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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Application of SV RNO Property Owner 1, LLC for a Permit to Construct the Proposed South Valley Generation Facility in Storey County, Nevada	Docket No. 26-04026
Application of PR RNO Property Owner 1, LLC for a Permit to Construct the Peru Ridge Self-Generation Project in Storey County, Nevada	Docket No. 26-04027

EXCEPTIONS OF NEVADANS FOR CLEAN AFFORDABLE RELIABLE ENERGY

I. INTRODUCTION

Nevadans for Clean Affordable Reliable Energy ("NCARE"), by and through their attorney, George Cavros, and pursuant to Procedural Order No. 4 issued on September 3, 2026, hereby file exceptions to the hearing officer's Proposed Order. NCARE provides general concerns with the Proposed Order in this section and arguments and exceptions below. Given the short timeframe to provide exceptions to the Proposed Order, this does not represent an exhaustive list of concerns with the Proposed Order. NCARE reserves the right to raise additional arguments not stated herein in a petition for rehearing.

On September 3, 2026, the hearing officer filed the Proposed Order for the SV RNO Property Owner 1 and PR RNO Property Owner 1, LLC ("Applicants") Utility Environmental Protection Act ("UEPA") application as an attachment to Procedural Order No. 4. The Proposed Order finds that the Applicants have satisfied all necessary components of NRS 704.890(1) for UEPA permits to construct the requested South Valley and Peru Ridge generation facilities ("Projects").[1]

[1] Proposed Order, parag. 77.

NAC 703.486(3) requires a Proposed Order from a hearing officer to set "forth the findings and conclusions of the Hearing Officer and the reasons and bases for those findings and conclusions." NCARE submits that the reasons and bases for certain findings and conclusions in the Proposed Order are plagued with a lack of transparency and no independent verification and critical analysis. For instance, NCARE was precluded from obtaining basic information relevant to the applications, such the timing and need for power for the data center campus, when and how much power NV Energy (through Sierra Pacific Power Company) could provide to the campus, and the relationship between the Applicants, the owner of the Projects, the operator of the Projects, and the existence of any potential tenant(s). NCARE filed a Motion to Compel Discovery[2] arguing that such information was relevant as it went to the need for the Projects and the public interest determination the Commission must make in this proceeding. The motion was denied by the hearing officer.[3] To this day, that information is shielded from view and renders details related to the Applications a "black box."

Additionally, Commission Regulatory Oversight Staff's ("Staff") testimony, upon which the Proposed Order relies, is comprised primarily of restatements of information in the applications and verbatim text from several responses by Applicants to Staff data requests as support for the Projects. Staff conducted no further inquiry[4] often stating in testimony that the Applicants "contend" certain information, without ever resolving the contention with critical analysis.[5] These errors tainted the process and deprived NCARE and the public of information about probable impacts of the Projects.

[2] Nevadans for Clean Affordable Reliable Energy, Motion to Compel Discovery, July 20, 2026.
[3] Transcript, p. 13.
[4] Ex. 13, p. 5.
[5] Ex. 13, pp. 8, 9, 10, 19, 21.

UEPA requires more than a ministerial approval process. While UEPA acknowledges that there will continue to be a growing need for electric, gas and water services which will require the construction of new facilities,[6] it provides that "it is essential in the public interest to minimize any adverse effect upon the environment and upon the quality of life of the people of the State which such new facilities might cause."[7] Pursuant to the intent of the statute, it charges the Commission to make certain determinations in a UEPA proceedings including: 1) the nature and probable effect on the environment; 2) the extent to which the facility is needed to ensure reliable utility service to customers in the state; 3) that the need for the facility balances any adverse effect on the environment; 4) that the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of various alternatives, and 5) that facility will serve the public interest.[8]

Primary responsibility for investigation, analysis, and critical inquiry into the probable environmental effects is vested with the Commission, but the Commission has not made such a critical inquiry, nor uses the results of critical inquiry to support the Proposed Order. The Proposed Order states that the Commission "accepts and incorporates the findings and conclusions" in the Environmental Statement for each Project.[9] The lack of independent and critical analysis of the applications and Environmental Statements has the effect of shifting the obligation of the Commission to make a determination on the applications and placing it in the hands of the Applicants' environmental consultant, who did not offer testimony, and did not participate in the hearing.

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[6] NRS 704.825(a).
[7] *Id.* at (b).
[8] NRS 704.890(1).
[9] Proposed Order, parag. 77, 80.

NCARE maintains that the weight of the limited evidence in this case indicates these will not be "lawful self-generation" Projects, or at best is inconclusive, as suggested in the Proposed Order, Paragraph 27. The applicability of the definition of "public utility" in NRS 704.020(2) and 704.021(13) to the Projects is a contested issue. NCARE has been denied the ability to obtain discovery and limited to questions on cross-examination at hearing that would have explored these issues.[10] Moreover, NCARE has been denied the ability to obtain discovery or proffer questions on cross-examination at hearing that would have explored the applicability of state renewable energy requirements, pursuant to NRS 704.7821, to the proposed Projects.[11] At hearing, the hearing officer recommended that NCARE instead pursue a declaratory order or advisory opinion from the Commission pursuant to NAC 703.825. Yet, the facts necessary to inform a petition for declaratory order or advisory opinion were shielded from discovery and questions at hearing. Therefore, this is not a viable alternative to the Commission deciding these matters in a UEPA proceeding.

Additionally, NCARE notes that if a Commission final order in this case finds that questions related to the applicability of NRS 704.020(2), 704.021(13), and particularly NRS 704.7821, are not relevant in UEPA proceedings, that decision will create a dangerous precedent that will create a huge loophole (which NV Energy and 704B providers do not enjoy) and will inevitably lead to thousands of MWs of dirty fossil-fueled data center development, and an effective abandonment of Nevada's clean energy goals. In support of its position, NCARE provides further discussion, arguments, and exceptions below.

[10] *See e.g.* Tr., pp. 8, 13, 134.
[11] *See e.g.* Tr., pp. 8, 13, 35-36.

II. ARGUMENT AND EXCEPTIONS

A. The Proposed Order hinges on a conclusion that the Projects are "lawful self-generation," which establishes that the hearing officer erred in denying NCARE's Motion to Compel Discovery into facts relevant to whether the Projects qualify as lawful self-generation.

The Proposed Order calls the Projects "lawful self-generation,"[12] a conclusion that belies the fact that NCARE sought and was denied discovery into, and was limited in cross-examination of, the Applicants' witness about facts of consequence to whether the Projects would in fact be "lawful" and "self-generation." NCARE maintains that the hearing officer erred by denying NCARE's Motion to Compel Discovery into relevant evidence,[13] as well as by limiting the scope of cross-examination to exclude relevant topics. Had the commissioner granted the Motion to Compel filed by NCARE, NCARE and Commission Staff would have obtained relevant evidence that is necessary for the Commission to determine, based on a complete record, whether the Projects can in fact be classified as self-generation, as well as whether the Projects will be operated lawfully and in conformance with Nevada laws and regulations concerning the provision of electric service by non-utilities.

1. Inconsistency between the Proposed Order and Applicants' statements raises significant doubts about whether self-generation is an appropriate label for the Projects.

The Proposed Order states throughout that the Applicants are pursuing self-generation with the Projects, a conclusion that is not clearly established in the current record. For example, page 2 of the South Valley Application says, "The facility will be operated and maintained by Aggreko, LLC."[14] Aggreko, LLC ("Aggreko") is not a party to this proceeding, they are not the

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[12] Proposed Order, Parag. 27.
[13] *See* Transcript, pp. 8-13.
[14] Application of PR RNO Property Owner 1, LLC for a Permit to Construct the Peru Ridge Self-Generation Project, p. 2. The Peru Ridge Application also confirms that the Project will be "operated and maintained Aggreko" on page 1-1 of the Environmental Statement.

Applicants, and although they are the entity responsible for producing the power for the Projects, they are not generating power for their own needs. Additionally, the record does not establish that the Applicants, rather than their tenant(s) at the two data centers being served by the Projects, will be the consumers of power from the Projects. Applicants' expert did not testify that the entity producing and consuming power would be the same entity at hearing.[15]

Nevertheless, the Proposed Order runs with the unproven idea that energy from the Projects will be consumed on-site by the producer thereof. For example, Paragraph 69 endorses this idea by suggesting the Applicants will be generating energy wholly for their own on-site consumption.[16] Paragraph 27 endorses this idea, calling the Projects "self-generation through lawful federal, state, and local permitting processes" and "lawful self-generation" by a "prospective customer" while it waits for permanent service from Sierra Pacific Power Company ("SPPC"). This is problematic on several levels. It conflates "customers in the State," as used in NRS 704.890(1)(b), with a "prospective customer" of SPPC's that seeks a permit to construct behind-the-meter generation that will not provide utility service to any identifiable utility customer. More importantly, it endorses an unsupported conclusion that the Applicants will generate, supply, and consume the power from the Projects. NCARE repeatedly sought to clarify who the producer, buyer, and end-use consumers of energy would be in discovery and at hearing. If the Commission believes that the Applicants, PR RNO Property Owner 1, LLC and SV RNO Property Owner 1, LLC, are planning to be the consumers of energy from the

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[15] Transcript, p. 132 (George Cavros: You state that the facility is a self-generation facility. Will the entity producing the electricity be the same one that's receiving it? Dennis Bartlett: We have put in our application that the entity producing the power is Aggreko.)

[16] Transcript, parag. 69. ("Moreover, the Commission finds that, given the representations made in the Applications, the Applicants enjoy a statutory exemption from consideration as a public utility under NRS 704.021(13), and, for purposes of the UEPA, from the definition of "public utility" under NRS 704.855(2), which excludes plants or equipment used to generate electrical energy *that is wholly consumed on the premises of and by the producer thereof*" (emphasis added).

generation facilities, rather than the data center tenants of these entities or their parent companies, then NCARE should have been permitted to obtain discovery on this topic and explore these issues more fully at hearing.

2. The hearing officer's denial of NCARE's lawful discovery requests caused relevant evidence to be excluded from the record.

As noted by Commission Staff,[17] the scope of relevant, discoverable information in a UEPA proceeding is broader than the scope of what may be admitted into evidence at hearing. Nevada Rule of Civil Procedure ("NRPC") 26(b)(1) governs the scope relevance for discovery purposes and reads as follows:

> *Scope*. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claims or defenses and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

Although NCARE directs the Commission to its Motion to Compel for a full discussion of these issues,[18] NCARE sought lawful discovery on a range of topics that were relevant to NCARE's testimony and claims in the case, and the Applicants objected to numerous requests, citing relevance, confidentiality, and privilege. Some examples of NCARE's objected-to requests include the identity and number of businesses that will receive service from the Projects and the terms under which Aggreko has agreed to operate the Projects to provide service to the data center campuses, which are relevant to whether these are truly self-generation Projects, and the potential timelines for the agreements between the Applicants

[17] Staff's Response to NCARE's Motion to Compel, July 23, 2026, p. 1 (noting "the definition of 'relevant' discovery is broader than the definition of 'relevant' evidence at a hearing.").
[18] NCARE Motion to Compel Discovery, July 20, 2026.

and/or their tenants and Aggreko, which bears on the Applicants' claims that the Projects will be temporary and the sufficiency of the Applicants' environmental analysis.

Had the hearing officer ruled consistent with NRCP 26(b)(1), he would have considered and balanced the factors in this Rule, including the critical importance of these facts to NCARE's claims, the relatively minimal burden of requiring the Applicants to respond, NCARE's lack of relative access to this information, and the importance of this discovery to resolving the issue of whether the Projects can qualify as self-generation. Permitting discovery could also have disclosed facts about whether the Projects are "lawful," such as the applicability of Nevada laws such as NRS 704.7808 (defining "provider of electric service" for purposes of the RPS) to the Projects, which is relevant to the Commission's required finding in NRS 704.890(1)(g) that the Projects will serve the public interest.

Instead of applying the required balancing test, the hearing officer opined that NCARE's motion was mooted by the arrival of the hearing date; that the issues raised in the motion were already resolved at the discovery conference; and that the applicability of NRS 704.021(13) and 704.7808 to the Applicants or their Projects was "only tangentially relevant" to the Commission's decision in these cases.[19] The hearing officer followed this up by saying that being "tangentially relevant" is "not the same as being wholly irrelevant."[20] The hearing officer did not deny NCARE's Motion to Compel for privilege or confidentiality reasons.

NCARE is unaware of any "tangential relevance" standard that would allow the hearing officer to deny NCARE's Motion to Compel. Nor is the arrival of the hearing a valid basis to disregard NRCP 26(b)(1).[21] With respect to the hearing officer's claims about the discovery

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[19] Hearing Transcript, p. 8, lines 3-12.
[20] *Id.*, p. 8, lines 19-22.
[21] NCARE waived its right a reply in its Motion to Compel (see p. 21). The Applicants' response was filed on July 23, and the evidentiary hearing was on July 30. The hearing officer had ample time to provide a written response to the Motion prior to hearing but did not.

conference, NCARE strongly maintains that none of its representations in that context were intended to be construed as a waiver of its rights to seek a ruling on the allowability of discovery requests to which the Applicants objected.

3. The hearing officer's confinement of the issues at hearing to prevent NCARE's inquiries into information relevant to whether the Projects constitute lawful self-generation harmed NCARE.

NCARE also was harmed by the hearing officer's limitation of its ability to explore relevant issues at hearing. As NCARE noted at hearing, "it's critical to understand the relationship between the Applicants, the owners and operators of the facilities and any tenants to reach any conclusion about whether the definition of provider [of electric service] or whether the exception to being regulated as a public utility [in NRS 704.021(13)] applies to the Applicants."[22] Yet, despite NCARE's identification of these issues as critical to its understanding of whether the Applicants' Projects are lawful self-generation, the hearing officer sustained objections to NCARE's questions about the applicability of the RPS to the Projects,[23] whether the relationships between Aggreko, the Applicants, and the data center's end-use energy consumers may implicate Nevada's definition providing service as a "public utility,"[24] and how the Applicants defines "self-generation" under the circumstances.[25] This constitutes a prejudicial error in light of the Proposed Order's unsupported conclusions that the Projects constitute lawful self-generation.

[22] Transcript, p. 10.
[23] Transcript, pp. 13, 35-36.
[24] Transcript, pp. 133-134.
[25] *Id.*

4. These erroneous limitations of the scope of discovery and cross-examination hamstrung NCARE's participation in the case and prevented a full and fair discussion of material issues.

As maintained throughout its participation in this case, NCARE believes it is critical for the Commission to rule in these dockets on whether the Applicants, their designated facility operator (i.e., Aggreko), or their Projects are public utilities and whether the Applicants, their designated facility operator, or anyone else will be acting as a provider of electric service, as defined in NRS 704.7808, and thus subject to RPS requirements. Regardless of how the Commission would have ruled on these issues, or if it would have declined to rule, the hearing officer's imposition of substantial limitations in discovery, at a minimum, prevented NCARE from reviewing relevant, discoverable evidence that would have informed its testimony on these topics.

Moreover, these limitations to discovery and at hearing presuppose that: (1) the Commission believes compliance with Nevada laws regarding compliance with RPS and how data centers are pursuing behind-the-meter fossil fuel generation are not relevant to the UEPA-required findings that a Project will serve the public interest under NRS 704.890(1)(g); and (2) that the Applications establish that the Projects would qualify as self-generation in the first place. NCARE acknowledges the hearing officer's position that the provisions of NRS 703.825 allow it to request declaratory order or advisory opinion from the Commission on these topics, but NCARE maintains that this alternative avenue does not cure the harmful errors set forth above.[26]

[26] Additionally, nothing prevents the hearing officer from utilizing the provisions of this statute itself to obtain the Commission's opinion on an issue during the pendency of a case.

B. The environmental analysis on which the Commission's findings of the Projects' environmental impacts and that the Projects represent the minimum adverse effect on the environment is substantively flawed and was not based on independent analysis

NRS 704.890(1) requires "[the] Commission may not grant a UEPA permit "unless it finds and determines: …." The statute goes on to list a number of determinations that Commission must make prior to approving a UEPA application. Therefore, the Commission has the primary responsibility for investigation, analysis, and critical inquiry into the determinations such as the probable environmental effects, and whether the Projects represent the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives. In this case, the Commission has not adopted any independent environmental analysis in the record in its Proposed Order. Rather, it has accepted at face value, broad statements made by Applicants, without supporting critical analysis.[27] This has led the Commission to rely on statements and assurances from the Applicants regarding the alleged temporary nature of the Projects and that the Projects represent the minimum adverse effect on the environment to support the Commission's Proposed Order.

1. The alleged temporary nature of facilities remains unresolved

The Commission's determinations that the Projects' probable effect on the environment, that the need for the Projects balances any adverse effect on the environment, and that the Projects represent the minimum adverse effect on the environment is predicated on the assumption that the Projects will be temporary and operate for 2-3 year time period. [28]

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[27] The Proposed Order Paragraphs 77 and 80 state that the Commission "accepts and incorporates the findings and conclusions" in the Environmental Statement for each Project.

[28] Proposed Order parag. 7, 22, 33, 34, 35, 39, 46, 51, 70, and 71.

The Applicants state that the Projects are temporary, expected to operate for 2-3 years until the NV Energy can provide utility service to the sites.[29] Yet, it states it could operate longer than 2-3 years with authorized with air permit extensions if necessary.[30] The NDEP Class 1 OPTC would permit Applicants up to six years of construction and operational activities with *an opportunity to renew such permits*.[31] NCARE sought to understand the timing of the need for the onsite generation and the projected timing and amount of power that NV Energy was to supply to the sites in order to advance a full and complete record in the proceeding regarding the need and temporary nature of the Projects. This information was not provided by Applicants despite NCARE executing a confidentiality agreement with Applicants. NCARE subsequently filed a Motion to Compel Discovery to obtain information on timing and amount of utility service to arrive at the site, as well as the generation needs of the Projects.[32] The Motion was denied by the hearing officer at the hearing.[33] Instead, the Commission chose to rely on assertions by the Applicants that the Project will operate for 2-to-3 years, stating in the Proposed Order "[t]he Commission's ultimate findings rest on the Applicants' representations and no further."[34]

While the Commission's findings in Paragraph 16 also include reference the Applicants' statement that continuing operation of the temporary Projects would not be "economically rational" once power is provided by NV Energy, economic rationality is a relative matter. There is competitive pressure on data center developers to energize Projects – speed to power is one consideration in gaining competitive advantage over other data center

[29] Application, p. 2; Ex. 4, p. 9.
[30] Ex. 4, p. 3.
[31] Ex. 7, p. 16.
[32] NCARE Motion to Compel Discovery, pp. 11-13, 17-21, July 20, 2026
[33] Tr., p. 3.
[34] Proposed Order, parag. 16.

developers.[35] The need to energize Projects and the competitive advantage it brings could lead to a data center developer providing non-economic power depending on the needs of the tenant and the benefit to the developer. Most telling is that the Applications include no proposed enforceable limits on the duration for which Applicants may operate the Projects, despite the Environmental Assessment arbitrarily claiming its projected impacts to a 2- or 3- year impact window.

In short, the Commission's lack of critical inquiry regarding the temporary nature of the facilities falls short of the analysis UEPA demands. This is a critical flaw in the Proposed Order as the 2- or 3-year operating timeframe of the Projects is raised throughout the Proposed Order to support the determination of the Projects' probable effect on the environment,[36] and the balance between the need for the Project and environmental impact.[37]

Moreover, NCARE submits that the Commission should not rely on Commission Staff's testimony, as it does in Proposed Order, Paragraph 7, which states "[s]taff concurs with the Applicants that both Projects will be temporary" and cites to Staff testimony at p. 8. Staff's agreement that the facility will be temporary is based on statements by the Applicants that the *impacts* will be temporary. Additionally, Staff cites a footnote that states "[d]uring Staff's site visit, Staff saw signage placed at the South Valley data center showing 1,200 MW of utility power scoped. As SV RNO's Application is for 144 MW, this suggests that the SV RNO Project will be temporary." [38] The determination of the temporary nature of the facilities should not be based on property signage, or assertions by the Applicants, but rather on critical analysis. Such review should have included an analysis in the record on the required ramp schedule of

[35] Tr. pp. 22-23.
[36] NRS 704.890(1)(a).
[37] Proposed Order parag. 7, 22, 33, 34, 35, 39, 46, 51, 70, and 71.
[38] Ex. 4, p. 8, Footnote 5.

the Projects and on NV Energy commitments to provide power to Applicants in the 2027-28 timeframe and the amount and timing of the utility service.

Since the error regarding the assumption that the Projects will only operate for 2-to-3 years is so ubiquitous and touches every conclusion in the Proposed Order, NCARE does not offer a type and strike revisions to the order. NCARE accordingly requests augmentation of the record as necessary to provide reasonably sufficient detail regarding the need for the onsite generation and the projected timing and amount of power that NV Energy is to supply to the sites.

2. There is no clarity on whether the Project represents the minimum adverse effect on the environment

NRS 704.890(1)(d) requires the Commission to find that "the facility represents the minimum adverse effect on the environment, considering the state of available technology and the *nature and economics* of the various alternatives." (emphasis added). The Commission concludes in Paragraph 52 that the Projects meet this standard.

Yet, there is no analysis provided by the Applicants in the record that evaluates the state of available technology, the nature and particularly the economics of alternatives. In fact, the Applicants objected to NCARE's request on this topic, which was merely a recitation of the UEPA statute, that they demonstrate the Projects meet these obligations.[39] After the Applicants realized that they did not provide an analysis that meets the criteria above in the applications in their direct testimony, they provided testimony in rebuttal testimony describing an internal study that was allegedly conducted – stating that "[t]he Applicants conducted an internal, confidential evaluation to determine the types of power sources needed to support data

[39] Ex. 7, Attachment ZH-12, p. 1-4 to 4-4.

centers."[40] This study was never provided to NCARE through requested discovery, and never provided to the Commission and is not part of the record in this case.

Mere generalized statements about alleged internal analysis conducted by the Applicants about the state and nature of available technology, without documentary support, cannot be the basis for the critical review the UEPA statute requires of the Commission. More importantly, information on the *economics* of various alternatives is not in the record in this case.

Yet, the Commission, in finding that the Applicants met this requirement, states, in part, that it "agrees with Staff and the Applicants that it would not be feasible or economic to select a different site location or configuration for the Projects."[41] The statute does not limit the analysis to different site locations or configurations; in fact, the Applicants have the burden to show, through analysis, that nature of other alternatives and the economics of other alternatives were not viable. It failed to do so.

Moreover, Staff misconstrues NRS 704.890(1)(d) requirement. Staff states that the Applicants investigated potential alternatives for the Projects to determine whether they would be feasible to meet the primary purpose of providing reliable on-site generation to support the data-center campuses and concludes that alternative locations would not meet the operational objectives of the Project.[42] Yet, the statute requires a discussion of not only alternative locations, but alternative *technologies,* their nature and economics. In a possible reference to costs of technologies, Staff explains that "[r]elocating the facility would increase transmission distances, reduce system efficiency, and *potentially* require additional infrastructure, resulting

[40] Ex. 14, p. 13-14.
[41] Proposed Order, parag. 51
[42] Proposed Order, parag. 45.

in greater environmental disturbance and higher costs." (emphasis added). The Commission should not guess at "potential" costs. The analysis regarding economics of technologies should have been provided by the Applicants; in fact, it is required by statute.

Additionally, Paragraph 49 of the Proposed Order incorrectly suggests that NCARE is calling for a "technology by technology feasibility study" and for an "exhaustive review of all available technologies." This statement is not supported by the record in this case. NCARE is merely requesting that a Commission approval of a UEPA application comport with the requirements of the UEPA statute. NCARE correctly states "that the Applicants have not demonstrated that the Projects represents the minimum adverse impact on the environment, considering the state of available technology, and the nature and economics of various alternatives."[43]

Lastly, the Proposed Order Paragraph 49 incorrectly interprets NCARE's objection as a "challenge to the sufficiency of evidence rather than a filing requirement the Applicants have failed to meet." NCARE, consistent with its testimony and the finding in Paragraph 41, argues that the Applicants have not provided the required information for the Commission to make its determination pursuant to NRS 704.890(1)(d).

Accordingly, NCARE requests augmentation of the record as necessary to provide reasonably sufficient detail regarding the state of available technology, and the nature and economics of various alternatives. If the Commission chooses not to do so, in the alternative, NCARE provides the following revision to reflect that applications did not provide the information necessary for the Commission to make the required determination in NRS 704.890(1)(d).

49. NCARE is critical of the Applications because, inter alia, the Applicants did not

[43] Proposed Order, parag. 41.

provide a comparison of alternative renewable technologies and electric service options that would be available to serve their load with an analysis of their infeasibility compared to the proposed Projects. The Commission agrees with NCARE that the state of available technology is relevant. NRS 704.890(l)(d) says so expressly. ~~But the statute directs the Commission to consider available technology in determining whether a facility represents the minimum adverse effect on the environment; it does not oblige an applicant to compile an exhaustive catalog of generation technologies and disprove each one in turn. The required contents of a UEPA application are prescribed by NRS 704.870(1), which calls for a description of reasonable alternate locations and a statement of why the proposed location is best suited to the facility. It does not call for a technology-by-technology feasibility study. NCARE's objection is therefore properly understood as a challenge to the sufficiency of the evidence rather than to a filing requirement the Applicants have failed to meet. The Commission agrees with the Applicants that an exhaustive review of all available technologies is not required in UEPA applications.~~

51. ~~The Commission agrees with Staff and the Applicants that it would not befeasible or economic to select a different site location or configuration for the Projects. The Commission finds that the siting of the Projects reduces environmental impacts and avoids increased transmission expense by using pre-graded properties in an industrial area suited to modular generation needed only in the short term. The record also permits the technology determination NRS 704.890(l)(d) requires.~~ The Applicants evaluated combined-cycle and–simple-cycle gas turbines, fuel cells, solar, wind, geothermal, battery storage, and several—reciprocating-engine configurations before selecting the proposed design, and explained why–each alternative was incompatible with a temporary, modular, on-site installation that must be-available on the Applicants' schedule. (Ex. 14 at 13-14.) ~~The comparison NCARE urges, by contrast, measures the Projects against resources that could not be sited and energized within the period the Projects are intended to bridge. An alternative that cannot meet the need is not, for purposes of NRS 704.890(l)(d), a viable alternative.~~

Delete Paragraph 52 and Insert:

The Commission recognizes that the Applicants provided a description of an internal study conducted to evaluate certain technologies. Yet, this study is not in the record of the proceeding nor is there any record evidence that the study analyzed the economics of various alternatives. Therefore, the Commission does not have the necessary information to determine if the Projects meet the requirements of NRS 704.890(1)(d).

Additionally, NCARE suggests corresponding changes to Paragraphs 77 – 82, and the subsequent ordering and compliance paragraphs to reflect the changes above.

C. The Commission should revise the Proposed Order to delete Paragraph 38, which misapplies NRS 704.877(1) and appears to conflate the Commission's environmental review obligations in NRS 704.890(1)(a)-(d) with the Commission's permit-verification obligations in NRS 704.890(1)(e).

NRS 704.890(1)(e) requires the Commission to confirm that "the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses, registrations and approvals required by federal, state and local statutes, regulations and ordinances." When, as here, the Applicants have sought a UEPA permit prior to the completion of other state and local permitting processes, the Commission will typically condition its approval on the Applicants providing proof that the other approvals have been obtained.[44] This is an ordinary step in an environmental review regime involving more than one agency with permitting authority over a Project. It is an independent UEPA requirement from the environmental findings and analysis required of the Commission by NRS 704.890(1)(a)-(d).

Paragraph 38 appears to conflate the Commission's environmental review obligations in NRS 704.890(1)(a)-(d) with the Commission's permit-verification obligations in NRS 704.890(1)(e). The Proposed Order cites NRS 704.877 in support of the conclusion that the Nevada Department of Environmental Protection (NDEP) is "the State agency possessing the relevant environmental expertise," and that although NDEP has not yet permitted these Projects, "[i]t is beyond the Commission's authority to conduct any duplicative environmental review, and the Commission is bound by NDEP's determinations." This represents a significant

[44] Proposed Order, parags. 78-79, 81-82.

expansion and misapplication of NRS 704.877(1). On its face, NRS 704.877(1) only applies when an "environmental review" related to all or a portion of a proposed facility has been *completed* by "an appropriate federal agency or by a state, regional or local agency." As of today's date, no environmental review has been completed for these Projects by any agency, and NRS 704.877(1) does not apply when the Commission is the first mover, as is the case here.[45] Moreover, and as discussed further below, NDEP's permit review is not an "environmental review" as that term is commonly understood.[46]

Adoption of the proposed language in Paragraph 38 would have the unintended consequence of suggesting that UEPA proceedings can never be used as a forum for consideration of evidence of air quality impacts when a Project may also be subject to NDEP's permitting requirements. If the Commission will always delegate this portion of its environmental analysis to NDEP in later proceedings, how is it possible for the Commission to ever fairly balance a Project's adverse environmental effects against the need for the Project and its prospective benefits as UEPA requires?[47]

While NCARE appreciates that Commission Staff may presently lack the in-house expertise to independently evaluate Projects' foreseeable air quality impacts, a more appropriate and equitable solution is set forth in NRS 704.877(2). The Commission and NDEP can "cooperate with each other and the appropriate federal agencies on applications for permits, licenses and other approvals to construct a utility facility and coordinate their activities,

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[45] NRS 704.877(1) ("The Commission or other permitting entity need not comply with the provisions of this subsection if the Commission or other permitting entity has already completed its own environmental review.").
[46] NRS 704.877(1) is most frequently applicable when an environmental review has been completed by a Federal lead agency pursuant to the National Environmental Protection Act (NEPA) before a project seeks a UEPA permit. *See, e.g.*, PUCN Docket No. 14-05006 (NEPA review completed by Bureau of Land Management); Docket No. 09-11005 (NEPA review completed by U.S. Bureau of Land Management); Docket No. 14-09002 (NEPA review completed by U.S. Bureau of Land Management); Docket No. 12-08023 (NEPA review conducted by U.S. Bureau of Indian Affairs); and Docket No. 14-03006 (NEPA review conducted by U.S. Department of Agriculture).
[47] *See* NRS 704.890(1)(a)-(d), (g).

including, without limitation, conducting hearings or environmental reviews, to avoid duplication of activities." In this case, Staff and NDEP could have worked collaboratively to assess the foreseeable air emissions impacts of the Projects and determine whether they would align with Nevada's greenhouse gas emissions reductions goals. Failure to do so here is likely to lead to duplication of activities, as the UEPA record for these proceedings contains some discussion of criteria pollutants and GHG emissions, but the Proposed Order ultimately punts the Commission's obligations to evaluate these impacts to NDEP in a later permit proceeding.

Finally, NCARE takes exception to the classification of the review by NDEP's Bureau of Air Pollution Control in Paragraph 38 as "environmental review." Like the National Environmental Policy Act (NEPA),[48] California Environmental Quality Act (CEQA),[49] and environmental review laws administered by Public Utilities Commissions in other states (for example, California Public Utilities Commission's General Order 131-E[50]), UEPA is an environmental review law that directs the Commission to review a wide range of environmental topics, including air quality, water quality, greenhouse gas emissions, cultural and anthropological resources, hazardous materials, noise, and other environmental topics as necessary to account for the total cost to society of the Projects.[51] As with these other statutes, the Commission is vested with authority to condition approval on implementation of mitigation measures or alternative designs as the Commission deems appropriate to minimize environmental consequences of a Project.[52] Another similarity to these other laws is that UEPA

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[48] 42 U.S.C. §§ 4321–4370h.
[49] California Public Resources Code Section 21000 et seq.
[50] General Order 131-E, California Public Utilities Commission, https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M556/K525/556525777.PDF.
[51] See, e.g., NRS 704.825(c) (finding that "[p]resent laws and practices relating to the location of such utility facilities should be strengthened to protect environmental values and to take into account the total cost to society of such facilities." See also NAC 703.423(7)(b) (describing the required contents of the Environmental Statement).
[52] NRS 704.8905(2).

allows the Commission to consider whether overriding considerations such as economic benefits warrant the approval of a Project notwithstanding probable negative environmental impacts.[53]

NDEP is not conducting an "environmental review" in this manner. It is implementing National Ambient Air Quality Standards (NAAQS) by evaluating Applicant-submitted computerized modeling to confirm the type of permit that should be issued and whether the Projects' Potential to Emit criteria pollutants is below certain State and Federal limits.[54] While it is necessary for the Projects to comply with these standards, and they do seek to protect public health, the air permitting process at NDEP and the Commission's UEPA-required assessment of Project-level environmental impacts are legally distinct obligations. Evidence of compliance with NAAQS is relevant to the Commission's required UEPA findings, but the environmental review required of the Commission is broader and encompasses a wider range of prospective impacts, including direct and foreseeable indirect environmental impacts, given the statute's directive to "to minimize any adverse effect upon the environment and upon the quality of life of the people of the State which such new facilities might cause."[55]

Based on these exceptions, NCARE requests that Paragraph 38 be deleted from the final order:

> **Delete**: ~~38. The Commission notes that NRS 704.877 requires the Commission to accept and incorporate the findings and conclusions made in an environmental review relating to the construction of a utility facility in its entirety, or to the construction of any portion of a utility facility, that has already been conducted by an appropriate federal agency or by a state, regional or local agency. While NDEP's environmental review has not yet been conducted, that review is a condition precedent for any UEP A Permit to Construct that the Commission would issue, and if NDEP, the State agency possessing the relevant environmental expertise, denies the air permit applications, no UEPA permit will issue~~

[53] NRS 704.890(c), (g).
[54] See generally NAC 445B.001 et seq.
[55] NRS 704.825(b).

~~for the Projects. It is beyond the Commission's authority to conduct any duplicative environmental review, and the Commission is bound by NDEP's determinations.~~

D. The Commission should revise its order to omit purported benefits that are not caused by these temporary generation facilities from its public interest and balancing test analyses.

NRS 704.890(1)(g) provides that the Commission may not grant a UEPA Permit to Construct unless it finds and determines that the facility will serve the public interest. As part of this public interest analysis, NAC 703.423(12) requires the Applicants to explain how the proposed utility facility will serve the public interest, including: "(a) The economic benefits that the proposed utility facility will bring to the applicant and this State; (b) The nature of the probable effect on the environment in this State if the proposed utility facility is constructed; [and] (c) The nature of the probable effect on the public health, safety and welfare of the residents of this State if the proposed utility facility is constructed."

1. The Projects are temporary generation facilities, not data centers.

The Projects before the Commission are temporary generation facilities proposed in the Applications. The data centers planned by the Applicants' affiliates and/or parent company are not under review in these dockets, yet Paragraphs 60 and 68 cite numerous purported economic benefits of the data centers as if they are attributable to the temporary generators proposed by the Applicants. Just as the environmental harms attributable to the construction and operation of data centers are not before the Commission in this docket,[56] nor are the economic benefits of their construction and operation. Adopting the Proposed Order would result in consideration of downstream benefits of development that the Projects might indirectly facilitate without

[56] For example, the data centers' water consumption is not at issue or disclosed in these dockets.

consideration of downstream environmental harms. This, if not corrected, would tilt the scales of the balancing test of harms and benefits imposed under UEPA in NRS 704.890(1)(c) and (e).

2. The Proposed Order does not cite substantial evidence supporting the purported economic benefits of the temporary generation facilities to Storey County and its local workforce.

Proper consideration of economic benefits of the proposed temporary generation facilities should isolate, quantify, and disclose the Commission's conclusions about the direct, immediate, and reasonably certain economic benefits that will result from the temporary generation facilities. For example, approval of the Projects would likely provide a direct economic benefit to Aggreko, a Texas-based company that will receive revenue from either the Applicants or their tenants at the data centers for the use and operational support that Aggreko will provide with respect to the temporary generation facilities. The Applications and Proposed Order do not disclose whether Aggreko will provide a local workforce or remote operational support to run the temporary generation facilities or quantify the "sustained employment opportunities"[57] or "short-term and long-term jobs created by the construction and operation of the Projects"[58] that are actually attributable to the temporary generation facilities.

Approval may also provide economic benefits including property tax revenues to Storey County, but likely not at the scale implied by Paragraphs 60 and 68. Although the Applications are not clear on this point, NCARE's belief is that the temporary generation facilities in the Applications will be built as containerized or mobile generators, not fixed equipment, which will be hauled off the Project site once NV Energy can provide electric service. As a result, they will likely not be considered as part of the improvements to the property for tax purposes as they would if this were a permanent facility. And if temporary generation facilities will be

[57] Proposed Order, parag. 60.
[58] Proposed Order, parag. 68.

considered taxable personal property located at a data center, then NRS 361.0683 permits the Office of Economic Development to grant a 75% tax abatement that would significantly reduce the value of any taxes that could be retained by Storey County.

3. Revisions to Paragraphs 60 and 68, including augmentation of the record, are necessary.

NCARE is unable to provide alternate language because the Proposed Order and record do not grapple with important details about the actual scope of the Project and what economic benefits should be included or omitted. They include no quantitative analysis of how the Commission determined the economic benefits attributable to the temporary generation facilities and concluded that they outweigh the environmental costs of the Projects. Accordingly, NCARE requests that the Commission order revisions to Paragraphs 60 and 68, including augmentation of the record as necessary to provide reasonably sufficient detail to show how the direct economic benefits of the temporary generation facilities compare to the environmental costs.

E. The Commission should revise Paragraph 69 for consistency with NCARE's own filings and with the hearing officer's statements at hearing.

NCARE requests that the Commission strikethrough and reframe language in Paragraph 69 of the Proposed Order that says certain issues raised by NCARE are not presented to the Commission by the Applications, then goes on to speculate about how the hearing officer would rule if the issues were to be presented to the Commission. This speculation is prejudicial to NCARE's ability to explore these issues on appeal, at rehearing, or in a request for the Commission to issue a declaratory order or advisory opinion because, as discussed above in Section A, the hearing officer's denial of NCARE Motion to Compel is the precise reason why NCARE has not been able to obtain facts of consequence to the Commission's ability to

determine these issues. To be clear, NCARE would have preferred that the Commission reach a decision on these issues in this proceeding, but this line of inquiry was disallowed at hearing and in the reasons given for denial of NCARE's Motion to Compel. If the Commission agrees that this line of inquiry is irrelevant or that these are "questions of regulatory status that are not presented by these Applications,"[59] then there is no valid reason to speculate about how it would rule on this topic.

As stated above in Section A.1., NCARE has valid doubts that these be "lawful self-generation" Projects as suggested in the Proposed Order. The applicability of the definition of "public utility" in NRS 704.020(2) and 704.021(13) to the Projects is a contested issue.[60] NCARE has been denied the ability to obtain discovery and limited on questions on cross-examination at hearing that would have explored these issues. NCARE emphasizes that the applications for both Projects indicate that the owner and operator of the generating facilities will not be the Applicants; rather, it will be Aggreko. NCARE's discovery requests were not a fishing expedition—it sought information that it believed was necessary for the Commission to consider in ruling on whether the Projects would be public utilities and whether the operator of the Projects would be acting as a "provider of electric service."[61]

Paragraph 69 is also contrary to the hearing officer's statements at hearing. In denying NCARE's Motion to Compel Discovery into these issues, the hearing officer stated that NCARE's discovery requests were "only tangentially relevant"[62] to the decision that the Commission must make in this docket. Additionally, regarding the issues NCARE raised about whether the Applicants' Projects qualify as a public utility or as a provider of electrical

[59] Proposed Order, parag. 69.
[60] Exh. 7, pp. 40-46.
[61] NRS 704.7808.
[62] Transcript, p. 8.

service,[63] the hearing officer also stated that he "will not be recommending the Commission make a determination on that issue in this docket."[64]

NCARE requests that the Proposed Order be revised for consistency with NCARE's own filings and with the hearing officer's statements at hearing where he ruled on NCARE's discovery motion, as follows:

> 69. The Commission also declines to adopt NCARE's ~~assertion~~ position that the Applicants or their Projects may be ~~acting within the definition of a~~ "public utility~~y~~ies" or that the operator of the Projects may be a "provider of electric service" and could therefore be subject to certification and RPS requirements. That assertion asks the Commission to decide~~, on a speculative basis,~~ questions of regulatory status that are not presented by and are only tangentially relevant to these Applications, and for which the record has insufficient evidence for the Commission to reach a decision. ~~The Commission agrees with the Applicants and Staff that, as represented, both Projects fall outside of the scope of a public utility under NRS 704.020 because the Projects will only provide power to support their data center operations. Moreover, the Commission finds that, given the representations made in the Applications, the Applicants likely enjoy a statutory exemption from consideration as a public utility under NRS 704.021(13), and, for purposes of the UEPA, from the definition of "public utility" under NRS 704.855(2), which excludes plants or equipment used to generate electrical energy that is wholly consumed on the premises of and by the producer thereof. However,~~ The Commission finds that the questions of whether the Projects will be public utilities and whether the Applicants will be subject to and comply with the RPS are only tangentially relevant~~not relevant~~ to the UEPA analysis focused on the evidentiary record in this docket.

[63] NCARE raised two distinct issues of relevance to NRS 704.890(g)(1)—whether the Projects are public utilities subject to the PUCN's general regulatory authority and whether the operators of the Projects will be acting as providers of electric service such that they are subject to the RPS. The Proposed Order only speculates about how the hearing officer would have resolved the former issue if presented. This unexplained inconsistency reinforces that the Commission should remove the speculative language in whole.

[64] Transcript, p. 8.

F. The Commission has the discretion to order further proceedings as necessary to correct errors and augment the record as requested by NCARE, and failure of the Commission to grant or deny the Applications by September 17, 2026 will not result in a "deemed approval."

NCARE is aware that the Commission and Regulatory Operations Staff may feel pressured to issue an approval notwithstanding NCARE's exceptions out of a concern that the Project may be "deemed approved" if the Applications are not granted or denied by September 17, 2026. However, the UEPA statute does not require or imply deemed approval if a final decision is not rendered by this date.

NRS Chapter 704 contains numerous examples of actual deemed approval language in other contexts.[65] For example, NRS 704.110(5) says, "If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes *shall be deemed to be approved by the Commission*." NRS 704.330(9)(b) provides another example: "The application *shall be deemed approved* if the Commission does not act on the application within 120 days after the date the application is filed with the Commission." As does NRS 704.68873(3): "A letter of advice submitted pursuant to this subsection *shall be deemed approved* if the Commission does not otherwise act on the letter of advice within 120 days after the date on which the letter is filed with the Commission."

UEPA contains no such deemed approval language in NRS 704.820-704.900. Instead, UEPA requires that the Commission act before an application can be granted, denied, or granted with conditions. While UEPA does contain a 150-day period in NRS 704.8905 in

[65] Emphasis added in each.

which the Commission shall "grant or deny approval" of an application for a permit to construct, this permit- streamlining language is silent about the consequences of the Commission's failure to meet this deadline. Instead of providing for deemed approval or deemed denial, Subdivision (2) of NRS 704.8905 provides that "The Commission or other permitting entity shall make its determination upon the record and may grant or deny the application as filed, or grant the application upon such terms, conditions or modifications of the construction, operation or maintenance of the utility facility as the Commission or other permitting entity deems appropriate." NCARE maintains that, had the legislature intended for inaction to lead to a deemed approval of a UEPA application, it would have done so in the UEPA statute as it clearly and unambiguously did elsewhere in Chapter 704.

III. CONCLUSION

NCARE appreciates the opportunity to provide arguments and exceptions to the Proposed Order and respectfully request that the Commission adopt NCARE's proposed corrections.

Dated this 10th day of September 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Docket Nos. 26-04026 and 26-04027

I hereby certify that I have on this date served the foregoing filing upon all parties of record in this docket by emailing a copy to the following:

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Dated September 10, 2026.

/s/ Jeff Griffin
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