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November 13, 2026

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

Re: Docket No. 26-05007

Dear Ms. Osborne:

Please accept for filing the Bureau of Consumer Protection of the Office of the Nevada Attorney General's Phase II Responsive Legal Brief being filed this date in the above-referenced docket.

BCP timely filed this brief yesterday, but due to Outlook outage, was not able to serve the filing.

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

Sincerely,

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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Joint Application of Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy for approval of their 2027-2046 Triennial Integrated Resource Plan and 2027-2029 Energy Supply Plan.	)	Docket No. 26-05007

BUREAU OF CONSUMER PROTECTION OF THE OFFICE OF THE NEVADA ATTORNEY GENERAL'S PHASE II RESPONSIVE LEGAL BRIEF

COMES NOW, THE ATTORNEY GENERAL'S BUREAU OF CONSUMER PROTECTION ("BCP"), and submits this Responsive Legal Brief concerning legal issues arising from Phase II in Docket No. 26-05007. The BCP submits its responsive brief pursuant to NRS 228.360 and NAC 703.760. This responsive brief is made upon the pleadings filed herein and any oral argument.

MEMORANDUM OF POINTS AND AUTHORITIES

I. ARGUMENT

A. BCP's "Ready-Date" Queue Proposal

An overarching theme discussed in the Phase 2 proceeding and opening legal briefs was the proposal of a queue for large load customers, including how such a process could be structured to ensure all customers were treated fairly. Specifically, the Commission must determine how large load customers would be prioritized to receive power from NV Energy when there is insufficient generation capacity to serve everyone requesting service.

Throughout this proceeding, numerous parties have offered their positions on how the Regulatory Operations Staff ("Staff")-proposed queue should be structured and administered. NV Energy indicated that "[c]ustomers who signaled early commitments by signing the LLEAS, even with reserved positions, should receive preference in any queuing process."[1] However, there are multiple concerns with NV Energy's position. For instance, Staff highlighted this approach was unfair because it was selective and gives preferential treatment to customers who previously signed an agreement, particularly when the

[1] Supplemental Rebuttal of Sean Elicegui, October 16, 2026, Q&A 25, lns. 9-11.

agreement has not yet been required or approved by the Commission.

Alternatively, Staff advanced a proposal in which NV Energy would rank the customers by order of who signed an LLEASA "during the open season by date of the customer's original Rule 9 application at the size originally stated/requested."[2] However, there are also concerns with this framework since it focuses on transmission and distribution agreements as first come first served which has nothing to do with energy supply.

In the alternative, BCP proposes the following approach: large load customers in the queue should be prioritized to receive power from NV Energy when there is insufficient generation capacity by their "ready-date." The main idea behind the methodology for this proposal is that NV Energy would give each year's available capacity to the load that is actually ready to use it, and every customer would pay minimum bills from the date it says it would be ready. Having the customer pay minimum billing ensures that the customer is being held accountable for the date it says it will be ready. At the same time, this method allows the queue to determine when a customer is served based on actual need, not what it pays.

B. Design of the "Ready-Date" Queue

Under BCP's proposal, each customer's current actual highest peak energized load between October 2024 to October 2026 would be grandfathered into the energy supply. Anything above the current highest peak load would need to be addressed by the queue process.

The proposal is designed to ensure fair and consistent treatment of all customers by applying the same requirements to everyone. It includes the following specific parameters:

Consistent Requirements. The proposal would ensure fair treatment for all customers as all customers would be held to the same requirements. Every customer would need to have a signed Rule 9 agreement (transmission and distribution agreement) as well as a signed generation commitment (LLESA, HEUT, or approved equivalent). Additionally, every customer would be subject to site control, or providing evidence that they have the legal right to use a specific property via submitting a deed, long-term lease, or binding option on

[2] Supplemental Testimony of Anne-Marie Preisach, October 2, 2026, Q&A 14, lns. 24-26.

the parcel. Further, every customer must provide hard collateral equal to 100% of the cost the customer causes or the Commission-approved financial security. Lastly, if any customer has a bad record (RSTC, missed milestones, withdrawals), they would be required to provide additional collateral; however, a bad record will not mean that a customer would receive a worse place in line.

Yearly Declaration of Ramp. Each customer must declare its anticipated load ramp by year, specifying the MW it expects to use in each year. Minimum billing obligations and collateral requirements would commence on the customer's declared ramp dates, regardless of whether the load materializes.

Annual Publication of Deliverable MW. NV Energy must publish deliverable MW by year based on existing and Commission-approved resources.

No Study Loads. A study load is a request for energy supply without a signed Rule 9 and LLESA (or the Commission-determined framework) commitment and posted collateral. Here, there would be no study loads. In other words, NV Energy would not count loads still in the study stage in the queue or in the forecast that drives new resources. Under BCP's proposal, only committed, secured MW would be included in resource planning.

Annual Allocation of Available Capacity. Each year, available capacity would be allocated among customers that have declared their load ready for service in that year. If the load has been oversubscribed by NV Energy, every ready customer gets the same percentage. Any remaining load would roll to the following year. Customers may elect an all-or-nothing allocation and roll its entire request forward.

Use-It-or-Lose-It Provision. The proposal includes a "use-it-or-lose-it" provision. If a customer falls more than 6 months behind in its declared ramp, the unused MWs are returned to the pool of available capacity. However, the customer still owes the minimum bills for that unused energy.

No Trading of Queue Positions. Customers are not permitted to trade places. Each customer's position moves only with an approved transfer of the project and all its obligations. The Commission would be the sole entity authorized to approve such a transfer.

Periodic Updates and Public Reporting. Under this proposal, the allocation process would be repeated with each IRP or IRP amendment as new supply is approved. If there are any new requests in the interim, they may participate in the next round of the allocation process.

Finally, the process would be memorialized through an annual public, anonymized queue report which would provide transparency to the energy being allocated as well as the status of customer commitments.

C. The Benefits of the "Ready-Date" Queue

There are several reasons why the BCP's proposal provides an effective and efficient approach to allocating available capacity.

First, the proposal incentivizes the customers to provide accurate and honest date estimates. If a customer claimed a load ramp date of 2028 when the project was energized in 2031, the customer would be responsible for three years of minimum bills. Attaching a financial consequence to inaccurate estimates promotes accurate and realistic timelines, and in essence, allows the queue to sort itself.

Second, the methodology behind this proposal protects other customers by prioritizing customers that are ready to be served. BCP proposes that capacity be given to the load that actually shows up; the collateral would be collected and minimum billing would begin on the claimed date. This approach ensures that idle reserved capacity is minimized. It also ensures that those customers who are reserving capacity are held financially accountable for the capacity they reserve.

Third, this proposal provides a truly unbiased allocation process. It is not based on a race to finish paperwork, it is not dependent on the review of confidential data that no one else is privy to, and there is no discretionary scoring judgment mechanism. Instead, all customers are subject to the same requirements and process. As a result, this proposal eliminates any "claim that the process is outcome-driven" as suggested by Staff.[3]

[3] *Id.* at Q&A 15, lns. 7-8.

Fourth, Rule 9 governs the provision of transmission and distribution infrastructure and capacity, and does not provide energy supply and generation capacity from any generating resources. As such, BCP's proposal would force large load customers to make generation commitments and be held accountable for those commitments through the requirements involving collateral, billing, as well as an annual declaration of load ramp.

Lastly, this proposal provides fair treatment to the LLESA signers. Under the BCP's proposal, customers' signed ramps become their declared dates for the purposes of the allocation process. If the customer is ready, they are the first to receive capacity. This approach also eliminates the necessity of implementing a reward process parties have determined would be unfair.

II. CONCLUSION

For the foregoing reasons, BCP respectfully requests that the Commission consider and adopt its proposed "ready-date" queue as the framework for prioritizing LLESA customers' access to NV Energy's generation resources when available capacity is insufficient to serve all customers requesting service.

Respectfully submitted November 13, 2026.

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CERTIFICATE OF SERVICE

Docket No. 26-05007

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, as indicated below to:

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