200307185016 Received FERC OSEC 07/18/2003 02:41:00 PM Docket# EL03-213-000

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Southern Nevada Water Authority,	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. EL03-_____
	)	
Nevada Power Company,	)	
	)	
Respondent.	)	

COMPLAINT REQUESTING FAST TRACK PROCESSING

Pursuant to Sections 206 and 306 of the Federal Power Act ("FPA"), 16 U.S.C. §§ 824e and 825e, and Rule 206 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206 (2003), Southern Nevada Water Authority ("SNWA" or the "Authority") hereby files this Complaint against Nevada Power Company ("NPC" or the "Company"). As set forth in greater detail herein, SNWA, a transmission customer, seeks an order from the Commission requiring NPC to conform its transmission business practices to the requirements of its Open Access Transmission Tariff ("OATT"), specifically Section 17.7 thereof, and grant a one year extension of the commencement of long-term firm Transmission Service Agreement No. 101B between NPC and SNWA. NPC has expressly refused to provide such an extension to both SNWA and another transmission customer, Pinnacle West Energy Corporation ("PWEC") under a companion transmission service agreement to accommodate a delay in the commercial operations date of a new generating facility that will be connected to NPC's transmission system,

a facility which is currently being developed by PWEC and which SNWA has an option to purchase a 25 percent interest. PWEC recently filed a complaint with the Commission on July 10, 2003, in Docket No. EL03-209-000 ("PWEC Complaint") raising virtually identical issues.

There are no issues of fact that require an evidentiary hearing in either the instant complaint or the PWEC Complaint. NPC has clearly violated the terms of its OATT, and such violation can only be remedied by a Commission order. Due to the fact that Transmission Service Agreement No. 101B is scheduled to commence on July 31, 2003, and that NPC has indicated that it will begin invoicing SNWA for transmission service as of that date, fast-track processing is requested to protect SNWA's financial interests.

In support of its Complaint, SNWA states as follows:

I. SERVICE AND COMMUNICATIONS

Service in this proceeding should be made upon, and communications should be directed to, the following persons:

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II. PARTIES

A. Complainant

SNWA was created by an inter-local agreement among its members pursuant to Chapter 277, Nevada Revised Statutes, on July 25, 1991. SNWA is a wholesale water supplier, delivering water for domestic and municipal use to more than 1.5 million people through its seven member agencies. These agencies are: the Las Vegas Valley Water District; the City of Las Vegas, Nevada; the Clark County Water Reclamation District; the City of Henderson, Nevada; the City of North Las Vegas, Nevada; Boulder City, Nevada; and the Big Bend Water District. SNWA's service area encompasses the southern part of Clark County, Nevada. It operates southern Nevada's wholesale water treatment and delivery system, which supplies over 600 million gallons of water per day to the Las Vegas Valley, with expansions underway that will increase delivery capacity to over 900 million gallons per day in the coming years.

SNWA is one of the largest single power users in Southern Nevada, with significant water pumping loads located in or around the NPC service territory. SNWA currently relies on NPC both for a portion of its power supply and for transmission service.

Pursuant to certain agreements with PWEC and to meet the increasing demand for water service in the Las Vegas Valley, SNWA has an option to purchase an undivided twenty-five percent ownership interest in the Silverhawk Facility, a new combined cycle gas generation

facility located fifteen miles northeast of Las Vegas in Apex, Nevada, now being developed by PWEC.[1] Silverhawk will be interconnected with NPC's transmission system at the Harry Allen 500 kV substation. Silverhawk is scheduled to commence commercial operations during the summer of 2004.

B. Respondent

NPC is a public utility subject to the jurisdiction of the Commission and organized under the laws of the State of Nevada. Nevada Power is a wholly-owned subsidiary of Sierra Pacific Resources, Inc. ("SPR"), an electric utility holding company registered under the Public Utility Holding Company Act. SPR is also is the holding company for Sierra Pacific Power Company ("SPPC"), the electric utility for most of northern Nevada and the Lake Tahoe area of California. Additionally, SPPC distributes natural gas in the Reno-Sparks area of northern Nevada. SPR also owns Tuscarora Gas Pipeline Company and various other service companies that provide service to the energy industry.

As FERC jurisdictional transmission providers subject to the requirements of Order No. 888,[2] NPC and SPPC provide OATT service over their respective electric transmission systems under a single tariff. The current version of the OATT is on file with the Commission and is

[1] As a result of its contractual relationship with PWEC, SNWA and PWEC have worked closely together with respect to project development issues, particularly in the transmission arena. Because SNWA has not yet exercised its option to purchase the Silverhawk facility, PWEC has in large part participated in various FERC proceedings and negotiations with NPC representing the interests of the Silverhawk facility.

[2] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by PublicUtilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs.(Regulations Preambles January 1991-June 1996) ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs.(Regulations Preambles July 1996-December 2000) ¶ 31,048 (1997),order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd sub nom., *Transmission Access Policy Study Group, et al. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. *New York,et al. v. FERC*, 122 S.Ct. 1012 (2002).

located on the internet at http://oasis.sierrapacificresources.com/oatt.html. Relevant portions of the OATT are attached to this Complaint.

SNWA has served copies of this Complaint against NPC via electronic mail and by federal express delivery on the following persons:

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III. COMPLAINT

A. Relevant Facts

SNWA is a transmission customer of NPC under its OATT, and has arranged for the delivery of power from the Silverhawk facility to its on-system loads by acquiring the rights to 125 MW of transmission from NPC's Harry Allen 500 kV substation to the Mead 230 kV substation for a period of five (5) years. A copy of Service Agreement No. 101B is attached hereto as Exhibit A SNWA acquired such rights by taking an assignment of capacity from PWEC, which in turn, had acquired 500 MW of capacity from Reliant Resources, Inc. in a

transmission swap arrangement. Service Agreement No. 101B has been accepted for filing with the Commission.[3] Service was originally scheduled to commence on August 31, 2003.

On June 19, 2003, SNWA sent a letter to Mark Shank, Director of Regional Transmission for NPC, requesting pursuant to Section 17.7 of the OATT a one-year extension for the commencement of long-term firm point-to-point service under Service Agreement No. 101B ("SNWA Extension Request"). A copy of the letter is attached hereto as Exhibit B. The SNWA Extension Request also enclosed a check in the amount of $151,250.00, which equals one month's capacity reservation charge, as required under Section 17.7. To synchronize the commercial operations date of the Silverhawk facility with the inception of transmission service, and to make available firm capacity on the Harry Allen to Mead transmission path in the interim, SNWA requested that the Service Agreement No. 101B commencement date be extended from August 31, 2003, to August 31, 2004. SNWA has not requested any alteration of the five-year term of the requested service, nor has it proposed modification to any other terms of Service Agreement No. 101B.

On July 7, 2003, SNWA received a responsive letter dated July 3, 2003, from Carolyn Cowan, Executive Director, Transmission Policy & Operations for NPC("NPC Rejection Letter"). In this letter, NPC rejected the SNWA Extension Request and returned SNWA's check. A copy of the NPC Rejection Letter is attached hereto as Exhibit C. NPC's rationale for rejecting SNWA's request was that Section 17.7 of the OATT only "addresses transmission service requests which can be fulfilled using existing capacity." NPC Rejection Letter at p. 1, ¶

[3] *See Nevada Power Co*., Docket No. ER03-340-000, Unpublished Letter Order (issued Feb. 21, 2003); *Nevada Power Co*., Docket No. ER03-340-002, Unpublished Letter Order (issued May 20, 2003). As set forth in significantly greater detail in the PWEC Complaint at pp. 4-8, the transmission service underlying Service Agreement No. 101 resulted from over a year's worth of litigation in Docket No. ER01-2754, which ultimately resulted in a settlement agreement that was approved by the Commission. The instant Complaint does not implicate any of the issues resolved in that prior docket.

1. Instead, NPC argues that Section 19 of the OATT governs SNWA's request, because a System Impact Study was performed, and NPC identified certain Network Upgrades to accommodate the request. Thus, NPC concludes, that "[i]f Network Upgrades are required for the requested service, no extension of commencement of service can be permitted because the Transmission Customer is responsible for the costs of the upgrades and any extension would eliminate that responsibility during the period of the extension." *Id*.

The NPC Rejection Letter continues by reciting Section 4.0 of Service Agreement No. 101B, to wit, that "[s]ervice under this agreement shall commence on the later of (1) the requested service commencement date, or (2) the date on which construction of any Direct Assignment Facilities and/or Network Upgrades are completed…" *Id.* at p. 1, ¶ 2. NPC states that because it has completed the construction of facilities necessary for service, the commencement date by operation of the service agreement must be July 31, 2003. *Id.* Thereafter, NPC states that it will present monthly invoices for transmission service as of that date, and "if SNWA fails to pay any invoice within the time provided under the OATT, Nevada Power will promptly notice SNWA and initiate the cure period provided thereunder." *Id.*

During the same period of time that the communications between SNWA and NPC were occurring, PWEC requested a similar extension of Service Agreement No. 101A, its 375 MW long-term firm point-to-point transmission reservation for the Silverhawk facility. PWEC sent a similar letter and deposit check and, in turn, received a similar refusal to extend service. PWEC therefore contacted the FERC Enforcement Hotline in an attempt to amicably resolve the dispute with NPC concerning the Silverhawk transmission commencement date.[4] Such efforts proved

[4] Although SNWA did not directly participate in the FERC Enforcement Hotline calls, it conferred with representatives of PWEC concerning NPC's position and efforts to resolve the dispute. By the time that SNWA received the NPC Rejection Letter, the efforts to resolve the dispute using the FERC Enforcement Hotline had already proven to be fruitless due to NPC's unwillingness to modify its position.

fruitless, and PWEC filed its complaint on July 10, 2003. Since PWEC's attempts to resolve its virtually identical dispute with NPC were unavailing, and a complaint raising the same fact pattern is now pending before the Commission, SNWA believes that it is justified in proceeding to file its complaint at this time.

B. Relevant OATT Provisions

Section 17.7 of the SPR OATT, a copy of which is attached hereto as Exhibit D, clearly gives Transmission Customers the right to request up to *five* one-year extensions for the commencement of transmission service:

> The Transmission Customer can obtain up to five (5) one-year extensions for the commencement of service. The Transmission Customer may postpone service by paying a non-refundable annual reservation fee equal to one-month's charge for Firm Transmission Service for each year or fraction thereof. If during any extension for the commencement of service an Eligible Customer submits a Completed Application for Firm Transmission Service, and such request can be satisfied only by releasing all or part of the Transmission Customer's Reserved Capacity, the original Reserved Capacity will be released unless the following condition is satisfied. Within thirty (30) days, the original Transmission Customer agrees to pay the Firm Point-To-Point transmission rate for its Reserved Capacity concurrent with the new Service Commencement Date. In the event the Transmission Customer elects to release the Reserved Capacity, the reservation fees or portions thereof previously paid will be forfeited.

SPR's OATT does not vary from the parallel Order No. 888-A *pro forma* OATT, nor has SPR (or NPC) ever modified this provision since the tariff's inception.

Since NPC avers that Section 19 is also relevant to the determination reached in the NPC Rejection Letter, a copy of that section is also provided as part of Exhibit D for the Commission's convenience. As set forth in greater detail below, SNWA believes that Section 19 does not affect NPC's obligations under its OATT to grant SNWA's request for an extension.

C. Analysis

1. Section 17.7 Is Not "Trumped" by Section 19 of the OATT or Section 4.0 of Service Agreement No. 101B

In developing the Order No. 888-A *pro forma* OATT, when the Commission intended one section of the *pro forma* OATT to override another, it expressly stated as much. For example, OATT Section 13.7(d) states that a Transmission Customer may not exceed its firm capacity reservation for specific points of receipt and delivery "except as otherwise specified in Section 22." OATT Section 22 permits modification on a non-firm or firm basis for alternative receipt and delivery points. In that instance, the OATT makes clear that a provision applies to all circumstances <u>except</u> those contained in Section 22. Hence, the exception is express and clearly defined. In contract, Section 17.7 has no such limitation or express cross-reference to Section 19. Moreover, as set forth below, when asked to expressly limit Section 17.7, the Commission has declined to do so.

It is a generally established tenet of contract/tariff interpretation that, "where the terms of a contract are clear and unambiguous, the contract must be construed according to its literal terms." *Mid-Continent Area Power Pool*, 92 FERC ¶ 61,229 at p. 61,755 (2000); *see also Boston Edison Co. v. FERC*, 856 F.2d 361, 365 (1st Cir. 1988) (If the terms of a contract are "plain and free from ambiguity, they must be construed in their usual sense."). Yet here, NPC would have its transmission customers believe that Section 17.7 is implicitly limited by Section 19 of the OATT where, in certain circumstances, new facilities are required to accommodate transmission service. *See* NPC Rejection Letter at p. 1, ¶ 1. No such limitation is contained in the OATT. Hence, the Commission's resolution of this matter need not look any further than the plain language of the OATT, which SNWA has complied with, and NPC has not.

2. NPC's Tariff Interpretation of Section 17.7 is Not Supported by Order No. 888-A.

Even more telling, NPC's interpretation of the applicability of Section 17.7 was unsuccessfully argued when the *pro* forma OATT was first developed. When the open access regulations and the *pro forma* OATT were first promulgated, many parties attempted generically to restrict the applicability of Section 17.7 in the same manner as NPC now proposes. For example, on rehearing of Order No. 888 and with specific reference to Section 17.7, Edison Electric Institute (of which NPC is a member) argued:

> The rule requires public utilities to permit a transmission customer to obtain up to 5 one-year extensions for the commencement of service. The tariffs do not clearly specify, to the extent a customer requests service that requires new construction and then delays the commencement of that service, when that customer would have to begin paying for the new construction. Clarification is needed in this section to ensure that transmission customers will be required to pay for their share of the costs of any new facilities built in response to a transmission service request when those facilities are constructed, regardless of when or whether such service actually commences.

"Request of Edison Electric Institute for Clarification and Rehearing of FERC Order Nos. 888 and 889," at pp. 18-19, Docket Nos. RM95-8-001, *et al.* (May 24, 1996)(footnotes omitted). Similarly, Virginia Electric and Power Company argued:

> Tariff Section 17.7 provides that firm point-to-point transmission customers may obtain a delay in the commencement of service of up to five years on payment of one month's charge for each portion of a year of delay. The one-month payment is reasonable if no transmission facilities have been constructed to provide service to the customer. However, the payment may be inadequate to cover the time value of investment in facilities that are constructed to provide the service and that are included in embedded costs; it is certainly inadequate to cover the time value of investment in facilities that are charged to the customer on an incremental or

> direct assignment basis. The Commission should rectify the problem by prohibiting delays in the commencement of service if the customer is to be assessed an incremental cost-based rate or is required to pay for directly assigned facilities. Alternatively, the customer should be permitted to elect to pay the full carrying charges on the facilities during the period of delay, less any revenues collected as a result of the facilities constructed to provide the service.

"Request for Rehearing by Virginia Electric and Power Company," at pp. 12-13, Docket Nos. RM95-8-001, *et al.* (May 24, 1996)(footnotes omitted).

In Order No. 888-A, the Commission dismissed a generic resolution of such concerns and refused to modify the OATT as these parties had requested:

> Several utilities ask the Commission to clarify that, if transmission facilities have been constructed to accommodate a request for transmission service, delays by the customer in commencing service should be prohibited or the customer should pay the full carrying charges on the facilities during the period of delay (less any revenues received). Similarly, EEI and Southern argue that if new facilities are constructed, but the customer postpones service by paying a reservation fee, fairness requires that the customer bear its cost responsibility for the new construction at the time the facilities are ready to be used.
>
> **Commission Conclusion**
>
> **Because different factual circumstances could exist that may lead to alternative solutions to the problem, we will not adopt a generic resolution. Rather, the Commission believes it appropriate to allow each utility to propose solutions in subsequent section 205 filings with the Commission.**

Order No. 888-A, supra, at p. 30,322 (emphasis supplied).

In a subsequent FPA Section 205 compliance proceeding to implement Order No. 888 on its transmission system, New York State Electric and Gas ("NYSEG") attempted to modify Section 17.7 in accordance with the passage of Order No. 888-A quoted above. The Commission rejected NYSEG's proposed Section 17.7, which attempted to reduce the length of extensions from five years to two years. The Commission stated:

> The pro forma tariff at section 17.7 allows transmission customers to extend the commencement of service for up to five one-year increments upon payment of a reservation fee. Only one utility, New York State Electric & Gas Corporation (NYSEG) changed this figure, reducing the maximum reservation period to two years without explanation. The fact that all other utilities have adopted five years demonstrates that there is no regional practice for less than five years. Accordingly, we direct NYSEG to revise its tariff to comply with the pro forma tariff's language.

American Electric Power Service Corp., et al., 78 FERC ¶ 61,070 at p. 61,261 (1997).[5]

By its instant action, NPC seeks to rewrite Section 17.7 without regard to Order No. 888-A, which specifically rejected the outcome that NPC now says is hermetically contained within Section 17.7. Even worse, NPC attempts to do so without ever having availed itself of the remedy that the Commission specifically said in Order No. 888-A transmission providers concerned about the application of Section 17.7 should pursue: filing of a Section 205 application with the Commission to modify Section 17.7 prospectively, with a proper showing that such modification is required because it is superior to the provisions of the *pro forma* OATT in NPC's specific circumstances. Thus, the NPC Rejection Letter is in contravention of the filed rates, terms and conditions set out in its own OATT, as those specific terms have been construed since the inception of the *pro forma* OATT itself. NPC's newly-announced interpretation of Section 17.7 (an interpretation not visible to the naked eye upon perusal of that section) has therefore effectively "bushwhacked" both SNWA and PWEC, by retroactively applying this new interpretation to them.

Although FERC litigation concerning this particular OATT provision is scant (perhaps due to its unambiguous nature and the accompanying preamble language of Order No. 888-A), two cases further refute the meaning and limitations that NPC ascribe to Section 17.7. First, in

[5] This case involved OATT filings made by many FERC jurisdictional public utilities, including NYSEG.

American Electric Power Service Corporation, 97 FERC & 61,207 (2001), the Commission accepted certain transmission service agreements for filing which required the construction of new facilities, and specifically , referenced Section 17.7 as one of many options that the Transmission Customer could use to delay the start of service under one agreement.

Second, in *PacifiCorp*, 98 FERC ¶ 61,224, *reh'g denied in relevant part*, 99 FERC ¶ 61,259 (2002), a utility sought to modify Section 17.7 to require that a Transmission Customer must provide written notification of an extension before the Service Commencement Date. Duke Energy North America ("DENA"), a transmission customer, protested, arguing that the right to request additional extensions existed both *before and after* the initial service commencement date, *i.e.*, if a customer exercised its first one year deferral before the commencement date, it could still exercise four more one-year deferrals thereafter. The Commission agreed with DENA, stating that "[u]nder the pro forma tariff, extensions after the initial date of commencement of service are permissible." 98 FERC at 61,885. On rehearing, the Commission clarified its prior order: "We find that PacifiCorp's argument regarding Section 17.7 is misplaced because that tariff provision relates to requests to defer the commencement date for service that has already been arranged, and not an initial request for service in the future." 99 FERC at p 62,120. As in Order No. 888-A, the Commission placed no limitation on the type of underlying firm point-to-point service request that could be subject to extension.

Thus, subsequent Commission precedent continues to support SNWA's position that it may exercise Section 17.7 to delay Service Agreement No. 101B from August 31, 2003 until August 31, 2004.

D. Quantification of Damages and Justification for Fast Track Processing

As set forth in the NPC Rejection Letter, NPC intends to charge SNWA for each and every month of transmission service starting as of August 31, 2003, *plus interest*. One year of transmission service based on existing capacity reservation rates results in base charges of over $1.8 million. Charges will be incurred in an amount of $151,250 per month for transmission service that SNWA cannot use because the Silverhawk facility is not yet in service. Per Section 7.2 of the OATT, NPC may attempt to charge interest even if SNWA pays for the service it seeks to defer by placing such amounts in escrow. Moreover, NPC in its Rejection Letter has also threatened to avail itself of the remedies available in its OATT. Therefore, if SNWA fails to pay for the transmission service that is in dispute on a monthly basis, NPC could attempt to terminate Service Agreement No. 101B, and SNWA could lose its priority in the transmission queue.

IV. ADDITIONAL RULE 206 REQUIREMENTS

Allegations of a complaint as required by Rule 206(b) of the Commission's Rules of Practice and Procedure that are not elsewhere stated in this pleading are as follows:

Rule 206(b)(6). The relationship between this complaint and PWEC Complaint filed in Docket No. EL03-209-000 has been discussed previously. In essence, the two complaints are inextricably intertwined and should be resolved together. To that end, SNWA intends to intervene in Docket No. EL03-209-000 and to seek consolidation of the two proceedings. Other than the PWEC Complaint, SNWA is unaware of any other proceeding in which the matters set forth herein are at issue.

Rule 206(b)(9). Although SNWA would under normal circumstances be willing to use the Commission's Dispute Resolution Service in an attempt to reach a negotiated resolution (see

Consumer Services Association v. KN Interstate Gas Transmission Co., 88 FERC ¶ 61,132 (1999)), prior attempts to resolve this issue with FERC-directed assistance have failed. SNWA believes that the only means to resolve this dispute is through Commission action.

Rule 206(b)(10). SNWA includes with this filing a form of notice suitable for publication in the Federal Register in hard copy and electronically in ASCII text format.

V. CONCLUSION

For the foregoing reasons, SNWA respectfully requests that the Commission: (i) direct NPC to abide by the terms and conditions of Section 17.7 of its OATT by providing SNWA with a one-year extension of Service Agreement No. 101B in exchange for one-month's capacity reservation charge ($151,250), as SNWA has already proffered; and (ii) grant such other relief as the Commission in its discretion may find to be appropriate under the circumstances.

Respectfully submitted,

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Attorneys for
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Dated: July 18, 2003

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern Nevada Water Authority	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. EL03-_____
	)	
Nevada Power Company	)	
	)	
Respondent.	)	

NOTICE OF COMPLAINT
(July ___, 2003)

Take notice that on July 18, 2003, Southern Nevada Water Authority (SNWA) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Complaint Requesting Fast Track Processing against Nevada Power Company (NPC) pursuant to Sections 206 and 306 of the Federal Power Act, 16 U.S.C. §§ 824e and 825e, and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206. SNWA alleges that NPC has violated Section 17.7 of NPC's Open-Access Transmission Tariff (OATT) in refusing to extend the commencement date of SNWA's Service Agreement No. 101B from August 31, 2003 to August 31, 2004.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date below. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at http://www.ferc.gov using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: July ____, 2003
Magalie R. Salas, Secretary

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LIST OF ATTACHMENTS

A	**SERVICE AGREEMENT NO. 101B**
B	**JUNE 19, 2003 SNWA EXTENSION REQUEST**
C	**JULY 3, 2003 PWEC RESPONSE**
D	**PROVISIONS OF NPC'S OATT**

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ATTACHMENT A

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Service Agreement For Long-Term Firm Point-To-Point Transmission Service

1.0 This Service Agreement, dated as of DECEMBER 12, 2002 is entered into, by and between Nevada Power Company ("Transmission Provider"), and Southern Nevada Water Authority, (SNWA) ("Transmission Customer").

2.0 The Transmission Customer has been determined by the Transmission Provider to have a Completed Application for Firm Point-To-Point Transmission Service under the Tariff.

3.0 The Transmission Customer has provided to the Transmission Provider an Application deposit in accordance with the provisions of Section 17.3 of the Tariff.

4.0 Service under this agreement shall commence on the later of (1) the requested service commencement date, or (2) the date on which construction of any Direct Assignment Facilities and/or Network Upgrades are completed, or (3) such other date as it is permitted to become effective by the Commission. Service under this agreement shall terminate on the actual termination date or such date as mutually agreed upon by the parties.

5.0 The Transmission Customer's renewal rights under this agreement shall be as specified in Section 2.2 of the Transmission Provider's Tariff as it may be amended from time to time in accordance with FERC policy. In addition, in order to assist the Transmission Provider in planning its system appropriately, the Transmission Customer will communicate with the Transmission Provider on a nonbinding basis regarding its assessment of whether it will renew this agreement as follows:

5.1 In the event the Transmission Customer signs a power sales contract that: (1) utilizes the transmission capacity provided for under this agreement, and (2) extends beyond this agreement's initial term, the Transmission Customer shall so notify the Transmission Provider (without identifying the parties to the power sales contract) and shall provide the Transmission Provider with the Transmission Customer's assessment of the likely impact of such contract on its intent to renew this agreement.

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5.2 The Transmission Customer will on an annual basis, starting five years prior to the end of the initial term of this agreement, provide the Transmission Provider with a nonbinding statement of its current assessment of whether it will renew this agreement. The Transmission Customer will, on Transmission Provider's request, answer any reasonable questions the Transmission Provider has about such assessment; provided that the Transmission Customer shall not be obligated to provide any confidential market data to the Transmission Provider.

5.3 The Transmission Provider's transmission personnel shall treat as confidential and proprietary all information provided by Transmission Customer under this Section 5.0, and shall comply with FERC's affiliate regulations and other applicable provisions of Order No. 889, or any successor requirements, in its treatment of such information; provided that this Section 5.3 shall not prevent the Transmission Provider from providing information to FERC, the PUCN or any other agency of competent jurisdiction in accordance with applicable requirements of such agency or from compliance with any valid court order requiring the production of such information. The Transmission Provider shall give the Transmission Customer notice of any such agency request or court order so that the Transmission Customer may take any action deemed necessary by the Transmission Customer to protect the confidentiality of the requested information.

6.0 The Transmission Provider agrees to provide and the Transmission Customer agrees to take and pay for Firm Point-To-Point Transmission Service in accordance with the provisions of Part II of the Tariff and this Service Agreement.

7.0 Any notice or request made to or by either Party regarding this Service Agreement shall be made to the representative of the other Party as indicated below.

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8.0 If any event occurs that will materially affect the time for completion of new facilities or the ability to complete them, Transmission Provider shall promptly notify the Transmission Customer. A technical meeting between the Parties shall be held to evaluate the alternatives available. If the Transmission Provider and the Transmission Customer mutually agree that no other reasonable alternatives exist and the requested service cannot be provided out of existing capability under the conditions of Part II of the Tariff, the obligation to provide the requested Firm Point-To-Point Transmission Service shall terminate and any deposit made by the Transmission Customer shall be returned with interest pursuant to Commission regulations 35.19a(a)(2)(iii). However, the Transmission Customer shall be responsible for all prudently incurred costs by the Transmission Provider through the time construction was suspended.

Transmission Provider:

Director, Regional Transmission
Nevada Power Company
P.O. Box 230
Las Vegas, NV 89151

Transmission Customer:

Southern Nevada Water Authority
1900 E. Flamingo Rd.
Suite 170
Las Vegas, NV 89119

9.0 The Tariff is incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By: _____ Executive Director 12/12/02
Name Title Date

Transmission Customer:

By: Amanda M. Cyphers SNWA Chair 12-5-02
Name Title Date

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Specifications For Long-Term Firm Point-To-Point Transmission Service

1.0 Term of Transaction: 5 Year(s)

Start Date: 07-31-03

Termination Date: 07-30-08

2.0 Description of capacity and energy to be transmitted by Transmission Provider including the electric Control Area in which the transaction originates.

125 MW from Harry Allen 500 kV Substation in Nevada Power Company's Control Area to Mead 230 kV Substation.

3.0	Point of Receipt	Delivering Party
	Harry Allen 500 kV Substation	**Southern Nevada Water Authority**

4.0	Point of Delivery	Receiving Party
	Mead 230 kV Substation	**Market**

5.0 Maximum amount of capacity and energy to be transmitted (Reserved Capacity): 125 MW

6.0 Designation of party(ies) subject to reciprocal service obligation: None

7.0 Name(s) of any Intervening Systems providing transmission service: None

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8.0 Service under this Agreement may be subject to some combination of the charges detailed below. (The appropriate charges for individual transactions will be determined in accordance with the terms and conditions of the Tariff.)

8.1 Transmission Charge: $1.21/kW-mo.

8.2 System Impact and/or Facilities Study Charge(s): Pending finalization, $30,000 deposit in place. Reliant - Arrow Canyon will be responsible for the final actual costs.

8.3 Direct Assignment Facilities Charge: None under this TSA. However, Direct Assignment Facilities will be required to provide the associated interconnection and are defined in the Interconnection & Operation Agreement.

8.4 Ancillary Services Charges: As negotiated in the future or as defined in Interconnection and Operation Agreement.

8.5. Power Factor Requirements: As defined in Interconnection and Operation Agreement.

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ATTACHMENT B

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SOUTHERN NEVADA
WATER AUTHORITY

Administrative Office
1001 S. Valley View Blvd.
Las Vegas, Nevada 89153
Telephone: (702) 258-3939
Fax: (702) 258-3268

Project Office
1900 E. Flamingo, Ste. 170
Las Vegas, Nevada 89119
Telephone: (702) 862-3400
Fax: (702) 862-3470

Southern Nevada Water System
243 Lakeshore Road
Boulder City, NV 89005
Telephone: (702) 564-7697
Fax: (702) 564-7222

June 19, 2003

Mark Shank
Director of Regional Transmission
Nevada Power Company
P.O. Box 98910
Las Vegas, Nevada 89151-0001

Subject: Extension for Commencement of Transmission Service

Dear Mr. Shank:

By this letter, and consistent with the Sierra Pacific Resources Operating Companies (SPR) Open Access Transmission Tariff (OATT) Section 17.7, Southern Nevada Water Authority (SNWA) requests an extension for the commencement of long-term firm point-to-point transmission service for Service Agreement 101B. The new requested service commencement date is July 31, 2004. Under the current schedule, testing of the Silverhawk power plant, which will utilize the transmission service, will commence approximately six months prior to this date and short-term transmission service will need to be purchased for testing and startup at that time.

A check in the amount of $151,250, equal to one month's charge for reserved capacities, is enclosed per the requirements of Section 17.7 of the OATT.

If you have any questions regarding this request, please contact John Evans at 702-862-3475 or Rod Clark at 702-862-3428.

Sincerely,

Thomas A. Minnegan
for Patricia Mulroy
General Manager

WBS 10010
FOW005

BOARD OF DIRECTORS

Amanda M. Cyphers, Chair
Henderson Councilman

Shari Buck
North Las Vegas Councilman

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Las Vegas Mayor

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Boulder City Councilman

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County Commissioner

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ATTACHMENT C

Carolyn Cowan, P.E.
Executive Director, Transmission Policy & Operations

Nevada Power

6226 West Sahara Avenue • PO Box 230 • Las Vegas, NV 89151 • 702/367-5670

July 3, 2003

RECEIVED
JUL 07 2003
SNWA
BY POWER RESOURCES

Patricia Mulroy, General Manager
Southern Nevada Water Authority
1900 E. Flamingo Road
Suite 170
Las Vegas, Nevada 89119

RE: Service Agreement No. 101B
Request for Extension of Service

Enclosed herewith you will find the check presented by Southern Nevada Water Authority ("SNWA") for $151,250, which accompanied your letter dated June 19, 2003, received by Nevada Power on June 27, requesting an extension of the commencement of service under Service Agreement No. 101B. You have cited Section 17.7 of the Sierra Pacific Resources Operating Companies Open Access Transmission Tariff ("OATT") as the basis for seeking such an extension. However, Section 17 of the OATT addresses transmission service requests which can be fulfilled using existing capacity. Where, as here, the Transmission Provider determines that a System Impact Study is necessary to accommodate a request for service under Section 17, the provisions of Section 19 then govern the service request. Section 19 does not provide for an extension or deferral of service. If Network Upgrades are required for the requested service, no extension of commencement of service can be permitted because the Transmission Customer is responsible for the costs of the upgrades and any extension would eliminate that responsibility during the period of the extension.

Section 4.0 of TSA No. 101B provides that "[s]ervice under this agreement shall commence on the later of (1) the requested service commencement date, or (2) the date on which construction of any Direct Assignment Facilities and/or Network Upgrades are completed..." As you know, TSA No. 101B derives from TSA No. 101, previously between Pinnacle West Energy Company and Nevada Power, for 500 MW of transmission service from the Harry Allen 500 kV substation to the Mead 230 kV Substation. SNWA requested and accepted an assignment of 125 MW of this transmission service between the same points, under TSA No. 101B. Nevada Power has completed construction of facilities required for this transmission service. The requested service commencement date is July 31, 2003. Therefore, Nevada Power will present monthly invoices to SNWA for service commencing on such date, and continuing through July 30, 2008, unless SNWA chooses to extend the term in accordance with TSA No. 101B. In the event SNWA fails to pay any invoice within the time provided under the OATT, Nevada Power will promptly notice SNWA and initiate the cure period provided thereunder. Interest on delinquent

amounts shall accrue in accordance with the methodology described in 18 CFR § 35.19a(a)(2)(iii).

I can be reached at (702) 367-5670 to discuss any of the foregoing.

Sincerely,

Carolyn Cowan
Executive Director
Transmission Policy and Operations
Nevada Power Company

cc: Rod Clark/SNWA
John Evans/SNWA

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ATTACHMENT D

unexecuted service agreement pursuant to Section 15.3, within fifteen (15) days after it is tendered by the Transmission Provider will be deemed a withdrawal and termination of the Application and any deposit submitted shall be refunded with interest. Nothing herein limits the right of an Eligible Customer to file another Application after such withdrawal and termination.

17.7 Extensions for Commencement of Service: The Transmission Customer can obtain up to five (5) one-year extensions for the commencement of service. The Transmission Customer may postpone service by paying a non-refundable annual reservation fee equal to one-month's charge for Firm Transmission Service for each year or fraction thereof. If during any extension for the commencement of service an Eligible Customer submits a Completed Application for Firm Transmission Service, and such request can be satisfied only by releasing all or part of the Transmission Customer's Reserved Capacity, the original Reserved Capacity will be released unless the following condition is satisfied. Within thirty (30) days, the original Transmission Customer agrees to pay the Firm Point-To-

Point transmission rate for its Reserved Capacity concurrent with the new Service Commencement Date. In the event the Transmission Customer elects to release the Reserved Capacity, the reservation fees or portions thereof previously paid will be forfeited.

18 Procedures for Arranging Non-Firm Point-To-Point Transmission Service

18.1 Application: Eligible Customers seeking Non-Firm Point-To-Point Transmission Service must submit a Completed Application to the Transmission Provider. Applications should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by (i) transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time recorded telephone line designated for that purpose. Each of these methods will provide a time-stamped record for establishing the service priority of the Application.

18.2 Completed Application: A Completed Application shall provide all of the information included in 18 CFR §

18.4 Determination of Available Transmission Capability: Following receipt of a tendered schedule the Transmission Provider will make a determination on a non-discriminatory basis of available transmission capability pursuant to Section 15.2. Such determination shall be made as soon as reasonably practicable after receipt, but not later than the following time periods for the following terms of service (i) thirty (30) minutes for hourly service but no earlier than 11:00 a.m. (Pacific Time) prior to the day service is scheduled, (ii) thirty (30) minutes for daily service, (iii) four (4) hours for weekly service, and (iv) two (2) days for monthly service.

19 Additional Study Procedures For Firm Point-To-Point Transmission Service Requests

19.1 Notice of Need for System Impact Study: After receiving a request for service, the Transmission Provider shall determine on a non-discriminatory basis whether a System Impact Study is needed. A description of the Transmission Provider's methodology for completing a System Impact Study is provided in Attachment D. If the Transmission Provider determines that a System Impact Study is necessary to accommodate

the requested service, it shall so inform the Eligible Customer, as soon as practicable. In such cases, the Transmission Provider shall within thirty (30) days of receipt of a Completed Application, tender a System Impact Study Agreement pursuant to which the Eligible Customer shall agree to reimburse the Transmission Provider for performing the required System Impact Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the System Impact Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the System Impact Study Agreement, its application shall be deemed withdrawn and its deposit, pursuant to Section 17.3, shall be returned with interest.

19.2 System Impact Study Agreement and Cost Reimbursement:

(i) The System Impact Study Agreement will clearly specify the Transmission Provider's estimate of the actual cost, and time for completion of the System Impact Study. The charge shall not exceed the actual cost of the study. In performing the System Impact Study, the Transmission Provider shall rely, to the extent reasonably practicable,

on existing transmission planning studies. The Eligible Customer will not be assessed a charge for such existing studies; however, the Eligible Customer will be responsible for charges associated with any modifications to existing planning studies that are reasonably necessary to evaluate the impact of the Eligible Customer's request for service on the Transmission System.

(ii) If in response to multiple Eligible Customers requesting service in relation to the same competitive solicitation, a single System Impact Study is sufficient for the Transmission Provider to accommodate the requests for service, the costs of that study shall be pro-rated among the Eligible Customers.

(iii) For System Impact Studies that the Transmission Provider conducts on its own behalf, the Transmission Provider shall record the cost of the System Impact Studies pursuant to Section 8.2.

19.3 System Impact Study Procedures: Upon receipt of an executed System Impact Study Agreement, the Transmission Provider will use due diligence to complete the required System Impact Study within a

sixty (60) day period. The System Impact Study shall identify any system constraints and redispatch options, additional Direct Assignment Facilities or Network Upgrades required to provide the requested service. In the event that the Transmission Provider is unable to complete the required System Impact Study within such time period, it shall so notify the Eligible Customer and provide an estimated completion date along with an explanation of the reasons why additional time is required to complete the required studies. A copy of the completed System Impact Study and related work papers shall be made available to the Eligible Customer. The Transmission Provider will use the same due diligence in completing the System Impact Study for an Eligible Customer as it uses when completing studies for itself. The Transmission Provider shall notify the Eligible Customer immediately upon completion of the System Impact Study if the Transmission System will be adequate to accommodate all or part of a request for service or that no costs are likely to be incurred for new transmission facilities or upgrades. In order for a request to remain a Completed Application, within fifteen (15) days of completion of the System Impact

Study the Eligible Customer must execute a Service Agreement or request the filing of an unexecuted Service Agreement pursuant to Section 15.3, or the Application shall be deemed terminated and withdrawn.

19.4 Facilities Study Procedures: If a System Impact Study indicates that additions or upgrades to the Transmission System are needed to supply the Eligible Customer's service request, the Transmission Provider, within thirty (30) days of the completion of the System Impact Study, shall tender to the Eligible Customer a Facilities Study Agreement pursuant to which the Eligible Customer shall agree to reimburse the Transmission Provider for performing the required Facilities Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the Facilities Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the Facilities Study Agreement, its application shall be deemed withdrawn and its deposit, pursuant to Section 17.3, shall be returned with interest. Upon receipt of an executed Facilities Study Agreement, the Transmission Provider will use due diligence to

complete the required Facilities Study within a sixty (60) day period. If the Transmission Provider is unable to complete the Facilities Study in the allotted time period, the Transmission Provider shall notify the Transmission Customer and provide an estimate of the time needed to reach a final determination along with an explanation of the reasons that additional time is required to complete the study. When completed, the Facilities Study will include a good faith estimate of (i) the cost of Direct Assignment Facilities to be charged to the Transmission Customer, (ii) the Transmission Customer's appropriate share of the cost of any required Network Upgrades as determined pursuant to the provisions of Part II of the Tariff, and (iii) the time required to complete such construction and initiate the requested service. The Transmission Customer shall provide the Transmission Provider with a letter of credit or other reasonable form of security acceptable to the Transmission Provider equivalent to the costs of new facilities or upgrades consistent with commercial practices as established by the Uniform Commercial Code. The Transmission Customer shall have thirty (30) days to execute a Service Agreement or

request the filing of an unexecuted Service Agreement and provide the required letter of credit or other form of security or the request will no longer be a Completed Application and shall be deemed terminated and withdrawn.

19.5 Facilities Study Modifications: Any change in design arising from inability to site or construct facilities as proposed will require development of a revised good faith estimate. New good faith estimates also will be required in the event of new statutory or regulatory requirements that are effective before the completion of construction or other circumstances beyond the control of the Transmission Provider that significantly affect the final cost of new facilities or upgrades to be charged to the Transmission Customer pursuant to the provisions of Part II of the Tariff.

19.6 Due Diligence in Completing New Facilities: The Transmission Provider shall use due diligence to add necessary facilities or upgrade its Transmission System within a reasonable time. The Transmission Provider will not upgrade its existing or planned Transmission System in order to provide the requested Firm Point-To-Point Transmission Service if doing so would impair

system reliability or otherwise impair or degrade existing firm service.

19.7 Partial Interim Service: If the Transmission Provider determines that it will not have adequate transmission capability to satisfy the full amount of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider nonetheless shall be obligated to offer and provide the portion of the requested Firm Point-To-Point Transmission Service that can be accommodated without addition of any facilities and through redispatch. However, the Transmission Provider shall not be obligated to provide the incremental amount of requested Firm Point-To-Point Transmission Service that requires the addition of facilities or upgrades to the Transmission System until such facilities or upgrades have been placed in service.

19.8 Expedited Procedures for New Facilities: In lieu of the procedures set forth above, the Eligible Customer shall have the option to expedite the process by requesting the Transmission Provider to tender at one time, together with the results of required studies, an "Expedited Service Agreement" pursuant to which the

Eligible Customer would agree to compensate the Transmission Provider for all costs incurred pursuant to the terms of the Tariff. In order to exercise this option, the Eligible Customer shall request in writing an expedited Service Agreement covering all of the above-specified items within thirty (30) days of receiving the results of the System Impact Study identifying needed facility additions or upgrades or costs incurred in providing the requested service. While the Transmission Provider agrees to provide the Eligible Customer with its best estimate of the new facility costs and other charges that may be incurred, such estimate shall not be binding and the Eligible Customer must agree in writing to compensate the Transmission Provider for all costs incurred pursuant to the provisions of the Tariff. The Eligible Customer shall execute and return such an Expedited Service Agreement within fifteen (15) days of its receipt or the Eligible Customer's request for service will cease to be a Completed Application and will be deemed terminated and withdrawn.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the respondents in accordance with Rule 206(c) of the Commission's Regulations.

Dated at Washington, D.C. this 18th day of July, 2003.

Craig W. Silverstein
Miller, Balis & O'Neil, P.C.
1140 Nineteenth Street, N.W., Suite 700
Washington, D.C. 20036
(202) 296-2960
(202) 296-0166 (fax)

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern Nevada Water Authority	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. EL03-_____
	)	
Nevada Power Company	)	
	)	
Respondent.	)	

NOTICE OF COMPLAINT
(July ___, 2003)

Take notice that on July 18, 2003, Southern Nevada Water Authority (SNWA) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Complaint Requesting Fast Track Processing against Nevada Power Company (NPC) pursuant to Sections 206 and 306 of the Federal Power Act, 16 U.S.C. §§ 824e and 825e, and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206. SNWA alleges that NPC has violated Section 17.7 of NPC's Open-Access Transmission Tariff (OATT) in refusing to extend the commencement date of SNWA's Service Agreement No. 101B from August 31, 2003 to August 31, 2004.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date below. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at http://www.ferc.gov using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: July ____, 2003
Magalie R. Salas, Secretary

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