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25-09008

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STATE OF NEVADA

PUBLIC UTILITIES COMMISSION

April 24, 2026

Trisha Osborne, Assistant Commission Secretary
PUBLIC UTILITIES COMMISSION OF NEVADA
1150 East William Street
Carson City, NV 89701

RE: Docket No. 25-09008 Staff's Corrected Reply Brief

Dear Ms. Osborne:

Please find attached for filing the corrected Reply Brief. This replaces the Reply Brief that was filed April 24, 2026 at 3:16pm.

If you have any questions, please contact me directly.

Sincerely,

/s/ Shelly Cassity
Shelly Cassity, Deputy Staff Counsel

SC/mj
Attachment
cc/Parties of Record

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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Petition of Reno Power NR I, LLC for an Advisory Opinion or Declaratory Order confirming the applicability of Sierra Pacific Power Company d/b/a NV Energy's Rule 9.A.16 to proportionate share allocations for subsequent interconnections to a master planned community line extension. /	Docket No. 25-09008

<u>REGULATORY OPERATIONS STAFF'S LEGAL BRIEF IN RESPONSE TO RENO POWER'S POST-HEARING LEGAL BRIEF</u>

The Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada ("Commission") hereby files this legal brief in response to the Post-Hearing Brief filed by Reno Power NR I, LLC ("Petitioner" or "Reno Power"), pursuant to the direction of the Hearing Officer at the hearing held on March 20, 2026. Based on the analysis that follows, Staff recommends the Commission issue a declaratory order finding that Reno Power is not entitled to a proportionate share refund under the Electric Tariff Rule No. 9 ("Rule 9") of Sierra Pacific Power Company d/b/a NV Energy ("Sierra Pacific," "NV Energy," or the "Company").

I. <u>Background</u>

On September 12, 2025, Reno Power petitioned the Commission for an advisory opinion or declaratory order regarding the applicability of NV Energy's tariff Rule 9.A.16 to a master-planned community ("MPC") project being developed by Reno Power.[1] According to Reno Power, it executed a Master Planned Community Umbrella Agreement ("MPC Agreement") and a Substation and High Voltage Distribution Agreement ("SHVD Agreement") with Sierra Pacific to serve the Peru Shelf MPC in two phases.[2] Pursuant to these Agreements, Reno Power funded construction of the

[1] Petition at 1. Reno Power later filed a "Corrected Petition for Declaratory Order or Advisory Opinion" on February 9, 2026, to unredact certain information that the parties discussed should not have been marked as confidential.
[2] Petition at 2.

Gosling 345 kilovolt (“kV”) Switching Station (“Gosling”) for purposes of serving Phase 1.[3] Phase 1 is the subject of Reno Power’s Petition.

According to Reno Power, in late 2024, Sierra Pacific informed it that an “entity entirely unaffiliated with” Reno Power or the MPC, intended to interconnect at Gosling; this entity was later determined to be Switch (“Subsequent Applicant” or “Switch”). Reno Power asserted that its SHVD Agreement with Sierra Pacific incorporates Rule 9.A.16 which entitles it to a proportionate share refund if a subsequent applicant interconnects with Gosling.[4] Reno Power argued that Rule 9.A.16. should apply to the facts of this case because the Subsequent Applicant will interconnect to Gosling and will provide service entirely outside of and unrelated to the Peru Shelf MPC.[5]

Reno Power asserted that Sierra Pacific previously agreed that Rule 9.A.16. applies to these facts but has since changed its position and has informed Reno Power that refunds for Gosling will occur pursuant to Rule 9.C.6. (“Master Planned Community Refunding of Advances”).[6] Reno Power argued that Rule 9.C.6. should not apply to the facts of this case because Rule 9.C.6. applies exclusively to load that is served within and across an MPC, and that the Subsequent Rule 9 Applicant will not be serving load within or across the Peru Shelf MPC.[7] Reno Power pointed to the applicability provision of Rule 9 Part C (Rule 9.C.1.) which clearly provides that it is only applicable to line extensions constructed for the purpose of providing electric service to MPCs—not line extensions that provide electric service outside of the MPC.[8] Reno Power argued that because the Subsequent Rule 9 Applicant will provide electric service outside of the MPC, Rule 9.C.6 should not apply.

On September 22, 2025, the Commission issued a Notice authorizing interested persons to file comments on the Petition. On October 15, 2025, comments were filed by Sierra Pacific, Staff, and Holland and Hart, LLP.[9] Based on the comments filed, the Commission’s General Counsel

[3] *Id.*
[4] *Id.* at 3.
[5] *Id.*
[6] *Id.* at 3-4.
[7] *Id.* at 4.
[8] *Id.*
[9] Holland and Hart subsequently filed a Petition for Leave to Intervene on behalf of a Switch. *See* Petition for Leave to Intervene of Switch, Ltd., filed November 26, 2025. Reno Power filed a response in opposition to the intervention of

recommended that the Petition be set for further proceedings. At a prehearing conference held by the Commission on December 4, 2025, a procedural schedule was set for testimony and a hearing, and it was discussed that legal briefs may be filed thereafter, if necessary.[10] The procedural schedule was later memorialized in a procedural order issued on December 8, 2025.[11] Direct testimony was subsequently filed by Reno Power on January 13, 2026, followed by testimony from Sierra Pacific and Staff on February 10, 2026, and rebuttal testimony by Reno Power on February 24, 2026. A hearing was held on March 27, 2026.[12] At the conclusion of the hearing, the Presiding Officer set a schedule for the filing of legal briefs.

On February 9, 2026, Reno Power filed its Post-Hearing Brief. The Post-Hearing Brief contained similar arguments to those presented in the original Petition. Reno Power argued that it is entitled to a proportionate share refund under Rule 9.A.16 from any non-MPC subsequent applicant who connects to Gosling.[13] According to Reno Power, NV Energy agrees that Rule 9.C entitles Petitioner to future refunds if and when a non-MPC load materializes at Gosling, but incorrectly concludes that Rule 9.C displaces Petitioner's entitlement to a proportionate share refund under Rule 9.A.16.[14] Reno Power argues that NV Energy's interpretation "will distort the structure of Rule 9" and ignore the parties' Rule 9 Agreements. Reno Power argues that Rule 9.A.16 and Rule 9.C when read as a whole operate together, and NV Energy's interpretation undermines the "beneficiary pays" principle and "misaligns the economic incentives that Rule 9 is designed to promote."[15]

Alternatively, if the Commission concludes that Rule 9 unambiguously requires that Reno Power is not entitled to a proportionate share refund, then the Commission should exercise its authority under Rule 9.A.28 to ensure that result. Rule 9.A.28 affords the Commission the discretion

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Switch, but later withdrew that opposition. *See* Reno Power's Response in Partial Opposition to Petition for Leave to Intervene, filed December 5, 2025; Reno Power's Letter of Withdrawal of Opposition to Switch's PLTI, filed December 11, 2025.

[10] Unfortunately, the transcript for the prehearing conference is not available on the Commission's website for citation purposes.

[11] *See* Procedural Order, issued December 8, 2025. The Commission also deviated from the 120-day requirement of NAC 03.540(4) based on good cause due to the inability to conduct an evidentiary hearing within the 120-day time period.

[12] The hearing was originally scheduled for March 17, 2026, but due to Reno Power's scheduling conflicts, the hearing was rescheduled for March 27, 2026.

[13] Reno Power's Post-Hearing Legal Brief at 8-9.

[14] *Id.* at 8-11.

[15] *Id.* at 8, 11-12.

to determine that the application of Rule 9 to the facts of this case is "impractical, inequitable, or otherwise inappropriate." Reno Power argues that NV Energy's interpretation is inequitable where it allows subsequent user to access and share infrastructure while denying the original developer a proportionate share refund.[16]

II. ARGUMENT

A. The Commission should issue a Declaratory Order resolving Reno Power's Petition.

Pursuant to Nevada Administrative Code ("NAC") 703.825, any interested person may petition the Commission for a declaratory order or an advisory opinion as to the applicability of any statutory provision or any regulation or decision of the Commission. This authority extends to public utility tariff rules because they are prima facie lawful and have the force and effect of law once approved by the Commission.[17] Declaratory orders that resolve petitions filed with an agency shall have the same status as agency decisions.[18]

In the Petition, Reno Power requests a declaratory order, or, in the alternative, an advisory opinion regarding the applicability of certain provisions in NV Energy's Rule 9 to the facts of this case.[19] Generally, the proper vehicle to resolve an existing dispute with concrete facts and adverse interests is through a declaratory order; although, an actual case or controversy is not necessary for an agency to issue a declaratory order where the requirement for "a justiciable controversy" is absent from the governing statute.[20] The only limit on an agency's authority to issue a declaratory order is the "discretion of the agency to withhold a ruling, the power of the agency to regulate the procedure governing petitions seeking a ruling, the power of a court to alter a ruling or set it aside, and the

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[16] *Id.* at 12-13.

[17] NRS 704.130 provides that the Commission's orders approving a tariff are prima facie lawful and reasonable until changed or modified by the Commission. *See also* NRS 704.373(9) (Commission orders are deemed reasonable and lawful until reversed or set aside by the court).

[18] NRS 233B.120.

[19] Petition at 1-2, 6-7, filed September 12, 2025.

[20] *In re Petition for Declaratory Ruling re SDCL 62-1-1(6)*, 2016 S.D. 21, ¶ 10, 877 N.W.2d 340, 345 (2016). Where the language requiring "a justiciable controversy" is absent from the statute governing the agency's jurisdiction, then an agency may issue declaratory rulings based on "any state of facts described by a petition" including "an assumed state of facts."[20] NAC 703.825 does not require an actual case or controversy; thus, the Commission has the discretion to issue a declaratory ruling based on an assumed state of facts, which will have binding effect on the parties.

power of the agency to change the ruling prospectively."[21] Advisory opinions, by contrast, are generally appropriate for prospective guidance on hypothetical situations and lack the binding force necessary to resolve disputes.[22] The Commission has the authority to interpret those provisions of Rule 9 that apply to the facts presented in the Petition to resolve a disagreement between Sierra Pacific and Reno Power, which should be accomplished through a declaratory order.[23]

In addition to NAC 703.825, Sierra Pacific's Rule 9 provides that if there is a dispute between a Rule 9 applicant and Sierra Pacific concerning the application or interpretation of the provisions of Rule 9, either party may submit a petition to the Commission requesting an interpretation of the Rule. Such a request can be submitted after both parties have in good faith conducted a "meet and confer" in an effort to resolve the dispute. Reno Power asserts that it and Sierra Pacific did meet and confer and were unable to resolve the dispute.[24] Accordingly, the Commission has the authority to resolve the dispute by issuing a declaratory order on the appropriate interpretation of Rule 9.

B. The Commission should find that Rule 9.A.16.d provides that Reno Power is not entitled to a Proportionate Share Refund for Gosling.

1. Rule 9.A.16 applies to the facts set forth in the Petition.

Sierra Pacific's Rule 9 tariffs govern how the costs and responsibilities for constructing or modifying line extensions are allocated between the utility and line extension applicants. Part A of

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[21] *Power Auth. of State of N.Y. v. New York State Dep't of Env't Conservation*, 58 N.Y.2d 427, 434, 448 N.E.2d 436, 439 (1983).

[22] A law extending the right of a plaintiff to test a rule or regulation of an administrative board carries with it the power of law or authority for enforcement (see *Gibbs v. Cochran,* 281 Ala. 22, 198 So.2d 607 (1967)). An advisory opinion alone, having no force of law, is not subject to review by the courts, either by appeal or by action for declaratory judgment. *Underwood v. State*, 439 So. 2d 125, 128 (Ala. 1983). *See Pyramid Lake Paiute Tribe of Indians v. Washoe Cnty.*, 112 Nev. 743, 748, 918 P.2d 697, 700 (1996); citing *State Engineer v. Morris,* 107 Nev. 699, 701, 819 P.2d 203, 205 (1991) (While the agency's opinion interpreting a statute is not controlling, it is persuasive). *Cf. Tom v. Innovative Home Sys., LLC*, 132 Nev. 161, 175, 368 P.3d 1219, 1228 (Nev. App. 2016) citing *Univ. & Cmty. Coll. Sys. of Nevada v. DR Partners*, 117 Nev. 195, 203, 18 P.3d 1042, 1048 (2001) (opinions of the Attorney General are not binding legal authority; nonbinding opinions that do not support the assertion for which they are presented are not persuasive or instructive authority upon review by a court of law).

[23] A declaratory order is the appropriate tool here because it will result in a legally binding decision that resolves an actual dispute by applying the Reno Power's facts to NV Energy's Rule 9 tariff provisions. *See Declaratory Judgment*, Black's Law Dictionary (11th ed. 2019). An advisory opinion is generally non-binding and does not resolve any fact-based disputes. *PacifiCorp, Formerly Pac. Power & Light Co. v. St. Paul Surplus Lines Ins. Co.*, No. 3:25-CV-00163-AB, 2025 WL 2838953, at *5 (D. Or. Oct. 7, 2025) *citing* Black's Law Dictionary (12th ed. 2024) (defining "advisory opinion" as "[a] nonbinding statement by a court of its interpretation of the law on a matter submitted for that purpose").

[24] *See* Petition at 6 ("Rule 9.a.28(a)(1) requires the Utility and Applicant to meet and confer in good faith to resolve disputes over the application of Rule 9. Petition and NV Energy have done so but have been unable to reach agreement.").

Rule 9 applies to all projects, whether master planned communities or not. Section 16 of Rule 9.A provides for the calculation of any proportionate share allocation of a line extension that is to be assigned to a subsequent applicant. Thus, Rule 9.A.16 applies to Reno Power's Rule 9 application for the construction of Gosling at the Peru Shelf MPC.

Although Rule 9.A.16 is applicable to the facts in this case, that does not automatically entitle a Rule 9 applicant to a proportionate share refund. The subsections within section 16 must be read harmoniously. Accordingly, the analysis does not end there; it must also consider any limitations imposed on specific line extensions constructed pursuant to Rule 9.

2. Rule 9.A.16.d clearly states that Petitioner Reno Power is not entitled to a proportionate share refund in this case.

Under Rule 9.A.16, a subsequent applicant is not obligated to reimburse prior applicants for costs associated with an "MPC substation or MPC HVD Total Costs." To arrive at this conclusion, one must first look at subsection "d" of Rule 9.A.16 which applies to proportionate share allocations for MPCs.

Subsection d provides that "where such portions of a Line Extension directly connects to the electric facilities installed pursuant to a Rule 9 Agreement between an MPC and Utility[.]" In the instant case, the Gosling Switching Station is the electric facility that was installed pursuant to an MPC Rule 9 Agreement executed between Reno Power and Sierra Pacific and is the facility to which the subsequent applicant's line extension will directly connect.

Next, subsection d contains two parts. Part 1 of subsection d is not applicable to the Peru Shelf MPC line extension. Part 1 provides "where a Line Extension is located partially in an MPC and the remainder of the Line Extension is located outside the MPC, a subsequent Applicant shall pay Proportionate Share Allocations only for the portions of the Line Extension located outside the MPC[.]" Reno Power argued that the term "line extension" in this provision means the subsequent applicant's line extension (i.e., Switch's line extension).[25] That reading is incorrect. The rule does not refer to the subsequent applicant's line extension when determining whether a proportionate share allocation is owed. Petitioner Reno Power did not fund the construction of the subsequent applicant's

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[25] Petition at 7.

line extension, and the rule cannot reasonably be read to require a subsequent applicant to pay a proportionate share allocation of its own line extension to another party.[26] Instead, the rule refers to Reno Power's MPC line extension.[27] Here, there is no evidence provided indicating that Petitioner's line extension extends outside the Peru Shelf MPC nor does Reno Power argue that it is entitled to a proportionate share refund for any line extensions *outside* the MPC. Thus, part 1 is inapplicable to the facts in this case.

Part 2 of subsection d does apply to the MPC line extension and explicitly prohibits the inclusion of MPC substation and high-voltage distribution ("HVD") costs in any proportionate share allocation. Part 2 provides that "Proportionate Share Allocations for Applicants **shall not** include MPC substation or MPC HVD Total Costs." (Emphasis added.) This means that any proportionate share allocation that could be owed by a subsequent applicant connecting to any electric facilities that were installed by Petitioner as part of the Peru Shelf MPC line extension, must not include any "MPC substation or MPC HVD Total Costs." In this case, the Gosling Switching Station is not a substation, but falls squarely within the category of "HVD" under the Rule.[28] Accordingly, the "HVD Total Costs" are explicitly excluded from any proportionate share allocation that could be assigned to the subsequent applicant for Reno Power's line extension.

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[26] *See also* Rule 9.A.34 definition of "Proportionate Share." Under this definition, a proportionate share "enables an Applicant that previously funded a secondary, primary, or HVD Line Extension and transformers to obtain a Refund from a subsequent Applicant that directly connects to the Line Extension funded by Applicant." In this case, all the facilities Reno Power funded are entirely inside the MPC, and there are no facilities outside of the MPC for which a subsequent Applicant would be required to pay a Proportionate Share. Testimony of Gary Cameron at 7 (Q&A 15).

[27] *See also* Rule 9.A.34 definition of "Proportionate Share." Under this definition, a proportionate share "enables an Applicant that previously funded a secondary, primary, or HVD Line Extension and transformers to obtain a Refund from a subsequent Applicant that directly connects to the Line Extension funded by Applicant." In this case, all the facilities Reno Power funded are entirely inside the MPC, and there are no facilities outside of the MPC for which a subsequent Applicant would be required to pay a Proportionate Share. Testimony of Gary Cameron at 7 (Q&A 15).

[28] *See* Testimony of Gary Cameron at 3 (Q&A 8); Rule 9.34 (definition of "High-Voltage Distribution").

3. A finding that Reno Power is not entitled to a proportionate share refund pursuant to Rule 9.A.16 is consistent with other provisions in Rule 9.

Tariff rules should not be interpreted as a series of unrelated and isolated provisions.[29] They must be read in harmony, as a whole, and within the appropriate contextual framework.[30] When properly construed, Part A and Part C of Rule 9 address different stages and purposes of cost responsibility and operate in harmony with each other.

i. Rule 9, Part A

Rule 9, Part A addresses the general requirements applicable to all line extensions, including both MPCs and non-MPCs. This includes the requirements for: a) the initial engineering design of the line extension; b) construction and installation; c) contributions in aid of construction, advances, and true-up costs; and d) other general requirements. In particular, Rule 9.A.16 pertains to the circumstances under which a proportionate share allocation is appropriate and sets forth how it should be calculated. Rule 9.A.16.d applies specifically to line extensions constructed for the purpose of serving MPCs. This provision establishes a limitation on when proportionate share allocations will be required by a subsequent line extension applicant for MPC line extensions. The limitation provides that the proportionate share allocation for a line extension that a subsequent applicant might have to pay "shall not" include any costs associated with the MPC substation or HVD electric facilities.[31]

Now, although Rule 9.A.16.d.1 is not relevant to the facts in the instant case, it could become relevant if an MPC developer builds a line extension in which a portion of the line extension is located outside the MPC. If an MPC line extension includes a substation or HVD facility that was installed pursuant to a Rule 9 Agreement between an MPC developer and NV Energy, then a subsequent applicant will only have to pay a proportionate share allocation for the portion of the line extension that is located outside the MPC. Thus, even if their service ultimately relies on the full line,

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[29] *Gustafson v. Alloyd Co.*, 513 U.S. 561, 570, 115 S. Ct. 1061, 1067, 131 L. Ed. 2d 1 (1995) (statutes should not be read as a series of unrelated and isolated provisions).

[30] *F.T.C. v. Mandel Bros., Inc.*, 359 U.S. 385, 389, 79 S. Ct. 818, 822, 3 L. Ed. 2d 893 (1959) (the meaning of a statute must "fit, if possible, all parts into a harmonious whole"); *see also Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. 61, 65, 412 P.3d 56, 59–60 (2018) *citing Food & Drug Admin, v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000) (concluding that courts must interpret statutes "as a symmetrical and coherent regulatory scheme" (internal quotation marks omitted).).

[31] Rule 9.A.16.d.2.

they are not charged for the segment that lies within the MPC because that portion was constructed for, and attributed to, the MPC development.

Taking that a step further, pursuant to Rule 9.A.16.d.2, if the MPC developer entered into an MPC Rule 9 agreement with NV Energy to fund a substation or HVD facility because the scale and capacity of the MPC required it, and such costs are determined to be part of the developer's total cost responsibility, then the MPC developer is not entitled to a proportionate share refund from subsequent applicants. This is true even though the subsequent applicant benefits from those facilities.

ii. Rule 9, Part C

By contrast, the terms and conditions in Rule 9, Part C apply specifically and exclusively to line extensions serving MPCs. The applicability section of Part C to Rule 9 states that it "shall be applicable to a Line Extension constructed for the purpose of providing electric service to Master Planned Communities."[32] Part C further outlines how the utility determines an applicant's total cost responsibility for an MPC line extension, the advance to be paid prior to construction (or in phases), refunds of advances, and the authorized term of MPC agreements the utility can execute.

In determining cost responsibility pursuant to Part C.4, the utility first identifies the developer applicant's estimated full-build-out project load and then, utilizing the tests set forth in that section, determines whether "the installation of a substation or HVD is deemed to be required principally for the purpose of providing service to an MPC Project."[33] If either of the tests pertaining to the building of a substation are met, then the substation will be deemed to be required principally for the purpose of providing service to an MPC Project and the applicant's total cost responsibility will include an MPC substation. If either of the tests pertaining to the building of an HVD facility are met, then the HVD facility will be deemed to be required principally for the purpose of providing service to an MPC Project and the applicant's total cost responsibility will include an MPC HVD facility. Whether a substation or HVD facility is required to be built will depend on what type of facility is needed for NV Energy to provide service to the MPC. If a substation or HVD facility are deemed to be required

[32] Rule 9.C.1.
[33] Rule 9.C.4.a.

principally for the purpose of providing service to the MPC Project under Part C.4, then such costs will be included in an applicant's total cost responsibility calculation and will not be subject to a proportionate share allocation pursuant to Part A. If, however, the substation or HVD is <u>not</u> deemed to be required principally for the purpose of providing service to the MPC under Part C.4, then such costs would not be included as part of the original applicant's total cost responsibility calculation.

Next, because MPC substations and MPC HVD facilities that are included in an applicant's "total costs" are not subject to the proportionate share allocation, the advance an applicant pays prior to construction to fund the MPC substation or HVD facility is only subject to potential refunds pursuant to Rule 9.C.6. This makes sense because under Part A if an applicant *were* entitled to a proportionate share allocation, then pursuant to Rule 9.A.32, the applicant's advance subject to potential refund would be reduced by that amount.[34] Thus, an applicant is not entitled to both a proportionate share allocation <u>and</u> a full refund of any substation or HVD facility costs because this would result in double recovery. Under Rule 9.C.6, refunds for MPC substations and HVD facilities are computed on an annual basis beginning 12 months following the date the MPC Umbrella Agreement is executed, and are based on the highest load experienced by the substation or HVD facility during that prior 12-month period. The refund is calculated pursuant to the formula provided in Rule 9.C.6.c.

iii. <u>Part A and Part C operate in harmony with each other.</u>

Read together, these provisions are complementary. Part C assigns upfront cost responsibility to the MPC developer when a substation or HVD facility is principally required for that development. Part A then clarifies that, because those costs are not part of the proportionate share allocation, they cannot later be redistributed to subsequent applicants who interconnect with that facility. Rather than conflicting, Part A and Part C operate in sequence and in tandem, first allocating responsibility to the MPC developer, and then preventing improper cost-shifting to subsequent applicants. This reading gives effect to both provisions and avoids rendering either one superfluous.

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[34] *See* Rule 9.A.32.2.a-b, Direct Testimony of Gary Cameron at 8 (Q&A 17); *see also* Rule 9.A.34, definitions of "Advance Subject to Potential Refund," "Proportionate Share," and "Proportionate Share Refund."

These Rule 9 provisions operate as intended when applied to the facts in this case and result in the exclusion of any costs associated with the Gosling HVD facility from any proportionate share refund that might otherwise be owed to Reno Power. Pursuant to Part C, Sierra Pacific determined that the Gosling Switching Station was required principally for the purpose of providing service to Reno Power's MPC.[35] Based on this determination, the Gosling HVD facility was included in Reno Power's total cost responsibility calculation.[36] Thereafter, a subsequent applicant, Switch, submitted a Rule 9 application to connect to the Gosling HVD facility.

In determining whether any proportionate share allocation would be assigned to Switch, Sierra Pacific would have looked at Rule 9.A.16.d. Because the Gosling HVD facility was constructed pursuant to the Rule 9 Agreement between Reno Power and Sierra Pacific, the costs of the facility cannot be included in any proportionate share allocation assigned to Switch.[37] Similarly, because there is no evidence that any part of Reno Power's MPC line extension project is located outside the MPC, Switch is not required to pay any proportionate share allocation for any portion of Reno Power's MPC line extension.

Reno Power argues that a reading of Rule 9.A.16.d.2 to eliminate any proportionate share allocation for MPC facilities entirely would render Rule 9.A.16.d.1 superfluous. This is incorrect. Rule 9.A.16.d.2 does, in effect, operate to eliminate any proportionate share allocation owed to Reno Power because the Gosling facility was deemed to be principally required to serve the Peru Shelf MPC. In addition, Rule 9.A.16.d.1 was found to be inapplicable to Reno Power's case due to the entirety of the line extension being located within the MPC boundary. However, Rule 9.A.16.d.1 is not rendered superfluous merely because that section is not applicable to Reno Power's case. In MPC projects where the MPC line extension is located both within and outside the MPC boundary, then a subsequent applicant would be assigned a proportionate share allocation for the portion of the line extension that was located outside the MPC boundary. Similarly, in MPC projects where the MPC line extension is located completely outside the MPC boundary, then the subsequent applicant could

[35] *See* Petition at Exhibit 2 (Rule 9 SVHD Agreement), Recitals Sec. F.
[36] *See* Petition at Exhibit 2 (Rule 9 SVHD Agreement), Recitals and Attachment B-1. Notably, Reno Power does not appear to dispute that its total cost responsibility includes the cost of the Gosling Switching Station.
[37] Rule 9.A.16.d.2.

be assigned a proportionate share allocation for the entire line extension (except for the MPC substation or HVD facilities). Moreover, any proportionate share refund given for the MPC line extension could then serve to reduce the refunds the MPC developer would be entitled to for its advance; a determination otherwise would unfairly result in double recovery by the MPC developer of its total costs.[38]

Notwithstanding, Reno Power is still entitled to a refund for the advance paid for the Gosling HVD facility pursuant to Rule 9.C.6. Refunds that will be paid to Reno Power will be computed based on the load that is experienced by the HVD facility. Thus, any load experienced by both Reno Power and Switch at the Gosling HVD facility will be used to calculate the refund of the MPC advance that will be owed to Reno Power. Moreover, because no proportionate share allocation was assigned to or paid by Switch, the HVD facility refunds paid to Reno Power will not be reduced by any proportionate share refunds.

The facts in this case illustrate how Part A and Part C operate in tandem to ensure that the costs associated with Reno Power's MPC line extension are properly assigned to it, and any proportionate share refunds and refunds of the advance do not result in double recovery of those costs from the utility.

4. An interpretation of Rule 9.A.16.d.2 that denies a proportionate share refund to Reno Power for the Gosling HVD facility is consistent with cost causation principles.

An interpretation of Rule 9 that finds that Reno Power is not entitled to a proportionate share refund is consistent with the traditional ratemaking principle that cost causers pay for the utility infrastructure built to serve them. Part C implements this principle at the outset. Because the Gosling HVD facility was required principally to serve the Peru Shelf MPC project, Reno Power was required to bear the full cost because its project is the reason the infrastructure needed to be built. Part A reinforces the same principle later in the process. Because the Gosling HVD facility is not included in the proportionate share calculation, Switch as the subsequent applicant will not be charged for those costs when it interconnects with Gosling.

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[38] *See* Rule 9.A.16 and Rule 9.C.6.

This is consistent with cost causation principles because Switch did not cause the original need for the Gosling HVD facility to serve the MPC, even if they incidentally benefit from the use of that facility. Moreover, Reno Power as the MPC developer assumed the upfront costs because it could, to a certain extent, control the timing, scale and design of its MPC project that created the need for the infrastructure. In return, Reno Power benefitted from the fact that it was guaranteed to have its full capacity served by NV Energy and designed specifically for its development; it also could avoid any uncertainty associated with having to wait for system upgrades or the construction of utility facilities that are driven by other applicants.

Accordingly, this allocation of costs reflects typical cost causation principles by assigning costs to those who cause them, while avoiding later reallocation of those costs based on incidental usage of the utility's system.

5. *The provisions of Rule 9 control over the parties' contractual terms.*

Under the filed rate doctrine, tariffs have the force and effect of law and a utility cannot deviate from those tariffs without first obtaining Commission approval.[39] This means that the terms of the filed tariff are considered "the law" and "conclusively and exclusively enumerate the rights and liabilities' of the contracting parties."[40] If a utility contracts in a manner different from that of the filed tariff, the contract is unenforceable.[41]

Reno Power argues that its Rule 9 Agreement (Section 12.3) with Sierra Pacific states that when a Rule 9 applicant attaches to its MPC line extension it is entitled to a proportionate share refund pursuant to Rule 9.A.16, so the Commission should interpret Rule 9 in a way that entitles Reno Power to a proportionate share refund.[42] To the extent that the Rule 9 Agreement between Reno

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[39] *Brown v. MCI WorldCom Network Servs., Inc.*, 277 F.3d 1166, 1170 (9th Cir. 2002) (Once a tariff is approved, it "bind[s] both carriers and shippers with the force of law." *Lowden v. Simonds–Shields Lonsdale Grain Co.,* 306 U.S. 516, 520, 59 S.Ct. 612, 83 L.Ed. 953 (1939). *See also AT & T Corp. v. City of New York,* 83 F.3d 549, 552 (2d Cir.1996) (stating that filed tariffs attain "the force of law and are not simply contractual").).

[40] *California ex rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 853 (9th Cir.), *opinion amended on denial of reh'g*, 387 F.3d 966 (9th Cir. 2004) *citing Evanns v. AT & T Corp.,* 229 F.3d 837, 840 (9th Cir.2000) (citing *Marcus v. AT & T Co.,* 138 F.3d 46, 56 (2d Cir.1998)).

[41] *MCI WorldCom*, 277 F.3d at 1170 (9th Cir. 2002) citing *AT & T Corp. v. Central Office Tel., Inc.,* 524 U.S. 214, 118 S.Ct. 1956, 141 L.Ed.2d 222 (1998) (If a carrier contracts to provide a service at a rate different from that of the filed tariff, that contract is unenforceable.). Neither the carrier nor its customers may deviate from the tariff without prior Commission approval. *Id.; Evanns v. AT&T Corp.*, 229 F.3d 837, 840 (9th Cir. 2000).

[42] Petition at 18; Post-Hearing Legal Brief at 8.

Power and Sierra Pacific conflicts with the plain language of Rule 9 and states that Reno Power is entitled to a proportionate share allocation pursuant to Rule 9.A.16, then it could be deemed unenforceable.[43] The tariff language in Rule 9 controls and provides clear guidance that Reno Power is not entitled to a proportionate share allocation under the facts of this case.

C. The Commission should decline to entertain Reno Power's request pursuant to Rule 9.A.28.

The Commission should deny Reno Power's alternative request that the Commission exercise its authority pursuant to Rule 9.A.28 to find that the application or interpretation of Rule 9 that Reno Power is not entitled to a proportionate share refund is "impractical, inequitable, or otherwise inappropriate."[44] Reno Power argues that such an interpretation is inequitable because Reno Power is denied a proportionate share from Switch, which would typically be paid "at the time of interconnection."[45] However, in so arguing, Reno Power ignores the fact that it is entitled to a refund of the advance paid for Gosling, which will be paid annually based on the load experienced. Moreover, its advance refund likely would have been reduced by the amount of any proportionate share refund it would have received. In essence, Reno Power's fairness or equity argument does not concern *whether* it will recover the funds it advanced for the HVD facility, but centers on *when* that recovery will occur.

In dictating that Reno Power is not entitled to a proportionate share refund, the provisions of Rule 9 are clear, operated as intended, and, as explained above, are consistent with cost causation principles. Reno Power's "time value of money" concern does not demonstrate inequity; it merely reflects a disagreement with a policy choice that is reflected in the rule to prioritize proper cost assignment over accelerated reimbursement. Nonetheless, Reno Power is in a better position than it would be if no subsequent applicant were to connect to Gosling. If no subsequent applicant connected to the Gosling facility, then Reno Power would still be responsible for its up-front total cost responsibility pursuant to Rule 9.C.4, and the refunds that it would be entitled to receive pursuant to

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[43] Based on Staff's review, Section 12.3 of the MPC Rule 9 Agreement appears to be boilerplate language that is inserted into all Rule 9 Agreements that may or may not apply to the specific facts of the project.
[44] Reno Power's Post-Hearing Brief at 12-13 (Sec. D).
[45] Post-Hearing Brief at 13.

Part C.6 would be limited to Reno Power's MPC load at Gosling. Reno Power should have known of these potential outcomes and risks when it signed its Rule 9 Agreements with NV Energy.

Additionally, a Commission order authorizing a deviation from Rule 9 to enable Reno Power to receive a proportionate share refund would be inappropriate and inequitable because it would have a detrimental effect on the subsequent applicant. The subsequent applicant would be forced to pay a proportionate allocation that typically is not required to be paid under a strict application of the Rule, and creates an additional financial burden and risk that was not contemplated when it contracted with Sierra Pacific. Due to the inequitable consequences to a third party that would result from deviating from the rule, deviation is inappropriate in this case.

Accordingly, the Commission should decline to deviate from the rule to authorize the issuance of a proportionate share refund to Reno Power.

III. Conclusion

Based on the foregoing analysis, Staff recommends that the Commission resolve Reno Power's Petition through the issuance of a declaratory order. In the declaratory order, the Commission should interpret Rule 9, as applied to the facts of this case, to find that Reno Power is not entitled to a proportionate share refund from Switch.

RESPECTFULLY SUBMITTED this 24th day of April 2026.

PUBLIC UTILITIES COMMISSION OF NEVADA
REGULATORY OPERATIONS STAFF

By: */s/ Shelly Cassity*
Shelly Cassity
Deputy Staff Counsel

PROOF OF SERVICE

I hereby certify that I have on this day served the foregoing document upon all parties of record in this proceeding by electronic mail to the recipient's current electronic mail address.

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DATED at Las Vegas, Nevada, on the 24th day of April 2026.

/s/ Michelle Jackson
An employee of the Public Utilities Commission of Nevada