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26-04026

Public Utilities Commission of Nevada
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SV RNO Property Owner 1 LLC and PR RNO Property Owner 1 LLC

Davison Van Cleve PC
Attorneys at Law
(725) 735.1718 • crl@dvclaw.com

4675 W Teco Ave., Suite 230
Las Vegas, Nevada 89118

October 14, 2026

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

Re: Application of SV RNO Property Owner 1 LLC for a Permit to Construct the Proposed South Valley Generation Facility in Storey County, Nevada, under the provisions of the Utility Environmental Protection Act.
Docket No. 26-04026

Application of PR RNO Property Owner 1, LLC for a Permit to Construct the Peru Ridge Self-Generation Project, consisting of natural gas-fueled electrical generating facilities located in Storey County, Nevada, under the provisions of the Utility Environmental Protection Act.
Docket No. 26-04027

Dear Ms. Osborne:

Please find enclosed the Answer in Opposition to BCP's Petition for Reconsideration on behalf of SV RNO Property Owner 1, LLC and PR RNO Property Owner 1, LLC, in the above-referenced docket.

Please contact the undersigned if you have any questions.

Sincerely,

/s/ Curt R. Ledford
Curt R. Ledford
Nevada Bar No. 9101
4675 W. Teco Ave., Suite 230
Las Vegas, NV 89118
(725) 735-1718 (telephone)
crl@dvclaw.com

*Attorneys for SV RNO Property Owner 1,
LLC and PR RNO Property Owner 1,
LLC*

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

2 Application of SV RNO Property Owner 1 LLC)
3 for a Permit to Construct the Proposed South
4 Valley Generation Facility in Storey County,
5 Nevada, under the provisions of the Utility
6 Environmental Protection Act.

Docket No. 26-04026

7 and

and

8 Application of PR RNO Property Owner 1,
9 LLC for a Permit to Construct the Peru Ridge
10 Self-Generation Project, consisting of natural
11 gas-fueled electrical generating facilities
12 located in Storey County, Nevada, under the
13 provisions of the Utility Environmental
14 Protection Act.

Docket No. 26-04027

15 **APPLICANTS' ANSWER IN OPPOSITION TO BCP'S PETITION FOR**
16 **RECONSIDERATION**

17 **I. INTRODUCTION**

18 SV RNO Property Owner 1, LLC and PR RNO Property Owner 1, LLC (collectively,
19 "Applicants") respectfully submit this Answer in Opposition to the Petition for Reconsideration
20 ("Petition") filed on October 1, 2026, by the Bureau of Consumer Protection of the Office of the
21 Nevada Attorney General ("BCP"). The Petition asks the Commission to "reexamine its evaluation
22 of the applications" that were the subject of the Commission's Order dated September 17, 2026
23 ("Order"), which granted Applicants' Utility Environmental Protection Act ("UEPA")
24 applications in the above-captioned consolidated dockets, subject to the compliance items
25 delineated therein.¹ The Order reflects findings on each determination required by NRS 704.890(1)
26 for both Projects.² Applicants are filing an Answer in Opposition to the October 2, 2026 Petition
27 for Rehearing jointly filed by BCP and Nevadans for Clean Affordable Reliable Energy
28 ("NCARE") concurrently with this Answer in Opposition. Applicants understand that BCP does
not typically intervene in UEPA proceedings, that it did not intervene here while the record was
open, and that it represented that NCARE was adequately capable of representing the public
interest.³ To the extent BCP believes it should have participated during the lengthy proceeding, it

¹ Petition at 11; Order, Section II, ¶¶ 77–82 and Ordering ¶¶ 1–9.

² Order, ¶¶ 77, 80.

³ "John Sadler, the communications director for the Nevada Office of the Attorney General, said that while the BCP occasionally intervenes in utility proceedings they were confident that Nevadans for Clean Affordable Reliable Energy (NCARE) — the only organization that intervened in opposition on the case — could represent the

cannot now cure that failure through the instant Petition. For that reason, and the reasons set forth below, Applicants respectfully request that the Commission deny the Petition.

II. GOVERNING STANDARD

NAC 703.801 governs petitions for reconsideration before the Commission. NAC 703.801(1). A petition for reconsideration must:

*(a) Specifically identify each portion of the challenged order which the petitioner deems to be unlawful, unreasonable or based on erroneous conclusions of law or mistaken facts; and (b) Cite those portions of the record, the law or the rules of the commission which support the allegations in the petition. The petition may not contain additional evidentiary matter or require the submission or taking of evidence.*⁴

This standard is exacting: a petition for reconsideration must identify specific errors in specific portions of the order and support those allegations with specific record, legal, or regulatory citations.⁵ A petition that merely requests a general reexamination or redo of the Commission's decision does not satisfy this standard.

NAC 703.801 draws a distinction that bears directly on this Petition. Subsection (1) governs petitions for **reconsideration**. It requires the petitioner to identify each challenged portion of the order and to cite the portions of the record, the law, or the Commission's rules supporting its allegations, and it expressly provides that such a petition "may not contain additional evidentiary matter or require the submission or taking of evidence."⁶ Subsection (2) governs petitions for **rehearing**. It permits a petitioner to allege that an order is in error because of an incomplete or inaccurate record, but only upon a specific proffer of additional evidence that is "not merely cumulative" and "could not have been introduced at the hearing."⁷ The two are distinct vehicles, with different standards.⁸ To wit, a petitioner who seeks reconsideration is confined to the record the Commission already has.

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community's concerns effectively." Jeniffer Solis, *Public Utility Commission Approves Gas Plants to Power Data Centers*, NEV. CURRENT (Sept. 18, 2026), <https://nevadacurrent.com/2026/09/18/public-utility-commission-approves-gas-plants-to-power-data-centers/>.

⁴ NAC 703.801(1)(a)–(b) (emphasis added).

⁵ *Id.*

⁶ NAC 703.801(1).

⁷ NAC 703.801(2); *see also* NRS 704.895(1).

⁸ NAC 703.801(1)–(3); NRS 704.895(1).

III. ARGUMENT

A. THE COMMISSION SHOULD EXAMINE BCP'S STANDING TO SEEK RECONSIDERATION IN THIS CASE

BCP filed a Notice of Intervention dated September 18, 2026.⁹ The Order subject to BCP's instant Petition was issued the previous day, September 17, 2026.¹⁰ The record of the consolidated proceeding does not reflect that BCP filed testimony, participated in the July 30, 2026 hearing, or filed exceptions to the proposed order under the schedule set in Procedural Order No. 4 (Sept. 3, 2026), ¶ 26(b). The Commission may wish to consider whether a party, despite being on notice of the proceeding and having a previous opportunity to participate, that was not a participant in the proceeding at the time the Order was entered may properly petition for reconsideration of that Order under NAC 703.801, and whether that same party may pursue relief through both this Petition and the October 2, 2026 joint Petition for Rehearing directed at the same Order. Applicants respectfully ask the Commission to address this threshold question, which Applicants also raise in their concurrently filed Answer in Opposition to the Petition for Rehearing. Applicants posit that a party that intervenes following an Order, but did not otherwise participate in the underlying proceedings, cannot now avail itself of the Commission's petition for reconsideration procedures in an effort to cure its own failure to participate. And, notably, the only other party to the case other than Applicant and Staff, NCARE, did not file a timely Petition for Reconsideration in this docket.

B. THE PETITION FAILS NAC 703.801'S SPECIFICITY REQUIREMENT

The Petition's request—that the Commission “reexamine its evaluation of the applications”—is an open-ended invitation to revisit the entire proceeding.¹¹ It therefore does not meet the threshold standard under NAC 703.801 and does not challenge any specific portion of the Order. For this reason, the Petition must be denied. Nevertheless, in support of this broad request, BCP puts forward three grounds for reconsideration: (1) the Commission's alleged failure to consider the applicability of Nevada's renewable energy standards; (2) the Commission's alleged failure to “properly evaluate the environmental impacts of the proposed facilities”; and (3) the Commission's alleged disregard of “the public's input,”¹² all of which are substantively addressed by Applicants below.

⁹ Notice of Intervention (Sept. 18, 2026); Petition at 2.

¹⁰ Order, Section II and Ordering ¶¶ 1–2.

¹¹ Petition at 11.

¹² *Id.* at 3.

1 **1. BCP Did Not Challenge the Application of, and the Commission Did**
2 **Not Misapply, the Renewable Portfolio Standard**

3 As an initial matter, Applicants presume, based on the references in BCP’s Petition, that
4 BCP is challenging Paragraph 35 of the Order.¹³ In doing so, BCP states that the Commission
5 “discounted the applicability” of Nevada’s Renewable Portfolio Standard (“RPS”).¹⁴ That
6 argument misreads the Order. Paragraph 35 does not decide whether the RPS applies to the
7 Applicants.¹⁵ Instead, it recounts the position of intervenor NCARE that the RPS should apply to
8 Applicants’ Projects, and addresses a different issue—whether Nevada law requires that the Projects
9 be denied for failure to meet Nevada’s greenhouse gas (“GHG”) emissions-reduction and
renewable energy goals.¹⁶

10 As it relates to this question, the Commission acknowledged that the Projects “will create
11 GHG emissions and will not use renewable energy.”¹⁷ It further noted that NRS 704.890(1)(b)
12 requires a specific finding when a facility “emits greenhouse gases and does not use renewable
13 energy as its primary source of energy to generate electricity.”¹⁸ The Commission correctly
14 observed that this construction of the statute “presupposes that such [non-renewable energy]
15 facilities may be permitted.”¹⁹ On that basis, the Commission concluded that “[w]ere conflict with
16 the State’s emissions-reduction goals categorically disqualifying, paragraph (b) [of the statute]
17 would have no work to do,” and that paragraph (c) “requires . . . a balance.”²⁰ The Commission
18 analyzed the Projects in light of these statutory requirements and struck the necessary balance on
19 the full record, weighing quantified emissions against the reliability need, mitigation, siting, and
economic benefits.²¹

20 BCP does not appear to challenge the portion of the Order that explicitly addresses
21 NCARE’s RPS theory, Paragraph 69, and it waives any request for reconsideration of that portion
22 by failing to do so as required by NAC 703.801(1)(a).²² In that portion of the Order, the
23 Commission set out its position on NCARE’s speculative theory that, *inter alia*, Applicants or

24 ¹³ See Petition at 2:18, 3:18. Applicants must make this assumption because BCP fails to identify a specific portion
25 of the order as required by NAC 703.801(1)(a).

26 ¹⁴ *Id.* at 3.

27 ¹⁵ Order ¶ 35.

28 ¹⁶ *Id.*

¹⁷ Order ¶ 35.

¹⁸ NRS 704.890(1)(b).

¹⁹ Order ¶ 35.

²⁰ *Id.* (emphasis added).

²¹ *Id.* ¶¶ 35, 39.

²² See Petition at 3–4.

1 related parties “may” be a “public utility” under NRS 704.020(2), or a “provider of electric
2 service” under NRS 704.7808, and that, if the Projects sold electricity to retail customers, they
3 “would be in violation of RPS requirements set forth in NRS 704.7821.”²³ The Commission
4 appropriately declined to adopt that attenuated, unsupported, and uncertain argument because it
5 “asks the Commission to decide, on a speculative basis, questions of regulatory status that are not
6 presented by these Applications.”²⁴ Moreover, the Commission found that, as represented, the
7 Projects fall outside the scope of a public utility under NRS 704.020 “because the Projects will
8 only provide power to support their data-center operations.”²⁵ It further correctly found that the
9 Applicants “likely enjoy” statutory exemptions under NRS 704.021(13) and, for UEPA purposes,
10 under NRS 704.855(2), which excludes plants or equipment used to generate electrical energy
11 “wholly consumed on the premises of and by the producer thereof.”²⁶

12 BCP’s misplaced reliance on Article 4, Section 39 of the Nevada Constitution does not
13 change the Commission’s analysis. BCP states that the RPS applies to entities that sell electricity
14 to retail customers.²⁷ On BCP’s own description, the applicability of the RPS turns entirely on
15 whether there is a retail sale.²⁸ The record before the Commission describes the opposite of a retail
16 sale: self-generation facilities that will “supply electric power exclusively for on-site consumption”
17 at data-center campuses.²⁹ The Applicants represented “consistently and definitively” that the
18 Projects will “solely provide power to the data-center developments as self-generation facilities.”³⁰
19 BCP’s argument that Article 4, Section 39 should be construed liberally is also unavailing.³¹ A
20 rule of liberal construction describes how a provision should be read where it applies. The RPS
21 simply does not apply here, and a liberal reading does not turn a UEPA proceeding concerning the
22 siting permit necessary to construct an on-site, self-generation facility into a proceeding on retail-
23 sale obligations, and it does not add any new criteria to the determinations the Legislature set out
24 in NRS 704.890(1).

25 BCP invokes the principle that the Nevada Constitution controls over any conflicting
26 statute, citing *Thomas v. Nev. Yellow Cab Corp.*, 130 Nev. 484, 487–88 (2014).³² The Applicants

27 ²³ Order ¶ 69.

28 ²⁴ *Id.*

29 ²⁵ *Id.*

30 ²⁶ *Id.*; NRS 704.855(2).

31 ²⁷ Petition at 3; *see* Nev. Const. art. 4, § 39.

32 ²⁸ *Id.*

33 ²⁹ Order ¶¶ 70–71.

34 ³⁰ *Id.*

35 ³¹ *See* Petition at 3.

36 ³² *Id.*

do not dispute that principle. It simply does not apply here. There is no conflict for the Constitution to resolve. As BCP itself describes *Thomas*, a constitutional amendment impliedly repeals a statute only when the two are “irreconcilably repugnant,” and the presumption runs against implied repeal unless the two enactments cannot logically coexist.³³ UEPA and Article 4, Section 39 coexist without tension. UEPA governs whether a utility facility may be constructed, operated, and maintained, and it directs the Commission to make the environmental, need, alternatives, conformity, and public interest determinations listed in NRS 704.890(1).³⁴ A UEPA permit does not authorize anyone to sell electricity at retail.³⁵ Nor does the Order purport to excuse any entity from a renewable energy obligation that applies to it on its own terms.³⁶ If the Applicants ever became sellers of electricity to retail customers, whatever obligations Article 4, Section 39 imposes on such sellers would apply in the ordinary course. The permit would neither enlarge nor diminish those obligations. BCP’s own authority cuts against its position. Because the two enactments can—and do—logically coexist, there is no need for any alleged “trumping” of UEPA by the RPS.

BCP attempts to bolster its faulty premise of constitutional incompatibility by asserting that the Commission “seemed to acknowledge” a conflict between UEPA and Article 4, Section 39 in Paragraph 35.³⁷ “Seemed” is a significant stretch in characterizing the Commission’s approach, and Paragraph 35 does not support such a tortured reading.³⁸ It does not cite Article 4, Section 39, it undertakes no constitutional analysis, and it makes no finding that any statute conflicts with the Constitution.³⁹ What the Commission acknowledged was a factual point: the Projects “will create GHG emissions and will not use renewable energy.”⁴⁰ The Commission then rejected the contention that inconsistency with the State’s emissions-reduction goals is categorically disqualifying.⁴¹ It reasoned that NRS 704.890(1)(b) expressly contemplates permitting facilities that emit greenhouse gases and do not use renewable energy as their primary source of energy.⁴² The Commission then performed the balancing of factors NRS 704.890(1)(c)

³³ Petition at 4 (citing *Thomas*, 130 Nev. at 488).

³⁴ NRS 704.890(1); Order ¶¶ 13–16, 24–28, 34–39, 48–51, 57–59, 67–69.

³⁵ See NRS 704.865.

³⁶ Order ¶ 69.

³⁷ Petition at 4.

³⁸ Order ¶ 35.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*; NRS 704.890(1)(b).

requires.⁴³ Recognizing that a facility is fossil-fueled is not the same as finding that a statute is repugnant to the Constitution.

BCP further argues that the Commission “determined that the Applicants are exempt from the requirements of NRS 704.890 because of the statutory framework of UEPA.”⁴⁴ The Order did the opposite. The Commission applied NRS 704.890(1) in full, made each required determination for both Projects, and found that Applicants “satisfied all necessary components of NRS 704.890(1).”⁴⁵ The only exemptions the Order discusses are exemptions from the statutory definition of “public utility” under NRS 704.021(13) and NRS 704.855(2).⁴⁶ Even as to those, the Commission found only that the Applicants qualify, “given the representations made in the Applications.”⁴⁷ The Commission did not hold that UEPA displaces the Constitution, and it did not exempt anyone from compliance with the RPS standards. It held instead that the RPS and regulatory-status questions “are not relevant to the UEPA analysis focused on the evidentiary record in this docket.”⁴⁸

BCP itself confirms the tenuousness of its argument. Its constitutional argument is expressly conditional. BCP posits that “if the Applicants are selling power in any way” to the data centers, they “would almost certainly be subject to” Article 4, Section 39.⁴⁹ It also concedes that “[w]hat is unclear is the nature of the transfer of power from the Applicants to the end users.”⁵⁰ A conditional premise that BCP itself describes as unclear cannot show that the Commission misapplied Nevada’s RPS or our Constitution to this narrow UEPA application. It is the same speculative premise the Commission declined to adopt in Paragraph 69, and that premise remains unchallenged in BCP’s Petition.⁵¹

2. Deciding RPS Compliance in this UEPA Proceeding Would Be Procedurally Improper

The Commission correctly found 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 not relevant to

⁴³ Order ¶¶ 36–39.

⁴⁴ Petition at 4.

⁴⁵ Order ¶¶ 13–16, 24–28, 34–39, 48–51, 57–59, 67–69, 77, 80.

⁴⁶ *Id.* ¶ 69.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Petition at 4.

⁵⁰ *Id.* at 3.

⁵¹ Order ¶ 69.

the UEPA analysis focused on the evidentiary record in this docket.”⁵² NRS 704.890(1) establishes the scope of UEPA proceedings and requires the Commission to determine:

- the probable environmental effect;
- the extent of need, for a facility that emits greenhouse gases;
- whether need balances adverse effects;
- whether the facility represents the minimum adverse effect;
- conformity with state and local law and progress on other required permits; and
- whether the facility serves the public interest.

RPS compliance by a provider of electric service is not among those determinations.⁵³ The Commission made each required finding for both Projects and found that Applicants “satisfied all necessary components of NRS 704.890(1).”⁵⁴

The timing of BCP's request is also procedurally improper. As BCP frames it, deciding whether the RPS applies would require the Commission to “obtain[] and independently evaluate[]” the legal arrangements between the Applicants and the data centers.⁵⁵ That request would mean reopening the evidentiary record after the proceeding, in which BCP did not participate, has run its full course. The procedural history is undisputed:

- Applicants filed their applications on April 20, 2026, the Commission issued notices of application in both dockets on April 24, 2026, and NCARE filed notices of intent to be a party in both dockets on May 20, 2026 under NRS 704.885(1)(e).⁵⁶
- Following prehearing conferences on June 15 and June 16, 2026, at which no party objected to consolidation, the presiding officer issued Procedural Order No. 1 on June 17, 2026, consolidating the dockets for hearing purposes and setting a procedural schedule.⁵⁷
- Applicants filed prepared direct testimony on June 22, 2026, NCARE and Staff filed prepared direct testimony on July 8, 2026, and Applicants filed prepared rebuttal testimony on July 24, 2026.⁵⁸
- NCARE filed a motion to compel discovery on July 20, 2026, and Applicants and Staff filed responses on July 23, 2026.⁵⁹

⁵² Order ¶ 69.

⁵³ *Id.*; Order ¶ 76.

⁵⁴ Order ¶¶ 13–16, 24–28, 34–39, 48–51, 57–59, 67–69, 77, 80.

⁵⁵ Petition at 3.

⁵⁶ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 1–6.

⁵⁷ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 11–13.

⁵⁸ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 14, 16, 21.

⁵⁹ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 18, 20.

- A hearing was held on July 30, 2026, at which the presiding officer denied both pending motions, including the motion to compel, and admitted Exhibits 1 through 14 to the record.⁶⁰
- On August 18, 2026, the presiding officer issued Procedural Order No. 3 requesting an additional exhibit and soliciting comments from interested parties, and Applicants thereafter filed Exhibit 15 on August 19, 2026.⁶¹
- On September 3, 2026, the presiding officer issued Procedural Order No. 4, filing a proposed order with the Commission pursuant to NAC 703.486(3) and establishing a schedule under NAC 703.486 and NAC 703.785 for exceptions to be filed on or before September 10, 2026, with answers to exceptions to follow.⁶²
- The proposed order already contained the analysis BCP again challenges, including the finding that RPS questions “are not relevant to the UEPA analysis focused on the evidentiary record in this docket.”⁶³
- NCARE filed Exceptions on September 10, 2026, Staff filed a letter indicating it had no exceptions, and Staff and Applicants filed Answers to Exceptions on September 16, 2026.⁶⁴
- The Commission then issued its final Order on September 17, 2026, granting both Applications subject to the satisfaction of the compliance items delineated in the Order.⁶⁵

The parties that timely intervened and actually participated in the proceeding at all relevant times before the Commission issued the Order had every procedural opportunity to develop and present an RPS theory, and NCARE did so. The Commission considered that theory and resolved it.⁶⁶ The record of the consolidated proceeding does not reflect that BCP filed testimony, participated in the July 30, 2026 hearing, or filed exceptions to the proposed order under the schedule set in Procedural Order No. 4 (Sept. 3, 2026), ¶ 26(b).⁶⁷ A petition for reconsideration is not the place to relitigate an evidentiary theory that was already pursued and resolved during the proceeding by a party that failed to timely intervene in a now concluded proceeding. Raising RPS compliance again now, together with a renewed request for information about commercial

⁶⁰ Procedural Order No. 4 (Sept. 3, 2026), ¶ 23.

⁶¹ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 24–25.

⁶² Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 26(a)–(b) and Ordering ¶ 1.

⁶³ Order ¶ 69.

⁶⁴ Order, Section III.

⁶⁵ Order, Section II and Ordering ¶¶ 1–2.

⁶⁶ Order ¶ 69.

⁶⁷ See Order, Section III.

1 arrangements, would effectively restart discovery after the record has closed, the proposed order
2 was briefed, and a final order was issued. That result is procedurally improper under NAC 703.801,
3 which provides that a petition for reconsideration “may not contain additional evidentiary matter
4 or require the submission or taking of evidence,” NAC 703.801(1)(b), as further discussed in
5 **Section III.B.3, *infra***. BCP had every opportunity to timely intervene and participate in this
6 proceeding. It did not do so until after the Commission’s order was issued. The record cannot now
7 be reopened so BCP can capitalize on anti-data-center sentiment at the expense of the
8 Commission’s well-established precedent, applicable law, and Applicants’ procedural rights.

9 BCP’s reliance on the Applicants’ response to NCARE’s Data Request 1-2 does not change
10 this conclusion. The Applicants responded that their contracts with their customers “are of no
11 consequence to the outcome of this UEPA proceeding.”⁶⁸ That response tracked the scope of the
12 governing statute.⁶⁹ The Commission ultimately reached the same conclusion when it found that
13 RPS and regulatory-status questions are not relevant to the UEPA analysis.⁷⁰ NCARE moved to
14 compel on July 20, 2026, and the Applicants and Staff each responded on July 23, 2026.⁷¹ The
15 presiding officer denied the motion at the start of the July 30, 2026 hearing, finding that the
16 applicability of NRS 704.7808(1) and NRS 704.021(13) to Applicants or the Projects was “only
17 tangentially relevant” to the Commission’s decision, that the motion had been mooted by the
18 arrival of the hearing date, and that the issues raised had already been addressed at the discovery
19 conference.⁷² The motion was not denied on privilege or confidentiality grounds, and NCARE and
20 Applicants had entered a Protective Agreement permitting the exchange of confidential
21 information and records without waiver.⁷³ BCP calls that ruling “the Commission’s decision” and
22 says baldly that it “is simply not in line with the law.”⁷⁴ BCP identifies no error in the ruling,
23 however, other than its attenuated and off-base constitutional theory, which fails for the reasons
24 given in **Section III.B.1, *supra***. Weighing tangential relevance against the imminent hearing and
25 the matters already resolved at the discovery conference is the type of judgment committed to the
26 discretion of the presiding officer, and a discovery ruling consistent with the determinations
27 required by NRS 704.890(1) is not grounds for reconsideration.⁷⁵ Had BCP timely intervened, it

26 ⁶⁸ Petition at 4.

27 ⁶⁹ NRS 704.890(1).

28 ⁷⁰ Order ¶ 69.

⁷¹ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 18, 20.

⁷² *Id.* ¶ 23; Hearing Transcript, pp. 8:3–12, 8:19–22.

⁷³ *Id.*

⁷⁴ Petition at 4.

⁷⁵ NAC 703.801(1)(a).

could have challenged that decision at either the hearing, or in exceptions. It chose to do neither and now cannot use this Petition to cure that failure.

The process BCP asks the Commission to revisit is also the process that has governed UEPA dockets for decades. NRS 704.825(2) declares the purpose of NRS 704.820 to 704.900 to be “to provide a forum for the expeditious resolution of all matters concerning the location and construction” of utility facilities, and the Legislature enumerated in NRS 704.890(1) the determinations the Commission must make before issuing a permit to construct.⁷⁶ The consolidated proceeding followed that established framework: notice of the Applications, party intervention, prepared direct and rebuttal testimony, discovery and a discovery conference, a hearing at which exhibits were admitted, a supplemental exhibit requested by the presiding officer, a proposed order, exceptions and answers to exceptions, and a final order.⁷⁷ Granting the relief BCP requests would not correct an error in that process. It would displace the process, both in this docket and for future UEPA applicants who rely on it.

Further, declining to decide RPS questions here does not leave them unaddressed. The Commission's findings “rest on Applicants' representations and extend no further.”⁷⁸ Under NRS 704.865, a permitted facility must be “constructed, operated, and maintained in conformity with that permit and any terms, conditions, and modifications contained in it.”⁷⁹ If the Projects were ever operated in a way that differs from what was represented, for example by making retail sales to third parties, the Commission's other regulatory authority would remain available in an appropriate proceeding. The UEPA permit would not insulate that conduct, and these proceedings are not the appropriate forum in which to adjudicate that question. That is the measured result Paragraph 69 reflects: questions of regulatory status “not presented by these Applications” are left for a proceeding in which they are actually presented.⁸⁰

3. BCP’s Argument Depends on Evidence Outside the Record

BCP's Petition is fundamentally flawed because it asks the Commission to rely on material that is not in the record, which BCP did not participate in developing. BCP does not point to any admitted exhibit or hearing testimony showing a retail sale of electricity by the Applicants. Instead, it argues that the “legal arrangements between the Applicants and the data centers they will serve

⁷⁶ NRS 704.825(2); NRS 704.890(1).

⁷⁷ Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 1–27; Order, Section III.

⁷⁸ Order ¶ 16.

⁷⁹ NRS 704.865; Order ¶ 16.

⁸⁰ Order ¶ 69.

would need to be obtained and independently evaluated.”⁸¹ BCP goes further and contends that “provisions of the contracts between the parties must be examined to determine whether they would be subject to the requirements of Article 4, § 39.”⁸² By its own terms, that argument rests on documents the Commission never received into evidence. BCP instead asks the Commission to presume their contents.

UEPA determinations must rest on the evidentiary record.⁸³ Petitions for reconsideration must likewise be decided on that same record.⁸⁴ Here, the Commission based its findings on the Applications, the environmental statements, the prepared testimony, and the hearing transcript, together with Exhibits 1 through 15.⁸⁵ On that record, the Commission found that the Projects “will only provide power to support their data-center operations.”⁸⁶ BCP now invites the Commission to set that finding aside based on arrangements that no party offered and that BCP cannot describe. Doing so would replace record evidence with conjecture. It would also conflict with the Commission’s own direction that the analysis remain “focused on the evidentiary record in this docket.”⁸⁷

4. BCP Invokes the Reconsideration Standard While Seeking Relief Available Only on Rehearing

BCP styles its filing as a Petition for Reconsideration, invokes NAC 703.801, and quotes the provision stating that such a petition “may not contain additional evidentiary matter or require the submission or taking of evidence.”⁸⁸ However, the relief BCP requests is of a different character. BCP asks the Commission to “reexamine its evaluation of the applications,” to “obtain[] and independently evaluate[]” the legal arrangements between the Applicants and the data centers, and to examine the “provisions of the contracts between the parties.”⁸⁹ Each of those requests would require the Commission to receive and weigh evidence that is not in the record. That is a request for rehearing and record augmentation under NAC 703.801(2), not reconsideration under NAC 703.801(1), and it is substantially the relief BCP seeks, together with NCARE, in the October

⁸¹ Petition at 3.

⁸² *Id.* at 4.

⁸³ NRS 704.890(1).

⁸⁴ NAC 703.801(1)(b).

⁸⁵ Order ¶¶ 13–16; Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 23–25.

⁸⁶ Order ¶ 69.

⁸⁷ *Id.*

⁸⁸ Petition at 2.

⁸⁹ Petition at 3–4, 11.

2, 2026 joint Petition for Rehearing which the Applicants are separately responding to concurrently with this Answer.

A petition that invokes the reconsideration standard while seeking rehearing relief satisfies neither statutory requirement. Measured against NAC 703.801(1), the reconsideration standard that governs BCP's Petition, the request is barred by the very sentence BCP quotes, because it would require the submission and taking of evidence.⁹⁰ Measured against NAC 703.801(2), the rehearing standard that does not apply to requests for reconsideration, BCP has made no proffer at all: it does not identify the nature and purpose of any additional evidence, and it does not show that such evidence would be other than cumulative or that it could not have been introduced at the July 30, 2026 hearing.⁹¹ Applicants respectfully ask the Commission to hold the Petition to the standard governing the vehicle BCP chose. Applicants address the rehearing standard, and the showing NAC 703.801(2) requires, in their concurrently filed Answer in Opposition to the Petition for Rehearing.

For these reasons, the Applicants request that the Commission deny BCP's Petition insofar as it rests on Article 4, Section 39, the RPS, and the denial of NCARE's Motion to Compel, and reaffirm its findings in Paragraphs 35 and 69 of the Order.⁹²

C. THE COMMISSION PROPERLY EVALUATED THE ENVIRONMENTAL IMPACTS OF THE PROJECTS

BCP's second ground asserts that the Commission "failed to properly evaluate the environmental impact of the proposed facilities," and identifies three determinations in particular: "(1) the nature of the probable effect on the environment; (2) whether the facility is needed to ensure reliable energy service to utility customers in the state; . . . and (3) the facility serves the public interest."⁹³ BCP's assertion here, though, is patently false as the Order clearly makes each of those determinations, for each Project, and carefully explains the record basis for each.⁹⁴ BCP's disagreement is therefore not that a required determination is missing, but that the Commission should have weighed the evidence differently and gathered more of it. BCP says as much when it "urges a more detailed examination of this issue."⁹⁵ Under NAC 703.801, however, a petition must identify a portion of the Order that is unlawful, unreasonable, or based on erroneous conclusions

⁹⁰ NAC 703.801(1).

⁹¹ NAC 703.801(2).

⁹² Order ¶¶ 35, 69.

⁹³ Petition at 5.

⁹⁴ Order ¶¶ 13–16, 24–28, 67–69, 77, 80.

⁹⁵ Petition at 5.

of law or mistaken facts, and must support that showing with citations to the existing record.⁹⁶ Here, BCP does none of this, and a request to reweigh evidence the Commission already weighed, or to develop evidence no party offered, does not meet the applicable standard.

1. The Commission Examined the Nature of the Probable Effect on the Environment under NRS 704.890(1)(a)

BCP concedes the determination it says is missing. Its Petition acknowledges that “[t]he Commission’s Order indicates that the environmental statements provided by the Applicants identify the nature of the probable effect on the environment,” citing Paragraph 13.f of the Order.⁹⁷ That is the finding NRS 704.890(1)(a) requires.⁹⁸ The environmental statements were admitted as part of the evidentiary record, and NRS 704.870(1) prescribes the required contents of a UEPA application, including a description of reasonable alternate locations and a statement of why the proposed location is best suited to the facility.⁹⁹ BCP identifies no respect in which the Commission’s treatment of that evidence was unlawful or unreasonable. It instead observes that the Order “does not mention anything about the nature of the projects in terms of their temporary nature.”¹⁰⁰ The Order addresses the Projects’ limited duration directly, acknowledging that the Applications are not uniform in describing the operating period but explaining that “[t]hat imprecision does not, however, transform the outer bound of an air permit into the probable duration of operations.”¹⁰¹ The Commission likewise weighed the “defined period of operation” reflected in the Applications.¹⁰² The remainder of BCP’s point under this heading is that the Order does not explain “how [the Projects] comply with the requirements of Article 4, § 39 of the Nevada Constitution.”¹⁰³ For the reasons given in **Section III.B.1, *supra***, that is not a determination NRS 704.890(1) assigns to a UEPA proceeding.

Nor did the Commission, as BCP suggests, simply take “the word of the Applicants that the harm to the environment will be minimal.”¹⁰⁴ The Order scrutinized the emissions evidence from both the Applicants and NCARE. It declined to convert the worst-case scenario required for NDEP Class 1 OPTC permitting into the probable effect the statute addresses.¹⁰⁵ It likewise

⁹⁶ NAC 703.801(1)(a)–(b).

⁹⁷ Petition at 5 (citing Order ¶ 13.f).

⁹⁸ NRS 704.890(1)(a); Order ¶¶ 13–16.

⁹⁹ NRS 704.870(1); Order ¶ 49.

¹⁰⁰ Petition at 5.

¹⁰¹ Order ¶ 16.

¹⁰² *Id.* ¶ 39.

¹⁰³ Petition at 5.

¹⁰⁴ Petition at 8.

¹⁰⁵ Order ¶ 15.

declined to treat the outer bound of an air permit as the probable duration of operations.¹⁰⁶ It also expressly stated that it “does not minimize the emissions NCARE has quantified,” and that balancing under NRS 704.890(1)(c) “does not require a finding that the adverse effects are trivial; it requires the Commission to weigh them against the need.”¹⁰⁷ That is a weighing of record evidence, not deference to a party. BCP’s further predictions—that the Projects are unlikely to be removed, and that they “will sell power to NV Energy who will in turn charge existing NV Energy customers”—find no support in any admitted exhibit or hearing testimony.¹⁰⁸ They are also answered by NRS 704.865, which requires that a permitted facility be constructed, operated, and maintained in conformity with its permit and the terms, conditions, and modifications contained in it.¹⁰⁹ If operations ever departed from what the Applicants represented, the Commission’s authority would remain available in an appropriate proceeding.

2. The Commission Examined the Extent to Which the Projects Are Needed to Ensure Reliable Utility Service under NRS 704.890(1)(b)

As outlined above, and similarly here, BCP does not contend that the Commission failed to make the finding NRS 704.890(1)(b) requires. It argues instead that reliability “must be examined as it was intended, i.e., is the facility helping stabilize the grid that exists throughout Nevada?”¹¹⁰ The statute is not written that way. NRS 704.890(1)(b) directs the Commission to find, for a facility that emits greenhouse gases and does not use renewable energy as its primary source of energy, “the extent to which the facility is needed to ensure reliable utility service to customers in this State.”¹¹¹ BCP quotes that language in its Petition.¹¹² The provision speaks to the need for reliable service to customers in Nevada; it does not confine the inquiry to grid stabilization, and it does not exclude a self-generation facility serving a large load whose service would otherwise depend on infrastructure that is not yet in place.¹¹³ The Commission made the required finding for both Projects on the record before it, and BCP identifies no record evidence the Commission overlooked.¹¹⁴

¹⁰⁶ *Id.* ¶ 16.

¹⁰⁷ *Id.* ¶ 39.

¹⁰⁸ Petition at 5.

¹⁰⁹ NRS 704.865; Order ¶ 16.

¹¹⁰ Petition at 6.

¹¹¹ NRS 704.890(1)(b).

¹¹² Petition at 6.

¹¹³ NRS 704.890(1)(b).

¹¹⁴ Order ¶¶ 24–28, 77, 80.

BCP's analogy to county land-use practice does not supply a different standard. BCP observes that a county planning commission or board of county commissioners "would examine whether there is a 'will serve' letter from a utility," issued "only if the utility has extra capacity to serve the customer."¹¹⁵ Whatever role a will-serve letter plays in local land-use approvals, it is not among the determinations the Legislature enumerated in NRS 704.890(1), and the Commission is not free to add it.¹¹⁶ Conformance with applicable law and the status of other required permits is addressed by NRS 704.890(1)(e), and the Commission made that determination as well.¹¹⁷ BCP also includes an unsupported, bracketed aside suggesting that "the findings from the commission point to the fact the applicants are a utility subject to Article 4, Section 39."¹¹⁸ The Order found the opposite on this record: that the Projects fall outside the statutory definition of a public utility "because the Projects will only provide power to support their data-center operations," and that the Applicants likely enjoy the exemptions in NRS 704.021(13) and NRS 704.855(2).¹¹⁹

**3. The Commission Made the Public Interest Determination Required
by NRS 704.890(1)(g)**

BCP's third environmental subheading is directed to NRS 704.890(1)(g), but the text beneath it quotes NRS 704.890(1)(b) and then returns to Article 4, Section 39, asserting that the Order "does not adequately examine why the facilities are not subject to the requirements of Article 4, § 39."¹²⁰ That is the RPS argument addressed in **Section III.B.1, *supra***. To the extent BCP means to challenge the public interest determination itself, the Commission made that determination for both Projects and identified the record evidence supporting it.¹²¹ BCP's characterization of the Order as "allow[ing] the Applicants to bypass the clean energy requirements applicable to NV Energy" does not describe what the Order holds.¹²² The Commission found that the Projects will supply power exclusively for on-site consumption at the data-center campuses, and it expressly left questions of regulatory status for a proceeding in which they are presented.¹²³

NRS 704.825 does not supply an additional criterion, and the Order is consistent with the statute as written. BCP quotes the Legislature's findings that new facilities will be needed, that

¹¹⁵ Petition at 6.

¹¹⁶ NRS 704.890(1); Order ¶ 76.

¹¹⁷ NRS 704.890(1)(e); Order ¶¶ 57–59.

¹¹⁸ Petition at 5.

¹¹⁹ Order ¶ 69.

¹²⁰ Petition at 6.

¹²¹ NRS 704.890(1)(g); Order ¶¶ 67–69, 77, 80.

¹²² Petition at 6–7.

¹²³ Order ¶¶ 69–71.

1 such facilities “cannot be built without in some way affecting the physical environment,” and that
2 it is “essential in the public interest to minimize any adverse effect upon the environment.”¹²⁴
3 Those findings describe the balance the Commission struck.¹²⁵ The Legislature also declared that
4 the purpose of NRS 704.820 to 704.900 is “to provide a forum for the expeditious resolution of all
5 matters concerning the location and construction” of such facilities.¹²⁶ A declaration of policy that
6 assumes some facilities will be built, with their adverse effects minimized, does not support the
7 view that a fossil-fueled facility may never be permitted. That is the same proposition the
8 Commission rejected in Paragraph 35 when it observed that, were conflict with the State’s
9 emissions-reduction goals categorically disqualifying, NRS 704.890(1)(b) “would have no work
10 to do.”¹²⁷

11 BCP’s remaining public interest points ask the Commission to reweigh the record or to
12 look outside it. BCP states that it “is not clear what specific revenue the Commission was referring
13 to,” and contrasts the tax revenue the Order cites with a peak construction workforce of 20 and an
14 operational workforce of 5.¹²⁸ The Order identified the categories it weighed: “the construction
15 and operating employment, capital investment, and property tax revenue reflected in the record.”¹²⁹
16 Those figures came from the Applications and the prepared testimony, which were before the
17 Commission.¹³⁰ BCP’s view that the Order should have measured those benefits only over the
18 Projects’ initial term, and should have offset them against “job loss from artificial intelligence,
19 negative economic impacts associated with climate change, resource depletion (such as water) and
20 other factors,” identifies no record evidence on those subjects and no determination under NRS
21 704.890(1) that calls for them.¹³¹ BCP’s broader observations about global emissions and extreme
22 heat are likewise not record evidence in this docket.¹³² The Commission expressly declined to
23 minimize the quantified emissions; instead it weighed them, as NRS 704.890(1)(c) requires.¹³³

24 Finally, BCP argues that there is “extremely limited environmental review following the
25 Commission’s conditional approval,” citing Paragraphs 58 and 59 of the Order, and that the
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¹²⁴ NRS 704.825(1)(a)–(b); Petition at 7.

¹²⁵ Order ¶¶ 34–39.

¹²⁶ NRS 704.825(2).

¹²⁷ Order ¶ 35.

¹²⁸ Petition at 8.

¹²⁹ Order ¶ 39.

¹³⁰ Order ¶¶ 5, 12; Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 14, 16, 21, 23.

¹³¹ Petition at 8; NRS 704.890(1); Order ¶ 76.

¹³² Petition at 8.

¹³³ Order ¶ 39; NRS 704.890(1)(c).

Commission “cannot merely pass this evaluation to other entities.”¹³⁴ The Commission did not do so. It made the determinations NRS 704.890(1) requires on the record before it, and it separately addressed conformance and the status of the other permits the Projects require, as NRS 704.890(1)(e) directs.¹³⁵ The compliance items requiring NDEP review and permitting, including Applicants’ filing of the Class 1 OPTC Air Permit and related approvals, operate in addition to those findings, not in place of them.¹³⁶ Those conditions give effect to NRS 704.890(2), which directs that where an applicant has not obtained all required approvals as of the date the Commission decides to issue a permit, the Commission “shall condition its permit upon the applicant obtaining those permits and approvals,” and to the permit-verification component of NRS 704.890(1)(e).¹³⁷ Conditioning the permit as the statute requires is therefore not a delegation of the Commission’s UEPA determinations. BCP also asks why the developers cannot wait until NV Energy has capacity to serve the facilities with a renewable portfolio, invoking NRS 704.780.¹³⁸ This is not one of the determinations NRS 704.890(1) directs the Commission to make.¹³⁹

D. THE COMMISSION PROPERLY TREATED PUBLIC COMMENT

BCP’s third ground is that the Commission “[i]gnored [p]ublic [c]omments that were on point and amplified testimony that was part of the evidentiary record.”¹⁴⁰ This ground does not identify a portion of the Order at all. It quotes remarks by the Commission’s General Counsel at the September 17, 2026 agenda meeting, drawn from a recording of that meeting.¹⁴¹ NAC 703.801 requires a petitioner to identify “each portion of the challenged order” it contends is unlawful, unreasonable, or based on erroneous conclusions of law or mistaken facts. NAC 703.801(1)(a). A statement by counsel at an agenda meeting is not a portion of the record or the Order, and BCP does not connect the statement to any finding or determination the Commission made.¹⁴²

On the merits, the statement BCP quotes is a correct description of Nevada law. Counsel explained that “the public comments that occur here after that evidentiary record has been created cannot by law be relied upon,” because such comments are “not subject to cross-examination,” are

¹³⁴ Petition at 9 (citing Order ¶¶ 58–59).

¹³⁵ NRS 704.890(1)(e); Order ¶¶ 13–16, 24–28, 34–39, 48–51, 57–59, 67–69.

¹³⁶ Order ¶¶ 78, 81 and Ordering ¶¶ 3–5, 7–8.

¹³⁷ NRS 704.890(2); Order ¶ 57.

¹³⁸ Petition at 9.

¹³⁹ NRS 704.890(1)(b); Order ¶¶ 24–28.

¹⁴⁰ Petition at 9.

¹⁴¹ *Id.* at 9 & n.5.

¹⁴² *Id.*

1 “not under oath,” and afford no opportunity to test “the credibility or background experience of
2 the witnesses.”¹⁴³ BCP had ample opportunity to participate in these proceedings that would have
3 allowed it to carry out the exact process the Commission General Counsel outlined on behalf of
4 the public. It chose not to, and instead affirmatively suggested that NCARE could adequately
5 represent the public interest. That position was both an improper delegation of BCP’s own duties,
6 and also an admission that BCP did not feel a need to intervene until after the Commission issued
7 the Order, and that this Petition is nothing more than an attempt to cure BCP’s own failures, not
8 any error in the Commission’s Order. A UEPA permit may issue only on the findings NRS
9 704.890(1) requires, and those findings must rest on the evidentiary record developed in the
10 proceeding.¹⁴⁴ That is the same principle BCP itself invokes when it argues that a petition for
11 reconsideration may not “contain additional evidentiary matter or require the submission or taking
12 of evidence.”¹⁴⁵ It is also the principle the Commission applied when it confined its analysis to
13 “the evidentiary record in this docket.”¹⁴⁶ Which is an evidentiary record BCP had the opportunity
14 to contribute to, but did not.

15 BCP’s authorities do not establish otherwise. NRS 233B.123 governs the evidence a
16 presiding officer may receive in a contested case hearing.¹⁴⁷ The members of the public who
17 addressed the Commission at the agenda meeting were not witnesses in the hearing, and NRS
18 233B.123 does not convert unsworn comment offered after the record closed into evidence that
19 may support a finding.¹⁴⁸ *Nassiri v. Chiropractic Physicians’ Bd. of Nev.*, 130 Nev. 245, 248, 327
20 P.3d 487, 489 (2014), likewise addresses the relaxed evidentiary standards that apply to evidence
21 received in an administrative proceeding; it does not hold that comment received outside that
22 proceeding becomes part of the record.¹⁴⁹ BCP’s reliance on NRS 244.020 and 244.021, and on
23 the legislative history of A.B. 252 (1991), is also misdirected, because those provisions concern
24 the conduct of county government rather than Commission practice.¹⁵⁰ To the extent BCP’s
25 concern is that members of the public who wish to place evidence before the Commission have no
26 means of doing so, the UEPA process provides one: an interested person may file a notice of intent

26 ¹⁴³ Petition at 9.

27 ¹⁴⁴ NRS 704.890(1); Order ¶¶ 76, 77, 80.

28 ¹⁴⁵ NAC 703.801(1)(b); Petition at 2.

¹⁴⁶ Order ¶ 69.

¹⁴⁷ NRS 233B.123(3).

¹⁴⁸ *Id.*

¹⁴⁹ *See* Petition at 10.

¹⁵⁰ NRS 244.020; NRS 244.021; *see* Petition at 10.

1 to be a party under NRS 704.885(1)(e), present sworn testimony, and participate in the hearing.¹⁵¹
2 NCARE did so here, filing notices of intent to be a party in both dockets on May 20, 2026, and
3 presenting the prepared direct testimony of Dr. Zoë Harrold.¹⁵² BCP did not.

4 Nor does the record support the premise that the Commission disregarded public
5 participation. The presiding officer solicited comments from interested parties in Procedural Order
6 No. 3, and the Commission heard public comment at the September 17, 2026 agenda meeting
7 before acting.¹⁵³ BCP does not identify any comment, or any point raised in a comment, that the
8 Commission was required to adopt and did not consider. Where, as BCP puts it, a comment
9 “amplified testimony that was part of the evidentiary record,” the underlying testimony was before
10 the Commission and was weighed.¹⁵⁴ Accordingly, the Commission’s treatment of public
comment was lawful, careful, and correct.

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¹⁵¹ NRS 704.885(1)(e).

¹⁵² Procedural Order No. 4 (Sept. 3, 2026), ¶¶ 5–6, 16; Ex. 7.

¹⁵³ Procedural Order No. 4 (Sept. 3, 2026), ¶ 24; Petition at 9.

¹⁵⁴ Petition at 9; Order ¶¶ 13–16, 34–39, 61.

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IV. CONCLUSION

For the foregoing reasons, BCP's Petition for Reconsideration fails to satisfy the requirements of NAC 703.801. The Petition identifies no specific portion of the Order that is unlawful, unreasonable, or based on erroneous conclusions of law or mistakes of fact; it fails to cite those portions of the record, the law, or the rules of the Commission supporting its allegations; it seeks the introduction and evaluation of evidence that the applicable reconsideration standard does not permit; and it rests on extra-record material and inapposite authority. NAC 703.801(1)(a)–(b). Each ground BCP raises was considered and resolved by the Commission on a developed record.¹⁵⁵

Applicants respectfully request that the Commission deny the Petition for Reconsideration in its entirety.

DATED this 14th day of October, 2026.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Curt R. Ledford

Curt R. Ledford, Esq.
Nevada Bar No. 9101
4675 W. Teco Ave., Suite 230
Las Vegas, NV 89118
(725) 735-1718 (telephone)
crl@dvclaw.com

*Of Attorneys for SV RNO Property Owner 1, LLC and
PR RNO Property Owner 1, LLC*

¹⁵⁵ Order ¶¶ 13–16, 34–39, 48–51, 57–59, 67–69.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **APPLICANTS'**
ANSWER IN OPPOSITION TO BCP'S PETITION FOR RECONSIDERATION upon
each of the parties on the attached service list in this proceeding via electronic mail.

DATED this 14th day of October, 2026.

/s/ *Miriam Harris*

Miriam Harris
Paralegal

Staff Counsel
Public Utilities Commission of Nevada
1150 E. William St.
Carson City, NV 89701
pucn.sc@puc.nv.gov

Don Lomoljo
Jesse Panoff
Public Utilities Commission of Nevada
1150 E. William St.
Carson City, NV 89701
dlomoljo@puc.nv.gov
jpanoff@puc.nv.gov

George Cavros
Jeff Griffin
Zoe Harrold
Western Resource Advocates
275 Hill Street, Suite 210
Reno, NV 89501
George.cavros@westernresources.org
Jeff.griffin@westernresources.org
Zoe.harrold@westernresources.org

Office of the Attorney General
Bureau of Consumer Protection
100 North Carson Street
Carson City, Nevada 89701
Sam Taylor
Anthony Walsh
staylor@ag.nv.gov
ajwalsh@ag.nv.gov
bcpserv@ag.nv.gov