

LCB File No. R112-02

**PROPOSED REGULATION OF THE
COLORADO RIVER COMMISSION OF NEVADA**

(This proposed regulation was adopted as LCB File No. E002-02)

EXPLANATION - Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

ESTABLISHES MINIMUM COLLATERAL REQUIREMENTS FOR ELECTRIC
POWER CONTRACTS AND PROVIDES FOR REALLOCATION OF
ELECTRIC POWER UNDER CERTAIN CIRCUMSTANCES.

AUTHORITY: §§1-6, NRS 538.181 and 538.201.

Section 1. Chapter 538 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *1. As used in this section:*

(a) "Date of review" means the date in any operating year when the commission sets the amount of collateral a contractor must furnish pursuant to its contracts with the commission.

(b) "Gross annual purchases" means the total of a contractor's actual purchases invoiced by the commission during the test period under all of its contracts with the commission.

(c) "Test period" means the 12 consecutive months immediately preceding the month containing the date of review.

2. During October in each operating year, and at any other time it deems necessary, the commission shall conduct a review to determine the creditworthiness of each of its contractors, except a federal or state agency or political subdivision and except Nevada Power Company and any other entity regularly engaged in the business of buying and selling electric power. Following the review, the commission shall set the amount and prescribe the manner

in which the contractor is required to furnish collateral pursuant to its contracts with the commission. In no case may the amount of collateral set by the commission be less than one-fourth of the contractor's gross annual purchases.

3. If a contractor does not provide and maintain the full amount of the collateral required, the commission may, in addition to its other remedies and in the course of its normal invoicing, assess a fee sufficient to collect cash collateral from the contractor within a period set by the commission but not to exceed 6 months.

4. Notwithstanding any other provision of NAC 538.340 to 538.740, inclusive, and sections 2 and 3 of this regulation, the commission may at any time set the required amount of collateral above the minimum provided in subsection 2 as may be necessary to protect the State of Nevada from any loss that it might suffer as a result of a contractor's breach of any covenant or condition of any contract with the commission. The entire amount of the required collateral above the minimum provided in subsection 2 may be calculated on any rational and appropriate basis as determined by the commission.

Sec. 3. *1. If a contractor fails or refuses to perform any of its obligations under any contract with the commission, including, without limitation, agreements confirming the purchase of supplemental power from any source, and the executive director determines that the failure or refusal may expose the commission to significant liability, the executive director shall provide written notice of the nonperformance to the contractor.*

2. If the contractor fails or refuses to cure the nonperformance within 15 days of the date of the written notice, the commission may, after notice, suspend the contractor's allocation of hydropower under NAC 538.340 to 538.740, inclusive, and sections 2 and 3 of this regulation, and discontinue furnishing electric service specified in its contracts with the contractor

pending further action by the commission under this section.

3. Within 30 days following the suspension of the commission's allocation of hydropower to the contractor, the contractor may petition the commission in writing for reinstatement of the allocation. The commission shall hold a hearing on the petition within 10 days after providing notice of the hearing as required by the commission's rules of practice.

4. If the contractor fails to file a timely petition or if, after a hearing on a timely filed petition, the commission rejects the petition, the commission may permanently terminate the contractor's allocation of hydropower and permanently discontinue electric service to the contractor.

5. Upon the permanent termination of any contractor's allocation of hydropower, the commission shall reallocate the hydropower pursuant to law.

6. Nothing in this section precludes the commission from pursuing at any time all other remedies for breach of contract available to it by law or contract.

Sec. 4. NAC 538.340 is hereby amended to read as follows:

538.340 As used in NAC 538.340 to 538.740, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 538.350 to 538.390, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 538.350 is hereby amended to read as follows:

538.350 "Contractor" means any entity that contracts with the commission to purchase *electric* power. ~~[from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects.]~~

Sec. 6. NAC 538.395 is hereby amended to read as follows:

538.395 The provisions of NAC 538.340 to 538.740, inclusive, apply to power allocated by the

commission from the Boulder Canyon Project, Parker-Davis Project or Salt Lake City Area Integrated Projects. *The provisions of sections 2 and 3 of this regulation apply to power from any source.*