

Agenda 19-26; Item No. 2B Draft Order for discussion at agenda

***THIS ORDER IS NOT A FINAL ORDER AND MAY BE SUBSTANTIALLY REVISED
PRIOR TO ENTRY OF A FINAL ORDER BY THE PUBLIC UTILITIES COMMISSION OF
NEVADA***

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Application of 328CH 8me LLC, under the provisions)
of the Utility Environmental Protection Act, for a permit)
to construct the Arida 2a Solar Project consisting of)
photovoltaic solar electric generating facility, a battery)
energy storage system, and associated facilities to be)
located on approximately 1,350 acres of federally-) Docket No. 26-03004
managed land in Clark County, Nevada.)
_____)

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on October 14, 2026.

PRESENT: Chair Hayley Williamson
Commissioner Tammy Cordova
Commissioner Randy J. Brown
Assistant Commission Secretary Trisha Osborne

[PROPOSED] ORDER

The Public Utilities Commission of Nevada (“Commission”) makes the following
findings and conclusions:

I. INTRODUCTION

On March 4, 2026, 328CH 8me LLC (“328CH 8me”) filed an application for the Utility
Environmental Protection Act (“UEPA”) Permit to Construct a Utility Facility pursuant to
Nevada Revised Statutes (“NRS”) and Nevada Administrative Code (“NAC”) Chapters 703 and
704, including but not limited to, NRS 704.820 through 704.900 and NAC 703.415 through
703.427.

On May 29, 2026, the Commission issued an order granting the application, subject to the
satisfaction of certain compliances (“Order”).

On September 25, 2026, 328CH 8me filed its Motion to Modify Compliance Order
(“Motion”).

II. SUMMARY

The Commission grants the Motion and modifies the Order as provided herein.

III. PROCEDURAL HISTORY

- On March 4, 2026, 328CH 8me filed an application for UEPA Permit to Construct a Utility Facility pursuant to NRS and NAC Chapters 703 and 704, including but not limited to, NRS 704.820 through 704.900 and NAC 703.415 through 703.427.
- The Regulatory Operations Staff of the Commission (“Staff”) participates as a matter of right pursuant to NRS 703.301.
- On March 9, 2026, the Commission issued a Notice of Application for UEPA Permit to Construct a Utility Facility.¹
- On May 20, 2026, Staff filed a briefing memorandum (“Staff’s Briefing Memorandum”).
- On May 26, 2026, at a regular scheduled utility agenda meeting, the Commission voted to adopt the recommendations contained in Staff’s Briefing Memorandum. On May 29, 2026, the Commission issued an order granting the application (“Order”), subject to the satisfaction of certain compliances.
- On September 25, 2026, 328CH 8me filed its Motion.
- On October 2, 2026, Staff filed a response to the Motion (“Staff’s Response”).

IV. MOTION TO MODIFY

328CH 8me’s Position

1. 328CH 8me requests that the Commission modify the Order to authorize the issuance of separate, phase-specific UEPA permits to construct for seven discrete phased construction scopes within the approved Arida 2a Solar Project (the “Project”). (Motion at 1, 3.) 328CH 8me states that the requested modification concerns only the timing and compliance mechanism for issuance of the UEPA permit to construct, and does not seek to reopen the Commission’s environmental findings, alter the approved Project footprint or design, or change

¹ On March 9, 2026, the Commission separately issued a Corrected Notice of Application for UEPA Permit to Construct a Utility Facility to correct the signature date on the notice.

the mitigation measures incorporated into the Order. (*Id.* at 1.) 328CH 8me requests that the Order allow construction of each discrete Project scope to proceed once Staff has verified compliance with all requirements applicable to that scope, without requiring 328CH 8me to first obtain permits applicable only to other scopes of construction. (*Id.*)

2. 328CH 8me states that, as worded, the Order treats the Clark County building, grading, and construction dust permits as prerequisites to a single Project-wide UEPA permit, even though those local approvals correspond to different phased construction scopes within the Project. (*Id.* at 2.) 328CH 8me states that, as construction planning has progressed, it has organized the Project work into discrete phased construction scopes that require separate local approvals and may become ready to proceed on different schedules. (*Id.*) 328CH 8me asserts that requiring a permit applicable only to a later or separate construction scope to be obtained before an independently permitted scope may begin would create avoidable sequencing delays without adding a corresponding environmental or permitting safeguard. (*Id.* at 2-3.)

3. 328CH 8me requests that the Commission amend the Order to provide a phase-specific compliance structure for seven discrete construction release packages, designated Phases A through G, as described in the table at pages 4-7 of the Motion and depicted in the phase map attached to the Motion as Exhibit A. (*Id.* at 3-7.) 328CH 8me states that the project-wide compliance items identified in paragraph 7(a)-(c) of the Order² would remain project-wide prerequisites to issuance of the first phase permit, while the Clark County building, grading, construction dust, and other local approvals would be tied to the particular phased construction scope for which those approvals are required. (*Id.* at 3.) 328CH 8me states that the Temporary

² Paragraph 7(a)-(c) of the Order requires 328CH 8me to file with the Commission the following compliance items: Nevada Department of Wildlife (“NDOW”) – Special purpose permit; NDOW – Energy planning and conservation fund payment; and Clark County Board of Commissioners – Special use permit.

Helipad Special Use Permit identified for Phase A would likewise be filed as a compliance item for that phase and that, to the extent that approval is the same special use permit identified in paragraph 7(c) of the Order, its filing would satisfy the corresponding Order requirement rather than create a duplicative requirement. (*Id.*) 328CH 8me states that each UEPA phase permit would authorize only the construction scope identified for that phase, and that the phase permits need not be issued in alphabetical order if construction sequencing or applicable approvals support a different order. (*Id.*) 328CH 8me states that if a single permit or approval covers more than one phase, filing that permit once should satisfy the corresponding compliance requirement for each covered phase, and, conversely, that a permit applicable solely to a later phase would not be required as a prerequisite to issuance of a UEPA permit for an earlier or independently ready phase unless that later-phase permit is also required for the work included in the earlier phase. (*Id.* at 7.) 328CH 8me states that it would remain responsible for obtaining and filing every state and local authorization required by law before commencing the work covered by each phase, and that no phase permit would authorize work outside the scope identified for that phase. (*Id.*)

4. 328CH 8me asserts that the requested modification is consistent with the UEPA statutory framework and with the scope of relief originally requested in its application. (*Id.* at 7.) 328CH 8me cites NRS 704.890(1)(e), which contemplates that an applicant may be “in the process of obtaining” other required permits when the Commission grants a permit; NRS 704.890(2), which directs that the permit be conditioned upon the applicant obtaining those permits; and NRS 704.8905(2), which authorizes the Commission to grant an application upon such terms, conditions, or modifications as it deems appropriate. (*Id.* at 7-8.) 328CH 8me states that its March 4, 2026, application separately identified the Clark County special use, building,

grading, and construction dust permits, provided separate anticipated dates for obtaining those approvals, and expressly requested conditions and modifications that would allow 328CH 8me to file outstanding permits, licenses, and approvals with the Commission before commencing construction. (*Id.* at 8.) 328CH 8me asserts that the requested structure preserves the Commission's environmental determinations because issuing separate UEPA permits for discrete construction scopes does not change the Project analyzed in the Environmental Statement and Supplemental Environmental Statement, does not alter the mitigation measures, and does not authorize construction beyond the approved Project. (*Id.*) 328CH 8me states that the legal descriptions in Exhibit B to the Motion are geographic boundary descriptions only, which identify discrete areas within the approved Project boundary and do not enlarge that boundary or alter the facilities evaluated in the environmental materials. (*Id.* at 8-9.) 328CH 8me asserts that the proposed structure is consistent with Commission practice, citing Docket No. 24-08009 (Sierra Solar Phase I Project), in which it states the Commission provided for issuance of six UEPA permits to construct for a single project upon satisfaction of the required compliance items. (*Id.* at 9.) 328CH 8me asserts that the seven-package structure retains the Commission's control over when construction may commence, advances the coordination and avoidance-of-duplication principles reflected in NRS 704.877(2), and preserves the central protection of NRS 704.865(1) because no construction within a phase would begin until Staff verifies the applicable compliance items and the Commission issues the corresponding UEPA permit. (*Id.*)

5. 328CH 8me requests that the Commission amend the Order to:
 - (a) Authorize separate UEPA permits to construct for the seven Arida 2a phased construction release packages described in the Motion, with each phase permit limited to the corresponding geographic area legally described in the Motion and set forth in Exhibit B to the Motion;
 - (b) Provide that, upon Staff's verification that the project-wide compliance items applicable to the Project and the compliance items applicable to a

particular phase have been satisfied, the Assistant Commission Secretary shall issue a UEPA permit to construct for that phase;

- (c) Provide that no construction may commence within a phase until the Commission has issued the UEPA permit to construct for that phase, that the corresponding phase permit authorizes construction only within the geographic area described for that phase, and that a permit or approval applicable solely to another phase is not a prerequisite to issuance of the phase permit unless it is also required for the work included in that phase;
- (d) Provide that a permit or approval covering multiple phases need be filed only once and may be relied upon as compliance for each phase it covers;
- (e) Leave unchanged the Commission's findings and conclusions under NRS 704.890, the five-year deadline in paragraph 6 of the Order, all environmental mitigation measures and all other provisions of the Order except as necessary to implement the phase-specific permit issuance for Arida 2a; and
- (f) Grant such other and further relief as the Commission deems just and appropriate.

(*Id.* at 9-10.)

Staff's Position

6. Staff does not oppose the Motion. (Staff's Response at 1.) Staff supports allowing phase-specific UEPA permits for the Arida 2a construction scopes as set forth in the Motion. (*Id.*)

Commission Discussion and Findings

7. The Commission grants the Motion. The requested modification concerns only the timing and mechanism for issuance of the UEPA permit to construct. It does not reopen the Commission's findings and conclusions under NRS 704.890, alter the approved Project footprint or design, or change the mitigation measures incorporated into the Order, and the legal descriptions in Exhibit B to the Motion identify discrete geographic areas within the approved Project boundary without expanding the Project. NRS 704.890(2) requires the Commission to condition a permit upon the applicant obtaining the permits and approvals it has not yet obtained, and NRS 704.8905(2) authorizes the Commission to grant an application upon such terms,

conditions, or modifications of construction as the Commission deems appropriate. Authorizing separate, phase-specific UEPA permits to construct is consistent with those provisions and with prior Commission orders authorizing multiple UEPA permits to construct for a single utility project. Staff does not oppose the Motion. The Commission finds that issuing separate UEPA permits to construct for the seven phased construction release packages (Phases A through G) identified in the Motion preserves the Commission's control over when construction may commence, while avoiding sequencing delays that would add no corresponding environmental or permitting safeguard.

8. The Commission modifies the Order to authorize the issuance of separate UEPA permits to construct for Phases A through G of the Project, with each phase permit limited to the construction scope identified for that phase in the Motion and to the geographic area legally described for that phase in Exhibit B to the Motion. The project-wide compliance items in paragraph 7(a)-(c) of the Order, the NDOW special purpose permit, the NDOW energy planning and conservation fund payment, and the Clark County Board of Commissioners special use permit, remain prerequisites to issuance of any phase permit. The remaining compliance items in paragraph 7(d)-(f) of the Order, together with the Clark County special use permit for the temporary helipad, are prerequisites only to issuance of the permit for the phase to which they apply, as set forth in the compliances below. Upon Staff's verification that the project-wide compliance items and the compliance items applicable to a particular phase have been filed, the Assistant Commission Secretary will issue a UEPA permit to construct for that phase.

9. No construction may commence within a phase until the Commission has issued the UEPA permit to construct for that phase. Each phase permit authorizes construction only within the construction scope and geographic area identified for that phase. A permit or approval

applicable solely to another phase is not a prerequisite to issuance of a phase permit unless it is also required for the work included in that phase, and the phase permits need not be issued in alphabetical order.

10. A permit or approval that covers more than one phase need be filed only once and may be relied upon as compliance for each phase it covers.

11. Except as modified herein, the Order remains in full force and effect, including the Commission's findings and conclusions under NRS 704.890, which apply to each phase permit; the environmental mitigation measures incorporated into the Order; and the five-year compliance deadline in the Order.

12. The Commission finds that if 328CH 8me does not file with the Commission all of the requisite compliance items within five years of the effective date of the Order (May 29, 2026), the Order, as modified herein, will be deemed vacated without further action by, or order of, the Commission.

Therefore, it is ordered:

1. The Motion to Modify Compliance Order filed by 328CH 8me LLC on September 25, 2026, in Docket No. 26-03004 is granted, as provided by and consistent with this order.

2. The Public Utilities Commission of Nevada's May 29, 2026, Order in Docket No. 26-03004 granting the application of 328CH 8me LLC for a Utility Environmental Protection Act permit to construct the Arida 2a Solar Project is modified as provided by and consistent with this order. Except as modified herein, the May 29, 2026, Order remains in full force and effect.

3. Separate Utility Environmental Protection Act permits to construct are authorized for the following seven phased construction release packages of the Arida 2a Solar Project, each

limited to the construction scope identified below and to the geographic area legally described for that phase in Exhibit B to the Motion to Modify Compliance Order:

- (a) Phase A – Temporary Helipad: construction and development of the temporary helipad.
- (b) Phase B – Access Preparation: preparation of access areas, including grading and related site preparation.
- (c) Phase C – PV Grading: grading for the photovoltaic facilities.
- (d) Phase D – PV Building: building construction for the photovoltaic facilities.
- (e) Phase E – BESS Grading: grading for the battery energy storage system.
- (f) Phase F – BESS/Arida 2a Substation Building: building construction for the battery energy storage system and the Arida 2a substation.
- (g) Phase G – Arida 2a Substation Grading: grading for the Arida 2a substation.

4. No construction may commence within any phase of the Arida 2a Solar Project until after the Public Utilities Commission of Nevada has issued the Utility Environmental Protection Act permit to construct for that phase. Each phase permit authorizes construction only within the construction scope and geographic area identified for that phase.

Compliances

5. Prior to being issued a Utility Environmental Protection Act permit to construct for any phase, 328CH 8me LLC shall file the following project-wide permits and approvals with the Public Utilities Commission of Nevada, if not previously filed in this docket:

- (a) Nevada Department of Wildlife – Special purpose permit.
- (b) Nevada Department of Wildlife – Energy planning and conservation fund payment.
- (c) Clark County Board of Commissioners – Special use permit.

6. Prior to being issued a Utility Environmental Protection Act permit to construct for a particular phase, 328CH 8me LLC shall file the following phase-specific permits with the Public Utilities Commission of Nevada, if not previously filed in this docket:

- (a) Phase A: Clark County – Special use permit for the temporary helipad (if that approval is the special use permit identified in paragraph 5(c) above, a single filing satisfies both requirements); Clark County Public Works – Grading permit; and Clark County Department of Environmental Sustainability – Division of Air Quality – Construction dust permit.
- (b) Phase B: Clark County Public Works – Grading permit; and Clark County Department of Environmental Sustainability – Division of Air Quality – Construction dust permit.
- (c) Phase C: Clark County Public Works – Grading permit; and Clark County Department of Environmental Sustainability – Division of Air Quality – Construction dust permit.
- (d) Phase D: Clark County Building Department – Building permit.
- (e) Phase E: Clark County Public Works – Grading permit; and Clark County Department of Environmental Sustainability – Division of Air Quality – Construction dust permit.
- (f) Phase F: Clark County Building Department – Building permits for the battery energy storage system and the Arida 2a substation.
- (g) Phase G: Clark County Public Works – Grading permit; and Clark County Department of Environmental Sustainability – Division of Air Quality – Construction dust permit.

7. A permit or approval that covers more than one phase need be filed only once and may be relied upon as compliance for each phase it covers. A permit or approval applicable solely to another phase is not a prerequisite to issuance of a phase permit unless it is also required for the work included in that phase.

8. Upon the Regulatory Operations Staff of the Public Utilities Commission of Nevada's verification that the project-wide compliance items and the compliance items applicable to a particular phase have been filed, the Assistant Commission Secretary of the

Public Utilities Commission of Nevada must issue to 328CH 8me LLC a Utility Environmental Protection Act permit to construct for that phase.

9. If 328CH 8me LLC does not file with the Public Utilities Commission of Nevada all of the requisite compliance items set forth hereinabove within five years of May 29, 2026, the May 29, 2026, Order, as modified herein, will be deemed vacated without further action by, or order of, the Public Utilities Commission of Nevada.

10. The Public Utilities Commission of Nevada may correct any errors that have occurred in the drafting or issuance of this order without further proceedings.

By the Commission,

HAYLEY WILLIAMSON, Chair and Presiding
Officer

TAMMY CORDOVA, Commissioner

RANDY J. BROWN, Commissioner

Attest: _____
TRISHA OSBORNE,
Assistant Commission Secretary

Dated: Carson City, Nevada

(SEAL)