



GOVERNOR'S OFFICE OF ENERGY
MINUTES
Committee on Energy Choice's
Technical Working Group on Consumer Protection

August 23, 2017

The Technical Working Group on Consumer Protection held a public meeting on August 23, 2017, beginning at 10:00 A.M. at the following location:

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

The meeting was also available via videoconference at:

Grant Sawyer State Building
555 East Washington Avenue, Room 4404B
Las Vegas, NV 89101

- 1. Call to order and Roll Call:** The meeting was called to order at 10:05 AM by Chair Senator Kelvin Atkinson. The agenda item was opened up for roll call and a quorum was confirmed.

The following Technical Working Group members were present/absent:

Working Group Members Present

Senator Kelvin Atkinson
Ernest Figueroa
Ann Silver

Working Group Members Absent

Barry Gold
Kevin Hooks

Presentor: Jackie Roberts (via teleconference)
Consumer Advocate/Director
West Virginia Consumer Advocate Division

- 2. Public Comment and Discussion:** Chair Atkinson opened Agenda Item No. 2 and asked if anyone from the public sought to make a comment on the matter in both Carson City and Las Vegas locations. No public comment was provided in Las Vegas.

Fred Voltz, citizen, in Carson City said in addition to the items on the list for each of the subcommittees, he requests that the issue of what energy choice will look like for those already in a contract or lease either with NV Energy, Solar City, Vivent or any of the other providers should be added to the record. Even though agenda item number five is going to be renoticed, he requested to add the issue to the record.

Craig Goodman, President of the National Energy Marketers Association. Mr. Goodman outlined his experience and submitted two documents into the record for consideration; a Consumer Bill of Rights, which he explained is a consensus document of large groups of people, large companies as well as consumers. The second item was a National Marketing Standards of Conduct. He extended an invitation to each of the committee members to attend the Western Energy Policy Summit to be held in Las Vegas on September 23-25, 2017. He offered to answer any questions of the committee. The committee did not have any questions of Mr. Goodman.

Chair Atkinson asked for any additional public comment. No additional public comment. Chair Atkinson closed agenda item No. 2.

3. Election of Vice Chair:

Chair Atkinson opened agenda item No. 3

Chair Atkinson made a motion to nominate Ernest Figueroa as Vice Chair of the committee. Committee member Ann Silver seconded the motion, the motion carried with none opposed.

Chair Atkinson closed agenda item No. 3

4. Presentation – Jackie Roberts, Consumer Advocate/Director West Virginia Consumer Advocate Division:

Chair Atkinson opened agenda item No. 4

Ms. Roberts proceeded with her presentation outlining her experience in the energy industry. She indicated that her presentation material drew heavily from other state presentations using Indiana and Pennsylvania experiences with deregulation. Ms. Roberts suggested that Nevada do the analysis before restructuring and study what has worked and has not worked in other states. Reviewed fundamentals based on the extensive time it takes to restructure.

Competitive procurement, for the next addition of capacity and economic dispatch for the next kilowatt hour of energy, is typically through a wholesale market. Advocates and deregulation consultants are concerned that Nevada does not have a wholesale market. Benefits flow to the customers if the state becomes part of an ISO or an RTO. Ohio utilities became an ISO. PJM's coordination of utilities, 13 state District of Columbia white footprint saves retail customers over \$1 billion a year.

Ms. Roberts recommends generation divestiture and complete divestiture by the utility as it is crucial to balancing the playing field. A strong, independent market monitor is important to have if you are in a wholesale market. The Market Monitor reviews what the ISO, RTO and their market participants do. They protect market customers from market power. They identify efficiencies of savings for customers. In 2007 at PJM the market monitor used to be part of

management which created an issue due to management requesting that the Monitor change their report. As a result of several FERC cases, our Market Monitor is now completely independent of PJM pursuant to a contract. Retail access to competitive markets happen through a combination of retail shopping and default service protections. Ms. Roberts suggested reviewing the subject of rate caps to mitigate the stranded cost impacts. As NV Energy is a competitive retail supplier, you don't want to pay them stranded costs. In Maryland, the rates increased 80% when the caps were removed. An essential design principle is default service. This provides a service for those customers who don't shop. Understand what costs are going to be passed through, how long and what the impact is the customer. Essential design service is default service.

Mr. Figueroa asked, if Ms. Roberts had a recommendation or a model on how long rate caps should stay in place.

Ms. Roberts replied that she does not have a recommendation and added that you have to look at what kind of stranded costs you have. Looking at Nevada's population and NV Energy's customers, the denominator is not very big when you are figuring out what the impact and costs the customers will bear. Staff up AGs office and PUC to handle complaints and Vice Chair can oversee consumer interest. Ms. Roberts suggests that Nevada staff's up the PUC and Attorney General's offices so they can represent consumer interests. Consumer education essential, not advertising. Going out as grass roots, educational effort. Look at other states and materials that they produced.

Ms. Silver asked for alternatives for educating the public if it is not through television and radio or a slick brochure.

Ms. Roberts replied it is meeting with people to answer their questions, explaining how it works, who the providers are and having a website where consumers can access information. Ms. Roberts will provide contacts to the committee so they can get more information.

Mr. Figueroa asked, is it to avoid consumer confusion so Nevada consumers are adequately apprised as to what they are purchasing as advertised?

Ms. Roberts replied that the commission should adopt rules requiring clear offering to customers and enforce rules if they don't.

Mr. Figueroa asked if there are examples of a jurisdiction that didn't do it right and had problems?

Ms. Roberts replied with an example of the Polar Vortex in January, 2014. Pennsylvania signed up customers who selected variable priced contracts resulting in a rate increase of over 400%. Heating bills were over \$1000 per month due to the high wholesale market price and it was passed on to the customer. Customers contacted the Pennsylvania PUC and filed formal complaints. Some states do not allow variable rate contracts for this reason.

Ms. Silver asked, how much transparency, candor should we include in our education materials to give consumers a sense of what they can anticipate. How many citizens would choose a default service model based on Nevada's retiree population? Has it been shown that those who

are living on social security, based on fear of what could happen due to a climate catastrophe, may choose a default service model?

Ms. Roberts replied that a high percentage of industries customers switched. A majority of residential customers take default service.

Ms. Roberts outlined examples of final stranded cost allowances in Pennsylvania.

Mr. Figueroa asked if Ms. Roberts had an example of a jurisdiction that dealt with the stranded costs that had a long amortization period to recover stranded costs or were they all incurred in a short timeframe?

Ms. Roberts could not answer the question. She committed to giving the committee resources regarding the subject.

Mr. Figueroa asked if there seems to be some thought in Nevada that there will be no stranded costs as a result of deregulation.

Ms. Roberts indicated that she doesn't think it is possible. In Nevada you have a utility that has planned for providing generation service for its customers. If you require the utility to divest and can't sell assets for more than book value, there will be stranded costs. If you don't divest, all power can be sold into a wholesale market and a different calculation with stranded costs. Unless the market value of the utility's assets are greater than their book cost. She recommends asking Nevada Energy. The impact of rate caps does a few things, it helps manage the stranded cost recovery, but it can delay the onset of retail competition. The combination of stranded cost recovery for utilities and retail generation rate caps for consumers will delay the onset of significant retail competition. It will also mitigate rate shock. Rereading the initiative does not prevent Nevada utilities from providing service. In some states, service is provided by auctions to procure the most reliable default service and buys it off of the market. It is a pass through with no vested interest as to whether their generation sells or not. Default service protects customers. Ms. Roberts suggested eliminating the exit fees. If exit fees for industries is a factor, Nevada should participate in a wholesale market. If customers return and they need a generation, then you buy that from the market and they pay whatever that is and eliminate exit fees. My first experience in seeing high exit fees. Utilities must divest of generation to protect consumers. Residential customers may not shop. That doesn't mean the restructuring or deregulation has failed. Default service prices are market based. Dollar-for-dollar reconcilable pass-through with no mark up. There is no earning on energy through default service.

Senator Atkinson asked if there were any numbers or percentages about how many customers shopped or stayed status quo.

Ms. Roberts referred to the example in Pennsylvania that half or a little less were not the majority of customers who switched, approximately 30%. Percentage is probably lower now due exit of customers due to Polar Vortex. She committed to work with the committee to find out who could provide that information.

Ms. Silver asked if there was a way to increase the number of residential consumers.

Ms. Roberts emphasized that a lot of residential customers will not shop. They are not interested. Retail shopping for electric generation is only one possible means to the end of ensuring consumers receive reliable service at reasonable prices. If a competitor can provide a more attractive service, i.e. cheaper, greener or with better contract terms, customers are free to switch.

Mr. Figueroa asked if anyone there were any fatalities in Pennsylvania as a result of their large electric bill by not turning on their power because their bill would increase during the cold event.

Ms. Roberts replied that there were fatalities during the Polar Vortex, but they didn't know until after it was over the effect it would have on their bill because they weren't aware that they had a variable price contract and what that meant. The New England area of the country usually have prohibitions on disconnecting power in the winter months.

Ms. Roberts explained that additional resources are essential to ensure customers are protected. This includes staffing up PUC to license suppliers and handle increased customers complaints and funding to participate in FERC cases. The rules must protect customers as it relates to privacy and marketing. Competitive retail providers must be licensed or certified. In Washington DC, 80% of the consumers' bill is related to costs that flow from RTO and ISO. Nevada does not want to have no consumer representation. You must have meaningful representation. If Nevada joins an RTO or ISO, make this a condition of joining them. Our funding costs less than a penny a month. It made a significant difference. Enabling legislation. The commission will have to address privacy; who owns the customer data; how do you get the information and do you have permission to get it. Nevada should have good rules and regulations to ensure marketing is in good faith. Ms. Roberts recommended that the rules and regulations come from the NV AGs office and specifically provide for retail customers.

Ensure that the customer has authorized the transaction of the switch transaction and verify through an indicated source, i.e. photo identification. Establish hours for telemarketing sales to retail customers.

Mr. Figueroa asked, when transitioning to a competitive market, how do jurisdictions deal with the incumbent utility provider that has access consumer information? Is there value associated with that? Who owns it? Can they sell it?

Ms. Roberts replied that the utilities cannot sell the information because the customer owns it. However, if you want a competitive market, the suppliers have to have access to it, unless the consumer instructs them not to release the information. Utilizing smart meters complicates the process, however they are helpful to provide consumer usage data. Customer education is essential, not advertising. Be sure to educate the consumers about default service versus competitive pricing. The PUC website should have educational materials for consumers. Takeaways when considering complex issues. Retail shopping is not a means to an end; default service should be reasonably priced and enforced to allow competitors to provide lower prices. We should have strong rules and oversight of the program. Should have customer representation in the wholesale markets, retail markets and enforce the laws by funding participation at FERC. Ms. Roberts explained how to measure success by determining if the service is reliable; making sure the rates are reasonable and affordable; making sure the systems

and rules support a variety of retail offerings; passing on competitive wholesale prices and having a strong, independent market monitor.

Chair Atkinson closed agenda Item No. 4

5. Issues up for future consideration (Discussion):

Chair Atkinson opened agenda item No. 5.

The information was not on the original post and indicated incorrectly on the Notice and Agenda.

Ryan Cherry indicated that the incorrect information was inadvertently entered for this agenda item. We will not be able to discuss this today. We can include the issues for future consideration in a meeting in the future.

Chair Atkinson closed agenda item No 5.

6. Public Comments and Discussion:

Chair Atkinson opened agenda item No 6. and asked for public comment in both Las Vegas and Carson City. There were no public comments from Las Vegas.

Craig Goodman, President of the National Energy Marketers Association, said that the facts in the presentation needed to be clarified.

Chair Atkinson closed agenda item No. 6.

7. Adjournment:

Chair Atkinson thanked all for their participation and adjourned the meeting.