



GOVERNOR'S OFFICE OF ENERGY

MINUTES
Committee on Energy Choice

March 23, 2018

Technical Working Group on Consumer Protections: Protecting Against Undue
Rate Increases and Fraudulent Practices

The Committee on Energy Choice held a public meeting on March 23, 2018, beginning at
1:00 P.M. at the following location:

Legislative Counsel Bureau
401 South Carson Street, Room 2134
Carson City, NV 89701

The meeting was also available via videoconference at:

Grant Sawyer State Office Building
555 East Washington, Room 4401
Las Vegas, NV 89101

1. Call to Order and Roll Call: The meeting was called to order at 10:07am by Vice Chair Figueroa. The agenda item was opened up for roll call and a quorum was confirmed.

Members Present

Ernest Figueroa – Carson City
Ann Silver – Carson City
Barry Gold – Las Vegas

Members Absent

Senator Kelvin Atkinson

2. Public Comment and Discussion:

Vice Chair Figueroa opened up for public Agenda Item No. 2 and asked if anyone from the public sought to make a comment in both Carson City and Las Vegas locations.

No public comment.

Vice Chair Figueroa closed agenda item No. 2 and moved to Item No. 3 on the agenda.

3. Approval of Minutes from the February 8, 2018 meeting.

Vice Chair Figueroa opened up Agenda Item No. 3 asking if members of the Committee approved the minutes from the February 8, 2018 meeting. A motion was made to approve the minutes by Ann Silver and seconded by Barry Gold.

Vice Chair Figueroa closed agenda item No. 3 and moved on to agenda Item No. 4.

4. Discussion, Consideration and Adoption of Policy Recommendations and Technical Working Group Report to the full Committee on Energy Choice - (For Discussion/Possible Action)

Matt Morris, Legislative Director-The work session document outlines the broad themes that have been presented in previous technical working group meetings and initial recommendations for the members to consider adopting and forwarding to the full committee. Within each recommendation he emphasized important topics.

1. Successful implementation of the Energy Choice initiative will depend on effective and comprehensive efforts to educate and inform customers, particularly residential and small business customers.

- a. Those customers most in need of protection are the small commercial, agricultural, and household/residential customers. The most effective means of consumer protection is that of public education (Best Practices Guide).
- b. Consumer education efforts should ensure that residential and small business customer have the information and tools they need to benefit from a restructure market in the same way that larger commercial customers may benefit.

Recommendations:

- A. Customer education initiatives should include explanations of the fundamental components of restructuring in multiple languages, to ensure that non-English speaking customers are equipped with the information and tools necessary to participate in a restructured market and are not penalized by the switch to a restructured market.
- B. Customer education initiatives should clearly explain potential impacts on prices, consumer protections, and low-income programs under a restructured market.
- C. Customer education initiatives should clearly explain potential impacts on prices, consumer protections, and low-income programs under a restructured market.
- D. Customer education initiatives should leverage the ability of the communication organizations in speaking, rural, small business and other communities and constituencies who may require particularized educational assistance that is uniquely tailored to their needs.
- E. The Legislature should examine strategies to ensure that comprehensive customer education initiatives are appropriately funded.

Technical Working Group Members' Responses –Recommendation #1

Ernest Figueroa-This is an important recommendation as Nevada has 1.1 million rate payers. If there isn't an organized educational campaign, there is going to be a lot of angry and confused rate payers. He agrees with the recommendation as written.

Barry Gold-Agrees with getting the educational material out to the consumers. Asked for clarification on what the technical working group's responsibility is as it relates to educating and informing consumers before the election.

Matt Morris-Recommendations include presentations that were given by representatives of states that have already restructured. The presentations contained limited information. There are assumptions that the issues outlined in the presentations may occur should the initiative pass in November. The Legislature will need to consider these recommendations for Nevada's version of the market.

Barry Gold-Concerned that if the education does not begin until after the initiative passes, the consumers will be missing out on making an informed decision.

Ernest Figueroa-The Legislature convenes twice a year and the subcommittee is tasked with providing recommendations so the Legislature will not be behind in implementing energy choice.

Barry Gold-agreed that the recommendation is on point.

Ann Silver-concurs. For the record, reiterated that there is time, prior to the voters choice, to lay the ground work to educate the consumer. The Chamber of Commerce will make an effort to provide education. Concerned that the recommendations follow the constitutional amendment rather than precede it. Understands that it is not the role of the subcommittee to proactively provide educational information to consumers.

Ernest Figueroa-Prior to proceeding to recommendation number 2, added a side-note for members of the public. The presentation materials and minutes for all of the technical working groups and main committee meetings are on the Governor's Office of Energy's website.

2. In order for customers to make informed choices in a competitive energy market, they must be able to make accurate comparisons of essential terms of service among various providers.

- a. Enforceable standards that will ensure providers are disclosing such terms of service will be critical in making sure customers are able to make "apple-to-apple" comparisons when choosing their electricity provider under a restructured market.

Recommendation:

- A. The Legislature and/or the Public Utilities Commission of Nevada should consider adopting a model Terms of Service Disclosure form which all retail energy providers must use in order to participate in the restructured market.
- B. The model Terms of Disclosure form should require standardized methods of disclosure of essential terms such as price, contract length, environmental impact, additional fees, dispute, complaint, and collections processes, and the like.

Technical Working Group Members' Responses – Recommendation #2

Ernest Figueroa-Emphasized this is an important issue. Item B, suggested removing environmental impact wording.

Ann Silver-none.

Barry Gold-Agrees environmental impact wording is difficult to legally quantify. With removal of that wording, agrees with recommendation.

3. A competitive energy marketplace must ensure the protection of confidential customer data and maintain respect for customer privacy.

- a. There must be adequate protections for customers to ensure that their reasonable expectation of privacy and confidentiality is protected, and to prohibit the abuse or misuse of private customer data.

Recommendation:

- A. The Legislature should examine NRS 603A to identify any provisions which may need to be amended to ensure that security of personal customer information is maintained in a restructured competitive energy marketplace.

Technical Working Group Members' Responses – Recommendation #3

Ernest Figueroa-Agrees with recommendation as provided by the Bureau of Consumer Protection Agency in their presentation. Emphasized the importance of consumer privacy. This recommendation is also important.

Ann Silver-Concurs with the statement of the issue and recommendation. Agrees about the importance of maintaining customer privacy.

Barry Gold-Agrees with all of the comments.

4. Successful implementation of the Energy Choice initiative may require amendments to Nevada's Deceptive Trade Practices Act that respond to and reflect changes attendant to a competitive energy marketplace.

- a. "Slamming" is one example illustrating that some practices specific to retail energy providers in a competitive market, similar to telecommunication service providers, may potentially need to be addressed in Nevada's unfair trade practices statute.

Recommendation:

- A. The Legislature should example NRS 598 to identify any provisions of the State's Unfair and Deceptive Trade Practices Act which may need to be amended to ensure that retail market participants do not engage in unfair or deceptive trade practices and that adequate penalties are in effect for participants who do engage in such practices.

Technical Working Group Members' Responses – Recommendation #4

Ernest Figueroa-Suggested changes to this recommendation.

Matt Morris-Asking legal counsel, how do we proceed in making revisions to the draft and comply with open meeting law.

Rosalie Bordelove, Attorney General's Office-We do not want to have any serial communications, i.e. emails going back and forth or communication that is not in a public meeting. You can direct Matt Morris to make any edits to the document while in the meeting. After the revisions have been recommended, Matt can put forth the revised document. Final approval must be in an open meeting. If you are recommending edits at that time, it can count as your approval. For example, "we approve it as it is, with recommended revisions". If there are significant revisions, holding a telephonic meeting is acceptable to approve the document after it has been edited.

Ernest Figueroa-In Nevada, our deceptive trade practices are separate from our unfair trade practices. Therefore, the word 'unfair' should be removed as it relates to Nevada. This will comply with the way our statutes are worded. It is important that the Nevada's Deceptive Trade Practices Act is amended for the purposes of protecting the consumer.

Ann Silver- The timeframe for implementation is not included in the recommendations. Assuming the initiative passes, what is the timeframe for beginning the educational, informational process?

Matt Morris-It could potentially begin in February, 2019 by the legislature. It could potentially be the Public Utilities Commission beginning at an earlier date, as they are not bound by the legislative session calendar. The language in the document is intended to be broad. Additionally, it could be initiated by the executive branch, regulatory or stakeholder action. For the legislature recommendations, they are dependent on the session, prefiling deadlines in statute. It depends on who will be 'carrying the ball' as to when they will be implementing the recommendations.

Barry Gold-Does not want to comment on the language of this recommendation, as he is not an attorney.

Barry Gold, AARP Nevada

Policy Recommendations to be presented for consideration by the Governor's Committee on Energy Choice.

- 1. The Nevada legislature, in collaboration with the PUC and stakeholders, needs to rebuild the Consumer Bill of Rights to include issues related to Retail Choice ensuring adequate protections against the complaints and issues seen in other deregulated states. Nevada should examine other states Consumer BOR in deregulated states for examples.**

Technical Working Group Members' Responses – B. Gold Recommendation #1

Ernest Figueroa-Very important recommendation and agree with it. The Consumer Bill of Rights protections should remain in place, strengthened and considered to be codified in statute.

Ann Silver-Agrees with recommendation and emphasizes Ernest Figueroa's statement.

Barry Gold-Agrees with recommendation. The Consumer Bill of Rights may need to be revised and we should look to other states for examples.

- 2. Variable rate contracts should be prohibited as it creates enormous confusion for customers and can easily lead to problematic contracts for customers who end up paying more.**

Technical Working Group Members' Responses – B. Gold Recommendation #2

Ernest Figueroa-Concern with customer confusion with variable rate contracts. In my experience I have seen them more disadvantageous than advantageous. It should be regulated.

Ann Silver-Agrees with recommendation.

Barry Gold-Unsure whether some of these recommendations are illegal, i.e. prohibiting door-to-door sales. Perhaps variable rate contracts need to be strongly regulated. If we can fix some of the issues that the other states have experienced, it would be to our advantage.

- 3. The Nevada Legislature, in collaboration with the PUC and stakeholders, should look at capping fees, especially related to enrollment, and prohibit disenrollment fees. Residential ratepayers may end up paying very large fees for lower rate contracts thinking it will save them money, but may actually end up costing more. Disenrollment fees have been used in other states as a means to prevent customers from switching to lower cost providers or a preferred "choice".**

Technical Working Group Members' Responses – B. Gold Recommendation #3

Ernest Figueroa-Important issue that should be addressed at some point in the future. Example sited; in the telecom industry there are many instances of abuse where they try to lock in their customers with exorbitant exit fees to prevent them from switching to other companies.

Ann Silver and Barry Gold-Agree with recommendation.

- 4. The Nevada Legislature in collaboration with the PUC and stakeholders need to follow the example of other states requiring a notification of “switching” from retail providers to customers as a way to identify and stop slamming/cramming. Customers may not be aware they were switched if they do not require this notification.**

Technical Working Group Members’ Responses – B. Gold Recommendation #4

Ernest Figueroa-This is an issue that needs to be addressed as there are a lot of problems with this issue. It would be helpful if Nevada can look to other jurisdictions to see what can be done to help the consumer.

Ann Silver-Education, information and being proactive emphasized. Agrees with the recommendation.

Barry Gold-Timeframe of the notification was not included in this recommendation. Will people be notified within 72 hours or a week? If it is received in two weeks, it will be too late. They will need to look at the timeframe of when the letter should be sent out and who will send it.

- 5. Third party retail marketers should be prohibited as other states have had problems with them adequately informing or misleading customers. They also added to the problem of slamming/cramming as these third-party marketers’ compensation may be based on sign ups. Third party marketers can also make it difficult to deal with complaints/problems as they are NOT the actual provider and liability and/or remedies can become complicated. Third party marketers may also “disappear” making it impossible to sanction or deal with their behavior.**

Technical Working Group Members’ Responses – B. Gold Recommendation #5

Ernest Figueroa-Important issue. Holding the principals responsible for third-party conduct and marketing on behalf of another entity would be helpful. Not sure what the legalities are relating to straight prohibition.

Ann Silver and Barry Gold-Agree with recommendation.

- 6. Nevada should consider prohibiting door to door sales and telephone solicitation as this is often done by third party marketers and has led to problems of misleading/misinformation, high pressure sales techniques, and slamming/cramming in other states.**

Technical Working Group Members’ Responses – B. Gold Recommendation #6

Ernest Figueroa-Deceptive trade practice modifications are needed to include input from the industry.

Ann Silver-Anything that can help protect the consumer is critical. Consumers may respond to a door bell or a telephone call allowing them to be educated on what the subject matter is.

Barry Gold-Some states have considered for consumers to switch companies, they need to do it through a rate board. This may be a way to stop high pressure sales techniques. However, not all of the consumers have computers to access the rate information.

Matt Morris-Suggested to the working group adding a fifth heading and making slight modifications to the recommendations. Mr. Gold’s recommendations four through six can be included under heading four, deceptive trade practices. The timeframe of switching notifications and the edits that have been discussed

will be included. The document that will be made available for review at the April 20th meeting will include the suggested modifications.

Ernest Figueroa-Agrees with number two and three recommendations from Mr. Gold. Suggested broader language, i.e. using the word regulated instead of prohibited.

Ann Silver-Agrees with Mr. Morris' suggestions on taking Mr. Gold's recommendations and integrating them into the document that he prepared.

Barry Gold-Agrees with broadening the language of the recommendations.

Vice Chair Figueroa closed agenda item No. 4 and moved to Item No. 5 on the agenda.

5. Public comments and discussion.

Vice Chair Figueroa opened Agenda Item No. 5 and asked if anyone from the public sought to make a comment in the Carson City or Las Vegas location.

No public comment.

Vice Chair Figueroa closed agenda item No. 5 and moved to Item No. 6 on the agenda.

6. Adjournment.

Vice Chair Figueroa made a motion to adjourn the meeting. Ann Silver made a motion to adjourn. Barry Gold seconded the motion.

Vice Chair Figueroa adjourned the meeting.