

## EXHIBIT 1 – PUCN Agenda 6.15.16

PUCN Utility Agenda 11-16, June 15, 2016--Second Public Comment Period—Fred Voltz

I want to bring to your attention a matter concerning comments your General Counsel provided in response to *Las Vegas Sun* newspaper articles while the Commission had the rooftop solar dockets (15-07041 and 15-07042) pending before it using the pseudonym of 'DixieRaeSparx.'

I was able to determine that 'DixieRaeSparx' was Carolyn 'Lina' Tanner through a Google search of a Twitter account with the same name and by connecting the same picture on the Twitter account to Ms. Tanner's Facebook page.

A review of these comments shows that Ms. Tanner was disparaging the rooftop solar companies, the net metering customers and the Bureau of Consumer Protection, while at the same time praising NV Energy, when the Commission still had this matter pending before it. I will provide you a copy of these comments and the web address for the LiveFyre account:

<http://www.livefyre.com/profile/98604117/>

As a quasi-judicial agency, I believe your agency is bound by the Nevada Code of Judicial Conduct. Rule 2.10 specifically prohibits a Judge and court staff from making comments that impair the fairness of a matter pending before the court. Likewise, NRS 233B.126 of the Nevada Administrative Procedure Act prohibits an employee of an agency from communicating directly or indirectly with any person in connection with any issue of fact or law on a matter in a contested case.

Based on the above legal citations and social media postings, it appears to me that Ms. Tanner, the very person who is responsible for advising this Commission on following rules of Judicial Conduct and the Nevada Administrative Procedure Act, has herself violated these rules. I would recommend that the Commission schedule an Administrative Agenda meeting at the earliest opportunity to discuss and review Ms. Tanner's comments, then determine whether she should be dismissed as General Counsel for violating the rules of Judicial Conduct and the Nevada Administrative Procedure Act.

Please note that there is a date and time stamp for the social media postings in case there is an attempt to remove them subsequent to today's meeting.

Attached to these comments will be printed evidence of everything stated above. I would request that all of these documents be appended as exhibits to today's meeting minutes.

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**DixieRaeSparx**



## ACTIVITY STREAM

These comments slay me. "The governor is corrupt! The PUCN is corrupt! The legislators are corrupt! NVE is corrupt!" And now, a judge who says this is the wrong format to bring this issue to the voters is corrupt! Really? Maybe at some point, the solar industry's position & tactics are



**17**  
comments

**7**  
likes received

Bio not provided

just wrong....

2 months, 3 weeks ago on [Judge to hear arguments on solar power ballot measure](#)

**Reply**

[@TyroneBacon](#) [@Homer W](#) Attributing this to the PUC (who does not regulate solar installers) shows just how disconnected people are from what's really going on. It's the PUC's fault that this company was scamming customers in Nevada, California and Arizona? With an on-going investigation by another state entity brought well before the PUC's decision? Educate yourself..

3 months, 1 week ago on [Meltdown: What happened when a Las Vegas solar company fell apart](#)

**Reply**

[@trustwiz](#) The \$3.00 per month is for Nevada Power customers only. It is less up north with Sierra Pacific Power, because there are not as many systems installed.

3 months, 4 weeks ago on [Las Vegas rooftop solar company files for bankruptcy](#)

**Reply**

And the solar companies are being sued for deceptive trade practices for their willful failure to advise new customers of the risks associated with the passage of SB 374. Love or hate NVE, they actually did advise people of these risks. I wonder who will prevail?

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

**Reply**

The private contracts don't bind regulatory change mandated by the legislature & agreed to by the corporate parties to those contracts.

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

**Reply**

Did he say there is no greater champion of rooftop solar? Or did he say there was no greater champion of renewable energy? Because there is a significant distinction. As it stands, the order that came out yesterday includes an increase of a little over 1 cent for the next three years, and even if you signed up today you could get a return on your investment in about 20 years. No, you can't make money on the backs of everyone else, but you can pay for your system. In the meantime, if for some reason the well vetted numbers are incorrect, there is a general rate case & a legislative session coming. So really, why are people still whining?

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

**Reply**

If you are a NEM customer, then you should have read your agreement with NVE which clearly states that the laws & tariffs are subject to change. @Dgat2 is absolutely correct. The same study confirms that at current utility scale prices, the cost shift well exceeds \$200m. Again, whatever you think is going on here, your allegations of corruption are completely baseless.

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

### **Reply**

And yet the legislature has no control over those subsidies, so your comment is irrelevant. They directed the Commission to cut these subsidies. Full stop.

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

### **Reply**

I love it when people accuse others of being a troll solely because they disagree. My discourse is respectful. I am not defending "dirty energy". I fully support clean energy. I would put solar on my house if I could afford it, & I wouldn't expect 100 percent ROI any more than I would on a bathroom remodel, nor would I expect anyone else to pay for it. I don't support the misrepresentations of the 3rd party solar companies made to people who signed up since June 2015. (Note class action lawsuits that actually cite to evidence of wrongdoing.). And I certainly don't support the gut reaction of "I didn't get my way so there must be corruption." That's called sour grapes, and in this case it's dangerous.

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

### **Reply**

Your perception aside, there has been full disclosure per Nevada law, and it has revealed nothing to support the accusations against the Governor & the PUCN. So you are correct, there really is nothing to see here.

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

### **Reply**

What evidence is there that Commissioner Noble is in NVE's pocket as you say?

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

### **Reply**

Private phone data is not a public record under Nevada law. That reality does not mean that any exists. The Solar industry alleges collusion without any evidence whatsoever, and the crowd goes wild. Just because they didn't get what they wanted does not mean there is corruption.

4 months, 1 week ago on [PUC signals it will stand firm against solar industry on rates](#)

### **Reply**

It's about time someone has sued these solar leasing companies. They supported SB 374, they knew change was coming, and they clearly didn't care whether their customers understood.

4 months, 1 week ago on [Nevada solar customers sue SolarCity over marketing](#)

### **Reply**

The PUCN is tasked with implementing the policy that the Legislature sets. If you don't like what's happening, then you should have a discussion with your legislator. All but one dictated this process.

4 months, 1 week ago on [Time for Sandoval to put solar energy on his can-do agenda](#)

### **Reply**

So did you read the article you are posting about? Let me quote it for you: "We don't want to believe you're stifling yourself to NV Energy's benefit because two of your closest advisers — who also are NV Energy lobbyists — are whispering in your ear. Or because NV Energy has donated to your political campaigns. Of course it has; that's what big business does." My point is, so what? So did SolarCity. You apparently don't understand the legislative process. Educate yourself. Go listen to the hearings before Assembly Commerce & Labor on SB 374 in late May, and then tell me that the PUCN hasn't done exactly what the Legislature intended.

4 months, 1 week ago on [Time for Sandoval to put solar energy on his can-do agenda](#)

### **Reply**

Interesting. Yet another column/ article accusing the Governor of corruption or undue influence solely because NVEnergy is a campaign donor, ignoring the fact that SolarCity is also a campaign donor. Maybe he's actually doing his job: staying out of a regulatory process that was put in motion by a nearly unanimous vote of the Nevada Legislature.

4 months, 2 weeks ago on [Time for Sandoval to put solar energy on his can-do agenda](#)

### **Reply**

The BCP sought two avenues of relief: rehearing (which allows the addition of new evidence), and reconsideration (which is a review of the existing evidence). The draft order seeks the following: 1. grant rehearing on the issue of grandfathering only (and asks the parties to provide answers as to how it would be implemented and policy concerns); and 2. That it will address the remaining issues on reconsideration after the hearing is held.

The elephant in the room, as pointed out here, is why, when faced with having to support their position at a hearing they requested, does BCP want to take its ball and go home.

4 months, 4 weeks ago on [Consumer watchdog raises questions about rooftop solar rehearing](#)

### **Reply**

## EXHIBIT 2 – NVE Secretary of State Entity Details

**NEVADA POWER COMPANY****Business Entity Information**

<b>Status:</b>	Active	<b>File Date:</b>	4/29/1998
<b>Type:</b>	Domestic Corporation	<b>Entity Number:</b>	C9862-1998
<b>Qualifying State:</b>	NV	<b>List of Officers Due:</b>	4/30/2017
<b>Managed By:</b>		<b>Expiration Date:</b>	
<b>NV Business ID:</b>	NV19981212884	<b>Business License Exp:</b>	4/30/2017

**Additional Information**

<b>Central Index Key:</b>	
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**Registered Agent Information**

<b>Name:</b>	THE CORPORATION TRUST COMPANY OF NEVADA	<b>Address 1:</b>	701 S CARSON ST STE 200
<b>Address 2:</b>		<b>City:</b>	CARSON CITY
<b>State:</b>	NV	<b>Zip Code:</b>	89701
<b>Phone:</b>		<b>Fax:</b>	
<b>Mailing Address 1:</b>		<b>Mailing Address 2:</b>	
<b>Mailing City:</b>		<b>Mailing State:</b>	NV
<b>Mailing Zip Code:</b>			
<b>Agent Type:</b>	Commercial Registered Agent - Corporation		
<b>Jurisdiction:</b>	NEVADA	<b>Status:</b>	Active

**Financial Information**

<b>No Par Share Count:</b>	1,000.00	<b>Capital Amount:</b>	\$ 0
No stock records found for this company			

**Officers** Include Inactive Officers**Secretary - DOUGLAS A CANNON**

<b>Address 1:</b>	6226 W. SAHARA AVE.	<b>Address 2:</b>	
<b>City:</b>	LAS VEGAS	<b>State:</b>	NV
<b>Zip Code:</b>	89146	<b>Country:</b>	USA
<b>Status:</b>	Active	<b>Email:</b>	

**President - PAUL J CAUDILL**

<b>Address 1:</b>	6226 W. SAHARA AVE.	<b>Address 2:</b>	
<b>City:</b>	LAS VEGAS	<b>State:</b>	NV
<b>Zip Code:</b>	89146	<b>Country:</b>	USA
<b>Status:</b>	Active	<b>Email:</b>	

**Director - PAUL J CAUDILL**

<b>Address 1:</b>	6226 W. SAHARA AVE	<b>Address 2:</b>	
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EXHIBIT 3.1  
Kramer PUCN Expert  
Witness Testimony  
11.07.14

# 14-11007

Public Utilities Commission of Nevada  
Electronic Filing

Submitted: 4/3/2015 4:32:26 PM

Reference: 05d5c95a-c187-4e75-a2a2-a5a9124425ab

Filed For: Switch Ltd

In accordance with NRS Chapter 719,  
this filing has been electronically signed and filed  
by: /s Kathleen Drakulich

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By electronically filing the document(s),  
the filer attests to the authenticity of the electronic signature(s) contained therein.

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This filing has been electronically filed and deemed to be signed by an authorized  
agent or  
representative of the signer(s) and  
Switch Ltd

DOCKET NO. 14-11007

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA  
REVISED PRE-FILED DIRECT TESTIMONY OF ADAM KRAMER

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**Q.1 Please state your name, title, and business address.**

A.1 My name is Adam Kramer. I am the Vice President of Government and Public Affairs at Switch Ltd. My business address is 7135 South Decatur Boulevard, Las Vegas, Nevada 89118.

**Q.2 On whose behalf are you testifying?**

A.2 I am testifying on behalf of Switch, Ltd. ("Switch") in Docket No. 14-11007, the Amended Application of Switch, Ltd. filed on November 7, 2014, as amended by the Exit Application of Switch, Ltd. as Amended filed November 14, 2014 and as amended by the Supplement to the Application filed on January 13, 2015 ("704B Application").

**Q.3 Please describe your education, professional background and experience.**

A.3 I am currently employed with Switch, Ltd. as Vice President of Government and Public Affairs. In my position, I over-see and am responsible for Switch's government and public affairs group. I work with my team to advance Switch's business and philanthropic vision by meeting with entrepreneurs, community leaders and elected officials to help ensure that Switch is maximizing its business opportunities and community involvement to reach its philanthropic

 MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
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goals. Prior to my employment with Switch, I was the Director of Entrepreneurship and Vegas Young Professionals with the Las Vegas Metro Chamber of Commerce. During my tenure in that position, I successfully created an entrepreneurship program as well as several young professionals networking and mentoring groups. I also increased the social media presence of the Chamber.

I received my bachelor's degree from Menlo College in three years. I received my master's degree from the University of Cincinnati. A statement of my qualifications is attached hereto as AK-1.

**Q.4 What is the nature of the work that you perform for Switch?**

A.4 I am responsible for the day-to-day oversight and leadership of Switch's government and public affairs team. In that capacity, I help advance Switch's business and philanthropic goals in relation to government and community groups, ensuring that Switch is positioned to grow its business and contribute to the community to the maximum extent possible. In addition, as a vice president, I am the business representative in Switch's effort to become an open access customer through its Amended Application in this Docket.

**Q.5 What is the purpose of your pre-filed direct testimony?**

A.5 My pre-filed direct testimony has several objectives. I briefly describe for the Public Utilities Commission of Nevada ("Commission") the Amended Application and the testimony of the other witnesses who support the Amended Application.

1 I explain how the Amended Application fits into Switch's overall business and  
2 community development plans which include Switch's goal of pursuing one  
3 hundred percent (100%) of its energy needs from green resources. I provide the  
4 Commission with information about Switch's formation, its growth since  
5 inception, its current status in Nevada as a business and community leader, and  
6 Switch's philanthropic endeavors.  
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9 Further, I address Switch's request to have the Commission waive the provisions  
10 of NAC 704B.300 and allow meter/premise number [REDACTED] ("Meter 1") and the  
11 SUPERNAP 9 meters to be included in the meters that will be served by the  
12 Provider. In the alternative, my testimony will support the Commission finding  
13 that since the SUPERNAP 9 meters were not operational when the initial  
14 Application was filed they can be classified as ordinary load growth of an eligible  
15 customer who has departed and can be omitted from Switch's 704B fee  
16 calculation altogether.  
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19 Lastly, I address those criteria set forth in NRS 704B.300(5) and (6) as to why  
20 the Amended Application is in the public interest, why NV Energy and its  
21 remaining customers will not be burdened by or pay increased costs as a result  
22 of Switch's status, why Switch becoming a 704B customer will not impair system  
23 reliability or the ability of NV Energy to provide electric service to its remaining  
24 customers and whether Switch's 704B status will add energy, capacity or  
25 ancillary services to the supply in Nevada.  
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100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE 775-788-2000 • FAX 775-788-2020

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100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE 775-788-2000 • FAX 775-788-2020

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**I. Description of the Amended Application and the testimony of other Switch witnesses who support the Amended Application.**

**Q.6 Please briefly describe the Amended Application and the testimony of the other Switch witnesses who are supporting the Amended Application.**

A.6 Switch's Amended Application reflects its intent to transfer the provision of electric service to its SUPERNAP facilities, to a provider of new electric resources specifically, Exelon Generation, Inc. d/b/a Constellation ("Constellation"). Under the transaction, Constellation will be responsible for servicing Switch's load of 34 MWs. **The transaction will allow Switch to meet its goal of acquiring one hundred percent (100%) of its energy needs from green resources.** The Amended Application requests that Switch be permitted to depart March 1, 2015, (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 Public Utilities Commission of Nevada and the Federal Energy Regulatory Commission.

The witnesses who prefiled direct testimony in support of Switch's Amended Application are as follows:

- Ms. Mary Lynch, Director, Wholesale Market Development, for Exelon Corporation: This testimony explains that Exelon Generation Company, LLC ("Constellation") is the leading competitive supplier of power, natural gas, renewable energy, and energy management products and services for homes and businesses across the continental United States. The

1 Company provides integrated energy solutions—from electricity and  
2 natural gas procurement and renewable energy supply to demand-side  
3 management solutions—that help customers strategically buy, manage,  
4 and use their energy. This testimony provides the Commission with a  
5 description of Constellation's experience and capability in wholesale and  
6 retail electricity markets throughout the nation, including the WECC power  
7 markets and explains how Constellation will meet its obligations pursuant  
8 to Nevada Revised Statutes Chapter 704B to provide to Switch energy,  
9 capacity and ancillary services from new electric resources.

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12 This testimony also discusses Constellation's diverse renewable supply  
13 portfolio, including both contractual and owned renewable generation  
14 assets of various technology types which will ensure that Switch meets its  
15 obligations under Nevada's renewable energy portfolio standard.

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18 Lastly, this testimony discusses the ten-percent contract. Switch is a non-  
19 governmental commercial end-use customer whose load is located in NV  
20 Energy's Nevada Power Company service territory, which primarily serves  
21 a densely populated area. As such, Switch will enter into a ten percent  
22 (10%) contract with Constellation and will assign the ten percent contract  
23 to NV Energy if the Commission finds such assignment to be in the best  
24 interests of the remaining customers of NV Energy.  
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PHONE 775-788-2000 • FAX 775-788-2020

  
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- Mr. Erik Hansen, Vice President for EnergySource, LLC: This testimony describes the process that Mr. Hansen and NV Energy transmission personnel have undertaken in the last six months with respect to Switch's request for transmission capacity sufficient to allow Constellation to serve Switch. This testimony (1) describes the Service Agreement for Network Integration Transmission Service ("NITS Application") that was submitted to NV Energy's transmission division on August 29, 2014 to facilitate the purchase 34 MWs of energy, capacity and ancillary services, as well as transmission services pursuant to the terms and conditions of the NVE Open Access Transmission Tariff ("OATT"); (2) explains the Network Operating Agreement ("NOA") that will be entered into with NV Energy pursuant to NV Energy's Open Access Transmission Tariff, Attachment G and explains why the NITS Application and the NOA will ensure the reliable delivery of energy to Switch upon its exit; and (3) describes the terms of NV Energy's Distribution-only Service Rider, Schedule DOS agreement ("DOS Agreement") that Switch will enter into with NV Energy. Mr. Hansen's testimony also supports the process which generated the load forecast for the NITS Application which was used for the 704B fee calculation.
- Jaclyn Miller, Senior Vice President of Finance and Accounting at Switch Ltd.: Ms. Miller's testimony provides the Commission with an overview of the Switch 10 Year Monthly Peak Load Forecast 2015-2025 submitted with the Amended 704B Application as Confidential Exhibit 3 ("Load



1 Forecast"). In that regard, the testimony provides the Commission with an  
2 explanation of the factors that support the load growth reflected in the  
3 Load Forecast.  
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- 5  
6 • Randy Harris, President for EnergySource, LLC and Mr. Erik Hansen,  
7 Vice President for EnergySource, LLC: This testimony discusses NV  
8 Energy's PROMOD Model, the final impact fee analysis performed by  
9 Regulatory Operations Staff ("Staff's Calculation") filed with the  
10 Commission on January 20, 2015, and each of the components of Staff's  
11 final impact fee analysis with which Switch takes issue. Mr. Harris and  
12 Mr. Hansen also explain in detail those modifications that need to be  
13 made to Staff's final 704B fee calculation to accurately and fairly assess  
14 Switch for its becoming a 704B customer through NV Energy.  
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18 • Nicholas Phillips, senior consultant at Brubaker & Associates, Inc.  
19 ("BAI"): Mr. Phillips' testimony addresses three issues in Staff's  
20 Calculation, namely the allocation of the cost of NV Energy's regulatory  
21 assets to Switch, the residential cross-class subsidy that is paid by  
22 Nevada Power's large customers, and the elimination of the rate of return  
23 included in Staff's Calculation. He also addresses the modeling  
24 assumptions and calculations for the hourly load data that were used to  
25 calculate the off systems sales that are discussed in the testimony of Mr.  
26 Randy Harris and Mr. Erik Hansen.  
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P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE 775-788-2000 • FAX 775-788-2020

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**II. Description of Switch’s overall business and community development plans, its formation and growth since inception, its current status in Nevada as a business and community leader and its philanthropic endeavors.**

**Q.7 Please describe how the Amended Application fits into Switch’s business and community development plans.**

A.7 The Amended Application is the next phase in the development of Switch’s SUPERNAP facilities. The provision of electric service by Constellation, as a provider of new electric resources, will allow Switch to meet its goal of acquiring one hundred percent (100%) of its energy needs from green resources. This is vital in the data center business where diversity and administration of power supply are paramount as evidenced by the recent announcements of Apple and Microsoft to construct data center facilities that are powered by 100% green energy. Moreover, Switch’s customers are demanding that Switch secure green generation.

**Q.8 Please describe Switch’s inception in Nevada.**

A.8 Switch was originally established in 2000 by Rob Roy, who continues to lead Switch as its Chief Executive Officer and its Chairman of the Board of Directors. Switch began as a small data center company with 5,000 square feet of data center space in Las Vegas, Nevada. Mr. Roy’s vision was to offer advanced technology ecosystems and the combined services and solutions inherent to those environments. Early clients ranged from local businesses and

1 sophisticated startups to government clients and innovative Fortune 100  
2 companies.

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4 **Q.9 Please describe Switch's growth since 2002.**

5  
6 A.9 In 2002, Switch acquired the former Enron facility in Las Vegas and tapped into  
7 a unique technology treasure—an advanced fiber optic nexus with a level of  
8 connectivity unlike anywhere in the country. The network capacity, redundancy  
9 and reliability of the facility enabled Switch to create the largest technology  
10 optimization sites in the world.

11  
12 In 2008, Switch unveiled its first SUPERNAP facility. These data center facilities  
13 go beyond the traditional data center facility, providing infrastructure for more  
14 than 1000 corporations, including 40 leading cloud companies. Switch  
15 SUPERNAP facilities, exclusive to Nevada, are the highest rated colocation data  
16 centers in the world according to the Uptime Institute, the foremost data center  
17 standards body.

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20 Switch continues to evolve, innovate and grow with the opening of the  
21 SUPERNAP 8 in April 2013 and the ground breaking for SUPERNAP 9 in July  
22 2014. All in all, today Switch occupies over 903,000 square feet of data center  
23 and office space. It is Switch's desire to grow its business to over 3,000,000  
24 square feet in over the next ten years. As recently announced by Governor  
25 Brian Sandoval during the State of the State, the bulk of Switch's new growth in  
26 the near term is expected to occur in northern Nevada.  
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P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

 MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
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University, where employees will be trained in Switch’s critical infrastructure processes and where they will be able to get certification before going into the SUPERMAP data centers to join Switch’s elite team of professionals.

**Q.10 Please describe Switch’s commitment to the state of Nevada?**

A.10 Today, Switch is one of Nevada’s leading homegrown companies. Since its inception, Switch has been committed to participating in the diversification of Nevada’s economy, turning down regular invitations to expand in other states and countries. Indeed, in 2011 Governor Brian Sandoval recognized Mr. Roy during his State of the State Address as one of Nevada’s leading entrepreneurs calling Switch a “technological treasure” (Nevada Governor Brian Sandoval, State of the State Address, January 24, 2011 (available at <http://www.supernap.com/state-of-the-state.html>)).

[REDACTED]  
[REDACTED]  
[REDACTED] More than 70 percent of Switch’s staff is military veterans, 40 percent of Switch’s staff are minorities, and half of its executive team is female. Switch offers its employees competitive wages,

  
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100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

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performance bonuses, excellent training and benefits, including 100 % coverage of a highly rated medical, dental, life, short term and long term disability insurance. Switch’s low employee turnover rate is a testament to its treatment of its employees. Additionally, unlike a traditional, single purpose, or single user data center, because Switch is a colocation facility, Switch’s customers employ over 4,000 people who regularly work in Switch’s data centers; also contributing to Nevada’s economy.

Switch is also committed to the community. Mr. Roy is a member of the board of the Governor’s Office of Economic Development and he has founded several powerful economic stimulators such as the Nevada Board and the NVAngels. Switch is also the largest donor to the Las Vegas Global Economic Alliance, providing donated office space with an annual value of more than \$500,000 per year. Mr. Roy and his wife, Stella, founded the Rob Roy Foundation to contribute to the Las Vegas community, and are founding members of The Smith Center for Performing Arts. They also established the Innevation Center Las Vegas, as more specifically described below.

**Q.11 Please describe the Innevation Center?**

A.11 The Innevation Center Las Vegas (“Innevation Center”) is at the heart of Switch’s philanthropic efforts. The Innevation Center is the first public/private economic diversification effort of its kind. It brings together entrepreneurs, business leaders, mentors, investors, educators and government agencies to help move Nevada’s economy forward.

1  
2 The Innevation Center's approach is to build economic networks through state-  
3 of-the-art collaboration. The Innevation Center provides collaboration space to  
4 business luminaries and economic development engines to converge so they  
5 may educate, advise, connect, collaborate, host events and more. The  
6 Innevation Center is home to regular events like Startup Weekend, Funding  
7 Post, PHP Hack Night, LaunchUp, TBAN, Ruby MeetUp and Southern Nevada  
8 Strong. Switch has donated office space to 13 different non-profits including  
9 UNLV, the Nevada STEM Coalition, the Guinn Center for Policy Priorities and  
10 the Las Vegas Metro Chamber of Commerce. In 2014, The Innevation Center  
11 also hosted 2,037 meetings and events, serving more than 29,000 people, with  
12 more than 90 percent of the space being donated free of charge.  
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16 The Innevation Center also leverages Switch's technology ecosystem to provide  
17 participants in Innevation Center events top speed internet, advanced clouds  
18 and an extremely low cost connectivity purchasing gateway. The Innevation  
19 Center also advances its partnerships with government agencies like the State of  
20 Nevada Economic Development Office, the Nevada System of Higher Education  
21 and the Nevada Development Authorities for the benefit of Innevation Center  
22 participants. Switch is working with the University of Nevada, Reno to construct  
23 an Innevation Center in Reno which is scheduled to open in June 2015.  
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 MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

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100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

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III. The request pursuant to NAC 704.175 to waive the provisions of NAC 704B.300 or alternatively, as to SUPERNAP 9, find that these meters constitute ordinary growth of a departed eligible customer.

Q.12 Please explain Switch’s request to have the Commission waive the provisions of NAC 704.300 with respect to Meter 1.

A.12 Switch is requesting that the Commission waive the provisions of NAC 704B.300(4) that require each service location, namely Meter 1, to have an average annual load of 1 megawatt. Switch acknowledges that Meter 1 does not meet the terms of NAC 704B.300(4). Its average annual load is more than [REDACTED] as reflected on line 1 of Confidential Exhibit AK-C2. Exhibit AK-C2 is the list of Switch’s eligible meters prepared by NV Energy.<sup>1</sup>

However, there is good cause, and the public interest weighs in favor of the deviation from 704B.300(4), because the inclusion of Meter 1 in the universe of meters to be served by Constellation offers Switch the most efficient way to manage its electric service. That is, including this meter would result in Switch including all of its significant meters (by load) in the meters to be served by Constellation. And excluding it would pose an unnecessary and disparate administrative burden on Switch.

Each of the meters included in Exhibit AK-C2 contributes to the common purpose of the Switch data center operations, including Meter 1. The Switch facility that is served by Meter 1 (“Meter 1 Facility”) is a supporting facility for

<sup>1</sup> Exhibit AK-C2 was also attached to Switch’s Response to NV Energy’s Motion Seeking Supplement of Amended Application and Tolling of Statutory Effective Date as Confidential Attachment 2 and was Confidential Exhibit 6 to Switch’s Supplement to its Exit Application filed with the Commission in this Docket on January 13, 2015.

 MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
PO BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

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another Switch facility whose points of delivery are identified as eligible in Switch SUPERNAP 704b Eligible Points of Delivery Chart.<sup>2</sup> Switch SUPERNAP 704B Eligible Points of Delivery Chart is attached to my testimony as Confidential Exhibit AK-C3. The Meter 1 Facility provides all of the carrier telecommunication services for other eligible points of delivery through a direct physical fiber connection between it and the other facilities making it inextricable to the business of other points of delivery that will be exiting. Not including Meter 1 would result in an unnecessary stratification of Switch's electric supply. This stratification would undermine Switch's efforts to place all of its significant data center power needs in the hands of a single provider of new electric resources.

**Q.13 Please explain Switch's request to have the Commission waive the provisions of NAC 704.175 with respect to SUPERNAP 9 or alternatively, find that these meters constitute ordinary growth.**

A.13 When Switch filed its Amended Application in November 2014, the construction of SUPERNAP 9 was underway. The construction of SUPERNAP 9 will not be complete until May or June of 2015. Unlike most newly constructed facilities the occupancy and therefore the load at SUPERNAP 9 will develop gradually as the space inside the facility is first negotiated, sold and then later occupied by new tenants. It is not possible to know the rate at which the facility will be occupied, especially given changes in data center legislation regarding tax abatements by neighboring states such as Arizona and Oregon. These abatements compete with Switch's ability to attract new clients which is why the future of Switch's load

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<sup>2</sup> AK-3 was also attached to Switch's Supplement to its Exit Application filed with the Commission on January 13, 2015 as Revised Confidential Exhibit 1.



 **MCDONALD-CARANO-WILSON**  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

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growth is largely dependent on the passage and proper implementation of more attractive legislation. Without passage and proper implementation of pending legislation, it is possible Switch's load could actually decrease as a result of clients moving to a more favorable tax environment.

Moreover, while Switch provides the SUPERNAP space for its customers, each customer populates the SUPERNAP facility on its own schedule with its own servers and information technology hardware. Given the ever-improving efficiency for server and information technology equipment, it is not possible to predict with pinpoint accuracy how much energy each customer will utilize and therefore what the load will be at any given time. [REDACTED]

[REDACTED]

Since the SUPERNAP 9 meters were not operational at the time that the Amended Application was filed and will likely not come on line until near or after the Commission issues its order on the Amended Application, Switch believes that the Commission should treat the SUPERNAP 9 load as ordinary load growth for an eligible customer who has left the service of the utility. As I understand it,

1 Switch's request is consistent with Barrick's 704B application exit in 2004  
2 (Docket No. 04-2006), i.e., all additional load that developed following Barrick's  
3 exit, whether or not it involved the addition of a new meter, was addressed  
4 through NV Energy's transmission side of the house and not the retail side of the  
5 house. Once an eligible customer departs pursuant to NRS Chapter 704B, its  
6 load forecast is no longer sent to NV Energy's retail division. Accordingly,  
7 Switch is requesting that the Commission treat the SUPERNAP 9 meters as  
8 ordinary load growth of a departed eligible customer and not include this load in  
9 the 704B fee calculation.

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11  
12 Alternatively, as to SUPERNAP 9 Switch believes there is good cause for and  
13 the public interest weighs in favor of waiving NAC 704B.300(2) which requires  
14 that an end-use customer, i.e., each service location, have an average annual  
15 load of 1 megawatt (8,769,000 kilowatt hours) during the most recent 12 months  
16 period. The SUPERNAP 9 meters are not operational. Given the unpredictable  
17 rate of growth, with the exception of construction power, SUPERNAP 9 is not  
18 currently drawing any power from NV Energy and will not until all permits and  
19 authorizations are secured. However as with Meter 1, SUPERNAP 9 will  
20 contribute to the common purpose of the Switch data center operations.

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24 A waiver would also permit Switch to obtain the administrative efficiencies inherit  
25 in consolidation of each of its data center meters into the hands of a single  
26 provider of new electric resources. Not authorizing a waiver would require  
27 Switch to file a separate application for the SUPERNAP 9 meters, promoting  
28

 McDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

unnecessary and egregious regulatory and operational inefficiencies and ignore the manner in which Barrick's load growth was treated and permitted to develop.

**IV. The Amended Application Meets the Criteria in NRS 704B.310(5) and (6).**

**Q.14 Please address those criteria set forth in NRS 704B.310(5) and (6) as to the following:**

- (A) Why the Amended Application is in the public interest;**
- (B) Why NV Energy and its remaining customers will not be burdened by or pay increased costs as a result of Switch's exit;**
- (C) Why Switch's 704B status will not impair system reliability or the ability of NV Energy to provide electric service to its remaining customers; and,**
- (D) Whether Switch's 704B status will add energy, capacity or ancillary services to the supply in Nevada.**

**A.14 A. The Amended Application is in the public interest.**

As more fully described in this response below, the Amended Application is first and foremost in the public interest because it does not burden NV Energy or its remaining customers with increased costs, it will not impair system reliability or the ability of NV Energy to provide electric service to its remaining customers and it will add energy, capacity or ancillary services to the supply in Nevada. In addition, granting the Amended Application is in the public interest because it will enable Switch to continue to expand its business in northern and southern Nevada. The expansion of Switch's business will result in hundreds of construction jobs and thousands of permanent jobs in Nevada. It will also result


**MCDONALD-CARANO-WILSON**  
 100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
 P.O. BOX 2670 • RENO, NEVADA 89505-2670  
 PHONE: 775-788-2000 • FAX: 775-788-2020

1 in the continued relocation of companies and their personnel to Nevada as they  
2 locate their servers in Switch facilities—both of which will contribute to NV  
3 Energy's load growth, assisting in the replacement of the megawatts which result  
4 from Switch's exit. Granting the Amended Application will result in the payment  
5 of significant additional tax revenue to state and local governments and it will  
6 result in the continued growth of Switch's unparalleled philanthropic activities in  
7 Nevada.  
8

9  
10 Switch's graduation to a 704B customer also makes 34 megawatts of NV Energy  
11 generation capacity available to NV Energy's existing and new customers. As  
12 discussed by Mr. Harris and Mr. Hansen in their testimony, Switch's  
13 advancement also provides NV Energy with the ability to make off-system sales  
14 or increase off-system sales by 34 megawatts. It also benefits NV Energy  
15 customers because it assists with deferral of construction of the next unit of  
16 generation needed to serve NV Energy's load.  
17

18  
19 **B. NV Energy and its remaining customers will not be burdened by or**  
20 **pay increased costs as a result of Switch's departure.**  
21

22 In the course of considering this Amended Application the Commission is going  
23 to hear evidence as to the fee should be for Switch to advance to 704B customer  
24 status. Switch presents substantial, complete and compelling evidence in the  
25 pre-filed direct joint testimony of Mr. Harris and Mr. Hansen regarding the impact  
26 fee that should be assessed to Switch upon its departure to ensure that NV  
27 Energy and its remaining customers will not be burdened by or pay increased  
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 MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX 775-788-2020

  
MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

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costs. Following the presentation of all of the evidence, Switch is confident that the Commission will determine that the impact fee analysis presented by Switch should be adopted. When the Commission's order is issued, it will be based upon its finding that NV Energy and its remaining customers will not be burdened by or pay increased costs.

**C. Switch's 704B status will not impair system reliability or the ability of NV Energy to provide electric service to its remaining customers.**

Switch has complied with all of the requirements of NV Energy's OATT and will be granted the transmission capacity by NV Energy sufficient to ensure that Constellation will be able to continuously and reliably serve Switch without impairing system reliability or the ability of NV Energy to provide electric service to its remaining customers. As set forth in the pre-filed direct transmission testimony of Mr. Hansen, there is in excess of 1800 megawatts of import capability at Mead (which will continue to increase), the point of receipt for the energy that Constellation will procure to serve Switch. At 34 megawatts, Switch's load represents only seventeen percent of the import capability available to serve Switch. NV Energy's execution of the NOA is confirmation that the Switch's 704B status will not impair system reliability or the ability of NV Energy to provide electric service to its remaining customers.

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**D. Switch’s 704B status will add energy and capacity to the supply in Nevada.**

Constellation will be bringing 34 megawatts of additional energy to NV Energy’s balancing area. As established in Ms. Lynch’s testimony, Constellation will be serving Switch with 34 megawatts of energy and generation capacity that is not currently under contract with NV Energy or being used by NV Energy to serve its customers.

**V. The Amended Application Meets the Criteria in NAC 704B.410(1) and (2).**

**Q.15 Please explain what is required by NAC 704B.410(1) and explain why the Amended Application meets the criteria in NAC 704B.410(2).**

A.15 NAC 704B.410(1) provides that the Commission determine whether the Amended Application is contrary to the public interest by evaluating the Amended Application pursuant to the criteria in NRS 704B.310(5) and (6). I have done this in QA 14 above. NAC 704B.410(2) provides that in addition to the criteria in NRS 704B.310(5) and (6), the Commission may consider, without limitation and give due weight to several criteria. The following NAC 704B.410(2) criteria are applicable to the Amended Application:

- 1. NAC 704B.410(2)(b): The potential impacts of the proposed transaction on NV Energy and its remaining customers as set forth in Switch’s alternative analysis.**

 **MCDONALD-CARANO-WILSON**  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX 775-788-2020

1 The testimony of Mr. Harris and Mr. Hansen provides a comprehensive  
2 evaluation of NV Energy's PROMOD model and a detailed analysis of Staff's  
3 final impact fee analysis. This testimony provides the Commission with an  
4 alternate calculation that supports Switch's impact fee and firmly establishes  
5 that the payment of the impact fee recommended by Switch will ensure that  
6 NV Energy and its customers are not burdened by additional costs and still  
7 allow Switch to pursue its green generation goals.  
8

9  
10 **2. NAC 704B.410(2)(d): The opportunity or ability of the electric utility**  
11 **to mitigate costs that would otherwise be assigned to its remaining**  
12 **customers.**

13 In their testimony, Mr. Harris and Mr. Hansen provide an extensive  
14 discussion of NV Energy's recent history of making off system sales and  
15 discuss why these sales reflect a direct benefit for NV Energy and its  
16 remaining retail customers. The freeing of generation required to support  
17 Switch's forecasted load, makes available a pool of generation for sale into  
18 adjacent markets and the newly formed Energy Imbalance Market which NV  
19 Energy will formally join on October 1, 2015. NV Energy's ability to take full  
20 advantage of the sales opportunities in off-system energy markets coupled  
21 with its completed off-system sales transactions, provides NV Energy with the  
22 perfect opportunity to mitigate the impact of Switch's departure and the  
23 opportunity to continue to utilize utility owned generation to the benefit of its  
24 customers since each sale results in a credit to NV Energy's customers.  
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 MCDONALD-CARANO-WILSON  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE: 775-788-2000 • FAX: 775-788-2020

1           **3. NAC 704B.410(2)(e): The extent to which the proposed transaction**  
2           **increases or decreases existing subsidies to the remaining customers**  
3           **of the electric utility in the same rate class or in other rate classes.**

4           In their testimony, Mr. Harris and Mr. Hansen discuss the cross-class  
5           subsidy, i.e., the payment incurred by Nevada Power Company's large  
6           customers, which include Switch, for costs that are actually incurred by  
7           Nevada Power Company's residential customers. In other words it is the  
8           extent to which existing residential rates deviate from "cost-based" rates. As  
9           Mr. Harris and Mr. Hansen explain, Switch's departure does not result in an  
10          increase to the subsidy in violation of 704B.410(2)(e). However, if the  
11          Commission accepts Switch's argument that the impact fee should not  
12          include the subsidy, Switch's departure will require the Commission to  
13          consider how to reallocate the portion of the subsidy that is no longer paid by  
14          Switch. As discussed by Mr. Harris and Mr. Hansen, the Commission in  
15          Docket No. 11-06006 stated in its order that "[t]he Commission must continue  
16          its efforts to meaningfully reduce the residential subsidy as a matter of  
17          fairness".<sup>3</sup> Switch recommends that in order to meet the Commission's  
18          stated objective in Docket No. 11-06006 of reducing the residential subsidy,  
19          the Commission could allocate the Switch portion of the subsidy to the class  
20          of customers that incurs the cost.  
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<sup>3</sup> Docket No. 11-06006, Commission order, at page 206, paragraph 643.



1           **4. NAC 704B.410(2)(g): Factors that affect the general welfare of the**  
2           **residents and communities of this State including (a) employment, (b)**  
3           **economic development, and (c) quality of life.**

4           As I discuss in detail in QA 9, QA 10 and QA 11, Switch's operations in  
5           Nevada have contributed significantly to employment, economic development  
6           and quality of life in Nevada and will continue to not only in southern Nevada  
7           but these contributions will carry over statewide as Switch pursues  
8           development of 3 million square feet of data center space in northern  
9           Nevada. These contributions are not only the natural consequence of  
10          Switch's data center development, they are the result of the very deliberate  
11          actions of Switch and the expansion of its philanthropic mission in Nevada.

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15          **Q.16 Does this conclude your testimony?**

16          A.16 Yes; however I reserve the right to supplement, revise or correct my testimony  
17          when I take the stand.  
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 **MCDONALD-CARANO-WILSON**  
100 WEST LIBERTY STREET, 10<sup>TH</sup> FLOOR • RENO, NEVADA 89501  
P.O. BOX 2670 • RENO, NEVADA 89505-2670  
PHONE 775-788-2000 • FAX 775-788-2020


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AFFIRMATION

STATE OF Nevada )  
COUNTY OF Washoe ) ss.

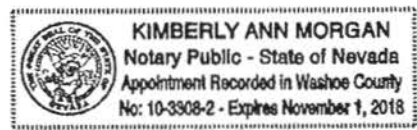
I, Adam Kramer, do hereby swear under penalty of perjury the following:

That I am the person identified in the attached Pre-Filed Direct Testimony, and that such testimony was prepared by me or under my direct supervision; that the answers and information set forth therein are true to the best of my knowledge and belief; and that if asked questions set forth herein; my answers thereto would, under oath, remain the same.

  
ADAM KRAMER

Subscribed and sworn to (or affirmed) before me on this 3rd day of March, 2015, by ADAM KRAMER, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

  
NOTARY PUBLIC



## EXHIBIT 3.2

Kramer Expert Witness  
Rebuttal Testimony 04.16.15



McDONALD·CARANO·WILSON<sup>LLP</sup>

**Kathleen Drakulich**  
[kdrakulich@mcdonaldcarano.com](mailto:kdrakulich@mcdonaldcarano.com)

**Reply to: Reno**

April 16, 2015

Breanne Potter  
Assistant Commission Secretary  
Public Utilities Commission of Nevada  
1150 East Williams Street  
Carson City, Nevada 89701

***Re: Docket No. 14-11007; Prefiled Rebuttal Testimony of Adam Kramer-  
Confidential***

Dear Ms. Potter:

On April 16, 2015, Switch, Ltd. filed the Prefiled Rebuttal Testimony of Adam Kramer (Kramer Testimony). Certain portions of the attached Kramer Testimony have been redacted due to the confidential nature of the information. Switch is seeking to preserve the confidentiality of this information and accordingly has redacted it from the public filing.

In order to maintain the confidentiality of the redacted information, Switch is designating it as confidential pursuant to NAC 703.5274(1).

A complete copy of the Kramer Testimony is attached hereto, has been printed on pink paper, is stamped "Confidential" and is contained in a sealed envelope as required by NAC 703.5274(1). Pursuant to NAC 703.5274(8) Switch will provide copies to the Commission's Regulatory Operations Staff, the Attorney General's Consumer Advocate and NV Energy, all of whom have executed protective agreements. Switch requests that the information in the Kramer Testimony be maintained as confidential for a period of five (5) years. Confidential treatment of the designated information will not impair the ability of the parties to fully investigate the Application.

Sincerely,

McDONALD CARANO WILSON, LLP

A handwritten signature in black ink that reads "Kathleen M. Drakulich".

Kathleen M. Drakulich

KMD/ajb  
*Enclosures (as stated herein)*  
*cc: All parties of record*

100 WEST LIBERTY ST., 10<sup>TH</sup> FLOOR  
RENO, NEVADA 89501

P.O. BOX 2670, RENO, NEVADA 89505  
775-788-2000 • FAX 775-788-2020

ATTORNEYS AT LAW



[www.mcdonaldcarano.com](http://www.mcdonaldcarano.com)

2300 WEST SAHARA AVENUE  
SUITE 1200  
LAS VEGAS, NEVADA 89102  
702-873-4100  
FAX 702-873-9966

**DOCKET NO. 14-11007**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA  
PRE-FILED REBUTTAL TESTIMONY OF ADAM KRAMER**

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**Q.1 Please state your name, title, and business address.**

A.1 My name is Adam Kramer. I am the Vice President of Government and Public Affairs at Switch Ltd. My business address is 7135 South Decatur Boulevard, Las Vegas, Nevada 89118.

**Q.2 On whose behalf are you offering rebuttal testimony?**

A.2 I am testifying on behalf of Switch, Ltd. ("Switch") in Docket No. 14-11007, the Amended Application of Switch, Ltd. filed on November 7, 2014, as amended by the Exit Application of Switch, Ltd. as Amended filed November 14, 2014 and as amended by the Supplement to the Application filed on January 13, 2015 ("704B Application").

**Q.3 Did you previously offer testimony in this case?**

A.3 Yes, my prefiled direct testimony was filed in this case on March 3, 2015.

**Q.4 What is the purpose of your prefiled rebuttal testimony?**

A.4. I address QA 40-41 of Staff witness Mr. Danise's testimony regarding Switch's goal of acquiring 100% of its energy needs from green resources.

1 **Q.5 In QA 40 of his testimony, Mr. Danise states that although Switch may have**  
2 **a goal of acquiring all of its energy needs from green resources, the RFP**  
3 **does not specify that 100% of Switch’s energy needs must be met with**  
4 **green resources and Constellation’s proposal only provides for energy by**  
5 **conventional generating resources. Can you please explain Switch’s green**  
6 **resource initiative?**

7 **A.5 For over the past three years, Switch has increasingly focused on the goal of**  
8 **eventually obtaining 100% green generation.** Switch’s Request for Proposals for  
9 Energy Delivery & Scheduling Coordinator Services (“RFP”) was issued on  
10 August 13, 2014. The RFP was just the first step in helping Switch reach its  
11 green generation goals. The RFP was designed to ensure that the scheduling  
12 coordinator could satisfy the Renewable Portfolio Standard imposed by Nevada  
13 law.

14  
15 Another step in the process is currently ongoing: Switch’s simultaneous  
16 evaluation and negotiation of solar power purchase agreements to potentially  
17 augment the offerings of the scheduling coordinator. Switch wants to support  
18 Nevada and stressed this pro-Nevada position with the respondents to the RFP.  
19 To this end, Switch confirmed with the RFP respondents that after commencing  
20 service with the scheduling coordinator, Switch could pursue contracts for  
21 Nevada based solar generation. This would allow Switch to meet Nevada’s RPS  
22 requirement, and work with the scheduling coordinator to contract for Nevada  
23 based solar generation to pursue Switch’s 100% green generation goals.

24

1 Constellation was willing to provide this flexibility, which is one of the many  
2 reasons we selected Constellation.

3  
4 Switch's goal of becoming G100 or 100% green has been and remains the  
5 overarching and foundational driving force behind the entire 704B process.

6  
7 In response to Mr. Danise's statement that Constellation's proposal only provides  
8 energy via conventional generating resources, I direct the Commission to page 9  
9 of 14 of confidential AED-13 and the section that addresses the Renewable  
10 Portfolio Standard and Constellation's ability to meet Nevada's standard.

11 Additionally, I direct the Commission to the prefiled direct testimony of Ms. Mary  
12 Lynch, the Director of Wholesale Market Development for Exelon Corporation at  
13 QA 12, where she states that "Constellation expects that its existing diverse  
14 renewable supply portfolio, which includes Renewable Energy Credits ("RECs")  
15 and Solar Renewable Energy Certificates ("SRECs") from several qualifying  
16 facilities within the WECC, along with its experience in the purchase and sale of  
17 RECs throughout U.S. markets, will enable Constellation to meet the  
18 requirements of the Nevada RPS."

19  
20 Mr. Danise correctly notes that Constellation's proposal set forth in AED-13, does  
21 not indicate that Constellation will provide Switch with 100% renewable energy.  
22 Upon Switch's departure, Switch will be served by the resources that are  
23 referenced in the Constellation proposal which will be the subject of the  
24 agreement executed between Switch and Constellation. It will not be necessary

1 for any resources to be constructed to serve Switch upon departure. However,  
2 as Ms. Lynch notes in QA 11 of her prefiled rebuttal testimony in this case,  
3 Constellation is aware of and is ready to support Switch's goal to acquire 100%  
4 of its energy needs from renewable resources. Moreover, Switch and  
5 Constellation have identified several paths to help Switch achieve Switch's green  
6 goal. Switch and Constellation are finalizing terms and conditions that would  
7 allow for Switch to achieve a steady transition to 100% renewable energy which  
8 will also be the subject of the agreement that is executed between Switch and  
9 Constellation.

10  
11 **Q.6 Can you further expand on Switch's goal of acquiring 100% of its energy**  
12 **needs from green resources?**

13 A.6 As I stated in QA 7 of my prefiled direct testimony in this case, the provision of  
14 electric service by Constellation, as a provider of new electric resources, will  
15 allow Switch to meet its goal of acquiring 100% of its energy needs from green  
16 resources. This is vital in the data center business where diversity and  
17 administration of power supply are paramount as evidenced by the recent  
18 announcements of Apple and Microsoft to construct data center facilities that are  
19 powered by 100% green energy. Moreover, Switch's customers are demanding  
20 that Switch secure green generation; and. Switch is very focused on obtaining  
21 this green generation here in Nevada.

22  
23 For this reason, Switch has spent considerable time researching the ability of  
24 acquiring 100% of its energy needs from green resources. Switch has consulted



1 with almost a dozen solar providers ranging from industry leaders to small  
2 players to better understand the solar market. Switch has currently narrowed  
3 down the potential solar providers to a few finalists. [REDACTED]

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9  
10 The importance of Switch's green initiative is that it not only addresses one of  
11 Switch's primary business objectives, but it also tracks one of the key industry  
12 objectives in Nevada as evidenced by Nevada's aggressive renewable portfolio  
13 standard. Moreover, Switch expects that it will result in the continued creation of  
14 hundreds of new jobs throughout southern Nevada as Switch contracts for the  
15 output of new renewable energy facilities.

16  
17 **Q.7 Does this conclude your rebuttal testimony?**

18 **A.7** Yes, it does.  
19  
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**AFFIRMATION**

STATE OF Nevada )  
COUNTY OF Washoe ) ss.

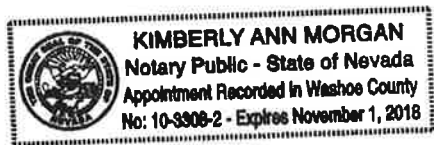
I, Adam Kramer, do hereby swear under penalty of perjury the following:

That I am the person identified in the attached Pre-Filed Rebuttal Testimony, and that such testimony was prepared by me or under my direct supervision; that the answers and information set forth therein are true to the best of my knowledge and belief; and that if asked questions set forth herein; my answers thereto would, under oath, remain the same.

  
\_\_\_\_\_  
ADAM KRAMER

Subscribed and sworn to (or affirmed) before me on this 6th day of April, 2015, by ADAM KRAMER, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

  
\_\_\_\_\_  
NOTARY PUBLIC



**EXHIBIT 4 – Mike Smith Cartoon 06.11.15**

July 11, 2016

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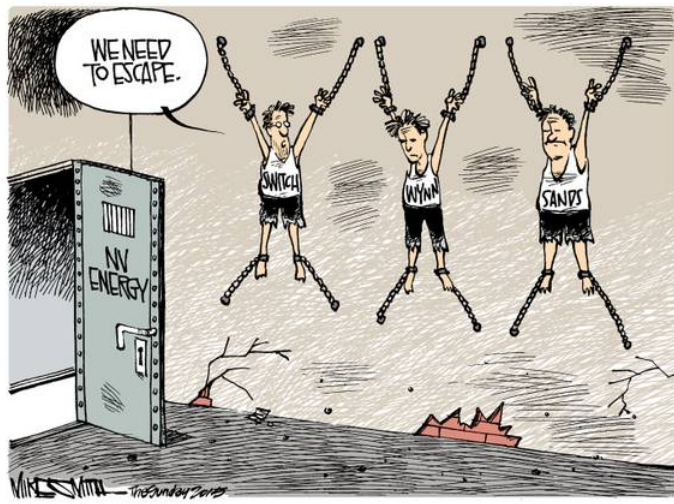
### MIKE SMITH: SMITH'S WORLD

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0

## Smith's World for June 1, 2015



June 1, 2015

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## EXHIBIT 5 – 704B Litigation Hold 06.22.15



S U P E R N A P

June 12, 2015

**By U.S. and Electronic Mail**

**TO: NV Energy**  
Doug Cannon, et al.  
General Counsel  
6226 West Sahara Avenue  
Las Vegas, NV 89146  
[dcannon@nvergy.com](mailto:dcannon@nvergy.com)

**TO: Nevada Attorney General's  
Bureau of Consumer Protection**  
Eric Witkoski, et al.  
Senior Deputy Attorney General  
555 E. Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101  
[EWitkoski@ag.nv.gov](mailto:EWitkoski@ag.nv.gov)

**TO: Public Utilities Commission of Nevada**  
Carolyn Tanner, et al.  
General Counsel  
9075 W. Diablo Drive, Suite 250  
Las Vegas, NV 89148  
[ctanner@puc.nv.gov](mailto:ctanner@puc.nv.gov)

**TO: R&R Partners**  
Peter Ernaut, et al.  
President and Principal  
900 S. Pavilion Center Dr.  
Las Vegas, NV 89144  
[Pernaut@rrpartners.com](mailto:Pernaut@rrpartners.com)

**TO: Public Utilities Commission of Nevada**  
Tammy Cordova, et al.  
Staff Counsel, Regulatory Operations Staff  
9075 W. Diablo Drive, Suite 250  
Las Vegas, NV 89148  
[tcordova@puc.nv.gov](mailto:tcordova@puc.nv.gov)

***Re: Pending Litigation Document Destruction Hold***

To Whom It May Concern:

The Nevada Supreme Court has held that “the PUC is a creature of statute, it has no inherent power; rather, its powers and jurisdiction are determined by statute...[and a]ny doubt about the existence of the PUC’s power or authority must be resolved against finding of such power or authority.”<sup>1</sup> **In light of the decision in Docket 14-11007, published June 11, 2015, Switch is formulating and intends to take additional actions to protect our rights.** You are now advised of these possible future actions.

**As some of you may have document destruction policies,** please ensure that Nevada Energy, the Public Utility Commission of Nevada, the Staff of the Public Utility Commission of Nevada, the Bureau of Consumer Protection of the Office of the Nevada Attorney General, and R&R Partners, comply with your respective legal duties to preserve all information that may be discoverable in connection with such anticipated regulatory action and possible litigation. Although we are still evaluating which parties will be brought into these actions, we believe there is sufficient evidence that communications and resulting decisions not supported or authorized by applicable law did occur resulting in damage. This

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<sup>1</sup> Nevada Power Co. v. Dist. Ct., 120 Nev. 948, 102 P.3d 578, 583-4 (Nev., 2004).

letter puts you on notice that a future actions are likely and that you have information relevant to those actions. As such, it is imperative that you take the steps set forth below.

### **A. General Obligations**

**Please immediately suspend any document destruction policy.** We will contend that destruction of discoverable information is evidence of culpability and misconduct. Additionally, advise any individual employees with access to potentially discoverable information to preserve potentially discoverable information. We will refer in this letter to the suspension of automated and individualized document destruction as the "Litigation Hold." Immediately start the process of implementing the Litigation Hold within the guidelines in Section B.

The purpose of the Litigation Hold is to preserve all paper documents and electronically stored information concerning the following topics: (i) the NRS 704B process, (ii) Switch, (iii) Nevada Energy's legislative activities, (iv) any information in any way related to Public Utility Commission Docket 14-11007; or your respective involvement in sections (i) through (iv), (collectively, the "Issues"). This obligation extends to a duty to **preserve all emails, instant communications, SMS or text messages, phone call records, invoices, payments, meetings including lunch or dinner meetings, between you and Nevada Energy or Nevada Energy's agents, lobbyists, or representatives** (the "Communications") as they relate to the Issues. Additionally, this Litigation Hold applies to all inside and outside lobbyists and representatives you have hired. Please instruct your lobbyists and representatives to retain all Communications between themselves and any Nevada politician and their respective staff or representatives regarding energy policy during the same time frame. The relevant time period would run from approximately January 2014 through the present.

The Litigation Hold is to be applied to all paper documents and to all forms of electronically stored information falling within the Issues, including, but not limited to, e-mail, instant messages, voice mail, spreadsheets, power points, and word processing documents. The Litigation Hold must also be applied to all types of media for storing potentially discoverable information in electronic form, including network servers, time clocks, e-mail servers, workstations, home or personal computers, laptops, hand-held devices, compact disks, notebooks, journals, and hard drives.

If you have a system that automates the deletion of e-mail or other electronic files, those programs are to be suspended to the extent necessary to prevent the destruction of discoverable information. Back-up tapes potentially containing discoverable information are to be removed from routine recycling until further notice. Each of has the duty to preserve from the date of this letter until the resolution of any dispute related to the pending litigation. Failure to promptly preserve discoverable information, whether intentional or merely negligent, may result in substantial sanctions and/or additional litigation, in addition to the loss of evidence that might be used in your own defense.

### **B. Proposed Execution Plan**

Given the ease with which electronic records can be deleted, discarded, or overwritten, this Litigation Hold requires you to issue instructions to your employees, records-management personnel, and information technology staff regarding the Litigation Hold.

#### **1. Instructions To Information Technology Staff**

You should promptly enlist an information technology representative with an appropriate level of knowledge concerning data storage and access within your organization to implement the Litigation Hold.

This person should act promptly to accomplish the steps described above. We recommend you also discuss with your counsel what steps should be taken to preserve the workstations of other employees who will be material witnesses. In the event any employee directly involved with the Issues terminates his or her relationship with you, contact us so we may discuss the next steps, if any, that may need to be taken to preserve the electronic storage media assigned to that employee.

**2. Instructions To Witnesses And Records Custodians**

You are to notify those employees who are likely to be material witnesses as well as those employees who are custodians of records to help implement the Litigation Hold; including the category of employees listed in Section A. Notice to these employees should describe the categories of documents that need to be preserved, the Issues, the relevant time frame, and the steps that the employees should take to implement the Litigation Hold. The notice also should inform these employees of the potential penalties for failing to help you fulfill your evidentiary preservation obligations.

Further communication will be transmitted. We will likely refine these instructions as the above referenced actions ensue.

Very truly yours,

Casey G. Perkins  
Company Counsel  
Switch



**EXHIBIT 6**  
**Response from PUCN to Lit Hold 06.22.15**



BRIAN SANDOVAL  
*Governor*

STATE OF NEVADA  
PUBLIC UTILITIES COMMISSION

ALAINA BURTENSHAW  
*Chairman*

REBECCA WAGNER  
*Commissioner*

DAVID NOBLE  
*Commissioner*

CRYSTAL JACKSON  
*Executive Director*

June 22, 2015

Via Electronic Mail & U.S. Post

Casey G. Perkins, Esq.  
Switch/Supernap  
7135 South Decatur Blvd.  
Las Vegas, NV 89118

Re: Document Destruction Hold

Dear Mr. Perkins:

I have received your letter dated June 12, 2015 and reviewed it with interest. You indicate that Switch intends to take additional actions to protect its rights in light of the Commission's decision in Docket 14-11007. In relevant part, you ask the Commission to preserve the following:

- "...all paper documents and electronically stored information concerning the following topics: (i) the NRS 704B process, (ii) Switch, (iii) Nevada [sic] Energy's legislative activities, (iv) any information in any way related to Public Utility [sic] Commission Docket 14-11007; or your respective involvement in sections (i) through (iv), (collectively, the 'Issues');" and
- "... all Communications between [lobbyists and representatives] and any Nevada politician and their respective staff or representatives regarding energy policy..."

You also ask that the time frame for retention reach back to January 2014. As it applies to the Commission, your request is overly broad and burdensome.

With little exception, litigation brought against the Commission is conducted through the judicial review process, initiated by a petition for reconsideration and followed by a petition for judicial review. The issues in a judicial review proceeding are confined to the record of the docket.

Mr. Casey Perkins

June 22, 2015

Page 2 of 3

See NRS 703.373(8). While I am certain that Switch possesses a complete copy of the record in Docket No. 14-11007, the Commission is mandated to preserve the record in accordance with the Nevada State Library and Archives Records Management Program (the "State Retention Guidelines") and is happy to provide any missing documentation.

To the extent that you imply that Commission staff has committed unspecified tortious conduct warranting a civil action outside of the judicial review process, your request seeking the retention of the requested information is inappropriate. The "communications" as defined in your letter, if any actually occurred, would appear to fall primarily under the State Retention Guideline category of "Administrative: Correspondence Files Transitory." Please be advised that the retention period for this category is "only as long as the record holds value to the agency, but no longer than one (1) year." If any records of such communications do exist, the Commission's document destruction policy will be suspended regarding communications addressing (i) NRS Chapter 704B; (ii) Switch; (iii) NV Energy's legislative activities **related to NRS Chapter 704B**; and (iv) Docket No. 14-11007, until legal action is resolved.

Your instruction that Commission representatives maintain all communications "between themselves and *any Nevada politician and their respective staff or representatives regarding energy policy...*" is rejected. A significant portion of the Commission's work addresses energy policy in Nevada, at local, county, state and federal levels, potentially involving Nevada politicians at all of these levels. Docket No. 14-11007 addresses Switch's application filed pursuant to NRS Chapter 704B. Switch spent considerable effort lobbying state politicians to amend NRS Chapter 704B during the 2015 legislative session during the pendency of Docket No. 14-11007. Your request as stated would require the Commission to retain a substantial amount of information wholly unrelated to Docket No. 14-11007. Accordingly, if any records of such communications exist, the Commission will suspend document destruction of these records between Commission employees and "Nevada politicians and their respective staff or representatives" **related to NRS Chapter 704B**, until legal action is resolved.

Similarly, the time frame suggested by your letter is overly broad and burdensome. Switch filed its original application, designated as Docket No. 14-11007, on November 7, 2014. No rationale is provided warranting retention of information nine months prior to the application filing date. Accordingly, to the extent that records meeting your requirements as modified by this letter exist, and have not been previously disposed of pursuant to State Retention Guidelines, the Commission will suspend document destruction for the information outlined in this letter **from October 1, 2014, to present**, until legal action is resolved.

///

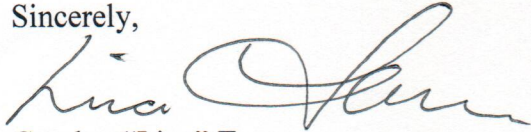
Mr. Casey Perkins

June 22, 2015

Page 3 of 3

Nothing in this letter shall be construed as a waiver by the Commission to release confidential or privileged information. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lina Tanner".

Carolyn "Lina" Tanner

General Counsel

C: Hon. Alaina Burtenshaw, Chairman  
Hon. Rebecca Wagner, Commissioner  
Hon. Dave Noble, Commissioner  
Tammy Cordova, Staff Counsel  
Eric Witkoski, Consumer Advocate  
Doug Cannon, General Counsel, NV Energy  
Peter Ernaut, President, R&R Partners

## EXHIBIT 7 – Settlement Agreement 07.30.15

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Application of Switch Ltd. to purchase energy, capacity, )  
and/or ancillary services from a provider of new electric ) Docket No. 14-11007  
resources. )  
\_\_\_\_\_ )

At a special session of the Public Utilities  
Commission of Nevada, held at its offices  
on July 30, 2015.

**PRESENT:** Chairman Alaina Burtenshaw  
Commissioner Rebecca D. Wagner  
Commissioner David Noble  
Commission Secretary Breanne Potter

**ORDER ON STIPULATION**

The Public Utilities Commission of Nevada (“Commission”) makes the following  
findings of fact and conclusions of law:

**I. INTRODUCTION**

Switch Ltd. (“Switch”) filed with the Commission an Application, designated as Docket No. 14-11007, for authority to exit the system of Nevada Power Company d/b/a NV Energy (“Nevada Power” or “NPC”) and to purchase energy, capacity, and/or ancillary services from a provider of new electric resources.

On June 11, 2015, the Commission issued an Order denying Switch’s Amended Application without prejudice.

On June 25, 2015, Switch filed a Petition for Reconsideration.

**II. SUMMARY**

The Commission accepts the Stipulation, attached hereto as Attachment A, and thereby grants the request to procedurally stay resolution of Switch’s Petition for Reconsideration.

**III. PROCEDURAL HISTORY**

- On November 7, 2014, Switch filed the Application.

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///  
///

DOCUMENT REVIEW AND APPROVAL ROUTING	
DRAFTED BY: <u>MSF</u>	
FINAL DRAFT ON: <u>7/30/15</u> AT <u>10</u> : <u>30</u> <u>A</u> M	
REVIEWED & APPROVED BY:	DATE:
<input type="checkbox"/> ADMIN/ASST. ( _____ ) _____	<u>7/1</u>
<input checked="" type="checkbox"/> COMM / COUNSEL <u>MSF for CET</u>	<u>7/30/15</u>
<input type="checkbox"/> SECRETARY / ASST. SEC. _____	<u>7/1</u>
<input type="checkbox"/> OTHER ( _____ ) _____	<u>7/1</u>

- The Application was filed pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code (“NAC”), Chapters 703, 704, and 704B, including but not limited to NAC 704B.340 and 704B.380. Pursuant to NAC 703.5274, Switch requested confidential treatment of information submitted under seal with the Application.
- On November 14, 2014, Switch filed an amendment to its Application (“Amendment”).
- On November 24, 2014, the Commission issued a Notice of Application to Exit System and Notice of Prehearing Conference.
- On November 26, 2014, the Attorney General’s Bureau of Consumer Protection (“BCP”) filed a Notice of Intent to Intervene pursuant to NRS Chapter 228.
- The Regulatory Operations Staff (“Staff”) of the Commission participates as a matter of right pursuant to NRS 703.301.
- On December 9, 2014, Nevada Power filed “Notice of Nevada Power Company of Intent to Intervene, or in the Alternative, Petition for Leave to Intervene.”
- On December 11, 2014, Nevada Power filed a Motion Seeking Supplement of Amended Application and Tolling of Statutory Effective Date (“Nevada Power’s Motion”).
- On December 18, 2014, Staff and Switch filed responses to Nevada Power’s Motion.
- On December 26, 2014, Nevada Power filed a reply to Switch’s response to Nevada Power’s Motion. Pursuant to NAC 703.5274, Nevada Power requested confidential treatment of information submitted under seal with this filing.<sup>1</sup>
- On December 26, 2014, Switch filed a reply to the December 18, 2014, Staff response to Nevada Power’s Motion.
- On January 5, 2015, Nevada Power filed a replacement filing, replacing its December 26, 2014, reply to Switch’s response. In the replacement filing, Nevada Power asks the Commission to accept the replacement filing because it redacts a footnote that was inadvertently left unredacted in the December 26, 2014, filing. Pursuant to NAC 703.5274, Nevada Power requested confidential treatment of information submitted under seal with this filing.
- On January 6, 2015, the Commission held a prehearing conference. BCP, Nevada Power, Staff, and Switch made appearances. The Application, Nevada Power’s Motion, and a procedural schedule were discussed.
- On January 13, 2015, Switch filed a supplement to its Application (the “Supplement” and together with the November 14, 2014, Amendment, are referred to herein as the “Amended Application” or “Exit Application”).

---

<sup>1</sup>The Commission removed this filing from its records system after being notified by Nevada Power that confidential information included in the filing was inadvertently left unredacted.



- On January 15, 2015, the Commission issued a Notice of Hearing.
- On January 15, 2015, the Presiding Officer issued Procedural Order No. 1, adopting a procedural schedule.
- On January 20, 2015, and in accordance with NAC 704B.350(3), Staff filed its finalized analysis (“Final Impact Analysis”).
- On January 23, 2015, the Presiding Officer issued Corrected Procedural Order No. 1, correcting the procedural schedule.
- On February 3, 2015, BCP, Nevada Power, Staff, and Switch filed a Stipulation regarding the procedural schedule.
- On February 3, 2015, and in accordance with NAC 704B.350(4), NV Energy filed its alternative analysis to the analysis performed by Staff.
- On February 4, 2015, and in accordance with NAC 704B.350(4), Switch filed its alternative analysis to the analysis performed by Staff.
- On February 11, 2015, Nevada Power filed a letter withdrawing Nevada Power’s Motion.
- On February 13, 2015, the Presiding Officer issued an Order on Stipulation, accepting the Stipulation; finding that Switch’s January 13, 2015, supplement to its Application actually amended the Application; resetting the deemed approved date for the Application to June 12, 2015, to reflect the amendment; and generally revising the procedural schedule accordingly.
- On February 17, 2015, the Commission issued a Notice of Hearing, thereby superseding the Notice of Hearing that was issued on January 15, 2015, in this Docket.
- On February 18, 2015, Noble Americas Energy Solutions, LLC (“Noble Solutions”) filed a Late-filed Petition for Leave to Intervene and Notice of Association (“PLTI”).
- On February 25, 2015, Staff and BCP filed Responses to Noble Solutions’ Late-filed PLTI.
- On February 26, 2015, Switch filed a Joinder to BCP’s Response to Noble Solutions’ Late-filed PLTI.
- On March 2, 2015, Nevada Power filed its Response and a Joinder to the Responses filed by Staff and BCP to Noble Solutions’ Late-filed PLTI.
- On March 4, 2015, Noble Solutions filed a Reply to the Response filed by BCP and Staff.
- On March 13, 2015, Staff filed a Motion to Strike Portions of Nicholas L. Phillips and Adam Kramer’s Pre-Filed Direct Testimony (“Staff’s Motion to Strike”).

- On March 18, 2015, Switch filed a Motion for a Protective Order.
- On March 20, 2015, Switch filed its Response to Staff's Motion to Strike.
- On March 20, 2015, Staff filed a supplement to its January 20, 2015, Final Impact Analysis.
- On March 24, 2015, Staff filed its Reply to Switch's Response to Staff's Motion to Strike.
- On March 24, 2015, BCP, Staff, and Nevada Power filed Responses to Switch's Motion for a Protective Order.
- On March 24, 2015, the Presiding Officer issued the Order on PLTI of Noble Solutions.
- On March 24, 2015, the Presiding Officer issued Procedural Order No. 2, requesting legal briefs.
- On March 25, 2015, the Presiding Officer issued Procedural Order No. 3, revising the procedural schedule.
- On March 27, 2015, Switch filed its Reply to the Responses filed by BCP, Staff, and Nevada Power, respectively, to Switch's Motion for a Protective Order.
- On March 27, 2015, the Presiding Officer issued the Order on Motion to Strike.
- On April 1, 2015, the Presiding Officer issued the Order on Motion for Protective Order, granting in part and denying in part Switch's Motion, directing Switch to file a supplement to its Motion for a Protective Order to identify and address the legal issues associated with Switch's alternative request set forth under Switch's Reply, and setting an interim procedural schedule solely applicable to Switch's supplemented Motion for a Protective Order.
- On April 1, 2015, the Presiding Officer issued Corrected Order on Motion to Strike, correcting references to a procedural order and a date.
- On April 2, 2015, the Hearing Officer<sup>2</sup> held a teleconference regarding a discovery dispute.
- On April 3, 2015, Switch filed a supplement to its Motion for a Protective Order.
- On April 3, 2015, Noble Solutions filed its Notice of Intent to Participate as a Commenter.
- On April 6, 2015, the Presiding Officer issued the Order on Discovery Dispute.
- On April 7, 2015, the Presiding Officer issued Procedural Order No. 4, revising the procedural schedule.

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<sup>2</sup> Pursuant to NAC 703.486, the Presiding Officer appointed the Hearing Officer to preside over and conduct this discovery dispute conference.

- On April 8, 2015, Switch filed Motion to Strike Portions of Shawn EliceGUI's Pre-filed Testimony and Motion for Order Shortening Time ("Switch's April 8, 2015, Motion").
- On April 8, 2015, the Presiding Officer issued Corrected Order on Discovery Dispute, correcting a reference to a date.
- On April 8, 2015, Switch filed Motion to Strike Portions of Dan Jacobsen's Pre-filed Testimony and Motion for Order Shortening Time.
- On April 9, 2015, Switch filed Revised Motion to Strike Portions of Dan Jacobsen's Pre-filed Testimony and Motion for Order Shortening Time ("Switch's April 9, 2015, Motion").
- On April 10, 2015, the Presiding Officer issued Procedural Order No. 5, setting a procedural schedule and, effectively, granting Switch's requests for expedited orders for Switch's Revised Motion to Strike Portions of Dan Jacobsen's Pre-filed Testimony and Motion for Order Shortening Time, and Switch's Motion to Strike Portions of Shawn EliceGUI's Pre-filed Testimony and Motion for Order Shortening Time.
- On April 13, 2015, BCP filed its Response to the Revised Motion to Strike Portions of Dan Jacobsen's Pre-filed Testimony and Motion for Order Shortening Time.
- On April 13, 2015, Staff and Nevada Power filed Responses to the Motion to Strike Portions of Shawn EliceGUI's Pre-filed Testimony and Motion for Order Shortening Time.
- On April 14, 2015, the Presiding Officer issued the Order on Revised Motion to Strike Portions of Dan Jacobsen's Pre-filed Testimony and Motion for Order Shortening Time, and the Order on Motion to Strike Portions of Shawn EliceGUI's Pre-filed Testimony and Motion for Order Shortening Time, thereby granting each motion.
- On April 16, 2015, the Presiding Officer issued Procedural Order No. 6, directing the parties to ensure that hearing exhibits are prepared in a manner consistent with orders in this Docket striking testimony and ruling on requests for confidentiality, as well as in a manner consistent with NAC 703.715.
- On April 20, 2015, the Presiding Officer issued Corrected Procedural Order No. 6, correcting a reference to the number of copies of the hearing exhibits that would be required by the Commission.
- On April 22-24, 2015, the Commission held a hearing. BCP, Nevada Power, Staff, and Switch made appearances. At the conclusion of the hearing, the Presiding Officer granted an oral motion to accept Exhibit Nos. 1-42 and Confidential Exhibit Nos. C1-C22 into the record pursuant to NAC 703.730.<sup>3</sup>

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<sup>3</sup> Administrative Notice was taken of the following: Nevada Power's Open Access Transmission Tariff ("OATT"); Nevada Power's Rule Nos. 1 and 9; and Commission Docket Nos. 14-05003, 08-03025, 06-07026, 04-02006. Per the verbally stipulated agreement between BCP, NPC, Staff, and Switch, Administrative Notice was taken of each of the following: (1) State statutes and regulations; (2) Federal statutes and regulations; (3) FERC rules, regulations,

- On April 27, 2015, the Presiding Officer issued Procedural Order No. 7, requesting replies (by May 21, 2015) to the legal briefs due on or before Monday, May 11, 2015, by 5:00 p.m.
- On May 11, 2015, BCP, Nevada Power, Staff, and Switch filed legal briefs.
- On May 21, 2015, BCP, Nevada Power, Staff, and Switch filed reply legal briefs.
- On June 11, 2015, the Commission issued an Order denying Switch's Amended Application without prejudice.
- On June 25, 2015, Switch filed a Petition for Reconsideration.
- On June 26, 2015, Switch filed the certificate of service associated with its Petition for Reconsideration.
- On July 10, 2015, Staff and BCP each filed Answers to Switch's Petition for Reconsideration.
- On July 10, 2015, Nevada Power, Staff, and Switch (the "Stipulating Parties") filed a Stipulation to procedurally stay resolution of Switch's Petition for Reconsideration.

#### **IV. STIPULATION**

##### **Stipulating Parties' Position**

1. The Stipulating Parties request that the Commission "procedurally stay resolution of Switch's Petition for Reconsideration" so that the Commission may review the components of what the Stipulating Parties refer to as the "Settlement Package," which the Stipulating Parties explain consists of: (1) the Stipulation; (2) an "Agreement for Electric Service under Rate Schedule OLGS-3P-HLF" (the "HLF Agreement"); (3) an advice letter from NV Energy modifying the commitment period in the High Load Fact ("HLF") tariff from five years to three years; and (4) a "Renewable Energy Agreement" (the "NGR Agreement") and the associated power purchase agreement (the "PPA"). (Stipulation at 1.)

2. Specific to their request under the Stipulation, the Stipulating Parties "seek a deviation from the deadlines under NAC 704.801(4) and (5), and agree that good cause exists for

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and decisions; (4) Any judicial or administrative proceedings and/or decisions, including, but not limited to, any of the Commission's dockets; and (5) Any documented and publicly available information.

such deviation, to stay the 40 day deadline for the Commission to grant or deny Switch's Petition for Reconsideration." (*Id.* at 3.) The Stipulating Parties agree: "[u]pon Commission approval of the Settlement Package... with terms satisfactory to Nevada Power and Switch, Switch will withdraw its Petition for Reconsideration of the Order denying Switch's [Amended] Application filed in [this Docket]." (*Id.*) Specifically, the Stipulating Parties agree that, "[w]ithin three business days of the Commission approving the entire Settlement Package... Switch shall withdraw its Petition for Reconsideration... and the [O]rder denying Switch's [Amended] Application without prejudice will stand." (*Id.* at 8.) The Stipulating Parties agree that, should the Commission not approve the Settlement Package in a manner acceptable to Switch or Nevada Power, "either Nevada Power or Switch may send a request to the Commission that the Commission act on the Petition for Reconsideration." (*Id.*) The Stipulation provides that, "[i]n such [a] case, Switch is amenable to the Commission acting on the Petition for Reconsideration within 30 days of the Commission receiving the written request to act from Switch." (*Id.* at 8-9.)

3. In the interim, as the Commission reviews the various components of the Settlement Package, and "in the interest of reaching agreement," the Stipulating Parties request that Switch be permitted to take electric service under Rate Schedule OLGS-3P-HLF "in advance of the term commencing" as the Agreements and the advice letter filing in Docket No. 15-07024 are reviewed by the Commission.<sup>4</sup> (*Id.* at 2.) The Stipulating Parties agree that if the components of the Settlement Package are ultimately approved by the Commission, "Switch will then be subject to the term commitment." (*Id.*) To that end, the Stipulating Parties agree that "the term will not commence until such time as the Commission approves the NGR Agreement and the attendant PPA, and the advice letter filed by NV Energy regarding the HLF." (*Id.*)

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<sup>4</sup> Docket No. 15-07024 is the advice letter filing by Nevada Power seeking to modify commitment period in HLF tariff from five years to three years.

### **Commission Discussion and Findings**

4. The Commission finds that the Stipulation, if accepted, would have the effect of “procedurally stay[ing] resolution of Switch’s Petition for Reconsideration” so that the Commission may review the components of what the Stipulating Parties refer to as the Settlement Package in other dockets. The Commission finds that the NGR Agreement which is provided under the Stipulation as Attachment 2, and the PPA which is provided under the Stipulation as Attachment 3, are each provided for informational purposes only, and that the Stipulating Parties are not requesting Commission approval for these agreements in *this* Docket.

5. The Commission accepts the Stipulation, and finds that the Stipulation may resolve “all issues” in this Docket, as the Stipulating Parties assert, but only if Switch ultimately withdraws its Petition for Reconsideration. The Commission understands that the Stipulation provides that Switch will only withdraw its Petition for Reconsideration if the Commission approves the components of the Settlement Package.

6. Therefore, pursuant to NAC 704.0097, the Commission grants the Stipulating Parties’ request for deviation from the deadlines under NAC 704.801(4) and (5), and finds that good cause exists for such deviation to stay the 40 day deadline for the Commission to grant or deny Switch’s Petition for Reconsideration, and that such deviation is in the public interest and is not contrary to statute.

7. The Commission notes and finds, consistent with the Stipulation, that Nevada Power is already seeking, or will be seeking Commission approval of the attendant agreements of the Settlement Package in other or future dockets. The Commission finds that Nevada Power is seeking approval of the PPA in Docket No. 15-07003. The Commission finds that Nevada Power is seeking approval of the HLF advice letter in Docket No. 15-07024. Nevada Power

represents that approval of the NGR Agreement will be sought in a future docket.

8. The Commission agrees with the parties and finds that, consistent with the information provided in the Stipulation: "...because the Settlement Package contemplates that Switch will not only take service from Schedule HLF, but will take service under the NGR tariff, and because the terms of the NGR tariff require Commission approval of all agreements executed under the NGR tariff ...a limited waiver of this provision of the HLF tariff to allow for commencement of the commitment term on the date the Commission approves the Settlement Package" is appropriate. (*Id.* at 4-5.)

9. To that end, the Commission finds it equitable and not contrary to the public interest to permit Switch to enjoy the benefits of the HLF tariff while the Commission reviews the attendant agreements to the Settlement Package in other and future Dockets. Based thereon, the limited waiver of the HLF tariff term commencement will expire upon either: the date the Commission approves the last remaining attendant agreement of the Settlement Package, thereby resulting in Switch's HLF tariff term commencing; or, upon the date the Commission receives a request that the Commission act on the Petition for Reconsideration, whereupon Switch will no longer be obligated to continue to take service under the HLF tariff.

10. The Commission notes that BCP, a party of record, is not a party to the Stipulation; however, the Commission finds that the acceptance of the Stipulation as filed is not contrary to the public interest. The Commission notes that BCP has already filed its response to Switch's Petition for Reconsideration, and that because the Stipulation only has the effect of staying the Commission's decision regarding Switch's Petition for Reconsideration, BCP's interests are not affected by the Commission's acceptance of the Stipulation, nor are its interests affected by permitting Switch to temporarily take service under the HLF tariff considering that

the accounts Switch will be temporarily moving to the HLF tariff are all eligible accounts that Switch could have moved since the inception of the tariff. Moreover, if Switch does seek a decision regarding its Petition for Reconsideration, BCP's filed response will still stand, providing BCP with its procedural rights in this Docket.

11. Accordingly, the Commission finds that the Stipulation complies with the requirements of NAC 703.845 in that it settles only issues relating to the instant proceeding and does not seek relief the Commission is not otherwise empowered to grant. The Commission finds that the Stipulation is a consensus resolution of the Parties regarding only the procedural schedule for this Docket, and is offered to the Commission by the Parties pursuant to the Parties' negotiations and agreement. Therefore, the Commission finds that it is in the public interest to accept the Stipulation, and procedurally stay resolution of Switch's Petition for Reconsideration and grant the limited waiver associated with the HLF tariff as identified above.

**THEREFORE, it is ORDERED that:**

1. The Stipulation filed by Nevada Power Company d/b/a NV Energy, Switch Ltd., and the Regulatory Operations Staff, attached hereto as Attachment A, is **ACCEPTED** as set forth herein.

2. The Commission's acceptance of the Stipulation does not constitute precedent regarding any legal or factual issue.

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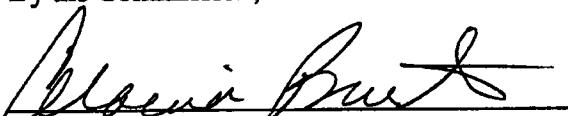
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3. The Commission may correct any errors that have occurred in the drafting or issuance of this Order without further proceedings.

By the Commission,

  
ALAINA BURTENSHAW, Chairman and  
Presiding Officer

  
REBECCA D. WAGNER, Commissioner

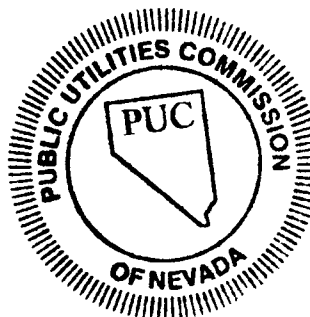
  
DAVID NOBLE, Commissioner

 for

Attest: \_\_\_\_\_  
BREANNE POTTER,  
Commission Secretary

Dated: Carson City, Nevada  
7-30-15

(SEAL)



# **ATTACHMENT A**

**FILED WITH THE PUBLIC UTILITIES COMMISSION OF NEVADA - 7/10/2015**



July 10, 2015

Trisha Osborne  
Assistant Commission Secretary  
Public Utilities Commission of Nevada  
1150 East William Street  
Carson City, Nevada 89701

Re: Docket No. 14-11007, Switch Ltd. ("Switch") Amended Application Pursuant to NRS Chapter 704B;

Dear Ms. Osborne:

Enclosed please find a "Settlement Package" that has been negotiated between Switch Ltd. ("Switch"), Nevada Power Company, dba NV Energy and the Regulatory Operations Staff of the Public Utilities Commission of Nevada ("Staff"). The Settlement Package consists of the following five documents:

- 1) A Stipulation signed by Switch, NV Energy and Staff
- 2) An Agreement for Electric Service under Rate Schedule OLGS-3P-HLF (Attachment 1)
- 3) A Renewable Energy Agreement ("NGR Agreement") (Attachment 2)
- 4) Power Purchase Agreement (Attachment 3)
- 5) An advice letter from NV Energy modifying the Commitment period in the HLF tariff from five years to three years

If you have any questions about this filing, please do not hesitate to contact me at 775-834-5692 or [mgreene@nvenergy.com](mailto:mgreene@nvenergy.com).

Respectfully submitted,

/s/ Michael Greene  
Michael Greene  
Assistant General Counsel

Nevada Power Company  
and Sierra Pacific Power Company  
d/b/a NV Energy

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**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Application of Switch Ltd. to purchase energy, capacity, and/or ancillary services from a provider of new electric resources. } Docket No. 14-11007

**STIPULATION**

Pursuant to Nevada Administrative Code (“NAC”) §§ 703.750 and 703.845, Nevada Power Company, dba NV Energy (“Nevada Power”); the Regulatory Operations Staff of the Public Utilities Commission of Nevada (“Staff”); and Switch Ltd. (“Switch”) (each individually a “Signatory” and together “the Signatories”), hereby enter into this agreement (“Stipulation”) to resolve all issues in Docket No. 14-11007 (the “Docket”), and submit this agreement to the Public Utilities Commission of Nevada (“Commission”) for approval.

**SUMMARY OF STIPULATION**

Nevada Power and Switch have reached a settlement package with associated agreements to alternatively resolve this matter and give Switch the ability to cover 100% of its load with new and local renewable energy. The “Settlement Package”, consists of: 1) this Stipulation to procedurally stay resolution of Switch’s Petition for Reconsideration; 2) an Agreement for Electric Service under Rate Schedule OLGS-3P-HLF, which is attached hereto as Attachment 1 and referred to as the “HLF Agreement,” pursuant to which Switch will transfer all eligible accounts identified in Exhibit A to the HLF Agreement to Nevada Power’s High Load Factor (“HLF”) tariff; 3) an advice letter from NV Energy modifying the Commitment period in the HLF tariff from five years to three years; and 4) a Renewable Energy Agreement, which is attached hereto as Attachment 2 and referred to as the “NGR Agreement,” to facilitate Switch’s commitment to go 100% green through the utilization of Nevada Power’s Green Energy Rider (“NGR”) (collectively, the “Settlement Package”).