

The meeting was held at 1:05 p.m. on Tuesday, April 12, 2011, at the Clark County Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada

COMMISSIONERS IN ATTENDANCE

Chairman	George F. Ogilvie III
Vice Chairwoman	Marybel Batjer
Commissioner	Mark Amodei
Commissioner	Tom Collins
Commissioner	Duncan R. McCoy
Commissioner	Lois Tarkanian

COMMISSIONERS NOT IN ATTENDANCE

Commissioner	Berlyn D. Miller
--------------	------------------

DEPUTY ATTORNEYS GENERAL

Senior Deputy Attorney General	Jennifer T. Crandell
Senior Deputy Attorney General	Ann C. Pongracz

COMMISSION STAFF IN ATTENDANCE

Interim Executive Director	James D. Salo
Chief, Finance and Administration	Douglas N. Beatty
Assistant Director of Engineering and Operations	Robert Reese
Manager, Energy Services	Gail A. Bates
Manager, Hydropower Program	Craig N. Pyper
Manager, Natural Resources Group	McClain L. Peterson
Natural Resources Analyst	Jason Thiriot
Natural Resources Specialist	Kimberly E. Maloy
Assistant Director of Energy Information Systems	Joseph P. Dabrowski
Systems Coordinator	Kaleb M. Hall
Senior Energy Accountant	Rich Sanders
Energy Accountant	Kalora E. Snyder
Office Manager	Judy K. Atwood
Administrative Assistant II	Carol L. Perone
Administrative Assistant II	Donna Banks

OTHERS PRESENT; REPRESENTING

Consultant	Sara A. Price, Esq.
Overton Power District No. 5	Mendis Cooper
Overton Power District No. 5	Delmar Leatham

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF April 12, 2011**

INDEX

<u>Agenda Item</u>	<u>Subject</u>	<u>Page No.</u>
A.	Conformance to Open Meeting Law	1
B.	Approval of minutes of the February 8, 2011 meeting.....	1
C.	Approval of minutes of the March 8, 2011 meeting.....	1
D.	Consideration of and possible action to approve Amendment No. 3 to Contract No. SA-03-06 with Square D Company/Schneider Electric for software support services with the Commission.....	1
E.	Consideration of and possible action to approve Amendment No. 7 to Contract with Duncan, Weinberg, Genzer & Pembroke with the Commission.....	2
F.	Consideration of and possible action to approve Amendment No. 2 to Contract with Brownstein Hyatt Farber Schreck, LLP with the Commission.....	3
G.	Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada’s consumptive use of Colorado River water, and other developments on the Colorado River	5
H.	Comments and questions from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)	6
I.	Comments and questions from the Commission members.	6
J.	Selection of the next possible meeting date.....	6
K.	Adjournment	6

The Colorado River Commission meeting was called to order by Chairman Ogilvie at 1:05 p.m. followed by the pledge of allegiance.

A. Conformance to Open Meeting Law.

Interim Executive Director James Salo confirmed that the meeting was in compliance with the Open Meeting Law.

B. Approval of minutes of the February 8, 2011 meeting.

Commissioner Amodei moved for approval of the minutes of the February 8, 2011 meeting as written. The motion was seconded by Vice Chairwoman Batjer and approved by a unanimous vote.

C. Approval of minutes of the March 8, 2011 meeting.

Commissioner Collins moved for approval of the minutes of the March 8, 2011 meeting as written. The motion was seconded by Commissioner McCoy and approved by a unanimous vote.

D. Consideration of and possible action to approve Amendment No. 3 to Contract No. SA-03-06 with Square D/Schneider Electric for software support services with the Commission.

Assistant Director of Engineering and Operations Robert Reese gave a brief background on Contract No. SA-03-06.

On December 9, 2003, the Commission entered into Contract No. SA-03-06 with Power Measurement to provide support services for the business enterprise system that allows the Commission, and its customers who receive electric service from Commission facilities, to manage the procurement, scheduling and accounting of electric energy more efficiently by the rapid dissemination of real-time metering data. These support services include programming, troubleshooting and modifying software and hardware associated with energy meters, as required for routine operation and maintenance.

In 2003 there were four meters on the system; today there are 80 meters with an additional 10 meters on the system when the City of Henderson receives additional service from the Commission.

The Commission was notified on March 27, 2006 that Power Measurement was acquired by Square D Company, an electrical manufacturer and operating division of Schneider Electric. On July 12, 2006, the Commission approved the assignment of Contract No. SA-03-06 to Square D Company/Schneider Electric.

contract by \$80,000.00 to a not-to-exceed total of \$430,000.00. There is currently approximately \$44,000.00 remaining on this contract.

Commissioner Tarkanian asked why an increase of \$80,000.00 is necessary.

Mr. Reese replied that the biggest component with the contract is the service maintenance agreement with the program with approximately \$20,000.00 being spent in a year on those services. The increase will provide funds, if needed, for the program when the new meters are put into operation.

Commissioner Collins moved to approve Amendment No. 3 to Contract No. SA-03-06. The motion was seconded by Commissioner Amodei and approved by a unanimous vote.

E. Consideration of and possible action to approve Amendment No. 7 to Contract with Duncan, Weinberg, Genzer & Pembroke with the Commission.

Mr. Salo presented a brief summary of the history of Duncan, Weinberg, Genzer & Pembroke with the Commission.

Since August 2003, the Commission has utilized the services of Duncan, Weinberg, Genzer & Pembroke, P.C., of Washington, D.C. (Duncan Weinberg) to provide needed outside legal services and representation before the Federal Energy Regulatory Commission (FERC). The Commission also utilized the services of the Duncan Weinberg firm with great success under an earlier contract during the 1980's when the first renewal of the original Hoover Dam hydropower contracts was addressed by Congress and federal agencies.

Experience has shown that the Commission may be required to be actively represented before FERC with very short notice, and that potential conflicts or other causes may preclude the Commission from utilizing the services of Miller, Balis & O'Neil P.C., its primary legal counsel in matters before FERC. This is an area of legal specialization not available to the Commission through the Attorney General's office. Due to the state-mandated approval process for outside services contracts, it can be virtually impossible to enter into a new contract for outside legal services on short notice when the need is immediate.

Currently, the maximum aggregate limit on compensation under the Duncan Weinberg contract already approved by the Board of Examiners is sufficient to cover any reasonably anticipated costs for legal services from that firm for the foreseeable future.

It is important to note that the Duncan Weinberg contract is enabling in nature only, and that further services from this law firm will be provided only upon the specific request of the Executive Director. Since there is no minimum payment or retainer required, the Commission retains full control over the level of expenditures to be incurred under the

contract. Staff has worked closely with Duncan Weinberg for many years and finds its legal services to be of a high quality as well as prompt and responsive.

The Amendment No. 7 To Contract between the State of Nevada Acting By and Through Its Colorado River Commission and Duncan, Weinberg, Genzer & Pembroke, P.C. extends the term of Duncan Weinberg's contract from June 30, 2011, to June 30, 2015, and authorizes the Commission's Executive Director to approve adjustments to the hourly rates set forth in Exhibit 2, at hourly rates up to ten (10) percent higher than those shown therein, provided that no more than one such increase is approved per year, and that the total amount paid is less than the maximum aggregate cost of services already approved for Duncan Weinberg's services to the Commission by the Board of Examiners.

Chairman Ogilvie asked whether, if Amendment 7 is approved, the first possible rate increase would occur a year from now.

Mr. Salo answered yes.

Commissioner McCoy asked how long it would take a law firm to be ready to represent the Colorado River Commission given short notice provided by FERC.

Mr. Salo stated it would take months to get a new law firm ready to represent the Commission as well as Duncan Weinberg has at this point.

Commissioner Collins moved to approve Amendment No. 7 to Contract between the State of Nevada Acting by and Through Its Colorado River Commission and Duncan, Weinberg, Genzer & Pembroke, P.C. The motion was seconded by Commissioner McCoy and approved by a unanimous vote.

F. Consideration of and possible action to approve Amendment No. 2 to Contract with Brownstein Hyatt Farber Schreck, LLP with the Commission.

Mr. Salo gave a brief summary of the services provided by Brownstein Hyatt Farber Schreck, LLP to the Commission.

Since August 2008, the Commission has utilized the services of Brownstein Hyatt Farber Schreck, LLP (Brownstein Hyatt) to provide needed outside legal services and representation on environmental, land use and transmission issues involving interactions with federal agencies at the local and regional level, and financial and contract issues impacting the Commission's customers and vendors.

Brownstein Hyatt attorneys have advised the Commission's Power Delivery Project on complex construction contracting issues. The Commission also utilized the services of Brownstein Hyatt during the Tronox bankruptcy to ensure payment for energy services and to support the Nevada Department of Environmental Protection's efforts to increase funding for soil and water remediation needed to protect the quality of Colorado River water. Each of these matters involved an area of legal specialization not available to the

Commission through the Attorney General's office. Due to the state-mandated approval process for outside services contracts, it can be virtually impossible to enter into a new contract for outside legal services on short notice when the need is immediate.

Currently, the maximum aggregate limit on compensation under the Brownstein Hyatt contract already approved by the Board of Examiners is sufficient to cover any reasonably anticipated costs for legal services from that firm for the foreseeable future.

It is staff's recommendation that this contract be extended beyond its present termination date of June 30, 2011, to allow for the use of Brownstein Hyatt's services on an as-needed basis.

It is important to note that the Brownstein Hyatt contract is enabling in nature only, and that further services from this law firm will be provided only upon the specific request of the Executive Director. Since there is no minimum payment or retainer required, the Commission retains full control over the level of expenditures to be incurred under the contract.

The Amendment No. 2 To Contract between the State of Nevada Acting By and Through Its Colorado River Commission and Brownstein Hyatt Farber Schreck, LLP, extends the term of Brownstein Hyatt's contract from June 30, 2011, to June 30, 2015, and authorizes the Commission's Executive Director to approve adjustments to the firm's hourly rates, up to ten (10) percent, provided that no more than one such increase is approved per year, and that the total amount paid is less than the maximum aggregate cost of services already approved for Brownstein Hyatt's services to the Commission by the Board of Examiners.

Chairman Ogilvie asked what the rates being paid to Brownstein Hyatt were.

Senior Deputy Attorney General Ann Pongracz replied the hourly rate is \$300.00 with the total contract not to exceed \$150,000.00.

Chairman Ogilvie asked how long has the Commission engaged Brownstein Hyatt and how much have they billed the Commission.

Ms. Pongracz replied the Commission has engaged Brownstein Hyatt for two years.

Mr. Salo said staff would get the exact figure of the amount billed and advise Commissioners at a later date and stated that it was below the \$150,000.00 and an increase is not being requested at this time.

Chairman Ogilvie asked if the expertise provided by Brownstein Hyatt is available through the Attorney General's office.

Ms. Pongracz stated the Attorney General's office does not have the bankruptcy expertise needed for multi-party multi-level negotiations such as the one the Commission was

required to address in the Tronox re-structuring. In addition, the Attorney General's office does not have expertise in the type of complex construction contracts Brownstein Hyatt developed to support the Power Delivery organization of the Commission.

Commissioner McCoy asked regarding the Tronox bankruptcy, if the cleanup was complete at this point and if it is conceivable for the need of legal representation to continue.

Ms. Pongracz stated it will take several years to complete the cleanup and that additional legal representation may well be needed.

Commissioner Collins moved to approve Amendment No. 2 to Contract between the State of Nevada Acting By and Through Its Colorado River Commission and Brownstein Hyatt Farber Schreck, LLP. The motion was seconded by Commissioner McCoy and approved by a unanimous vote.

G. Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.

Natural Resource Analyst Jason Thiriot provided a report on the following:

- Colorado River Basin above Lake Powell Snotel Group
- CBRFC Unregulated Forecast
- Storage Conditions
- Precipitation Colorado River Basin
- Lower Basin Consumptive Use
- Equalization Update
- Lake Mead End of Month Elevation
- Hoover Dam Rating and Lake Mead Elevations
- Lake Powell Daily Water Levels
- Lake Mead Daily Water Levels
- Droughts Colorado River
- U.S. Drought Monitor
- U.S. Seasonal Drought Outlook
- Water Use In Southern Nevada
- Las Vegas Wash Green-Up – CRC Volunteers

A copy of the report is attached and made a part of the minutes. (See Attachment A.)

H. Comments and questions from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)

Chairman Ogilvie asked if there were any comments or questions from the public. There were none.

I. Comments and questions from the Commission members.

Chairman Ogilvie asked if there were any comments or questions from the Commission members. There were none.

J. Selection of the next possible meeting date.

The next meeting is tentatively scheduled for 1:00 p.m. on Tuesday, May 10, 2011, at the Clark County Government Center in the Commission Chambers.

K. Adjournment.

The meeting adjourned at 1:42 p.m.

James D. Salo, Interim Executive Director

APPROVED:

George F. Ogilvie III, Chairman