rate treatments will increase the costs for transmission service for Nevada’s distribution-only service (“DOS”) customers who receive electric service from a provider of new electric resources pursuant to Chapter 704B of the Nevada Revised Statutes.⁴ Accordingly, BCP moves to intervene in this proceeding pursuant to Rule 214(a)(3) to represent the interests of Nevada’s electric ratepayers.

II. COMMUNICATIONS

BCP requests that all correspondence or communications regarding this proceeding be addressed to the following individuals:

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³ NEV. REV. STAT. § 704.79886 reads as follows:

1. Except as otherwise provided in subsection 2, the Commission shall require every transmission provider in this State to join a regional transmission organization on or before January 1, 2030.
2. Upon application by a transmission provider, the Commission may waive or delay the requirement in subsection 1 if:
 - (a) The transmission provider files an application with the Commission on or before January 1, 2027, requesting the waiver or delay;
 - (b) The transmission provider demonstrates:
 - (1) That the transmission provider has made all reasonable efforts to comply with the requirement but is unable to find a viable and available regional transmission organization that the transmission provider can join on or before January 1, 2030; or
 - (2) That it would not be in the best interests of the transmission provider and its customers to join a regional transmission organization on or before January 1, 2030; and
 - (c) The Commission determines that it is in the public interest to grant the requested waiver or delay.

⁴ The DOS customers in Nevada include the following major employers in the state of Nevada: Caesars, MGM, Peppermill SLS (Sahara Hotel), Switch, and Wynn. [Source: Nevada Power & Sierra Pacific FERC Form 714.]

III. BACKGROUND

On June 30, 2022, the Companies filed a Petition for Declaratory Order Approving Incentive Rate Treatments for the Greenlink Nevada Transmission Project (“Greenlink Nevada”).⁵ The three incentive rate treatments that the Companies request are: (1) Abandoned Plant Incentive; (2) Regulatory Asset Incentive; and (3) construction work in progress (“CWIP”) in rate base or CWIP Incentive.⁶ The Companies cite Section 219 of the Federal Power Act (“FPA”), FERC Orders 679 & 679A, and the Commission’s 2012 Policy Statement on transmission incentives as authority for the requested incentives.⁷ The Petition consists of six exhibits: (1) NVE-0001 – Direct Testimony of Shahzad Lateef; (2) NVE-0002 – Map of Greenlink Nevada; (3) NVE-0003 – PUCN Order in Docket No. 20-07023, dated March 22, 2021; (4) NVE-0004 – the Companies’ Application and Narrative filed in PUCN Docket No. 21-06001 on September 1, 2021; (5) PUCN Order in Docket No. 21-06001, dated January 26, 2022; and (6) NVE-0006 – Direct Testimony of Michael Cole.

The BCP does not support the Companies’ request for incentive rate treatment for the Greenlink Nevada project given that it will unnecessarily increase costs for Nevada’s electric ratepayers. First, the testimony of Mr. Lateef notes that Greenlink West and Greenlink North are designated as “critical facilities” pursuant to NEV. ADMIN. CODE § 704.9484(2)(d).⁸ This

⁵ Petition at 1.

⁶ Exhibit (“Ex.”) NVE-0006 at 2.

⁷ Petition at 1; see 16 U.S.C. § 824s; *Promoting Transmission Investment through Pricing Reform*, Order No. 679, Stats. & Regs. ¶ 31,222 (2006), *order on reh’g*, Order No. 679-A, FERC Stats & Regs. ¶ 31,236 (2006), *order on reh’g*, 119 FERC ¶ 61,062 (2007); *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (“2012 Policy Statement”).

⁸ Ex. NVE-0001 at 23.

regulation allows the PUCN to designate a utility facility as a “critical facility” for the purpose of fulfilling specific statutory mandates.⁹

The Greenlink Nevada is mandated by NEV. REV. STAT. §§ 704.79871 to 704.7988 passed by the Nevada Legislature in 2021. These Nevada statutes require the following:

Transmission Infrastructure for a Clean Energy Economy Plan

NRS 704.79871 Definitions. As used in [NRS 704.79871](#) to [704.7988](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 704.79872](#) to [704.79876](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2021, 3783](#))

NRS 704.79872 “Electric utility” defined. “Electric utility” has the meaning ascribed to it in [NRS 704.187](#).

(Added to NRS by [2021, 3783](#))

NRS 704.79873 “Electric utility that primarily serves densely populated counties” defined. “Electric utility that primarily serves densely populated counties” has the meaning ascribed to it in [NRS 704.110](#).

(Added to NRS by [2021, 3783](#))

NRS 704.79874 “Electric utility that primarily serves less densely populated counties” defined. “Electric utility that primarily serves less densely populated counties” has the meaning ascribed to it in [NRS 704.110](#).

(Added to NRS by [2021, 3783](#))

NRS 704.79875 “High-voltage transmission infrastructure” defined. “High-voltage transmission infrastructure” means bulk transmission lines capable of transmitting electricity at a voltage of 345 kilovolts or more, and associated electrical substations and substation expansions to accommodate the transmission lines.

(Added to NRS by [2021, 3783](#))

NRS 704.79876 “Transmission infrastructure for a clean energy economy plan” or “plan” defined. “Transmission infrastructure for a clean energy economy plan” or “plan” means a plan filed by an electric utility with the Commission pursuant to [NRS 704.79877](#).

(Added to NRS by [2021, 3784](#))

NRS 704.79877 Incorporation through amendment of resource plan; purposes; authorized projects; allocation of costs between utilities submitting joint plan and recovery of costs; evaluation of certain impacts from plan implementation.

⁹ NEV. ADMIN. CODE § 704.9484(2)(d) reads as follows: “2. A utility and any party granted intervener status may request that the Commission designate a facility of the utility as a critical facility for the purpose of: . . . (d) Fulfilling specific statutory mandates”

1. On or before September 1, 2021, an electric utility shall file an amendment to its most recent resource plan filed pursuant to [NRS 704.741](#) to incorporate into the resource plan a transmission infrastructure for a clean energy economy plan which sets forth a plan for the construction of high-voltage transmission infrastructure that will be placed into service not later than December 31, 2028, to:

(a) Assure a reliable and resilient transmission network in this State to serve the existing and currently projected transmission service obligations of the electric utility;

(b) Assist the utility in meeting the portfolio standard established by [NRS 704.7821](#) and the goals for the reduction of greenhouse gas emissions set forth in [NRS 445B.380](#) and [704.7820](#);

(c) Promote economic development in this State, including, without limitation, by creating jobs, expanding the tax base or providing other economic benefits;

(d) Expand transmission access to renewable energy zones designated by the Commission pursuant to subsection 2 of [NRS 704.741](#) to promote the development and use of renewable energy resources in this State;

(e) Use federally granted rights-of-way within designated renewable energy transmission corridors before the expiration of such rights-of-way; and

(f) Support the development of regional transmission interconnections that may be required for:

(1) This State to cost-effectively achieve the goals for the reduction of greenhouse gas emissions set forth in [NRS 445B.380](#) and [704.7820](#); and

(2) The electric utility to participate fully in any future organized competitive regional wholesale electricity market on the Western Interconnection.

→ Two or more utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity shall submit a joint plan.

2. The plan submitted pursuant to subsection 1 must not include any project other than the following high-voltage transmission infrastructure projects for which the Commission has previously approved conceptual designs, permitting and land acquisition:

(a) A project for the implementation of high-voltage transmission infrastructure interconnecting northwest and northeast Nevada, which will increase the transmission import capacity of northern Nevada by not less than 800 megawatts.

(b) A project for the implementation of high-voltage transmission infrastructure located in southern Nevada and accessing a federally designated renewable energy transmission corridor that will accommodate future renewable energy development and increased demand for electricity.

3. Except as otherwise provided in this subsection, if an electric utility that primarily serves densely populated counties and an electric utility that primarily serves less densely populated counties submit a joint plan pursuant to subsection 1, 70 percent of the costs of high-voltage transmission infrastructure projects included in the plan must be allocated to the electric utility that primarily serves densely populated counties and 30 percent of such costs must be allocated to the electric utility that primarily serves less densely populated counties. The Commission may review and reassess the allocation of costs between electric utilities based on the actual benefits that accrue to the electric utilities after the projects are in service. The Commission retains full authority to decide any request by an electric utility for the recovery of such costs before a high-voltage transmission infrastructure project is placed into service, and to determine if any proposed financial incentive will be provided on the recovery of such costs.

4. The plan submitted pursuant to subsection 1 must include an evaluation of the impact that the implementation of the plan will have on:

- (a) The reliability of the transmission network of the utility;
- (b) The resilience of the transmission network of the utility, including, without limitation, the ability of the transmission network to withstand natural or manmade events that could otherwise disrupt the provision of electric service in this State;
- (c) The development and use of renewable energy resources in this State;
- (d) Economic activity and economic development in this State over a period of not less than 20 years from the date of the plan, including, without limitation, capital investments, the direct or indirect creation of jobs and additions to the tax base of this State;
- (e) The projected carbon dioxide emissions of the utility resulting from the generation of electricity, including, without limitation, carbon dioxide emissions from the generation of electricity that is purchased by the electric utility;
- (f) The ability of the utility to diversify its supply portfolio of renewable energy resources by including larger amounts of geothermal energy generation and hydrogeneration;
- (g) The ability of the utility to reliably integrate into its supply portfolio larger amounts of electricity from variable renewable energy resources, including, without limitation, solar and wind energy resources;
- (h) The ability of the utility to reduce its energy supply costs by selling to other states electricity generated in this State from renewable energy during periods when the utility's supply of electricity exceeds the demand for electricity by the customers of the utility;
- (i) The ability of the utility to reduce its energy supply costs by purchasing electricity generated in other states from renewable energy during periods when the demand for electricity by the customers of the utility exceeds the availability of electricity from renewable generation in this State;
- (j) The utility's provision of open access to interstate and intrastate transmission services, in accordance with the utility's open access transmission tariff, to other persons in this State using the utility's transmission network, including, without limitation, eligible customers, as defined in [NRS 704B.080](#), and providers of new electric resources, as defined in [NRS 704B.130](#), who are or intend to become customers of the utility's interstate transmission services;
- (k) The ability of the utility to accommodate requests for access to renewable energy resources that will allow customers who want to acquire all of their energy from zero carbon dioxide emission resources to do so;
- (l) The development of regional transmission interconnections that may be required for this State to cost-effectively achieve the goals for the reduction of greenhouse gas emissions set forth in [NRS 445B.380](#) and [704.7820](#) or for the electric utility to participate fully in any future organized competitive regional wholesale electricity market on the Western Interconnection;
- (m) The rates charged to the bundled retail customers of the utility; and
- (n) The financial risk to the customers of the utility.

5. As used in this section, "Western Interconnection" means the synchronously operated electric transmission grid located in the western part of North America, including parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta.

(Added to NRS by [2021, 3784](#))

NRS 704.79878 Utility required to mitigate costs of plan implementation; utility that requests recovery of such costs required to propose rate method or mechanism to mitigate

certain increase in total revenue requirement in certain general rate proceedings; acceptance or rejection of rate method or mechanism by Commission; amount of recovery if rate method or mechanism implemented.

1. In implementing a transmission infrastructure for a clean energy economy plan, an electric utility shall mitigate costs to the extent possible by utilizing available federal tax incentives and federal funding, including, without limitation, direct and indirect grants and loan guarantees.

2. If, in any general rate proceeding filed by an electric utility pursuant to [NRS 704.110](#) or [704.7621](#), the electric utility includes a request for recovery of any amount related to the implementation of a transmission infrastructure for a clean energy economy plan and the recovery of such an amount would result in an increase in the electric utility's total revenue requirement of more than 10 percent, the utility must propose a rate method or mechanism by which such an increase may be mitigated. The Commission may accept or reject such a rate method or mechanism and is not obligated to implement any proposed mitigation plan. If a rate method or mechanism is implemented to mitigate an increase in the electric utility's total revenue requirement pursuant to this section, the electric utility is entitled to recover all of its prudently and reasonably incurred costs and a return on its investment. Nothing in this subsection shall be construed as requiring the Commission to provide a financial incentive to an electric utility.

(Added to NRS by [2021, 3786](#))

NRS 704.79879 Amendment may be filed as amendment to resource plan. An electric utility may file an amendment to a transmission infrastructure for a clean energy economy plan as an amendment to its resource plan as provided in [NRS 704.751](#).

(Added to NRS by [2021, 3786](#))

NRS 704.7988 Modifications recommended by the Commission; actions by utility. If the Commission deems inadequate any portion of a transmission infrastructure for a clean energy economy plan or any amendment to the plan, the Commission, as provided in [NRS 704.751](#), may recommend to the electric utility a modification of that portion of the plan or amendment, and the electric utility may:

1. Accept the modification; or
2. Withdraw the proposed plan or amendment.

(Added to NRS by [2021, 3786](#))

Given that Greenlink Nevada is mandated by Nevada statutes, BCP does not believe that the Companies' position is consistent with Section 219 of the FPA that requires incentives to benefit consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.¹⁰ The Companies' Petition fails to explain how consumers will benefit

¹⁰ BCP is aware that 18 C.F.R. § 35.35 uses "or" instead of "and" as explained in RICHARD J. CAMPBELL, CONGRESSIONAL RESEARCH SERVICE, CRS Report R42068, Regulatory Incentives for Electricity Transmission — Issues and Cost Concerns, at 8 (October 28, 2011), available at <https://crsreports.congress.gov/product/pdf/R/R42068>. ("Report 42068"). Report 42068 reads as follows:

from FERC approving transmission incentives for the Greenlink Nevada project that is already mandated to be built pursuant to NEV. REV. STAT. §§ 704.79871 to 704.79888.

Second, BCP is concerned about the rate impact that the \$2.5 billion dollar Greenlink Nevada project will have on the rates paid by Nevada’s bundled electricity customers when Nevada Power and Sierra Pacific join an RTO on or before January 1, 2030 as required by NEV. REV. STAT. § 704.79886. Nevada Power had net transmission plant-in-service of \$995,858,227 at the end of 2021 according to the FERC Form 1.¹¹ Sierra Pacific had net transmission plant-in-service of \$635,767,658 at the end of 2021 according to the FERC Form 1.¹² The two Nevada electric utilities had a combined \$1.6 billion dollars in net transmission plant-in-service at the end of 2021. The addition of the \$2.5 billion dollar Greenlink Nevada project is going to create significant upward pressure on the general rates paid by customers of the Nevada electric utilities.

Furthermore, as of July 1, 2022, Nevada Power’s customers are paying the highest rates they have ever paid. A single-family residential customer consuming 1,110 kilowatt-hours (“kWh”) per month, is paying \$159.24 per month.¹³ Likewise, an LGS-1 customer (convenience store) consuming 10,255 kWh per month with a demand of 30 kW is paying \$1,111.92 per month.¹⁴ Nevada Power’s ratepayers have seen their rates for purchased fuel and purchased power increase

FERC’s change of EPACT Section 219(a) statutory language from “for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion,” to the codified version under the Final Rule²⁵ which states “incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion consistent with the requirements of section 219” can potentially increase consumer electric costs (especially for reliability-specific projects).

¹¹ Transmission plant-in-service was \$1,476,113,197 as reported on pages 204 -207. Accumulated provision for depreciation of transmission utility plant was \$480,254,970 as reported on page 219.

¹² Transmission plant-in-service was \$929,026,857 as reported on pages 204 -207. Accumulated provision for depreciation of transmission utility plant was \$293,259,199 as reported on page 219.

¹³ Source: BCP rate chart for Nevada Power’s single-family residential customers.

¹⁴ Source: BCP rate chart for Nevada Power’s LGS-1 customers.

approximately \$649 million dollars on an annualized basis from October 2020 to July 2022.¹⁵ BCP does not believe FERC should be granting incentive rate treatments to two utilities when their customers are experiencing their highest bills ever and have experienced hundreds of millions of dollars in rate increases for purchased fuel and purchased power in the past two years.

Finally, the PUCN declined to grant critical facility treatment for Greenlink West in its Order in Docket No. 20-07023. Specifically, the PUCN stated the following:¹⁶

Commission Discussion and Findings

631. The Commission declines to grant critical facility treatment to either SPPC or NPC at this time. NV Energy has stated that it would go forward with GL-W without the critical facility designation. The Commission finds that GL-W will allow for access to the renewable energy zones/resources located on the western side of the state, and while new import capacity is needed to retire the Valmy coal plant, and although the import capacity provided by GL-W will be needed in the future and could eventually allow for the retirement of natural gas generation units, those retirements and the planning proposed by NV Energy in this Docket are instances of normal utility planning under Nevada law, or the type of planning NV Energy is required to develop triennially and update accordingly. Therefore, the Commission finds no basis for a critical facility designation at this time.

In its decision declining to grant critical facility treatment for Greenlink West, the PUCN considered NEV. ADMIN. CODE § 704.9484. This Nevada regulation is for critical facility designation and incentive rate treatment. The regulation reads as follows:

¹⁵ Residential customers have seen their purchased fuel and purchased power rates increase \$0.03230 per kWh during this timeframe. The recorded kWh sales for residential customers for the 12-months ending March 31, 2022, was 10,413,665,214 according to NPC's filing in PUCN Docket No. 22-05016 at Ex. G, Page 1 of 4. Hence, Nevada Power's residential customers have seen their purchased fuel and purchased power rates increase \$336.4 million dollars. [\$0.03230 X 10,413,665,214]

Non-residential customers have seen their purchased fuel and purchased power rates increase \$0.02987 per kWh during this timeframe. The recorded kWh sales for non-residential customers for the 12-months ending March 31, 2022, was 10,466,928,965 according to NPC's filing in PUCN Docket No. 22-05016 at Ex. G, Page 1 of 4. Hence, Nevada Power's non-residential customers have seen their purchased fuel and purchased power rates increase \$312.6 million dollars. [\$0.02987 X 10,466,928,965]

¹⁶ Ex. NVE-0003 at paragraph 631.

NAC 704.9484 Critical facility: Procedure and purpose for designation; financial incentives. (NRS 703.025, 704.210, 704.741)

1. The Commission may, upon the request of a utility or an intervening party pursuant to subsection 2 or upon its own motion, make a determination as to whether to designate a facility of the utility as a critical facility. Such a determination may be made in conjunction with an order issued by the Commission pursuant to subsection 1 of [NAC 704.9494](#) or in another proceeding on the matter.

2. A utility and any party granted intervener status may request that the Commission designate a facility of the utility as a critical facility for the purpose of:

- (a) Protecting reliability;
- (b) Promoting diversity of supply and demand side sources;
- (c) Developing renewable energy resources;
- (d) Fulfilling specific statutory mandates;
- (e) Promoting retail price stability; or
- (f) Any combination of paragraphs (a) to (e), inclusive.

↳ Such a request must be accompanied by supporting analysis and documentation.

3. If the Commission designates a facility as a critical facility, the utility may request that incentives associated with that facility be included in rates in an application to change general rates filed pursuant to [NAC 703.2201](#) to [703.2481](#), inclusive. The incentives may include, without limitation:

- (a) Earning an enhanced return on equity on the designated critical facility over the life of the facility;
- (b) The inclusion in the rates of construction work in progress associated with the designated facility; and
- (c) Designating costs incurred to construct the designated critical facility in a regulatory asset account, to be recorded as a subaccount to Account 182.3 (Other Regulatory Assets). The utility may recover the regulatory asset pursuant to subsection 3 of [NAC 704.9523](#).

(Added to NAC by Pub. Utilities Comm'n by R004-04, eff. 5-25-2004)

At this time, the only critical facility designation that has been granted for the Greenlink Nevada project by the PUCN is the fulfilling of a specific statutory mandate in NEV. ADMIN. CODE § 704.9484(2)(d). NEV. REV. STAT. §§ 704.79871 to 704.7988 was passed by the Nevada Legislature after the Commission's decision in PUCN Docket No. 20-07023, and therefore, was not cited in the PUCN's Order. As stated above, BCP believes the state statutory mandate is a reason for FERC to deny, rather than approve, the Companies' request for incentive rate treatments.

IV. PROTEST

A. Abandoned Plant Incentive

The Companies' argument for the abandoned plant incentive is because of the "low probability" risk that the Greenlink Nevada project may be abandoned for reasons outside of the Companies control due to the numerous regulatory approvals and permits required to construct the project.¹⁷ As stated above, the PUCN has not granted an abandoned plant incentive or any incentives for the Greenlink Nevada project. While FERC makes decisions independent of state commissions, BCP believes that the PUCN decision declining to grant any incentives for the Greenlink Nevada project was prudent and should be considered by FERC in issuing its decision in this instant proceeding.

Furthermore, both Section 19 of the FPA and 18 CFR § 35.35 require that rates that result from incentive rate treatments are just and reasonable. By definition, an abandoned plant would not be used and useful in providing electric service.¹⁸ It is neither just nor reasonable to require consumers to pay for costs of a plant that is not used and useful in providing electric service to them. Therefore, rates that require consumers to pay for an abandoned plant would not be just and reasonable in contravention of Section 19 of the FPA and 18 CFR § 35.35.

B. Regulatory Asset Incentive

The Companies' argument for the regulatory asset incentive is because it "will provide [the Companies] with upfront regulatory certainty regarding the recovery of pre-commercial operation

¹⁷ Petition at 22-25 (Ex. NVE-0001 - Lateef Testimony at 23-25 and Ex. NVE-0006 - Cole Testimony at 6).

¹⁸ The "used and useful" principle is codified in NEV. REV. STAT. § 704.440, which reads as follows:

1. Except as otherwise provided in subsection 2, the Commission may, in its discretion, investigate and ascertain the value of all property of every public utility actually used and useful for the convenience of the public. In making such an investigation, the Commission may avail itself of all information contained in the assessment rolls of the various counties and the public records and files of all state departments, offices and commissions, and any other information obtainable.

2. The provisions of subsection 1 do not apply to a competitive supplier.

costs and facilitate financing of the Project.”¹⁹ Likewise, denial of this request will also provide the Companies with upfront regulatory certainty.

Given that the Companies have not filed a FERC rate case pursuant to Section 205 of the FPA since May 31, 2013 – more than nine years ago – in Docket No. ER13-1605-000, there is no evidence in the record if the Companies are currently overearning. The single-issue ratemaking requested by the Companies to have the authority to record pre-commercial operation costs for the Greenlink Nevada project in a regulatory asset account when it may be overearning on its current FERC rates is not in the public interest.

In Nevada Power’s annual deferred energy application filed with the PUCN in March 2022 in PUCN Docket No. 22-03001, the electric utility’s Exhibit F clearly showed that it was overearning on its Nevada jurisdictional rates for calendar year 2021. In addition, a review of Nevada Power’s previous annual deferred energy applications, show that the electric utility has been overearning on its Nevada jurisdictional rates since calendar year 2013.

¹⁹ Petition at 25-26 (Ex. NVE-0006 - Cole Testimony at 7).

NEVADA POWER COMPANY
d/b/a NV ENERGY
EARNED RATE OF RETURN FOR NEVADA ELECTRIC JURISDICTION - 2021
USING END OF PERIOD RATE BASE
(\$000)

Exhibit F
Page 1 of 2
Shelton-Patchell

Ln No	(a) Development of Return	(b) For the Period Ending				Ln No
		(c) March	(d) June	(e) September	(f) December	
1	Operating Revenues	\$ 2,009,010	\$ 2,068,572	\$ 2,064,726	\$ 2,182,400	1
2						2
3	Operating Expenses					3
4	O&M Expense	1,144,866	1,210,946	1,244,174	1,271,796	4
5	Depreciation & Amortization Expense	334,845	356,655	339,042	437,713	5
6	Taxes Other Than Income	51,936	52,990	53,530	53,132	6
7	Deferred Income Taxes	27,036	34,536	55,677	71,672	7
8	Amortization of ITC	(31,795)	(37,129)	(42,462)	(21,407)	8
9	Federal Income Tax	48,339	31,056	2,992	(18,152)	9
10	Total Operating Expenses	1,575,227	1,649,054	1,652,951	1,794,754	10
11						11
12	Operating Income	433,782	419,518	411,775	387,646	12
13						13
14	Adjustments to Operating Income	37	37	37	37	14
15						15
16	Adjusted Operating Income	\$ 433,819	\$ 419,555	\$ 411,812	\$ 387,683	16
17						17
18						18
19	Rate Base					19
20	Gross Plant in Service	\$ 9,465,956	\$ 9,607,341	\$ 9,662,247	\$ 9,753,065	20
21	Accum. Provision for Depr. & Amort.	(3,473,684)	(3,539,802)	(3,604,705)	(3,664,816)	21
22	Net Plant in Service	5,992,272	6,067,539	6,057,542	6,088,249	22
23						23
24	Additions (Deductions) to Net Plant	(1,043,047)	(1,067,176)	(1,106,856)	(1,139,189)	24
25						25
26	Rate Base	\$ 4,949,225	\$ 5,000,363	\$ 4,950,686	\$ 4,949,061	26
27						27
28	Earned Rate of Return	8.77%	8.39%	8.32%	7.83%	28
29						29
30	Authorized Rate of Return (Docket 20-06003)					30
31	with incentives	7.18%	7.18%	7.18%	7.18%	31
32	without incentives	7.14%	7.14%	7.14%	7.14%	32
33						33

The fact that Nevada Power has been overearning on its Nevada jurisdictional rates since 2013 does not necessarily mean that the company has also been overearning on its FERC jurisdictional rates. However, one has to question why Nevada Power has not filed a Section 205 rate case with the FERC in more than nine years. Given these facts, BCP does not believe that FERC should approve single-issue ratemaking for the Companies to track expenses associated with Greenlink Nevada while not considering other changes to the Companies' total revenue requirement that have occurred in the past nine years.

However, if FERC approves the regulatory asset incentive, BCP believes that FERC should deny the Companies' request for carrying charges on the regulatory asset. Carrying charges on a

deferred asset for a utility that has deferred filing a Section 205 rate case for more than nine years is not just and reasonable. While carrying charges are appropriate in some instances to compensate for the time value of money, the approval of carrying charges on a single-issue ratemaking regulatory asset when a utility is potentially overearning is not in the public interest.

Also, if FERC approves the regulatory asset incentive and carrying charges, BCP requests that the carrying charges be set at the incurred cost of debt rather than the Companies' requested FERC authorized cost of capital that includes a return on equity for two reasons. First, the definition of "regulatory asset" in the Uniform System of Accounts refers to the income statement. Equity is balance sheet account, not an income statement account, and therefore a carrying charge that includes a return on equity is inconsistent with the definition of "regulatory asset" in the Uniform System of Accounts.

31. *Regulatory Assets and Liabilities* are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable:

- A. that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services; or
- B. in the case of regulatory liabilities, that refunds to customers, not provided for in other accounts, will be required. (Emphasis added)

Furthermore, the accounting firm of PricewaterhouseCoopers ("PwC") explains in their accounting guide, Utilities and Power Companies, December 2018, that Accounting Standard Codification ("ASC") 980 prohibits the recognition of the equity component of a return in the carrying charge for a regulatory asset because equity is not an incurred cost.²⁰

²⁰ PwC accounting guide, Utilities and Power Companies, December 2018, at 17:12 – 17:13.

Question 17-5

Can a regulated utility recognize the equity component of a carrying charge as a regulatory asset?

PwC response

Generally, no. Regulated utilities often receive approval for a return on regulatory assets based on the blended cost of debt and equity. ASC 980 explicitly prohibits the recognition of the equity component of the return because shareholder return is not an incurred cost, but rather represents an allowed cost. Therefore, the regulated utility should compute the carrying charge on regulatory assets by using only the debt

component. There are two exceptions to this rule: AFUDC (allowance for funds used during construction) equity (UP 18.3) and alternative revenue programs (UP 17.3.3.1).

C. CWIP Incentive

The Companies' argument for the CWIP incentive is that the additional revenues will support the Companies' ability to finance the construction of Greenlink Nevada, lower the costs of the transmission line by stopping AFUDC accruals, and alleviate financial pressures on the Companies' credit metrics.²¹

The Companies' request for a CWIP incentive is inconsistent with the testimony that the Chief Executive Officer for NV Energy, Inc. gave before the Nevada Senate Committee on Growth and Infrastructure on May 17, 2021, wherein he stated that the Companies are coming forward with private money and prepared to fund \$2.5 billion dollars.

NV Energy is coming forward with private money and saying we are prepared to fund \$2.5 billion into the State. Shareholders do not recover on that money until that asset goes into service. When that asset goes into service, through a contested proceeding with the PUCN where parties can intervene, every party is allowed to question every cost we put into the project. The PUCN then sets how much of the investment we can recover and the rate we can earn on that asset.

We will bring \$2.5 billion to the table. We will put thousands of people to work today, and Nevadans will not be asked to pay for this investment until

²¹ Petition at 26-28 (Ex. NVE-0006 - Cole Testimony at 8-9).

at least five to six years down the road. Nevadans receive the benefits of that immediate economic investment.²² (Emphasis added)

As FERC is aware, the reason that most regulatory agencies do not allow CWIP in rates is because a plant is not used and useful until the plant is placed into service. Furthermore, the Nevada Commission has not approved CWIP in rate base for the Greenlink Nevada project for either Nevada Power or Sierra Pacific. Finally, the Companies' request in this proceeding is in conflict with the representations that the CEO of NV Energy, Inc. made before the Nevada Legislature that the Companies were prepared to fund \$2.5 billion with private money and Nevadans would not be asked to pay for the Greenlink Nevada project until at least five to six years down the road.

V. CONCLUSION

The BCP requests that the FERC grants its Motion to Intervene in this proceeding. The BCP also requests that the FERC consider BCP's Protest in its determination of whether to grant the incentive rate treatments that the Companies are requesting for the Greenlink Nevada project.

Respectfully submitted,

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION

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²² Minutes of the Senate Committee on Growth and Infrastructure, 81st Sess. (Nev. 2021), at 32, available at <https://www.leg.state.nv.us/Session/81st2021/Minutes/Senate/GRI/Final/1254.pdf>.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the MOTION TO INTERVENE AND PROTEST OF THE OFFICE OF THE NEVADA ATTORNEY GENERAL, BUREAU OF CONSUMER PROTECTION upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Carson City, Nevada, this 1st day of August, 2022.

By: /s/ Jana Whitson
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