

## June 12, 2018 CRCNV Commission Meeting - Agenda Item D.

### Staff Comment/Response Matrix – SLCAIP Allocation Proceeding

Entity	Comment	Staff Response
Overton Power District No. 5	OPD comments that “As an entity with an 80-year customer history with the Colorado River Commission, and a SLCAIP allottee from its inception of more than 50 years, Overton Power District No. 5 requests that the tenure of the current SLCAIP allottees be given consideration during the allocation process.”	Staff rejects the suggestion that tenure alone should be a determining factor in awarding an allocation. However, staff has added language to the application encouraging Applicants to explain how they would be impacted by NOT receiving an allocation.
Overton Power District No. 5	OPD comments “Overton Power District No. 5 also requests that the Commission members who are appointed by an entity, or its member agencies, that may apply for a SLCAIP allocation provide information on how they will treat this allocation process fairly. Will the Commissioners recuse themselves or take other steps to ensure fairness throughout the process?”	Since this is a question posed to the Commission members, Staff cannot respond to this comment but will provide the question to the Commission.
City of Boulder City	Criteria 1a; Boulder City suggests adding the language “or the support of geographical areas or rural communities that are struggling to accomplish economic diversification and development and will benefit from the hydropower allocation” to the parenthetical language “including but not limited to job creation or development in economically disadvantaged areas or rural communities.”	Staff agrees that support of economically disadvantaged communities should be part of the Criteria and has modified Criteria 1a to read as follows: “Economic development (including but not limited to job creation, development in, <b>and/or support of</b> , economically disadvantaged areas or rural communities.)”
City of Boulder City	Criteria 1; Boulder City suggests adding “If the Applicant has a current SLCAIP allocation, the denial of post-2024 allocation of resources to the Applicant will not result in an unmitigated substantial hardship to economically disadvantaged areas, rural communities or support of a public entity not offset by a significant enhanced benefit to the state.”	Staff agrees that understanding the impact of not receiving an allocation should be considered and has modified Paragraph 3 on Page 7 of the Application to state:  “Applicants should demonstrate how receipt of the allocated resource would provide the ‘greatest possible benefit to this state.’ <b>Applicant should also demonstrate how loss of an existing</b>



		<b>allocation could impact the Applicant to the detriment of the state.”</b>
City of Boulder City	<p>Criteria 1b; Boulder City suggests modifying the parenthetical phrase “including but not limited to public entities engaged in natural resource management or reductions in expenses for a public entity” as follows: “including but not limited to, public entities:</p> <ul style="list-style-type: none"> <li>i. Engaged in natural resource management;</li> <li>ii. Using the allocation in a manner resulting in reductions in expenses for a public entity;</li> <li>iii. Providing electric utility service to other public entities, residents, and businesses within a recognized municipal or other governmental service territory in this State; or</li> <li>iv. Promoting energy conservation programs and supporting low-income energy assistance.”</li> </ul>	Staff rejects this addition as it appears to place greater emphasis on certain types of cost reducing measures. Staff does not see this as necessary.
City of Boulder City	<p>Criteria 2; Boulder City suggests adding “An undue administrative burden will not be found if an Applicant’s prior performance under existing agreements with the State of Nevada for allocations of hydropower resources have been performed consistent with the contract terms” after the sentence “The award of resources to the Applicant will not place an undue administrative burden on the CRCNV.”</p>	Staff agrees that performance under existing contracts is an important concept but believes it is more relevant to Criteria 13 which addresses creditworthiness. Staff has modified Criteria 13 to read “The Applicant must be creditworthy and <b>in compliance with its current Commission contracts</b> and may be required to post collateral in accordance with and subject to any exceptions, conditions or exemptions in the CRCNV’s statutes and regulations.”
City of Boulder City	<p>Criteria 4 and 5; Boulder City suggests merging Criteria 4 and 5 into a single criterion with two subparts to read as follows: “4. If the Applicant is:</p>	Staff accepts Boulder City’s proposed modification to clarify that Applicants will fall under either subpart 4a or 4b but not both.



	<p>a. An electric utility, it must satisfy the requirements of NAC 538.410(5) which states that the electric utility must:</p> <p>(i) Have a load that:</p> <p>(1) Has a peak demand of at least 8 megawatts; and</p> <p>(2) Is located within Western's defined marketing area in this State for the Boulder Canyon Project, Parker-Davis Project or Southern Division of the Salt Lake City Area Integrated Projects; and</p> <p>(ii) Be qualified to receive preference power under the applicable provisions of federal law relating to preference power; or</p> <p>b. An entity that is a qualified Applicant under NRS 704.787(b), the entity must certify that any power awarded will be used for its water and wastewater operations."</p>	
City of Boulder City	New Criteria 5; Boulder City suggests adding a new Criteria 5 "If the Applicant has a current SLCAIP allocation under a contract with the Commission, the entity has and is optimizing use of the allocation during the current contract period."	Staff believes that prudent use of the SLCAIP resource is a contract compliance item and has modified Criteria 13 to address contract compliance as follows: "The Applicant must be creditworthy and <b>in compliance with its current Commission contracts</b> and may be required to post collateral in accordance with and subject to any exceptions, conditions or exemptions in the CRCNV's statutes and regulations."
City of Boulder City	Criteria 8; Boulder City suggests deleting "in the Fall of 2018" and replacing it with "by October 1, 2019."	Staff rejects this suggested change. Staff believes that the benefits of executing the Federal contract sooner rather than later outweigh the perceived benefits to be gained by extending the Contract date to October 1, 2019. Staff understands that Question 3 casts uncertainty on Applicants' load



		<p>serving obligations. However, Staff also believes that the resolution of the issues raised by Question 3 may take years to resolve, long past Boulder City's proposed date of October 1, 2019. In the meantime, delaying the execution of the Federal Contract means that existing Contractors are foregoing the benefits to be gained from earlier execution.</p>
City of Boulder City	<p>Criteria 11; Boulder City suggests rewording the criteria as follows:</p> <p>"An Applicant must either (a) be a party to an existing contract with the CRCNV to take and pay for use of continuous or backup transmission service over the Parker-Davis Project Southern Nevada Facilities or be an entity directly interconnected to the Parker-Davis Project Southern Nevada Facilities; or, (b) enter such a contract prior to June 1, 2024, for power deliveries beginning on October 1, 2024.</p>	<p>Staff agrees that an Applicant that already has a contract with the CRC should not have to enter into a new contract with the CRC for transmission over the Parker-Davis Project Southern Nevada Facilities (PDPSNF). However, Staff believes that any Applicant that is interconnected with the PDPSNF will need to enter into a new contract with the CRC if one is not already in place.</p> <p>Staff proposes to modify Criteria 11 as follows:</p> <p>"An Applicant utilizing continuous or backup transmission service over the Parker-Davis Project Southern Nevada Facilities, or an Applicant directly interconnected to the Parker-Davis Project Southern Nevada Facilities, <b>must have an existing contract with the CRCNV or</b> enter into a new contract with the CRCNV to take and pay for service over those facilities prior to June 1, 2024 for power deliveries beginning on October 1, 2024."</p>
City of Boulder City	<p>Criteria 13; Boulder City suggests adding "and subject to any exceptions, conditions or exemptions in" after "The Applicant must be creditworthy and may be required to post collateral in accordance with..."</p>	<p>Staff accepts this suggestion.</p>



City of Boulder City	Application; Boulder City suggests that paragraph 3 at Page 7 contain a place for Applicants to respond to the following. "Applicants who have a current SLCAIP allocation under a contract with the Commission should provide a statement that explains how that current allocation has been used since 2004 to optimize benefits to the state and describing the impact to the Applicant if a post-2024 SLCAIP resource allocation is not awarded by the Commission. "	Staff agrees that understanding the impact of not receiving an allocation is an important consideration and has modified Paragraph 3 on Page 7 of the Application to state:  "Applicants should demonstrate how receipt of the allocated resource would provide the 'greatest possible benefit to this state.' <b>Applicant should also demonstrate how loss of an existing allocation could impact the Applicant to the detriment of the state.</b> "
City of Boulder City	Application; Paragraph 4 at Page 8; subparts (b) and (i), Boulder City suggests that only non-governmental entities should have to provide a Dun and Bradstreet D-U-N-S Number and audited financial statements.	Staff rejects the suggestion that only non-government entities should have to provide audited financial statements. Staff modified subpart (b) to clarify that the D-U-N-S Number only need be provided if it is available.



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May 24, 2018

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**COLORADO RIVER  
COMMISSION**

**MAY 30 2018**

**RECEIVED**

Re: **NOTICE OF PUBLIC MEETING AND REQUEST FOR COMMENTS:**  
DRAFT NOTICE AND INVITATION TO APPLY FOR POST-2024 SLCAIP HYDROPOWER  
ALLOCATION AND FORM OF APPLICATION;  
*Comments of the City of Boulder City, Nevada*

Dear Executive Director Harkins:

We represent the City of Boulder City, Nevada (the "**City**"). The Colorado River Commission of Nevada (the "**Commission**"), published on April 25, 2018, a Notice of Public Meeting and Request for Comments (the "**Notice**"), in connection with the Commission's Draft Notice and Invitation to Apply for the Allocation of Salt Lake City Area Integrated Projects (SLCAIP) Hydropower Post 2024 (the "**Allocation Solicitation**"), and Application for Allocation of Power (the "**Application**"). In accordance with the Notice, the City submits the following comments and requests for revisions to the Allocation Solicitation and Application (the "**Comments**"). In the Comments, we indicate new proposed language for the Allocation Solicitation and Application in *green boldface italics double-underscored text*. We likewise indicate the elimination of language in the Allocation Solicitation and Application in *red boldface italics underlined strikethrough*. Following each of our suggested revisions, we provide a specific comment on the reason for the requested modification.

**1. THE CRITERIA OF THE ALLOCATION SOLICITATION MUST BE REVISED AND ENLARGED.**

At Pages 2 and 3 of the Allocation Solicitation, the Commission proposes thirteen criteria (the "**Criteria**"), that will be applied in awarding the State of Nevada's hydropower allocation from the Salt Lake City Area Integrated Projects ("**SLCAIP**"), commencing on and after October 1, 2024. The Criteria should be revised and expanded as follows:

1. The award of resources to the Applicant will achieve the greatest possible benefit to the state including but not limited to:

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May 24, 2018  
Page 2

- a. Economic development (including but not limited to job creation ~~or~~, development in economically disadvantaged areas or rural communities or the support of geographical areas or rural communities that are struggling to accomplish economic diversification and development and will benefit from the hydropower allocation).
- b. If the Applicant has a current SLCAIP allocation, the denial of post-2024 allocation of resources to the Applicant will not result in an unmitigated substantial hardship to economically disadvantaged areas, rural communities or support of a public entity not offset by a significant enhancement of benefits to the state.

**Comment:** As written, this criterion suggests that the greatest possible benefit to Nevada is only accomplished if the area or rural community has succeeded at economic development efforts. The greatest public benefit may instead be to award an allocation of stable and lower cost hydropower to areas or rural communities where economic development efforts have not achieved results and economic growth remains elusive. Moreover, the assessment of the greatest possible benefit to the state should include an evaluation of the extent of injury that results from withdrawing this resource from an existing allottee. The City's suggested modification addresses these concerns.

- c. Support of public entities ~~and~~ including but not limited to public entities:
  - i. ~~e~~ Engaged in natural resource management ~~or~~;
  - ii Using the allocation in a manner resulting in reductions in expenses for a public entity ~~;~~;
  - iii. Providing electric utility service to other public entities, residents and businesses within a recognized municipal or other governmental service territory in this State; or
  - iv. Promoting energy conservation programs and supporting low-income energy assistance.

**Comment:** As written, this criterion fails to recognize the significant benefit to Nevada where hydropower allocations, which provide stability and predictability to the cost of service, are awarded to public entities that are providing electric utility service, promoting energy conservation and



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Jayne Harkins, Executive Director  
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May 24, 2018  
Page 3

supporting low-income assistance programs. The City's suggested modification addresses these concerns.

2. The award of resources to the Applicant will not place an undue administrative burden on the CRCNV. *An undue administrative burden will not be found if an Applicant's prior performance under existing agreements with the State of Nevada for allocations of hydropower resources have been performed consistent with the contract terms.*

**Comment:** As written, this criterion provides no guidance on what constitutes an undue administrative burden upon the Commission. At a minimum, an undue burden should not be found where an Applicant has performed consistent with the terms of an existing hydropower allocation agreement with the Commission. The City's suggested modification addresses this concern.

3. No comment

4. If the Applicant is:

a. ~~a~~ An electric utility, it must satisfy the requirements of NAC 538.410(5) which states that the electric utility must:

- (i) Have a load that:

- (1) Has a peak demand of at least 8 megawatts; and
- (2) Is located within Western's defined marketing area in this State for the Boulder Canyon Project, Parker-Davis Project or Southern Division of the Salt Lake City Area Integrated Projects; and

- (ii) Be qualified to receive preference power under the applicable provisions of federal law relating to preference power; or

- ~~5.~~ b. ~~If the~~ An entity that is a qualified Applicant under NRS 704.787(b), the entity must certify that any power awarded will be used for its water and wastewater operations.

**Comment:** As written, Criterion No. 4 and Criterion No. 5 are stated as separate and independent requirements, implying an Applicant may be required to comply with both provisions. These statutory requirements are disjunctive and not conjunctive. From a practical perspective compliance with both NAC 538.410(5) and NRS 704.787(b) may not be possible or may be mutually incompatible. The City's suggested modification addresses these concerns.



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Jayne Harkins, Executive Director  
COLORADO RIVER COMMISSION OF NEVADA

May 24, 2018

Page 4

5. *If the Applicant has a current SLCAIP allocation under a contract with the Commission, the entity has and is optimizing use of the allocation during the current contract period.*

**Comment:** An important factor in determining whether an Applicant should be awarded a SLCAIP allocation is the extent to which the entity fully and beneficially used an existing allocation. While not a guaranty of future performance, an allottee's track record in using hydropower allocations can be a significant indication that a future allocation would be fully employed for public benefit consistent with contract performance requirements. The City's suggested addition addresses this topic.

6. No comment.

7. No comment.

8. The Applicant must be willing to execute a Contract with the CRCNV ~~*in the Fall of 2018*~~*by October 1, 2019*, for power deliveries beginning on October 1, 2024.

**Comment:** The Commission is requiring that Applicants obligate themselves under a Contract before Applicants have knowledge of (i) the outcome of Nevada's vote on the Energy Choice Initiative; and, (ii) any action taken by the Nevada Legislature based on the outcome on the Energy Choice Initiative. This requirement is not reasonable and the deadline to enter a contract should be extended by one year. The one-year extension will still afford the Commission a period of five years for Contract implementation. The City's suggested addition addresses this topic.

9. No comment.

10. No comment.

11. *An Applicant must either (a) be a party to an existing contract with the CRCNV to take and pay for use of continuous or backup transmission service over the Parker-Davis Project Southern Nevada Facilities or be an entity directly interconnected to the Parker-Davis Project Southern Nevada Facilities; or, (b) enter such a contract prior to June 1, 2024, for power deliveries beginning on October 1, 2024.*



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Jayne Harkins, Executive Director  
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May 24, 2018

Page 5

**Comment:** This criteria is rewritten to clarify that an Applicant is not required to enter a new agreement if the entity already is directly interconnected or is party to an existing transmission services agreement with the Commission.

12. No comment.

13. The Applicant must be creditworthy and may be required to post collateral in accordance with and subject to any exceptions, conditions or exemptions in the CRCNV's statutes and regulations.

**Comment:** This criteria is rewritten to clarify that the exceptions from providing collateral under NAC 538.744 apply to an Applicant that is a state agency or political subdivision.

The Application should be modified and include additional elements:

(A) In Paragraph 3, at Page 7:

3. **Provide a statement from the Applicant identifying the benefit to the state from their receipt of the allocated resource.**

a. Applicants should demonstrate how receipt of the allocated resource would provide the "greatest possible benefit to this state."

b. Applicants who have a current SLCAIP allocation under a contract with the Commission should provide a statement that explains how that current allocation has been used since 2004 to optimize benefits to the state and describing the impact to the Applicant if a post-2024 SLCAIP resource allocation is not awarded by the Commission.



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Jayne Harkins, Executive Director  
COLORADO RIVER COMMISSION OF NEVADA

May 24, 2018

Page 6

**Comment:** The “greatest possible benefit to this state” may be achieved by awarding the resource to an existing SLCAIP allottee and thereby mitigating a significant adverse impact from withdrawal of the resource from an economically disadvantaged area, rural community or from a public entity that provides electric utility services. The City’s suggested addition addresses this topic.

(B) In Paragraph 4 at Page 8:

b. For any nongovernmental entity, ~~P~~provide the Applicant’s Dun and Bradstreet D-U-N-S Number:

....

i. For any nongovernmental entity, ~~P~~provide complete copies of the Applicant’s Audited Financial Statements for the past three years.

**Comment:** The revision clarifies that these provisions do not apply to Applicants that are governmental bodies exempt from providing collateral under NAC 538.744.

The City appreciates the opportunity to provide these Comments and urges the Commission to accept the requested revisions and additions to the Allocation Solicitation and Application. Should you have any questions, or require additional information, please advise.

Sincerely,



Dan R. Reaser

cc: Rory Dwyer





DREA/040015.0003  
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*To:*

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COLORADO RIVER  
COMMISSION

MAY 30 2018

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**From:** MELISA GARCIA <mgarcia@opd5.com>  
**Sent:** Thursday, May 24, 2018 5:13 PM  
**To:** CRC Power  
**Cc:** Terry Romero; Mendis Cooper  
**Subject:** Request for Comments SLCAIP Allocation

Please find the below comments for the Application for Allocation of power for SLCAIP Hydropower 2024:

As an entity with an 80 year customer history with the Colorado River Commission, and a SLCAIP allottee from its inception of more than 50 years, Overton Power District No. 5 requests that the tenure of the current SLCAIP allottees be given consideration during the allocation process. Overton Power District No. 5 also requests that the Commission members who are appointed by an entity, or its member agencies, that may apply for a SLCAIP allocation provide information on how they will treat this allocation process fairly. Will the Commissioners recuse themselves or take other steps to ensure fairness through out the process?

Thank you,

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