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26-04026

Public Utilities Commission of Nevada
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Submitted: 10/1/2026 12:15:52 PM

Reference: 343e0ebc-e7dd-49ec-9542-b477a87079df

Payment Reference: ec-9542-b477a87079df

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BCP



ERNEST D. FIGUEROA
Consumer Advocate
Chief Deputy Attorney General

STATE OF NEVADA
BUREAU OF CONSUMER PROTECTION

Northern Office
100 N. Carson Street
Carson City, Nevada 89701

MARK J. KRUEGER
Consumer Counsel
Chief Deputy Attorney General

Southern Office
8945 W. Russell Road, Suite 204
Las Vegas, Nevada 89148

October 1, 2026

Trisha Osborne
Assistant Commission Secretary
Public Utilities Commission of Nevada
1150 East William Street
Carson City, NV 89701

Re: Docket Nos. 26-04026 and 26-04027

Dear Ms. Osborne:

Please accept for filing the Bureau of Consumer Protection of the Office of the Nevada Attorney General's Petition for Reconsideration being filed in regard to the above-referenced dockets.

Should you have any questions regarding this filing, please contact me at staylor@ag.nv.gov.

Sincerely,

ERNEST D. FIGUEROA
Consumer Advocate

/ s / Samuel J. Taylor
SAMUEL J. TAYLOR
Senior Deputy Attorney General
Bureau of Consumer Protection
100 N. Carson Street
Carson City, NV 89701
staylor@ag.nv.gov

SJT:jw
cc: Parties of Record

1 **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

2 Application of SV RNO Property Owner 1 LLC)
3 under the provisions of the Utility Environmental)
4 Protection Act, for a permit to construct the South)
5 Temporary Power Generation Facility Consisting)
6 of a temporary 144 MW natural gas-fueled electric)
7 generating facility and associated facilities to be)
8 located on private land in Storey County, Nevada)
9 _____)

Docket No. 26-04026

7 Application of PR RNO Property Owner 1, LLC)
8 Under the provisions of the Utility Environmental)
9 Protection Act, for a permit to construct the Peru)
10 Ridge Self-Generation Project consisting of a)
11 Temporary 218 MW natural gas-fueled electric)
12 Generating facility and associated facilities to be)
13 Located on private land in Storey County, Nevada)
14 _____)

Docket No. 26-04027

12
13 **THE BUREAU OF CONSUMER PROTECTION OF THE OFFICE OF THE NEVADA**
14 **ATTORNEY GENERAL'S**
15 **PETITION FOR RECONSIDERATION**

16 COMES NOW, the Bureau of Consumer Protection of the Office of the Nevada Attorney
17 General ("BCP") before the Public Utilities Commission of Nevada ("Commission") pursuant
18 to Nevada Administrative Code ("NAC") 703.801 and respectfully requests that the Public
19 Utilities Commission of Nevada ("Commission") reconsider its Order dated September 17,
20 2026, in Dockets 26-04026 and 26-04027 regarding the applications.

21 **I. LEGAL STANDARD**

22 NAC 703.801 provides in relevant part:

23 (a) A petition for reconsideration must specifically: (a) Identify each
24 portion of the challenged order which the petitioner deems to be unlawful,
25 unreasonable or based on erroneous conclusions of law or mistaken facts;
26 and

27 (b) Cite those portions of the record, the law or the rules of the
28 commission which support the allegations in the petition. The petition
 may not contain additional evidentiary matter or require the submission
 or taking of evidence.

II. ARGUMENT IN SUPPORT OF PETITION

BCP urges the Commission to reconsider its September 17, 2026, Order in the aforementioned dockets on the following grounds: (1) the Commission failed to consider whether the proposed facilities are subject to the renewable energy standards set out in the Nevada Constitution; (2) the Commission did not properly evaluate the environmental impacts of the proposed facilities; and (3) the Commission ignored the public's input into the proposed facilities.

A. The Commission Failed to Consider Whether the Proposed Facilities are Subject to the Renewable Energy Standards Set out in the Nevada Constitution.

In 2018 and 2020, the people of Nevada approved an amendment to the Nevada state Constitution which mandates that entities that sell electricity to retail customers utilize specified amounts of renewable energy. Nev. Constitution, Art. 4, § 39. The intent of the amendment was to reduce the state's reliance on fossil fuel-fired power plants, thereby improving air quality, public health, reducing water use, reducing exposure to volatile fossil fuel prices and supply disruptions. *Id.* Furthermore, Section Article 4, § 39 is required to be liberally construed to achieve the purposes described above. *Id.* Here, the Commission discounted the applicability of the Renewable Portfolio Standard created pursuant to Article 4, § 39 when making its decision to approve the application. Commission's Order at ¶ 35.

To determine whether the projects in the application would be subject to the renewable energy requirements set out in the Nevada Constitution, the legal arrangements between the Applicants and the data centers they will serve would need to be obtained and independently evaluated. It is obvious that a data center would be a retail customer for the purposes of the application of Article 4, § 39. What is unclear is the nature of the transfer of power from the Applicants to the end users.

On July 20, 2026, intervenor Nevadans for Clean Affordable Reliable Energy ("NCARE") filed a Motion to Compel seeking information regarding the legal arrangements between the Applicants and the data centers they would serve. *See* NCARE's July 20, 2026,

1 Motion to Compel.¹ In response to NCARE’s discovery request (“DR”) 1-2, Applicants stated
2 that “Applicant’s contracts with its customers are of no consequence to the outcome of this
3 UEPA proceeding.” *Id.* at 4. The Hearing Officer denied NCARE’s Motion at the beginning
4 of the hearing on the matter.²

5 The Commission’s decision in this regard is simply not in line with the law. For
6 example, if the Applicants are selling power in any way to the proposed data centers they
7 would serve, they would almost certainly be subject to Article 4, § 39 of the Nevada
8 Constitution which takes precedence over all provisions of the Nevada Utility Protection Act
9 (“UEPA”). *Thomas v. Nevada Yellow Cab Corp.* 130 Nev. 484, 487-488 (2014) (“The Nevada
10 Constitution is the ‘supreme law of the state,’ which ‘control[s] over any conflicting statutory
11 provision.” (internal citations omitted). Furthermore, any constitutional amendment
12 impliedly repeals a statute when “irreconcilably repugnant.” *Id.* at 488. BCP noted that the
13 presumption is against implied repeal unless the enactment conflicts with existing law to the
14 extent that both cannot logically coexist. *Id.* In this case, provisions of the contracts between
15 the parties must be examined to determine whether they would be subject to the requirements
16 of Article 4, § 39.

17 It is clear that UEPA’s provisions are repugnant with those found in Article 4, § 39 of
18 the Nevada Constitution, which the Commission seemed to acknowledge. Order at ¶ 35.
19 However, despite the clear conflict, the Commission determined that the Applicants are
20 exempt from the requirements of NRS 704.890 because of the statutory framework of UEPA.
21 It is clear the Nevada Constitution has primacy, and any analysis undertaken by the
22 Commission must comport with the law. In sum, any evaluation of the application in this
23 docket must be examined in light of the potential applicability of the Nevada Constitution.

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27 ¹ See discussion in the Motion regarding NCARE’s DR’s 1-2 and 1-3.

28 ² Nevada State Legislature, 9/17/2026 – PUCN Special Agenda, YouTube, at 2:13:04 – 2:21:50, Sept. 17, 2026,
<https://www.youtube.com/watch?v=g8wlShxTdwY>. (Transcript provided by YouTube subtitles/closed captions and verified by
the author.)

1 **B. The Commission did not Properly Evaluate the Environmental Impacts of**
2 **the Proposed Facilities.**

3 The Commission failed to properly evaluate the environmental impact of the proposed
4 facilities. Specifically, the Commission failed to properly evaluate the following: (1) the nature
5 of the probable effect on the environment; (2) whether the facility is needed to ensure reliable
6 energy service to utility customers in the state; [note, the findings from the commission point
7 to the fact the applicants are a utility subject to Article 4, Section 39.]; and (3) the facility
8 serves the public interest.

9 **1. The Commission failed to Examine the Nature of the Probable Effect on**
10 **the Environment as Required under NRS 704.890(1)(a).**

11 NRS 704.890(1)(a) provides that the Commission may not grant a UEPA Permit to
12 Construct unless it finds and determines “[t]he nature of the probable effect on the
13 environment.” The Commission’s Order indicates that the environmental statements
14 provided by the Applicants identify the nature of the probable effect on the environment.
15 September 17, 2026, Order at ¶ 13.³ However, The Commission’s Order does not mention
16 anything about the nature of the projects in terms of their temporary nature nor how they
17 comply with the requirements of Article 4, § 39 of the Nevada Constitution. Moreover, the
18 Commission did not weigh the environmental impact of the proposed facilities compared to
19 the need to begin construction immediately. There is certainly a tremendous negative impact
20 on the environment if these facilities are constructed and operated, even on a temporary basis.
21 *See e.g.*, Order at ¶¶ 3-6. Also, it is highly improbable that these facilities will be demolished
22 once NV Energy has the capacity to provide service. What is more likely is that the facilities
23 will sell power to NV Energy who will in turn charge existing NV Energy customers with the
24 cost to purchase power from these facilities. Regardless, the Commission did not examine this
25 issue in sufficient detail and BCP urges a more detailed examination of this issue.

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3 Hereafter referred to as “Order.”

1 **2. The Commission Failed to Examine the Extent to Which the Facility is**
2 **Needed to Ensure Reliable Utility Service to Customers in the State under**
3 **NRS 704.890(1)(b).**

4 When examining reliability, the Commission should have looked at the issue in the
5 context of the request. Reliability under NRS 704.890(1)(b) must be examined as it was
6 intended, i.e., is the facility helping stabilize the grid that exists throughout Nevada?
7 Reliability also should be examined in the context of the normal processes associated with
8 development. For example, if a party wishes to construct a facility, a county Planning
9 Commission and Board of County Commissioner's would examine whether there is a "will
10 serve" letter from a utility. The "will serve" letter is issued only if the utility has extra capacity
11 to serve the customer, or it will have the capacity once the project is ready to be connected to
12 the grid. In this instance, the project is a stand-alone project although the reliability aspect
13 is entirely predicated on the desire of the owners to construction of a data center now.

14 **3. The Commission Did not Properly Examine the Public's Interest Under**
15 **NRS 704.890(1)(g).**

16 "NRS 704.890(l)(b) provides that the Commission may not grant a UEPA Permit to
17 Construct unless it finds and determines, "[i]f the utility facility emits greenhouse gases and
18 does not use renewable energy as its primary source of energy to generate electricity, the
19 extent to which the facility is needed to ensure reliable utility service to customers in this
20 State." Order at ¶ 24. The Commission's Order does not adequately examine why the
21 facilities are not subject to the requirements of Article 4, § 39 of the Nevada Constitution.
22 Normally, a facility like a data center cannot obtain a permit to be constructed until the
23 electric utility provides some notice that it is able to provide service to the facility. In doing
24 so, NV Energy would ensure compliance with the clean energy provisions of the Nevada
25 Constitution. In this instance, the Commission has allowed the Applicants to bypass the
26 clean energy requirements applicable to NV Energy under Article 4, § 39 of the Nevada
27 Constitution and let the Applicants build a project due to a lack of desire to wait until capacity
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1 that meets Article 4, § 39 exists. In other words, a desire to earn money trumps the policies
2 put in place by the majority of the people of Nevada. This is not in the public's interest.

3 Moreover, NRS 704.825 clearly contains policy considerations that were ignored in this
4 application and which reflect the public interest as noted by the Nevada Legislature.
5 Specifically, NRS 704.825 states:

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7 **704.825. Declaration of legislative findings and purpose**

8 1. The Legislature hereby finds and declares that:

9 (a) There is at present and will continue to be a growing need for
10 electric, gas and water services which will require the
11 construction of new facilities. It is recognized that such facilities
12 cannot be built without in some way affecting the physical
13 environment where such facilities are located.

14 (b) It is essential in the public interest to minimize any adverse
15 effect upon the environment and upon the quality of life of the
16 people of the State which such new facilities might cause.

17 (c) Present laws and practices relating to the location of such
18 utility facilities should be strengthened to protect environmental
19 values and to take into account the total cost to society of such
20 facilities.

21 (d) Existing provisions of law may not provide adequate
22 opportunity for natural persons, groups interested in
23 conservation and the protection of the environment, state and
24 regional agencies, local governments and other public bodies to
25 participate in proceedings regarding the location and
26 construction of major facilities.

27 2. The Legislature, therefore, hereby declares that it is the purpose of
28 NRS 704.820 to 704.900, inclusive, to provide a forum for the expeditious
resolution of all matters concerning the location and construction of
electric, gas and water transmission lines and associated facilities.

29 The Commission stated:

30 The Commission does not minimize the emissions NCARE has
31 quantified. Balancing under NRS 704.890(l)(c) does not require a
32 finding that the adverse effects are trivial; it requires the Commission
33 to weigh them against the need. On one side of that scale are the criteria
34 pollutant and greenhouse gas emissions associated with a defined period
35 of operation, mitigated by best available emissions controls, best
36 management practices, and the conditions NDEP will impose. On the
37 other are the reliability need found under NRS 704.890(l)(b), the siting
38 of the Projects on previously disturbed land within an existing industrial

1 park, and the construction and operating employment, capital
2 investment, and property tax revenue reflected in the record. The
3 Commission concludes that the balance favors the Applicants and,
4 accordingly, finds and determines that the need for the Projects balances
5 any adverse effect on the environment.⁴

6 Authorizing the construction of facilities that spew greenhouse gasses and which
7 contribute to climate change does not comport with the intent of the UEPA nor does it comport
8 with the public's interest under NRS 704.890(1)(g). The examination conducted by the
9 Commission must include more analysis than simply taking the word of the Applicants that
10 the harm to the environment will be minimal. Climate change affects everyone on the planet.
11 For example, coal fired plants world-wide contribute to the problem as do gas fired plants
12 proposed by the Applicants. Extreme heat kills people, and this year was the hottest in
13 recorded history. These projects will surely exacerbate the underlying problem, even if
14 temporarily.

15 The Commission further did not properly consider the public's interest when it failed
16 to consider the massive negative environmental impacts of the proposed facilities compared
17 to the limited economic benefit to the state. Specifically, the Commission cited to the tax
18 revenue associated with the projects. It is not clear what specific revenue the Commission
19 was referring to, but the application in 26-04026 shows the project only providing a peak
20 workforce of 20 during the short construction period followed by an operational workforce of
21 5 employees. Also, the economic benefit cannot be measured over the entire life of the project,
22 rather, all economic benefit, including taxes and jobs, should be measured over the two to
23 three year temporary period related to the application. The Commission also did not take
24 into account job loss from artificial intelligence, negative economic impacts associated with
25 climate change, resource depletion (such as water) and other factors.

26 It is clear that UEPA never considered projects that were "stand alone" projects that
27 were never connected to the NV Energy grid such as what is being proposed here. It is also
28 clear that these applications may be strategically used as a means to avoid examination under

⁴ Order at ¶ 39.

1 the Integrated Resource Plan and RPS since they may be used to assist NV Energy with
2 meeting its obligations under Large Load Service Agreements under Docket 26-05027. The
3 lack of in-dept environmental review is concerning to BCP. As the Commission’s Order notes,
4 there is extremely limited environmental review following the Commission’s conditional
5 approval. Order at ¶¶ 58 and 59. NRS 704.890 makes it clear, the Commission must
6 undertake some evaluation of the environmental impact from the proposed facilities and it
7 cannot merely pass this evaluation to other entities.

8 A question the Commission should have been asking under NRS 704.780 is why the
9 developers cannot wait until NV Energy has the capacity to serve the facility with a portfolio
10 of energy that would include renewable energy that meets the requirements of the Nevada
11 Constitution? The facilities are supposedly only going to exist for 2 to 3 years. The application
12 states that the need and public interest is served “by enabling a major industrial employer
13 and taxpayer to commence operations while permanent utility infrastructure is being
14 developed.” To characterize a permanent workforce of 5 as a “major industrial employer” is a
15 stretch. See Application in Docket 26-04027 at p. 13.

16 **C. The Commission Ignored Public Comments that were on Point and**
17 **amplified testimony that was part of the evidentiary record.**

18 At the Special Agenda held on September 17, 2026, in this matter, at the request of the
19 Commission Chairperson, Hayley Willaimson, the Commissions General Counsel, Mr. Garrett
20 Weir, explained the position of the Commission regarding public comment:

21 Unfortunately, the public comments that occur here after that evidentiary
22 record has been created cannot by law be relied upon. And so, a lot of
23 information was presented today, but that’s not subject to cross-examination.
24 It’s not under oath. There’s not an opportunity for people to ask questions about
25 the credibility or background experience of the witnesses. So, by law, that’s just
26 not something that can be relied upon by the commission here.⁵

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28 ⁵ Nevada State Legislature, 9/17/2026 – PUCN Special Agenda, YouTube, at 2:14:27 - 2:14:57, Sept. 17, 2026,
<https://www.youtube.com/watch?v=g8wlShxTdwY>. (Transcript provided by YouTube subtitles/closed captions and verified by
the author.)

1 Based on Mr. Weir's comments, the Commission has strongly signaled that public
2 comments cannot have any effect on the outcome of the proceedings. This position is both
3 misleading to the public and contrary to Nevada law. Under NRS 233B.123 only irrelevant,
4 immaterial or unduly repetitious evidence must be excluded. Further, "[e]vidence may be
5 admitted, except where precluded by statute, if it is of a type commonly relied upon by
6 reasonable and prudent persons in the conduct of their affairs." NRS 23B.123(1). That is, if a
7 member of the public brings forth salient, well-reasoned, or well researched concerns during
8 the time public comment, the Commission may certainly give weight to those comments in
9 that the information may be relied upon by a reasonable and prudent person in the conduct
10 of their affairs.

11 It is also well settled Nevada law that evidentiary standards are more relaxed for
12 administrative proceedings, thus allowing a public body to draw from a wider breadth of
13 knowledge and experience of evidence than what a court normally can. See *Nassiri v.*
14 *Chiropractic Physicians' Bd.*, 130 Nev. 245, 248, 327 P.3d 487, 489 (2014). As such, the public
15 comments provided to the Commission may be considered as evidence and are part of the
16 record.

17 Mr. Weir continued further in the Agenda that "this is a meeting where it's public
18 comment. It generally doesn't provide for back-and-forth in questions."⁶ This statement
19 fundamentally ignores the legislative intent of allowing public comment in administrative
20 proceedings under NRS 244.020-021. When the Nevada legislature first codified a public
21 comment requirement into law in 1991, the specific legislative reason was for the public body
22 to be able to **respond** to public concerns without running afoul of restrictions on deliberations
23 outside of the agenda. See Hearing on A.B. 252 Before the Senate Committee on Government
24 Affairs Leg. (Nev., May 29, 1991) (originally proposed by school districts seeking to respond
25 to parental concerns during meetings). Here, the Commission's only responses were directed
26 toward informing the public that their comments did not really matter to the Commission no
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⁶ Id. at 2:35:30.

1 matter how well-reasoned or amplifying testimony that was part of the evidentiary record,
2 before the Commission exercised critical judgment in deciding this UEPA application.

3 III. CONCLUSION

4 This application constitutes an “end run” around Article 4, § 39 of the Nevada
5 Constitution, as well as the normal processes that NV Energy would use to determine whether
6 a project was necessary for reliability under the Integrated Resource Plan. While BCP
7 supports the idea of a data center paying the full costs associated with providing power to its
8 facilities, it does not support doing so at the expense of avoiding the clean energy mandates
9 set out in Article 4, § 39 of the Nevada Constitution since it applies to all energy providers.

10 For all the reasons stated herein, the BCP respectfully requests that the Commission
11 reexamine its evaluation of the applications.

12 Respectfully submitted October 1, 2026.

13 ERNEST FIGUEROA
14 Consumer Advocate

15 /s/ Samuel J. Taylor
16 SAMUEL J. TAYLOR
17 Senior Deputy Attorney General
18 100 North Carson Street
19 Carson City, NV 89701
20 staylor@ag.nv.gov
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CERTIFICATE OF SERVICE

Docket Nos. 26-04026, 26-04027

I certify that I am an employee of the Bureau of Consumer Protection and that on this day I have served the foregoing document upon all parties of record in this proceeding by emailing or mailing a true copy thereof, properly addressed with postage prepaid or forwarded as indicated below to:

STAFF COUNSEL PUBLIC UTILITIES COMMISSION OF NEVADA 1150 EAST WILLIAM STREET CARSON CITY, NV 89701 pucn.sc@puc.nv.gov	DONALD LOMOLJO PUBLIC UTILITIES COMMISSION 1150 EAST WILLIAM STREET CARSON CITY, NV 89701 dlomoljo@puc.nv.gov
DALLAS A. HARRIS DAVISON VAN CLEVE, P.C. 4675 W. TECO AVE., STE. 240 LAS VEGAS, NV 89118 dah@dvclaw.com	ROBERT SWEETIN DAVISON VAN CLEVE, P.C. 4675 W. TECO AVE., STE. 240 LAS VEGAS, NV 89118 rds@dvclaw.com
CURTIS LEDFORD DAVISON VAN CLEVE, P.C. 4675 W. TECO AVE., STE. 240 LAS VEGAS, NV 89118 crl@dvclaw.com	SHALINI SHARMA FLEET DATA CENTERS 3200 CHERRY CREEK SO. DR., #500 DENVER, CO 80209 shalini.sharma@fleetdatacenters.com
GEORGE CAVROS WESTERN RESOURCE ADVOCATES 275 HILL ST., STE. 210 RENO, NV 89501 george.cavros@westernresources.org	JEFF GRIFFIN WESTERN RESOURCE ADVOCATES 275 HILL ST., STE. 210 RENO, NV 89501 jeff.griffin@westernresources.org
ZOE HARROLD WESTERN RESOURCE ADVOCATES 275 HILL ST., STE. 210 RENO, NV 89501 zoe.harrold@westernresources.org	

Dated: October 1, 2026.

/s/ Jana Whitson
An Employee of the
Bureau of Consumer Protection