JOINT CITY COUNCIL AND UTILITY
ADVISORY COMMITTEE
WORKSHOP MEETING AGENDA

COUNCIL CHAMBERS, 401 CALIFORNIA AVE.
BOULDER CITY, NV 89005

AUGUST 10, 2022 - 9:00 AM

The public may view the meeting live at the following link:

https://www.bcnv.org/191/City-Council-Meeting-Live-Stream-Video

ITEMS LISTED ON THE AGENDA MAY BE TAKEN OUT OF ORDER; TWO OR MORE AGENDA ITEMS FOR CONSIDERATION MAY BE COMBINED; AND ANY ITEM ON THE AGENDA MAY BE REMOVED OR RELATED DISCUSSION MAY BE DELAYED AT ANY TIME.

CALL TO ORDER

CONFIRMATION OF POSTING AND ROLL CALL

PUBLIC COMMENT

PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS ON THE AGENDA FOR ACTION. EACH PERSON HAS UP TO FIVE MINUTES TO SPEAK ON A SPECIFIC AGENDA ITEM.

MEMBERS OF THE PUBLIC MAY PARTICIPATE IN THE MEETING WITHOUT BEING PHYSICALLY PRESENT BY ONE OF THE FOLLOWING METHODS:

- Written comments may be submitted via the Public Comment Form (https://www.bcnv.org/FormCenter/Contact-Forms-3/City-Council-Comment-Form-111)
- To comment during the meeting, members of the public may call (702) 589-9629 when the public comment period is opened.

WORKSHOP AGENDA

1. Presentation by Attorney Ann Pongracz and discussion about Boulder City’s Utilities contracts with other government agencies

2. Public Comment

Each person has five minutes to speak at the discretion of the Mayor/Chair. Comments made
during the Public Comment period of the agenda may be on any subject. All remarks shall be addressed to the City Council/Board as a whole, not to any individual member of the Council/Board, of the audience, or of the City staff. No person, other than members of the City Council and the person who has the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council without the permission of the Mayor or Presiding Officer. No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.

Supporting material is on file and available for public inspection at the City Clerk's Office, 401 California Avenue, Boulder City, Nevada 89005 and the Boulder City website at www.bcnv.org, as per NRS 241. To request supporting material, please contact the City Clerk Tami McKay at (702) 293-9208 or cityclerk@bcnv.org.

Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the City Clerk by telephoning (702) 293-9208 at least seventy-two hours in advance of the meeting.

This notice and agenda has been posted on or before 9 a.m. on the third working day before the meeting at the following locations:

Boulder City Hall, 401 California Avenue
www.bcnv.org
https://notice.nv.gov/
Presentation about Utilities contracts with other government agencies

SUBJECT:
Presentation by Attorney Ann Pongracz and discussion about Boulder City's Utilities contracts with other government agencies

ADDITIONAL INFORMATION:

ATTACHMENTS:

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Joint City Council and Utility Advisory Committee Workshop
August 10, 2022
Item No. 1

Staff Report

TO: Mayor McManus and City Council members
Chair Karr and Utility Advisory Committee members

FROM: Brittany Walker, City Attorney

DATE: August 3, 2022

SUBJECT: Presentation by Attorney Ann Pongracz and discussion about Boulder City’s Utilities contracts with other government agencies

Overview:

- The City Council directed Sklar Williams to review the interlocal agreements with the Southern Nevada Water Authority.
- This presentation was created by attorney Ann Pongracz with the law firm of Sklar Williams who has been retained by the City to assist with utility legal issues.

Background Information:

Boulder City, like all local governments in Nevada, relies on other government agencies to meet the needs of the public through interlocal cooperative agreements. This Presentation will cover how Boulder City uses interlocal cooperative agreements in its water and electricity operations. Specifically, this presentation will go over what interlocal cooperative agreements are and the legal authority for those agreements, why they are important, and what benefits these agreements provide for the City with respect to water and electricity.

Attachments:

- Presentation by Attorney Ann Pongracz
UTILITIES DIRECTOR:
JOSEPH STUBITZ, P.E.

POLICE CHIEF:
TIM SHEA

FIRE CHIEF:
WILL GRAY, CFO

FINANCE DIRECTOR:
DIANE PELLETIER, CPA

PARKS & RECREATION DIRECTOR
ROGER HALL
Welcome to the Wonderful World of Boulder City’s Utilities Contracts with Other Government Agencies!
How are Boulder City’s utility operations supported by its agreements with other government agencies?

I. Boulder City’s Interlocal Cooperative Agreements:
   I. What are Interlocal Cooperative Agreements?
   II. How does Boulder City Use Interlocal Cooperative Agreements in its water and electric utility operations?
   III. Who are the other parties in Boulder City’s Interlocal Cooperative Agreements?
   IV. What is authorized in each of Boulder City’s Interlocal Agreements?

II. What other agreements does Boulder City use in its water and electric utility operations?

III. Questions
What are Interlocal Cooperative Agreements (ICAs)?

• **NRS Chapter 277** allows Nevada local governments (and other Nevada political subdivisions) to enter into agreements with other Nevada political subdivisions, for the performance of any governmental function. These functions may include, but are not limited to, provision of personnel, equipment, property or facilities, or payment of money.

• **NRS 277.105** states the participants in an interlocal cooperative agreement may establish a permanent administrative entity to perform specific government services.
Why would a Nevada local government like Boulder City enter into interlocal cooperative agreements?

- Increased efficiency
- Cost sharing
- Volume discounts
- Avoid duplication of efforts
- Share resources, including employees
- Support joint planning for long term priorities, e.g. protection of water supply
- Increase effectiveness in advocating for shared priorities, e.g. conservation of water, obtaining water allocations
How do members of an interlocal cooperative work together?

• NRS 277.110 allows Nevada public agencies, including cities, participating in an interlocal cooperative agreement, to exercise their powers, privileges and authorities, jointly with each other.

• BUT – an interlocal cooperative agreement may NOT relieve a Nevada public agency of its obligations under the law (except in certain limited situations regarding timeliness of performance by the joint board)
What Interlocal Cooperative Agreements apply to Boulder City’s Utility Operations?

I. The SNWA Cooperative Agreement, as amended

II. The SNWA Facilities and Operations Agreement

III. The Silver State Energy Association Agreement

IV. SSEA Power Supply Management Agreement
Who are Boulder City’s counterparties under its ICAs for utility operations?

- Big Bend Water District
- Henderson
- Las Vegas
- North Las Vegas
- Clark County Sanitation District
- LVVWD
- SNWA
- And, for SSEA, the Colorado River Commission of Nevada
What is SNWA?

• Southern Nevada Water Authority is a political subdivision of the State of Nevada created in 1991 under the 1991 interlocal cooperative agreement.
  • **SNWA manages, treats and delivers Southern Nevada water resources to its purveyor member agencies, manages the comprehensive conservation and drought contingency plan, and manages and operates the regional water system**
  • In November 2020, the SNWA Board approved a $3.2 billion amended Major Construction and Capital Plan and phasing in of water rate increases over a six year period, beginning in January 2022.
Who Manages SNWA?

SNWA Board of Directors

- Marilyn Kirkpatrick, Chair, Las Vegas Valley Water District
- Dan Stewart, Vice Chair, City of Henderson
- James Adams, City of Boulder City
- James Gibson, Big Bend Water District
- Cedric Crear, City of Las Vegas
- Justin Jones, CCWRD
- Scott Black, City of North Las Vegas

SNWA Executive Team

- John J. Entsminger, General Manager
- David L. Johnson, Deputy GM, Operations
- Colby Pellegrino, Deputy GM, Resources
- Doa Ross, P.E. Deputy GM, Engineering
- E. Kevin Bethel, CFO
- Gregory J. Walch, General Counsel
What does SNWA do for Boulder City’s water utility?

• Boulder City’s water utility is a purveyor member agency of the SNWA

• SNWA provides, treats, and delivers wholesale raw and potable water to Boulder City for retail sale and provides related services, e.g. water testing
What is the LVVWD?

• The Las Vegas Valley Water District is the operating agent for the SNWA. SNWA has no employees of its own.

• The General Manager and officers of the SNWA are appointed by the SNWA Board and serve the LVVWD in the same capacity.
Let’s take a deeper dive into the SNWA Cooperative Agreement, as amended
The 1991 Cooperative Agreement

In 1991, Boulder City, Henderson, Las Vegas, North Las Vegas, LVVWD, Clark County Sanitation District, and Big Bend Water District, executed their first cooperative agreement to coordinate water conservation and supply for water use in Clark County. This Agreement created the SNWA.
What were the goals of the 1991 Cooperative Agreement?

- Provide a mechanism to allocate “among themselves” all Colorado River water apportioned to NV including allocated water that is unused in any given year.
- Act “in a unified and cooperative matter re: Colorado River programs such as “allocation of supply, salinity control, wheeling, return flows, and discharge and use of effluent.”
- Act “in a unified and cooperative matter” to obtain additional water supply from “underground basins, the Virgin River, and the Colorado River.
- Prepare and implement a water shortage sharing plan among Purveyor Members
- Acknowledge that availability of Colorado River Water “is dependent on the existence of adequate return flows to the Colorado River”. Therefore they agree to limits on their use of Reuse water.
The 1991 Cooperative Agreement created the framework still used today for water operations in Southern Nevada

The 1991 Agreement created SNWA and gave it authority to:

- Acquire water rights
- Manage water resources
- Acquire, finance, construct, operate and maintain facilities to develop, store, transport and treat water
- Develop a water budget and water conservation and shortage sharing plans
- Contract with CRC to use its Southern Nevada Water System for treatment and transportation of water at the SNWS Lake Mead intake
- Set forth the water and reuse water supplies allocated to each Member
The 1991 Cooperative Agreement also put limits on what SNWA could do:

SNWA Cannot:

- Restrict jurisdiction of federal state or local public entities
- Duplicate functions performed by a Member in its service area, unless the Member’s governing body okays it
- Own or operate municipal sewage facilities
The 1991 Cooperative Agreement has evolved over the past thirty years to:

- Reflect and allocate new water resources
- Allow Members to make unused intermittent water supplies to available to other Members
- Transfer to SNWA CRC’s interests in, and obligations for, the Southern Nevada Water System
- Recognize updates to southern Nevada water contracts with the United States
The SNWA Cooperative Agreement addresses electric power as well as water utility issues

• Beginning with the 1991 Cooperative Agreement, SNWA was given the authority to operate its own electric generation transmission facilities, buildings and other structures.

• The 1995 Amended Cooperative Agreement added to SNWA’s powers, the power “To the full extent permitted by law, to acquire and sell electric power at wholesale and retail within or without the State of Nevada.”

• SNWA’s 2012 Facilities and Operations Agreement states that it Major Construction and Capital Plan shall provide for the Authority's performance of any its other Conferred Functions, as that term is used in the Cooperative Agreement, including its operation of facilities and assets including electric generation, transmission, and distribution facilities.
What’s the purpose of the SNWA Facilities and Operations Agreement?

- Provide for future development of facilities needed for development, transport and treatment of water, through implementation of the Major Construction and Capital Plan, Operating Plan
- Provide more detailed terms for SNWA’s operation of the Southern Nevada Water system and delivery of water to each Purveyor Member
- Include detailed provisions regarding Charges and payments, including a separate charge for Boulder City for improvements required to serve Boulder city (including power delivery facilities and facilities for ozone and other enhanced treatment of water), in addition to Boulder City’s portion of SNWA’s MCCP debt reserve (Charges to BC are a little different from charges to other Purveyor Members)
- Address wholesale delivery charges
- Set forth Purveyor Members’ duties to “use every reasonable effort to maintain and operate to the fullest extent its delivery system and any water production and treatment system”
What other Interlocal Cooperative Agreement Impacts Boulder City’s Utility Operations?
The Silver State Energy Association Interlocal Cooperative Agreement

In 2007, Boulder City entered into an Interlocal Cooperative Agreement to assist them in provision of electric power services with:

- Lincoln County Power District No. 1
- Overton Power District No. 5
- Southern Nevada Water Authority
- Colorado River Commission

This Agreement created the Silver State Energy Association
Who Manages SSEA?

SSEA Board of Directors

• Robert (Bob) D. Reese, Chair, Colorado River Commission
• Dennis Porter, Vice Chair, Utilities Director, City of Boulder City
• Jack Nelson, Director, Overton Power District No. 5
• Edward Wright, Director, Lincoln County Power District No. 1
• David L. Johnson, Director, SNWA

SSEA Manager

• Scott Krantz, Southern Nevada Water Authority

Member Agency Representatives:

• Boulder City: Joe Stubitz
• Colorado River Commission: Gail Bates
• Overton Power District No. 5: Mendis Cooper
• Lincoln County Power District No. 1: David Luttrell
What can the Silver State Energy Association do for Boulder City?

- Own, finance, and operate projects for generation, acquisition, disposition, transmission and distribution of Electric Power

- Buy and sell Electric Power and related fuel and financial instruments, ancillary services, and transmission

- Acquire property and hire personnel

- Enter into contracts

- Borrow money for purposes of the Agreement, e.g. to purchase Electric Power
And now: SSEA’s Project Service Agreements

• In the past, SSEA members approved Project Service Agreement No. 1, for joint generation resource planning and evaluation; and Project Service Agreement No. 2A, for the Eastern Nevada Transmission Project. The term of these agreements has expired.

• The term of Project Services Agreement No. 3 for Power Supply Management Services is concurrent with the term of SSEA’s Cooperative Agreement. This is the agreement under which SSEA may buy and sell electric power, fuel for projects, financial instruments, ancillary services, transmission or other services in connection with the operation, scheduling, hedging or optimization of SSEA member’s resources to assist in meeting SSEA members’ power supply needs.

• PSA No. 3 recognizes that SSEA members have different power supply needs, and these are set forth in the Service Schedules attached to the agreement.

• SSEA carries out its duties under PSA No. 3 under the guidance of its Risk Control Committee comprised of SSEA members, and in compliance with the Energy Risk Management Policy.
What additional Agreements does SSEA use in providing Electric Services to its Members?

Guaranty Agreement: This is the financial guaranty agreement SSEA uses when it purchases and sells wholesale electric power under the WSPP Agreement.

- What is the WSPP Agreement?
- It is a default standard contract used for bilateral power sales by over 275 member utilities, power providers, financial institutions, and others, in the United States and Canada.
What other agreements impact Boulder City’s electric utility operations?

- Mutual Assistance Agreement with Colorado River Commission (CRC)
- Federal and state hydropower agreements:
  - Hoover power:
    - Electric Service Contract between Boulder City and Western Area Power Administration (WAPA)
    - Electric Service Contract between Boulder City and CRC
    - Implementation Agreement among Boulder City, WAPA and the U.S. Bureau of Reclamation
  - Glen Canyon hydropower
What does the CRC do for SNWA, SSEA and Boulder City?

The Colorado River Commission:

• **Contracts** for hydropower and market power on behalf of members of the SSEA and others
• **Owns, operates and maintains**: 17 high-voltage substations, 32 miles of 230-kV overhead transmission lines, 4 miles of 69-kV overhead transmission lines, and 11 miles of 69-kV underground transmission lines, and a communications network
• **Operates** 8 SNWA substations
• **Provides electric maintenance support** to Boulder City under a Mutual Aid Agreement
• **Manages and protects** Nevada’s allocations of hydropower from Hoover Dam, the Parker Davis Project, and the Salt Lake City Area Integrated Projects, and administers Boulder City’s hydropower contracts
• **Represents** Nevada Hoover contractors in proceedings with WAPA and the U.S. Bureau of Reclamation
• **Establishes policy** for the management of Nevada’s allocations of electrical power and water resources from the Colorado River
# Who Manages the Colorado River Commission of Nevada (CRC)?

## Members of the CRC
- Puoy K. Premsrirut, Chairwoman
- Kara J. Kelley, Vice Chairwoman
- Justin Jones
- Marilyn Kirkpatrick
- Allen J. Puliz
- Dan H. Stewart
- Cody Winterton

## CRC Executive Team
- Eric P. Witkowski, Executive Director
- Doug Beatty, Finance Chief
- Bob Reese, Asst. Director, Engineering and Operations
- Gail Bates, Asst. Director, Hydropower
- Sara A. Price, Senior Assistant Director
- Angela Slaughter, Natural Resources Manager
- Christine Guerci, Special Counsel, AG
- David W. Newton, Senior Deputy AG
What does Boulder City receive under its Mutual Assistance Agreement with CRC?

- **Emergency Mutual Assistance**: CRC may, at the request of Boulder City, assist the City’s utilities staff by providing labor, equipment and materials, for emergency repair or emergency operation of Boulder City’s electric utility system.

- **Technical Mutual Assistance**: CRC may, at the request of Boulder City, assist the City’s utilities staff by providing labor and testing equipment for engineering analysis, financial and technical analysis, electrical device testing and checkout, and troubleshooting of the other Party’s electric utility system. In the past, for example, this provision has been used to assist Boulder City with NERC audit compliance.

- **Payment**: is on a cost reimbursement basis, with no additional profit or subsidy included.
Boulder City’s Federal and State Hydropower Contracts

Boulder City participates in federal and state long term contracts for power generated at Hoover and Glenn Canyon Dams. These agreements:

- Allocate hydropower (electric energy and capacity, and ancillary services)
- Provide for cost-based rates (without a profit factor)
- Allow for power rates to be revised periodically, through proceedings conducted by the Western Area Power Administration. All contractors are welcome to participate in the proceedings.

Current drought conditions jeopardize future hydropower generation and are likely to increase the City’s electric power costs in the future.
Boulder City’s Hoover Hydropower Contracts

Boulder City is party to three post 2016 Hoover power agreements:

The federal agreements:

- Federal Electric Service Contract (ESC) with Western Area Power Administration, U.S. Bureau of Reclamation, and federal Hoover contractors
- Nevada State Electric Service Contract with CRC and state Hoover contractors
- Amended and Restated Implementation Agreement with parties to the federal ESC

The state agreement:

- Nevada State Electric Service Contract with CRC and state Hoover contractors
The 2016 Hoover Power Agreements have new provisions that:

- Provide for a term of 50 years
- Allow contractors to claim the benefit of environmental attributes, e.g., Renewable Energy Credits
- Provide for contingency planning if:
  - Hoover Dam’s generating capacity drops below 100MW
  - The operation of Hoover Dam is significantly compromised by a major catastrophe or uncontrollable force
- This includes the opportunity for contractors to “meet and confer with Western and BOR re:
  - “full range of cost containment opportunities”
  - Hydrology data
  - Ability of Reclamation to seek alternative funding sources
  - Other operational or adverse impacts to Hoover
Boulder City’s Hydropower Contract with the Salt Lake City Area Integrated Project “SLCAIP”

The 1988 SLAIP Amended Electric Service Contract between Boulder City and CRC for power generated at Glen Canyon Dam

- Allocates Glenn Canyon’s hydropower (electric energy and capacity, ancillary services and “environmental attributes, e.g. RECs)
- Provide for cost-based rates (without a profit factor)
- Term expires September 30, 2024
- Talks are ongoing regarding the new SLCAIP contract
Questions?

Contact:

City Attorney Brittany Walker, bwalker@bcnv.org

Utilities Director Joe Stubitz, jstubitz@bcnv.org

Outside Counsel, Ann C. Pongracz, Sklar Williams, apongracz@sklar-law.com