

STATE OF NEVADA

BUREAU OF CONSUMER PROTECTION

CONSUMER PROTECTION:

PROTECTIONS FROM UNDUE RATE INCREASES
AND FRAUDULENT PRACTICES

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INCREASES AND FRAUDULENT PRACTICES

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Disclaimer

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The information in this presentation was compiled from sources believed to be reliable for informational purposes and consideration only. All suggestions, policies, and proposed procedures herein should serve as a guideline or attention to potential issues.

The Bureau of Consumer Protection

- ❖ Established in 1997 to protect consumers by combining the Office of the Consumer Advocate for Ratepayers and other consumer deceptive and unfair trade practice positions within the Attorney General's Office
 - As a direct result of Nevada's previous attempt in electricity energy restructuring

The Bureau of Consumer Protection

- ❖ The Bureau of Consumer Protection is housed in the Office of the Nevada Attorney General
 - Consumer Advocate Ernest Figueroa is the executive head of the unit and the Bureau Chief which has offices in Las Vegas and Carson City
- ❖ Main statutory authority of the Bureau of Consumer Protection is located in the Nevada Revised Statutes, Chapter 228, sections 300 through 390

Mission of the Bureau of Consumer Protection

- ❖ To represent public rate payers and the public interest before the Public Utilities Commission of Nevada (PUCN) and various other venues (Federal Energy Regulatory Commission (FERC))
- ❖ To Enforce Violations of Nevada Deceptive Trade Law – NRS Chapter 598
- ❖ To Enforce Violations of Nevada Unfair Trade Practices Law (Antitrust NRS Chapter 598A)
- ❖ Consumer Outreach and Education

Ratepayer Advocacy

- ❖ By law, the Bureau of Consumer Protection must be involved any time Nevada Power or Sierra Pacific Power files a general rate or a deferred energy accounting adjustment case before the Public Utilities Commission of Nevada
- ❖ The Bureau is also involved in various other proceedings before the Public Utilities Commission from rulemakings to investigatory dockets involving various issues with any privately-owned utilities that ultimately impact residential ratepayers

Ratepayer Advocacy Resources

- ❖ Currently, with regard to utility matters, the Bureau has the following resources:
 - 3 Full-time Attorneys
 - 6 Technical Staff with knowledge in various disciplines (accounting, finance, engineering, etc.)
 - 1 Legal Researcher
 - 2 Legal Secretaries

- ❖ Supplemented by a counsel budget for outside consultants/expert witnesses

Ratepayer Advocacy Continued

- ❖ Notable Issues the Bureau of Consumer Protection has been active in:
 - Utilizing outside counsel to represent Nevada ratepayers' interests in an issue that has to date resulted in a \$5 million benefit to Nevada ratepayers at the Federal Energy Regulatory Commission
 - Solar issues at the Public Utilities Commission of Nevada
 - We have seen an increase in rural water cases filed at the PUC wherein, while not statutorily mandated, the Bureau has intervened to advocate on behalf of our rural residential ratepayers
 - Currently, involved in Nevada Power's General Rate Case at the Public Utilities Commission

General Consumer Advocacy Resources and Issues

- ❖ Currently, the Bureau's Deceptive Trade and Unfair Trade Practice

Department has the following resources:

- 4 Attorneys
- 1 Legal Researcher
- 1 Legal Secretary

- ❖ Through two previous settlements during the foreclosure crisis (National Mortgage Settlement and Morgan Stanley), the unit is additionally supplemented by grant funds for:

- 3 Attorneys, 1 Legal Researcher and 1 Legal Secretary

Notable Examples of Bureau of Consumer Protection Involvement:

- ❖ A \$1.7M settlement for Nevada from JP Morgan Chase regarding debt collection practices
- ❖ A \$4.3M recovery for the state from Volkswagen regarding deceptive emissions advertising
- ❖ Recently filed a Motion for Intervention in a potential Americans with Disabilities Act serial litigation
- ❖ Active in current litigation as a named party in the federal district of CT against various generic drug manufacturers for allegations of violating Nevada's deceptive and antitrust laws
- ❖ Active in the recent Equifax data breach
- ❖ Active in various opioid-related issues affecting the State
- ❖ Manages the National Mortgage Settlement Administration and its programs

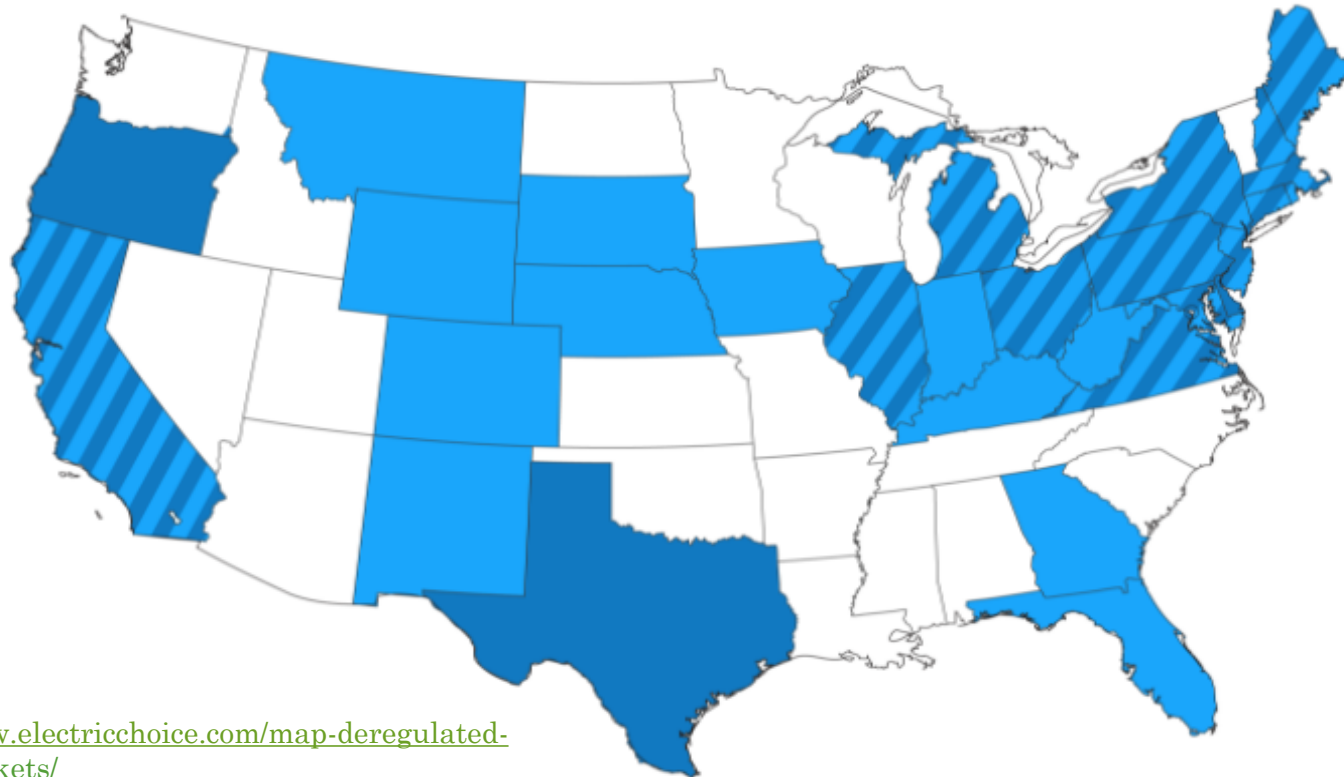
TOPICS (REFERENCE AGENDA OF COMMITTEE)

Consumer Protections: Protections from Undue Rate Increases & Fraudulent Practices

1. Licensing, market behavior, transactional rules and related enforcement regimes
2. Routine monitoring and oversight of market participants (e.g. administering and managing any reporting requirements)
3. Customer education on the marketplace and their rights
4. Customer complaint and dispute resolution
5. Oversight of and rules for entity managing customer enrollments and supplier switching
6. Oversight of and rules for managing data privacy and data exchange
7. Transmission and distribution system rate design and recovery
8. Market participant compliance with market behavior rules and any obligations that extend to them (e.g. energy supply requirements, emerging technologies, net metering, energy efficiency, demand response requirements)
 - Who will enforce? AG? PUCN? Both?
 - Create penalty authority for noncompliance
9. Low-income customer assistance
10. Retail Providers – what types of payment options and credit arrangements should be offered
11. Oversight of Energy Providers extended to territories of cooperatives, municipalities, and public utility districts where needed or desirable

Electric Restructuring in the United States

Electric Restructuring in some fashion has or is occurring in 18 states across our nation. The closest state to being completely deregulated is Texas where approximately 85% of the state has access to robust energy choices.



<https://www.electricchoice.com/map-deregulated-energymarkets/>



The Energy Choice Initiative

- ❖ February 3, 2016
 - Energy Choice Initiative Petition received by the Nevada Secretary of State Elections Division

- ❖ November 2016
 - Petition placed on the general ballot and passed with 72 to 28 percent margin.

- ❖ November 2018
 - ❖ Because the Petition seeks to amend the Nevada Constitution, the Petition must be placed on the next general ballot again in 2018.
 - ❖ If the Petition passes in 2018, Energy Choice will amend the Nevada Constitution and require lawmakers to establish an ***open and competitive retail market for energy and generation by 2023.***

The Energy Choice Initiative

- ❖ Key language of the intent and premise of the Initiative are found under:
- ❖ **Rights of Electric Energy Purchasers:**

“...every person, business, association of persons or business, state agency, political subdivision of the State of Nevada, or any other entity in Nevada has the right to choose the provider of its electric utility service, including but not limited to, selecting providers from a competitive retail electric market, or by producing electricity for themselves or in association with others, and shall not be forced to purchase energy from one provider.”

The Energy Choice Initiative

- ❖ As we work through this presentation, we need to keep in mind the intent of the **Initiative which provides that:**

The People of the State of Nevada declare that it is the policy of this state that electricity markets be open and competitive. . . **and that economic and regulatory burdens be minimized in order to promote competition and choices in the electric energy market. . .**”

- **Regulatory Burdens Should be Minimized**

Going Forward – Assumptions

❖ **For purposes of this presentation, the following assumptions are made:**

- The Initiative Petition will amend the Nevada Constitution
- NV Energy will run the Transmission and Distribution systems up to the meter
- NV Energy will not be the default provider (provider of last resort)
- There will be one bill for the customer

○ Source: <http://energyfreedomnv.com/#faqs>

Going Forward – General Consumer Protection Issues

- ❖ What is a Consumer?
 - Residential and small commercial customers
 - Not usually offered opportunity to negotiate a customer-specific contract
 - Low-usage who individually use less energy or electricity than larger customers
 - Usually offered take-it or leave-it contracts by mass-marketed products
 - Usually shop with no expert assistance and do not have legal or financial assistance to negotiate
- ❖ Fraud - Undue Rate Increases
 - Public will be understandably concerned and cautious if there is an increase in fraud, customer confusion, complaints, and inability to understand
 - Fortunately, we can learn from other States and not repeat the same mistakes

Going Forward – General Consumer Protection Issues

- ❖ Electricity is a necessary commodity
- ❖ Like water, electricity is a necessity of current modern-day life in Nevada's environment
 - Heating and Cooling
 - Water production/treatment
 - Light
 - Food and Cooking
 - Communication
 - Entertainment
 - Modern-day appliances and gadgets

TOPICS (REFERENCE AGENDA OF COMMITTEE)

Consumer Protections: Protections from Undue Rate Increases & Fraudulent Practices

1. Licensing, market behavior, transactional rules and related enforcement regimes

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes of Retail Energy Providers

- ❖ What is a retail energy provider under Energy Choice?
 - We have seen many presentations that have referred to retail energy providers with various acronyms

- ❖ Under Nevada Energy Choice
 - Consumers will have access to 3 options to acquire electricity
 1. From a competitive retail energy provider who will generate power or purchase power at wholesale to sell to the residential ratepayer or small business
 2. Self-Generation
 3. In association with other entities (such as municipalities, cooperatives, Public Utility Districts)
 - This discussion will mainly focus on competitive retail energy provider issues

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes of Retail Energy Providers – cont.

- ❖ A Need for State Regulation of Competitive Retail Energy Providers (Licensing)
 - Given the importance of Electricity, it is important that the State of Nevada license Retail Energy Providers in some fashion
 - Depending on the type or subtype - issues will arise concerning safety, reliability, effect on the grid
 - Many industries and businesses that affect public health and safety such as hospitals, nursing homes repair contractors, state-chartered financial institutions and insurance providers are required to be licensed for consumer protection
 - Other states typically require the state regulatory authority, usually the Public Utility Commission, to license retail energy providers before conducting business in the state

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes of Retail Energy Providers – cont.

- **However, care should be taken so that:**
 - General applicable consumer protection laws can still be enforced AND
 - Any requirements mandated by the licensing regulatory agency can be imposed
- **General State Consumer Protection Laws include**
 - Nevada's Unfair and Deceptive Trades Practices Act
 - Debt collection laws
 - Discriminatory laws
 - Predatory credit terms

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes of Retail Energy Providers – cont.

- ❖ What Should Retail Energy Provider Licensing Requirements Look Like?
- ❖ Examples (not an inclusive list):
 - Be stringent enough to discourage fly-by-night operations or non-serious participants BUT should not be too stringent such that they discourage participation
 - Fly-by-night operations encourage increased fraud in the marketplace
 - Require some evidence of financial integrity
 - Not be unfair to the industry
 - Require review and approval of retail energy providers' financial, operational, and managerial history, records, and viabilities
 - Set financial and billing standards which retail energy providers must maintain
 - May wish to consider imposing a bond or equivalent security

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes of Retail Energy Providers – cont.

- ❖ What Should Retail Energy Provider Licensing Requirements Look Like?
- ❖ Examples (not an inclusive list) – cont.:
 - Require the same service protocols and uniformity of all retail energy providers
 - (e.g. same types of billing services, same protocols for switching (both contractually and physically))
 - Mandate that variable rates must be calculable
 - (i.e. rate must be disclosed to the consumer or can be calculated with a method that is disclosed to the customer)
 - Prohibit aggressive sales tactics, etc.
 - Information on prior disciplinary actions or enforcement
 - Information on actions in other states in which it operates
 - Information concerning the applicants' consumer complaint history in other states
 - Disclosure of its ownership structure and affiliates doing business in the state

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes of Retail Energy Providers – cont.

- ❖ What Should Retail Energy Provider Licensing Requirements Look Like?
 - The licensing process should not be an insurmountable barrier to entry given the mandate in the Energy Choice Initiative
 - The licensing process can also be confidential so that it encourages truthful and complete disclosure
 - e.g. gaming applicants, state-chartered bank applicants, insurance companies, etc.

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Maryland Example)

- ❖ In Maryland, its Public Service Commission (“PSC”) oversees
 - Supplier Licensure Requirements
 - Consumer Protection Requirements
 - A Dispute Process
 - Enforcement and Remedies

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Maryland Example)

❖ Retail Energy Provider Licensure Requirements:

- ❖ Applicants were mandated to provide the following to the Maryland Public Service Commission:
 - Evidence of technical and financial competence
 - Certifications, qualifications and affirmations by officers
 - Consumer and environmental complaint histories in other states
 - Evidence of customer consent – signatures, electronic or otherwise
 - Contractual disclosures regarding variable rates and access to rates in advance of new billing cycle
 - Proof of required training

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Maryland Example)

❖ Consumer Protection Requirements:

- ❖ The Maryland Public Service Commission regulates each retail energy provider for:
 - Unfair or misleading practices
 - Violation of state and federal consumer protection laws
 - Stringent disclosure requirements
 - Stringent contract requirements

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Maryland Example)

❖ A Dispute Process:

- ❖ The Maryland Public Service Commission provides consumers with a dispute process that includes:
 - A dispute and mediation process
 - A formal customer complaint and appeal process

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Maryland Example)

❖ Enforcement and Remedies:

- ❖ The Maryland Public Service Commission regulates and investigates complaints and has authority to set:
 - Show Cause investigations

- ❖ The **Maryland Office of Attorney General** provides:
 - Investigations of Complaints with regard to violations of its general consumer protection laws such as the Maryland Consumer Protection Act

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Maryland Example)

- ❖ The Maryland Public Service Commission has taken the following remedies against retail energy providers who have been found to have misled a consumer or violated licensing regulations:
 - Mandated moratoriums on new customers
 - Suspended or revoked licensure
 - Imposed civil penalties
 - Mandated refunds or credits to customers

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont. – (Illinois Example)

- ❖ As recently as May 2017, Illinois has clamped down on price comparison disclosures:

May 27, 2017

Power sellers fight state marketing clampdown

[Comments](#) [Email](#) [Print](#)
By [Steve Daniels](#)

(<http://www.chicagobusiness.com/article/20170527/ISSUE01/170529906/power-sellers-fight-state-marketing-clampdown>)

There is little question that consumers are often confused by how the market works. Suppliers aren't required to post the utility's current energy price when making offers, so consumers frequently don't know whether they'll save money by signing up. The proposed rules would for the first time require suppliers that claim savings to show the utility's "price to compare" when pitching would-be customers.

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont.

❖ **Licensing Considerations:**

- Given the possibility of inter-agency interaction, there should be bright-line rules with regard to the roles of each agency
- Does the agency issuing licenses also have jurisdiction over complaints?
- Should licensees be fined? If so, how much?
- Criteria for license revocation?
- What remedies could and should be enforced?

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont.

❖ **Inter-Agency Licensing Considerations and Roles:**

- **Jurisdiction of the State Regulatory Agency**
 - Licensing, disclosure issues, contract terms, consumer disputes, penalties, restitution, cease and desist, etc.?
- **The Role of the Utility Consumer Advocate**
 - Ability to advocate and play role with all agencies?
- **The Role of the Attorney General's Bureau of Consumer Protection**
 - Attorney General's Bureau of Consumer Protection should continue its mission in enforcing general consumer protection laws
- **The Role of the State Energy Office**

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont.

❖ Access to Books and Records to State Enforcement Agencies

- All involved state agencies, from licensing to enforcement and consumer protection, should have access to books and records
- Details about the access should be ironed out by the legislature in implementing Energy Choice

1. Licensing, Market Behavior, Transactional Rules and Related Enforcement Regimes – cont.

❖ **Big Caveat:**

- ❖ State policies must be designed to minimize barriers of entry for competitive retail providers
 - Effective retail competition and consumer benefits are more likely to be achieved if there are many participants in the market
 - In a robust market, the market can and will bring innovation and emerging technologies for the benefit of consumers

TOPICS (REFERENCE AGENDA OF COMMITTEE)

Consumer Protections: Protections from Undue Rate Increases & Fraudulent Practices

1. Licensing, market behavior, transactional rules and related enforcement regimes
2. **Routine monitoring and oversight of market participants (e.g. administering and managing any reporting requirements)**

2. Routine Monitoring and Oversight of Market Participants

- ❖ Why is it necessary to monitor Market Participants?
 - To ensure they are following specific rules
 - To ensure complaints are addressed
 - To ensure consumer protection
 - There are over 1.1 million residential customers in the State of Nevada
 - To ensure competition
 - Regulations not overly burdensome such that they inhibit growth of the marketplace

2. Routine Monitoring and Oversight of Market Participants – cont.

- ❖ Number one Complaint (from other states) – Billing Issues:
 - Unexpected Fees
 - Hidden Fees
 - Exorbitant Fees for Late Payments
 - Inconsistent billing (e.g. electric plans are not reflected properly on bill and switching between retail energy providers creating billing issues)
 - Energy bills are too complicated and difficult to understand

2. Routine Monitoring and Oversight of Market Participants – cont.

- ❖ Other Types of Complaints (from other states):
 - ❖ Privacy Issues:
 - Customer's private information becomes public
 - ❖ Inadequate or False Information:
 - Misleading consumers about their services
 - High pressure sales tactics
 - Impersonations and misrepresentations
 - Slamming
 - Telemarketing
 - Cramming
 - ❖ Customer Service Issues
 - Poor service (e.g. lack of professionalism in assisting customers)
 - ❖ Insufficient Notices
 - Going out of business
 - Bankruptcy or closing doors without notice

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3. **Customer education on the marketplace and their rights**

3. Customer Education on the Marketplace and Customer Rights

- ❖ Customer Education is critical to Energy Choice
 - Electricity is important!
 - The need for electric service is practically universal among people and businesses
 - Citizens will be affected by a change in this system
 - Customer education includes rights and obligations
 - Insufficient customer education can result in anger and confusion
 - Consumers will need to be educated about the competitive market
 - Costs will be associated with robust consumer education
 - Advertising must not be deceptive and misleading

3. Customer Education on the Marketplace and Customer Rights – cont.

- ❖ Customer Education is Critical to Energy Choice
- ❖ Two principles for effective Consumer Education:
 - Good Communication should place the burden on the more sophisticated party
 - Ratepayers in other jurisdictions struggle to understand energy retail competition and have limited resources to understand the process or even to ask the right questions to get help
 - Effective Communication requires top talent
 - Any consumer education component mandated by this initiative should require the services of top talent from marketing, sales, and strategies to effectively communicate with our consumers
 - It must go beyond a public service announcement

3. Customer Education on the Marketplace and Customer Rights – cont.

- ❖ **Customer Education** should be accomplished on a **Grand Scale**
 - **Education** needs to be **collaborative** – i.e. many entities/jurisdictions will need to get involved and work together.
- ❖ Consumer Education includes, but is not limited to, educating consumers in answering questions such as:
 - What did the Energy Choice Initiative do for consumers?
 - What are the products that consumers are purchasing?
 - What are consumers paying for?
 - What does the consumers' contract mean?
 - When consumers have questions or complaints, where do they go for answers and resolutions?

3. Customer Education on the Marketplace and Customer Rights – cont.

❖ Standardized Billing

- Should be in place to protect consumers from unfair or abusive marketing practices
- Marketing to inform consumers about what bills look like

❖ Consumer Rights

- Marketing to inform consumers about scams (i.e. slamming & cramming)
- Marketing to inform consumers about their rights and obligations

❖ Examples of Consumer Education and Awareness:

- Interface of marketers, advertisers, providers, and regulators
- Public Awareness Campaign – See <http://www.nvinsurance101.com/>
- Ask for ideas!

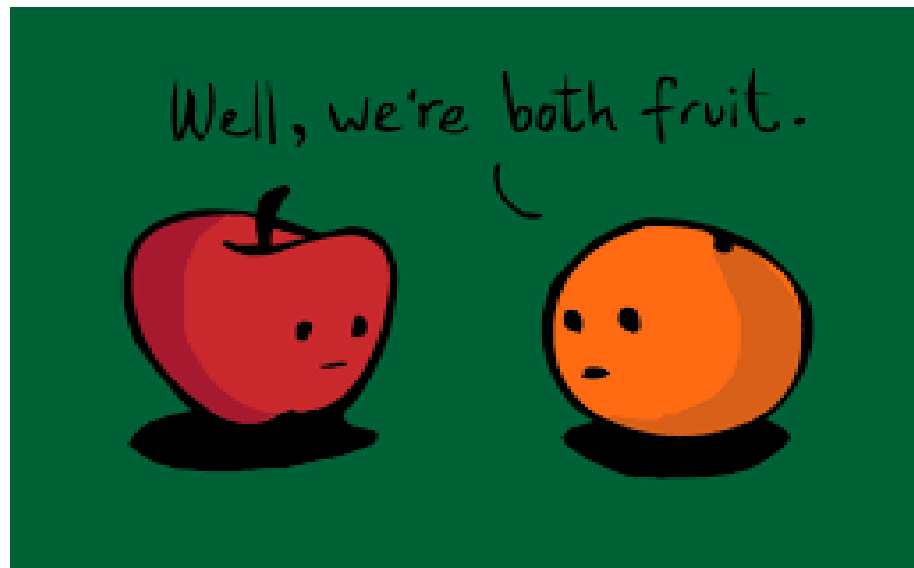
3. Customer Education on the Marketplace and Customer Rights – cont.

- ❖ Mandating Provider Information to Consumers?
 - Critical to market enforcement
 - Critical to consumers
- ❖ Marketing to Consumers
 - Types of Information sent to consumers
 - Education to Providers on licensing and regulations
 - Education from Providers to Consumers
 - Education from Regulators to Consumers
- ❖ Customers must be able to easily understand and compare retail energy providers in order to make a choice.

3. Customer Education on the Marketplace and Customer Rights – cont.

❖ Examples of how to Educate Consumers:

- Transparency of information provided to customers
- Retail Energy Providers mandated to advertise the same information.
- Allows consumers to compare costs, contracts, variable rates, etc.
- Ensure Apples to Apples Comparison



3. Customer Education on the Marketplace and Customer Rights – cont.

❖ Consumer Education of contract provisions:

- What does the contract mean?
- How will variable rates affect the total amount due on consumer bills?
- Will switching to a new provider be subject to early termination fees?
- What hidden fees or costs to look for?
- Standardized contract (such as auto sales)?

3. Customer Education on the Marketplace – cont. – (Ohio Example)



Compare *Apples to Apples* . . . Anytime, Anywhere.



With the Public Utilities Commission of Ohio's innovative tool, the differences between supplier plans, costs and contract terms are always right in front of you.

[COMPARE OFFERS NOW ▶](#)

Apples to Apples



With the Public Utilities Commission of Ohio's innovative tool you can easily compare prices, contract terms and other plan differences.

[Compare Electric Offers ▶](#)

[Compare Natural Gas Offers ▶](#)

WHAT IS ENERGY CHOICE?

Just as you shop for other products and services, you may also be able to shop for an energy supplier. With choice, energy customers from large manufacturers to residential homeowners are able to shop for energy options from a diverse group of competitive suppliers certified by the Public Utilities Commission of Ohio (PUCO). As more suppliers are offering their services in your area, you have the opportunity to choose the company that supplies the generation of your electricity and supplies your natural gas.

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4. **Customer complaint and dispute resolution**

4. Customer Complaint and Dispute Resolution

- ❖ Consumers will have questions and complaints
- ❖ Consumers must be able to know where to go or who to call with questions and complaints
 - Will a regulator take and hear these complaints?
 - Will consumers be able to engage in private litigation over their complaints/disputes?

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5. **Oversight of and rules for entity managing customer enrollments and supplier switching**

5. Oversight of Rules for Entity Managing Customer Enrollments and Supplier Switching – cont.

- ❖ The licensing regulatory agency should have some authority with respect to customer enrollment oversight due to the licensure of the retail energy providers
- ❖ Customer complaints should initially be handled by the licensing regulatory agency
- ❖ The Attorney General's office does accept complaints – but defers to licensing regulatory agency as the first responder (unless complaints are primarily criminal in nature)
 - With over 1.1 million residential customers in Nevada – there is a real possibility any agency could be overwhelmed
 - The Bureau of Consumer Protection and Attorney General's Office must be adequately staffed and resourced to quickly act or react to any potential criminal or civil conduct associated with scammers (illegitimate companies and persons) who attempt to take advantage of our citizenry ancillary to the regulatory scheme

5. Oversight of Rules for Entity Managing Customer Enrollments and Supplier Switching

- ❖ Who will oversee customer enrollments and supplier switching in Nevada?
 - The licensing agency?
 - Multiple agencies?

- ❖ Will additional regulations need to be adopted to address violations?
 - How will these requirements be enforced?

5. Oversight of Rules for Entity Managing Customer Enrollments and Supplier Switching – cont.

- ❖ Consumers will have questions and encounter problems with enrollment and supplier switching
- ❖ Examples from other states:
 - Misinformation
 - Slamming - the unsolicited and unknown changing of a retail energy provider made by another person or entity using false and misleading information
 - Cramming – the fraudulent practice of adding unauthorized charges to a customer’s bill
 - Refusal to switch customers
 - Lengthy times to switch back or to another supplier
 - Lag times between the billing period and receipt of the invoice
 - High pressure sales

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6. **Oversight of and rules for managing data privacy and data exchange**

6. Oversight of and Rules for Managing Data Privacy and Data Exchange

- ❖ **What will happen to customers' private information and how should transfer of this data be managed?**
- ❖ **NV Energy currently maintains its Management Information System containing confidential customer information, which includes:**
 - Personal identifying information
 - Usage history
 - Billing history
 - Payment history

6. Oversight of and Rules for Managing Data Privacy and Data Exchange

- ❖ More questions that need to be addressed:
 - To what extent should NV Energy (or any retail provider) be authorized to transfer all of this data to a another competitor retail provider?
 - Additional legislation needed to ensure data is maintained as confidential by retail providers?
 - Changes to existing legislation needed to impose responsibilities and penalties if the data is not maintained?
 - What happens in an event when the data is breached?
 - How should every entity ensure security of access to not only private data, but to facilities/operating platforms, etc.?
 - What types of customer-privacy obligations should former competitors have with the onset of switching?
 - Nevada Revised Statutes Chapter 603A is the Chapter that delineates Security of Personal Information. Will probably need to be amended to deal with some of these concerns.

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7. **Transmission and distribution system rate design and recovery**

7. Transmission and Distribution System Rate Design and Recovery

- ❖ **Assumes there will be one bill to the customer**
- ❖ Based upon this assumption:
 - Federal Energy Regulatory Commission regulates costs of the transmission component
 - May include transparency of charges for operations, facilities, etc. by the transmitter
 - Public Utilities Commission of Nevada regulates costs of the distribution component
 - May include transparency of charges for operations, facilities, etc. by the distributor

7. Transmission and Distribution System Rate Design and Recovery – cont.

- ❖ Retail Energy Provider may include the costs of both the transmission and distribution charges in their bill (as a total bill for energy)
 - Consumers will experience rate changes accordingly for each component (Transportation/Distribution/Retail Energy Provider)
 - Should information about each rate be separately listed as a subtotal on the bill?
 - What will this bill look like?
 - **A BIG CONSIDERATION: Uniformity to allow customer comparison shopping while maintaining transparency in the process**

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7. Transmission and distribution system rate design and recovery
8. **Market participant compliance with market behavior rules and any obligations that extend to them (e.g. energy supply requirements, emerging technologies, net metering, energy efficiency, demand response requirements)**
 - **Who will enforce? AG? PUCN? Both?**
 - **Create penalty authority for noncompliance**

8. Market Compliance – Market Behavior with Obligations

- ❖ Market Compliance - Public Policy Requirements
- ❖ Renewable Energy and Other Public Policy Requirements - **Public Policy Rules**
 - Energy supply requirements, emerging technologies, net-metering, energy efficiency, demand response
 - Some specific public policy rules will need to be managed, verified, and regulated by the licensing agency.
 - In addition, the Attorney General's office will play an integral role policing the market place to ensure marketing and disclosures of certain terms are done consistent with the State's general and specific consumer Protection laws
 - Regulators and the Attorney General will need access to books, records, and other evidence, to substantiate and verify compliance with public policy rules for:
 - Claims and marketing materials
 - Environmental marketing claims

8. Market Compliance – Market Behavior with Obligations – cont.

- ❖ How will market compliance and behavior be enforced?
 - New regulations?
 - Civil and criminal penalties

- ❖ Examples from Maryland:
 - Mandated moratoriums on new customers
 - Suspended or revoked licensure
 - Refunds or credits to customers

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Consumer Protections: Protections from Undue Rate Increases & Fraudulent Practices

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2. Routine monitoring and oversight of market participants (e.g. administering and managing any reporting requirements)
3. Customer education on the marketplace and their rights
4. Customer complaint and dispute resolution
5. Oversight of and rules for entity managing customer enrollments and supplier switching
6. Oversight of and rules for managing data privacy and data exchange
7. Transmission and distribution system rate design and recovery
8. Market participant compliance with market behavior rules and any obligations that extend to them (e.g. energy supply requirements, emerging technologies, net metering, energy efficiency, demand response requirements)
 - Who will enforce? AG? PUCN? Both?
 - Create penalty authority for noncompliance
9. **Low-income customer assistance**

9. Low-Income Customer Assistance

- ❖ What will happen to the many low-income assistance charges and funds provided for under the law?
 - ❖ Some of these programs are:
 - Universal Energy Charge on customers' electric bills
 - Special Assistance Funds for Energy (SAFE) for Northern Nevadans who have difficulties paying their bills
 - Energy Assistance to prevent customer hardships for eligible seniors via Project REACH
 - Senior Energy Assistance Expo, an annual event in Southern Nevada providing Project REACH assistance and education to low-income seniors



9. Low-Income Customer Assistance – cont.

- ❖ What will happen to the many low-income assistance charges and funds?
 - Legislature may need to amend current statutes to resolve concerns and determine if and what types of assistance programs will be offered or continued
 - Should accommodations be made for low-income and credit-challenged customers?
 - Which entity(s) will manage these types of low income assistance funds?
 - Should a default provider be mandated to serve low-income customers and what will the rules/regulations be?

9. Low-Income Customer Assistance – cont.

- ❖ Will the current laws governing termination of service for protected classes need to be maintained?
 - They should continue but will need some modification
 - Current rules dictate restrictions on postponement or termination of service which will result in danger to health or to a customer who is elderly or with disability (see NRS 704.1835 and NAC 704.390)

9. Low-Income Customer Assistance – cont. – (New York Example)

❖ Example from New York:

- In December of 2016, New York’s Public Service Commission prohibited retail energy providers from selling electricity and natural gas to low-income customers in New York.
- The New York Commission was quoted:
 - “We found that”...retail electricity providers...”were defeating the purpose of our low-income discount program by overcharging the very customers we were trying to help.”
- This prompted the New York Commission to approve a subsidy support for low-income customers.

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- 10. Retail Providers – what types of payment options and credit arrangements should be offered**

10. Retailer Providers – Types of Payment Options – Credit Arrangements

- ❖ Will various payment options be required by all retail providers?
- ❖ Some examples include:
 - Online payments
 - Phone payments
 - Walk-in payments
 - Mail-in payments
 - Equal Payment Plans
 - Average Payment Plans
 - Flexible Payment Options

10. Retailer Providers – Types of Payment Options – Credit Arrangements – cont.

- ❖ With restructuring, payment options could have the potential to be different for each retail energy provider possibly making change very difficult and cumbersome for the consumer.
 - Should a regulatory agency dictate the types of payment options a retail energy provider **must** provide to its customers?
 - Which entity or entities will oversee the payment options of retail providers?
 - Would this go hand-in-hand with licensure?

10. Retailer Providers – Types of Payment Options – Credit Arrangements – cont.

- ❖ How will credit arrangements be provided?
 - What types of rules and requirements should be implemented on how to deal with customers with very little, no or bad credit?
 - **Nevada residents have a average credit score of 658 (on a scale from 300-850)**
 - Over 40% of our population is considered subprime (poor credit history)
 - Average national score is 695
 - 720 or more: Excellent
 - 660 - 719: Average/Fair
 - 620 - 659: Poor
 - 620 or lower: Bad
 - Source: <https://www.valuepenguin.com/average-credit-score>

10. Retailer Providers – Types of Payment Options – Credit Arrangements – cont.

- ❖ Providers Dealing with Customers with Little, No, or Bad Credit
 - Restructuring will create a market place where consumers have a **choice** with their energy provider.
 - In many jurisdictions, the Default Provider (or provider of last resort) is the entity that provides energy to consumers with poor credit or to those who refuse or find it difficult to pay for energy.
 - This category of consumers often include those who are elderly, disabled, and terminally ill.
 - There are current laws that protect elderly, disabled, and terminally ill patients (see NRS 704.1835 and NAC 704.390).

10. Retailer Providers – Types of Payment Options – Credit Arrangements – cont.

- ❖ Default Providers Dealing with Customers with Little, No, or Bad Credit
 - In considering marketplace policies imposing requirements or restrictions on retail providers, policy makers should consider marketplace rules:
 - Should not be written so stringently as to limit participation in the energy market and
 - Should be written so that customers with little, no, or bad credit, cannot actively switch from one provider without recourse (avoid gameplay and hopping) to the detriment of the energy providers

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- 11. Oversight of Energy Providers extended to territories of cooperatives, municipalities, and public utility districts where needed or desirable**

11. Oversight of Energy Providers – Municipalities, Cooperatives and Public Utility Districts

- ❖ Municipalities and Public Utility Districts
 - Government-owned and operated
 - Are tax exempt

- ❖ Electrical Cooperatives
 - Are locally controlled and Board-operated with the following in mind:
 - Voluntary with open membership
 - Democratic Member Control
 - Members' Economic Participation
 - Education, Training and Information
 - Autonomy and Independence
 - Concern for Community
 - Pay state, local and property taxes
 - Are 501c organizations
 - Are exempt from federal income taxes
 - A fundamental strategic plan of these types of energy distribution systems is to provide safe, reliable and low-cost electric service for the members whom they serve

11. Oversight of Energy Providers – Municipalities, Cooperatives and Public Utility Districts – cont.

- ❖ The Bureau of Consumer Protection defers to the local and democratically elected Boards of municipalities, cooperatives, and power districts on an oversight mechanism due to any ancillary issues related to the Energy Choice Initiative.
- ❖ Current oversight is limited and these entities are and should be treated differently because these consumer-owned entities (association of persons) and local government entities (association of persons) are fundamentally different in structure and mission from electricity providers engaged in for-profit models

Summary

- ❖ Electricity is a necessity
- ❖ Consumer Protection Rules can improve market efficiency
 - Preserve Integrity of the marketplace
 - Unscrupulous companies damage the market and hurt legitimate companies
 - Fraud, misrepresentation, discrimination and other illegal practices hurt consumers and will result in public backlash
 - Effective retail competition is necessary – must ensure barrier to entry is minimized to allow the market to flourish and consumers can enjoy the reward from competition
 - Licensing is a must
 - Learn from experiences from the Industry players and other jurisdictions
 - All stakeholders must be actively involved in the process to get it right