

Sierra Pacific Power Company and Nevada Power Company
d/b/a NV Energy
6100 Neil Rd., P.O. Box 10100
Reno, Nevada 89520-0024

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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Petition of Nevada Power Company d/b/a)
NV Energy and Sierra Pacific Power Company)
d/b/a NV Energy for a Declaratory Order and)
Order Permitting Deviation From Regulations)

Docket No. 10 – 05 _____

**PETITION FOR A DECLARATORY ORDER AND
ORDER PERMITTING DEVIATION FROM REGULATIONS**

Nevada Power Company d/b/a NV Energy (“Nevada Power”) and Sierra Pacific Power Company d/b/a NV Energy (“Sierra”) (collectively, NV Energy” or the “Companies”) respectfully file with the Public Utilities Commission of Nevada (“Commission”) this Petition for a Declaratory Order and Order Permitting Deviation From Regulations (the “Petition”).

Specifically, the Companies request that the Commission:

1. Issue a Declaratory Order clarifying whether incentives paid during the three year period of July 1, 2010 through June 30, 2013 for newly installed capacity that derives from applications submitted for program years prior to the 2010-2011 program year count against the \$78,260,000 expenditure cap set in NRS 701B.260(4)(a); and

2. Issue an order finding that pursuant to NAC 704.0097 good cause exists to permit the Companies to deviate from the following Sections of the Adopted Regulations of the Public Utilities Commission of Nevada, LCB File No. R184-09, April 20, 2010:

- a. Section 6(2) regarding the amount of incentives to be paid for Steps Two and Three for all categories, so that the incentive levels for those Steps can be increased to the incentive levels established for Step One, which are \$5.00 for the School Property and Public and Other Property categories, and \$2.30 for the Private Residential Property and Small Business Property category;
- b. Section 6(2) and (3) regarding the limitation on the number of Steps ahead of the current Step for which the Companies can issue confirmed reservations, so that

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reservations may be issued from the capacity in Steps Four and Five at the same time as Steps Two and Three to satisfy applications received on and after April 21, 2010, and so that incentives paid to applicants granted Step Four and Five capacity receive the same incentive levels as applicants granted capacity under Steps One, Two and Three;

- c. Section 6(3) regarding the limitation of payments if the maximum capacity for a given program year is reached before the end of that year, i.e. the requirement that the utility shall suspend payment of incentives beyond that capacity amount until the beginning of the next program year. The Companies propose that incentive payments shall be made in the order that projects are completed or “first complete / first paid”. If the total amount of incentives reaches the amount defined by the PUCN in the declaratory order in #1 above, then the Companies would suspend payments until July 1, 2013 in order to comply with the statutory budget limit defined in NRS § 701B.260(4)(a).

I. Introduction

- 1. Nevada Power and Sierra are wholly-owned subsidiary of NV Energy, Inc., a holding company incorporated under the laws of the State of Nevada.
- 2. Nevada Power provides retail electric service to the public in portions of Clark and Nye Counties in Nevada. Sierra provides electric and natural gas service to the public in portions of Washoe, Pershing, Humboldt, Lander, Elko, Mineral, Churchill, Nye, Esmeralda, Douglas, Storey and Lyon Counties in Nevada.
- 3. Nevada Power and Sierra are public utilities within the meaning of Section 704.020 of the Nevada Revised Statutes (“NRS”) and, as public utilities, are each subject to the Commission’s supervision and regulation under NRS 703.150.

1 4. Nevada Power's principal place of business, mailing address, and telephone
2 number are: 6226 West Sahara Avenue, P.O. Box 98910, Las Vegas, Nevada 89151, 702-402-
3 5000. Sierra's principal place of business, mailing address, and telephone number are: 6100 Neil
4 Road in Reno, Nevada 89511, 775-834-4011.

5 5. All pleadings, notices, orders, discovery requests and correspondence relating to
6 this Petition should be directed to:

7	Douglas Brooks	Trevor Dillard, Manager Regulatory Services
8	Assistant General Counsel	NV Energy
9	NV Energy	6100 Neil Road
10	P.O. Box 98910	Reno, NV 89511
11	Las Vegas, NV 89151	Tel: 775-834-5823
	Tel: 702-402-5697	Fax: 775-834-4484
	Fax: 702-402-2069	<u>regulatory@nvenergy.com</u>
	<u>dbrooks@nvenergy.com</u>	

12 6 The Commission has jurisdiction to review this Petition pursuant to Nevada
13 Administrative Code ("NAC") §§ 703.540, 703.825 and 704.0097.

14 **II. Discussion and Analysis**

15 7. NRS § 701B.240 established the Solar Energy Systems Incentive Program ("the
16 Program"). In accordance with NRS §701B.200(1), the Commission has promulgated regulations
17 that establish the type and level of incentives available to participants. Adopted Regulation of the
18 Public Utilities Commission of Nevada, LCB File No. R184-09, April 20, 2010 ("Program
19 regulations"). Section 6(2) of the Program regulations specify the level of the Program's
20 incentives, the amount of capacity eligible for incentives for each Step and category, and the
21 manner in which the level of incentives will decline over time. Section 6(3) of the Program
22 regulations provides that when the total amount of kW allocated through confirmed reservations
23 reaches the capacity limit for the Step, any subsequent kW allocated by the utility shall be at the
24 next Step. Further, that Section provides that if the maximum capacity for a given program year is

1 reached before the end of that year, the utility shall suspend payment of incentives beyond that
2 capacity amount until the beginning of the next program year.

3 8. On April 21, 2010, NV Energy began accepting applications for reservations for
4 Step 1 capacity pursuant to Section 6 of the Program regulations. Within a five day period, the
5 Companies received applications representing 35,812 kW of capacity for all categories, which
6 when corrected for errors and duplicate applications was reduced to 28,908 kW. Some of the
7 applications have since been determined to have requested more capacity than allowed under the
8 Program's regulations, and after those applications have been adjusted to stay within those limits,
9 or "scrubbed", the amount of capacity applied for totaled 23,032 kW. This is in excess of the total
10 amount of capacity available for all categories permitted for Step 1 under NRS 701B.260(1) and
11 Section 6(2) of the Program regulations, which is 4,098 kW, as well as the total amount of capacity
12 for Steps One, Two and Three, which is 13,434 kW. The available capacity under Section 6(2) of
13 the Program's regulations for Steps Four and Five totals 11,092 kW, which when added to the total
14 capacity for Steps One, Two and Three, totals 24,526 kW.

15 9. If all of the capacity applied for, as adjusted, was constructed and received the
16 appropriate level of incentive payment required by the Program's regulations, the Companies
17 would pay out under Steps One, Two and Three between \$101 million and \$116 million, which
18 would exceed the statutory limit of \$78,260,000 for the period of July 1, 2010 through June 30,
19 2013.

20 10. As of the filing of this Petition there exist a large number of applicants who have
21 received approval to participate in the Program but who have not yet completed their systems'
22 installations. If all of these applicants complete installation in compliance with all of the
23 Program's requirements, the total incentives that would be paid for those systems are
24 approximately \$40,000,000. The Companies believe that while not all of those systems will be
25 completed and become eligible for an incentive payment, the size of the potential payments and the
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1 proximity to July 1, 2010, the start of the three year period to which the \$78.26 million cap applies,
2 raises the concern that the payments made for installations under applications that predate the
3 2010-2011 program year would be applied to the three year cap and severely reduce the amount
4 left to fund the new applications. If this concern is accurate, the Companies would be left with a
5 minimum balance of \$38.26 million with which to satisfy the recent applications, which is less than
6 half of the amount applied for. Additionally, there is approximately \$17.4 million in additional
7 incentives represented by applicants and associated capacity currently on the waiting list for
8 schools and public buildings.

9 11. One of the primary goals of the Program is to complete solar installations up to the
10 capacity and budget limits defined in the statute and produce portfolio energy credits for
11 compliance with Nevada's Renewable Portfolio Standard ("RPS"). Since the 2004/2005 program
12 year the Companies have awarded all of the capacity available, yet that actual amount of capacity
13 installed each program year has ranged from a low of 18% to a high of 47%. The total amount of
14 capacity completed since the solar incentive program started in 2004 is approximately 29% of the
15 total available through program year 2009/10. Exhibit 1 to this Petition provides a summary of the
16 Program applications, rebates paid, completions, and customers withdrawn by program year. The
17 Companies believe that the Program should achieve a much higher completion rate than it has
18 under the process defined in the current regulations, which limit the release of capacity to the
19 amounts defined in the regulations by program year and creates waiting lists to deal with surplus
20 applications. The Companies believe that the Program should align the incentives provided to
21 customers with the goal of completing the maximum amount of available capacity. Furthermore, a
22 higher completion rate of these projects will help the Companies satisfy their RPS requirements.

23 12. Another benefit of the Program is the creation of jobs in Nevada at a time when the
24 state is suffering from very high unemployment rates. The Companies' proposal, described below,
25 will allow a much larger number of projects to be released for construction than compliance with
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1 the current regulations would allow. Because of this, the proposal will release all capacity into the
2 market with no waiting list an additional 280 applicants would be approved, which would result in
3 more installations and associated jobs. Exhibit 2 to this Petition provides a comparison of the
4 timing and amount of released capacity and rebates paid under the Companies' proposal versus
5 moving forward under the current regulations. Page 1 of this Exhibit provides this information
6 with a limit of 50 kW capacity for all school installations. Page 2 is identical except that it assumes
7 that the Commission will grant variance request for all school applications that exceed 50 kW.

8 13. These facts demonstrate that the market for small solar distributed generation in
9 Nevada is strong, but that the Program regulations may not permit the Companies to satisfy the
10 demand of its customers in a manner will increase the Program's historically low completion rate.
11 In response to these facts, the Companies have devised a plan that is intended to support the
12 installation of as many new solar systems under the Program to meet the demands of the recently
13 received applications while complying with the overall expenditure limits of NRS 701B.260(4)(a).
14 Features of this plan include opening the capacity of Steps Four and Five to satisfy the recently
15 received applications and equalizing the level of rebates paid for all available Steps.
16 Implementation of this plan, however, requires 1) clarification of what expenditures fall within the
17 \$78.26 million cap, and 2) waiver of certain provisions of the Program's regulations.

18 14. The request under the Companies' proposal to set all incentive payments to the
19 2010/11 program year level was crafted to ensure equity among all applicants. If the Commission
20 approves the proposal then all applicants that did not receive an award in Step one of the program
21 will be released to proceed with their projects immediately after receipt of the Commission's
22 Order. Therefore, these customers will all be in the market at the same time and experience the
23 same market prices. The requirement that incentive amounts decline over time is based on the
24 premise that the cost of solar systems will decline over time as the industry and technology mature.
25 However this requirement also assumes that customers participating in this program will do so in

1 steps or over time. With the release of all of the steps at once this is not the case. Therefore the
2 Companies believe that it is more equitable to provide all customers the same incentive since they
3 are all in the market at the same time. The incentives can be stepped down in compliance with the
4 law in the future after sufficient time has passed for the anticipated improvement in market prices
5 to occur. The increase in cost of this proposal compared with operating under the current
6 regulations is estimated to be between \$6.3 million and \$7.2 million on a base budget of between
7 101 and 116 million if all projects applied for are actually completed.

8 15. With regard to the Declaratory Order, the Companies request that the Commission
9 issue an Order as to the applicability of the expenditure cap set in NRS 701B.260(4) for the three
10 year period of July 1, 2010 through June 30, 2013 to incentives paid during those three year for
11 systems installed under applications that were submitted for program years 2009-2010 and earlier.
12 More specifically, the Companies desire legal direction on whether the full amount of the \$78.260
13 million is available to pay incentives for applications accepted for capacity released under Steps
14 commencing July 1, 2010 and later, or if the \$78.260 cap must also fund incentives paid during the
15 three year period that are from applications approved in prior program years. The requested
16 clarification is necessary for the Companies to administer its plan to accept and award all of the
17 recently received applications. Regardless of the Commission's direction on this issue, the
18 Companies would award incentives to all customers with complete applications immediately
19 following the PUCN's approval of the request to deviate from current regulations, but payments
20 above the statutory limit will not be made until July 1, 2013.

21 16. With regard to the request for deviations, the Companies request that the
22 Commission find good cause and therefore grant permission to deviate from Sections 6(2) and 6(3)
23 of the Adopted Regulation of the Public Utilities Commission of Nevada, LCB File No. R184-09,
24 April 20, 2010, so that it may execute its plan as described in paragraph 13 above. Good cause
25 exists for granting the requested deviations, as outlined in Sections 8 through 14 above. Further,

1 the provisions of NAC 704.8885, 704.9113 and 704.9512(1)(a), as applied to the facts presented in
2 this Petition, will work a hardship on the Companies and their customers by denying them the
3 ability to maximize the completion rate of solar energy systems and satisfy the demand for
4 incentives expressed by the current crop of applications.

5 17. Issuance of an order relieving the Companies of the strictures of the Section 6(2)
6 and 6(3) would facilitate the addition of as much as 23,032 kW of solar PV capacity over the next
7 five years, which is in the public interest. The unprecedented demand for incentives under the
8 Program provides an opportunity to take advantage of this interest to substantially increase the
9 deployment of this technology in the state. Exhibit 3 to this Petition displays the scrubbed amount
10 of kW applied for by category, and the amount of capacity available under Steps One through Five.
11 The Company's request for deviation includes a plan to reallocate capacity from the surplus
12 amount available in the Schools category to the Public Buildings category in order to issue award
13 notifications to all of the current applicants immediately after the Commission's order. The
14 Commission was given explicit authority NRS 701B.260(2) to reallocate surplus capacity between
15 customer categories in order to serve customer applications. As the Company administers the
16 program future reallocations based on actual completions of projects may be necessary, and any
17 requests for such will be made on an as needed basis.

18 18. Granting the requested deviations is not contrary to statute. The statutes governing
19 the Program, NRS 701B.010 through 701B.290, delegate to the Commission responsibility to
20 promulgate substantially all of the programs administrative requirements. No provisions of the
21 NRS 701B.010 through 701B.290 prohibit the taking and approval of applications for multiple
22 program years at one time, but instead only dictate the amount of capacity that can be approved for
23 each program year and the total amount that can be spent on rebates during two different periods of
24 time, \$78.26 million between July 1, 2010 and June 30, 2013, and \$255.27 million between July 1,
25 2010 and June 30, 2021. Nor do the statutes prohibit paying the same rebate level for three
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1 consecutive program years. NRS Section 701B.200(1) only requires that the level of incentives
2 decline “over time”.

3 **III. Conclusion**

4 NV Energy respectfully requests that the Commission proceed in the manner required by
5 law and, in accordance with its regulations, grant the following requests:

- 6 1. Issue a Declaratory Order clarifying whether incentives paid during the three year
7 period of July 1, 2010 through June 30, 2013 for newly installed capacity that derives
8 from applications submitted for program years prior to the 2010-2011 program year
9 counts against the \$78.260,000 expenditure cap set in NRS 701B.260(4)(a);
- 10 2. Approve a deviation from the provisions of Section 6(2) of Adopted Regulation of the
11 Public Utilities Commission of Nevada, LCB File No. R184-09, April 20, 2010,
12 regarding the amount of incentives to be paid for Steps Two and Three for all
13 categories, so that the incentive levels for Steps Two and three can be increased to the
14 incentive levels established for Step One, which are \$5.00 for the School Property and
15 Public and Other Property categories, and \$2.30 for the Private Residential Property
16 and Small Business Property category;
- 17 3. Approve a deviation from the provisions of Section 6(2) and (3) of Adopted
18 Regulation of the Public Utilities Commission of Nevada, LCB File No. R184-09,
19 April 20, 2010, regarding the limitation on the number of Steps ahead of the current
20 Step for which the Companies can issue confirmed reservations, so that reservations
21 may be issued from Steps Four and Five at the same time as Steps Two and Three to
22 satisfy applications received on and after April 21, 2010; and,
- 23 4. Approve a deviation from Section 6(3) regarding the limitation of payments if the
24 maximum capacity for a given program year is reached before the end of that year, i.e.
25 the requirement that the utility shall suspend payment of incentives beyond that

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capacity amount until the beginning of the next program year. The Companies propose that incentive payments shall be made in the order that projects are completed or “first complete / first paid”. If the total amount of incentives reaches the amount defined by the PUCN in the declaratory order in #1 above, then the Companies would suspend payments until July 1, 2013 in order to comply with the statutory budget limit defined in NRS § 701B.260(4)(a).

Respectfully submitted this 21st day of May, 2010.

**NEVADA POWER COMPANY
SIERRA PACIFIC POWER COMPANY**

By: /s/ Douglas Brooks
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SolarGenerations Program Year Totals

	2004/2005	2005-2006	2006-2007	2007-2008*	2008-2009*	2009-2010*	Overall Totals
Total Applicants for Program Year	74	191	448	575	557	969	2814
Total Projects Completed	45	81	104	101	102	162	595
Total kW Applied	634	1,274	4,844	7,534	10,002	15,227	39,515
Total kW Installed (includes beyond project cap)	223	449	488	909	697	1,290	4,057
Total kW Rebated	221	440	475	891	684	1,256	3,967
Available kW Capacity	500	1,900	1,900	1,900	3,760	3,760	13,720
Percent Constructed of Available Capacity	44%	23%	25%	47%	18%	33%	29%
Total Rebated	\$1,106,350	\$1,759,652	\$1,426,383	\$3,826,297	\$2,397,520	\$4,292,833	\$14,809,035
Customers Withdrawn	28	109	344	472	336	463	1752
Retention	62%	43%	23%	18%	40%	52%	38%
* Active Program Years							

		NV Energy Proposal (based on releasing all qualified applications at capped amount except schools)					Dollars Paid		
		KW Released	Rate/Watt	July 1, 2010 - June 30, 2010	July 1, 2011 - June 30, 2012	July 1, 2012 - June 30, 2013	Total Paid	Total Unpaid	
Step One	Residential/Small Business	*1,624	\$2.30	\$3,735,200					
	Public Buildings	828	\$5.00	\$4,142,000					
	Schools	2,180	\$5.00	\$10,900,000					
	Sub-Total	4,632		\$18,777,200					
All Others	Residential/Small Business	4,477	\$2.30	\$10,297,100					
	Public Buildings	10,582	\$5.00	\$52,908,000					
	Schools	6,796	\$5.00	\$33,980,000					
	Sub-Total	21,855		\$97,185,100					
Total		26,487		\$115,962,300	capped total no school variances		\$115,962,300		
Step One	Residential/Small Business	*1,624	\$2.30	\$3,735,200					
	Public Buildings	828	\$5.00	\$4,142,000					
	Schools	2,180	\$5.00	\$10,900,000					
	Sub-Total	4,632		\$18,777,200			\$18,777,200		
Step Two	Residential/Small Business	1,188	\$2.10	\$2,495,010					
	Public Buildings	903	\$4.90	\$4,424,484					
	Schools	2,376	\$4.90	\$11,643,380					
	Sub-Total	4,467		\$18,562,874			\$18,562,874		
Step Three	Residential/Small Business	1,295	\$1.90			\$2,460,555			
	Public Buildings	984	\$4.80			\$4,724,266			
	Schools (exhausts apps)	1,499	\$4.80			\$7,195,200			
	Sub-Total	3,778				\$14,380,021	\$14,380,021		
Total		12,878					\$51,720,095		
Waiting List	Residential/Small Business	1,460	\$1.70					\$2,481,781	
	Public Buildings	8,694	\$4.70					\$40,863,783	
	Schools	2,921	\$4.70					\$13,727,760	
	Sub-Total	13,075				capped total if waitlist completed	\$108,793,419	\$57,073,324	

*Includes \$34 kW from previous program years

SolarGenerations Capacity Breakdown							
Category	# Applied	kW Applied	# Scrubbed	kW Scrubbed	kW Capped	5 Step Capacity	Surplus /Deficit
Residential/Small Business	669	7,240	543	5,779	5,567	6,523	956
Public & Other Property	280	19,045	206	14,153	11,410	4,958	(6,452)
Schools	151	9,587	131	8,976	6,055	13,047	6,992
Total	1,100	35,872	880	28,908	23,032	24,528	1,496