

STATEMENT REGARDING SMALL BUSINESS IMPACT (NRS 233B.0608)

LCB File No. R028-24 (PUCN Docket No. 23-07025)

- 1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

N/A. *See* Informational Statement accompanying the Regulation, Question Nos. 2-5 and 12.

Pursuant to NRS 233B.0608 (1), the Regulatory Operations Staff (“Staff”) of the Public Utilities Commission of Nevada (“PUCN”) conducted an investigation to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business. In a Memorandum filed on April 22, 2024, Staff memorialized its conclusion that the proposed regulation does not impose a direct and significant economic burden upon small businesses nor does it directly restrict the formation, operation or expansion of a small business. *See* Attachment 1 hereto.

On May 7, 2024, the PUCN issued an Order adopting the findings of Staff and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses, nor does it directly restrict the formation, operation or expansion of a small business. *See* Attachment 2 hereto.

NRS 233B.0608 (2)(a) only requires an agency to consult with owners and officers of small businesses “*if* an agency determines pursuant to subsection 1 that a proposed regulation *is* likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business” (emphasis added). Given the PUCN’s determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry, as no such “affected” small businesses exist.

- 2. The manner in which the analysis was conducted.**

See Attachments 1 and 2. Staff used a version of the Delphi method that incorporates elements of the Staff Delphi method to determine the potential impact of a regulation on small businesses.

- 3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:**
 - (a) Both adverse and beneficial effects; and**
 - (b) Both direct and indirect effects.**

See Informational Statement accompanying the Regulation, Question No. 7. See also Attachments 1 and 2.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

N/A. See Attachments 1 and 2.

Pursuant to NRS 233B.0608 (1), Staff conducted an investigation to determine whether the proposed regulation is likely to: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

On May 7, 2024, the PUCN issued an Order adopting the findings of Staff and specifically found that the proposed regulation does not impose a direct and significant economic burden upon small businesses nor does it directly restrict the formation, operation or expansion of a small business. See Attachment 2.

NRS 233B.0608 (2)(c) only requires an agency to consider methods to reduce the impact of a proposed regulation on small businesses “*if* an agency determines pursuant to subsection 1 that a proposed regulation *is* likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business” (emphasis added). Given the PUCN’s determination that the proposed regulation does not impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of a small business, the PUCN is not statutorily mandated to make this inquiry as there are no impacts on small businesses and no methods that were considered for reducing the non-existent impacts.

5. The estimated cost to the agency for enforcement of the proposed regulation.

See Informational Statement accompanying the Regulation, Question No. 8. See also Attachment 1.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

N/A. See also Informational Statement accompanying the Regulation, Question No. 11.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.


See Informational Statement accompanying the Regulation, Questions Nos. 9 and 10. *See also* Attachment 1.

8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

The PUCN complied with NRS 233B.0608 by making a concerted effort to determine whether the proposed regulation imposes a direct and significant economic burden upon small businesses or directly restricts the formation, operation, or expansion of a small business. The PUCN concluded that no such impacts would occur from the adoption of the proposed regulation based upon the well-reasoned investigation of Staff.

I, STEPHANIE MULLEN, Executive Director of the PUCN, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement was prepared properly and is accurate.

DATED this 30 day of July, 2024.



STEPHANIE MULLEN,
Executive Director
PUBLIC UTILITIES COMMISSION OF NEVADA

ATTACHMENT 1

PUBLIC UTILITIES COMMISSION OF NEVADA
MEMORANDUM

DATE: April 22, 2024

TO: The Commission
Via: Anne-Marie Cuneo, DRO

FROM: Rost C. Olsen, Assistant Staff Counsel

SUBJECT: Small Business Impact Report
Agenda 08-24; Item No. 3A; Docket No. 23-07025;
Rulemaking to amend, adopt, and/or repeal regulations in accordance with
Assembly Bill 321 (2023).

I. Summary

On July 25, 2023, the Public Utilities Commission of Nevada (“Commission”) opened a rulemaking docket to amend, adopt, and/or repeal regulations in accordance with Assembly Bill 321 (2023) (“AB 321”). The Commission designated this matter as Docket No. 23-07025.

On September 19, 2023, the Presiding Officer issued a Procedural Order requesting draft language for regulations implementing the requirements of AB 321 and setting a workshop for February 8, 2024.

Also on September 19, 2023, the Commission issued a Notice of Rulemaking and Notice of Workshop.

On January 10, 2024, Nevada Power Company d/b/a NV Energy (“NPC”) and Sierra Pacific Power Company d/b/a NV Energy (“SPPC”; collectively “NV Energy”) filed initial proposed draft regulations pursuant to the September 19, 2023, Procedural Order.

On February 8, 2024, the Presiding Officer held a workshop in which NV Energy, the Regulatory Operations Staff of the Commission (“Staff”), and the Nevada Attorney General’s Bureau of Consumer Protection (“BCP”) appeared.

On February 28, 2024, the Presiding Officer issued Procedural Order No. 2, directing Staff to conduct an investigation pursuant to Nevada Revised Statutes (“NRS”) 233B.0608(1) regarding whether the proposed draft regulation, provided as Attachment 1 to the Procedural Order, is likely to impact small business. The Procedural Order directed Staff to present a report of the results of this investigation along with a statement identifying the methodology used in determining the impact on small business and the reasons supporting the conclusions of the report. Staff was further directed to place this report on an agenda for Commission consideration not later than the open meeting of the Commission scheduled for May 1, 2024.

Staff now files this Memorandum in compliance with Procedural Order No. 2.

NRS 233B.0608(1) requires an agency to make a concerted effort to determine whether a proposed regulation is likely to:

- a. Impose a direct and significant economic burden upon small businesses; or
- b. Directly restrict the formation, operation, or expansion of small business.

A small business is defined in NRS 233B.0382 as a business conducted for profit which employs fewer than 150 full-time or part-time employees. NRS 233B.0608(1) further requires that the assessment must be made prior to conducting a workshop regarding the proposed regulation.

NRS 233B.0608(3) requires that an agency considering a proposed regulation “shall prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency.”

One Regulatory Engineer, one Regulatory Accountant, and one Regulatory Economist, all of whom were involved in the rulemaking in this Docket and all of whom are some of the most knowledgeable about the proposed regulation, participated in this analysis.

This briefing memo constitutes the Staff Report regarding the small business impact of the proposed regulation.

II. Investigation and Analysis

In accordance with NRS 233B.0608(3), Staff used a version of the Delphi method that incorporates elements of the Policy Delphi method to determine the potential impact of a regulation on small businesses. The Delphi method is a systematic interactive forecasting method based on independent inputs of selected experts. It recognizes the value of expert opinions, experience, and intuition and allows the use of limited information when full scientific knowledge is lacking.

In this instance, the participants were members of Staff, all of whom were involved in the rulemaking in this Docket and who are most familiar with the subject matter of the rulemaking. Each participant in the exercise used their background and expertise to reflect upon and analyze the impact of the regulation on small businesses. A consensus position became clear following receipt of the written responses from the Delphi participants.

Immediate Adverse Effects:

The proposed regulation will not directly restrict the formation, operation, or expansion of small businesses. The proposed regulation will not have immediate adverse effects on small businesses.

This regulation is intended to be economically neutral toward small business customers of the Utility.

Immediate Beneficial Effects:

The proposed regulation will not have any immediate beneficial effect on small businesses.

Long-Term Adverse Effects:

The proposed regulation will not have any long-term adverse effects on small businesses.

Long-Term Beneficial Effects:

The proposed regulation will not have long-term beneficial effects on small businesses.

Cost to the Commission to enforce or administer the proposed regulation, including start-up and ongoing costs:

The Commission will not incur greater costs to administer the proposed regulation.

As a result of the investigation, Staff has concluded that the proposed regulation is not likely to: (a) impose a direct and significant economic burden upon small business; or (b) directly restrict the formation, operation, or expansion of small business. Therefore, a small business impact statement pursuant to NRS 233B.0608(2) is not required.

III. Notice and Subsequent Action

On February 28, 2024, the Presiding Officer issued Procedural Order No. 2 and attached a revised proposed regulation. The Procedural Order directed Staff to conduct an investigation pursuant to NRS 233B.0608(1) to determine whether the proposed regulation is likely to (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

IV. Conclusions and Recommendations

Staff recommends, in accordance with NRS 233B.0608(1), the Commission find the revised proposed regulation is not likely to impose a direct and significant economic burden on a small business, or to restrict the formation, operation, or expansion of a small business.

Staff further recommends, pursuant to NRS 233B.0608(3), the Commission state that the Delphi method was used in the determination of the impact of the revised proposed regulation on small business.