



GOVERNOR'S OFFICE OF ENERGY

MINUTES  
(DRAFT)

Committee on Energy Choice's  
Technical Working Group on Open Energy Market Design & Policy:  
Commercial & Residential

April 19, 2018

The Technical Working Group on Open Energy Market Design & Policy: Residential & Commercial held a public meeting on April 19, 2018, beginning at 11:00 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 4401  
Las Vegas, NV 89101

- 1. Call to order and Roll Call:** The meeting was called to order at 11:00 AM by Chair Jeremy Susac. Chair Susac thanked all for attending the meeting of the working group. 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**

Jeremy Susac  
Andy Abboud  
Christopher Brooks  
Kevin Sagara (via telephone)

**Working Group Members Absent**

Adam Laxalt

- 2. Public Comment and Discussion:** Chair Susac 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.

Tom Dudas referred to a newspaper article regarding higher electric bills. He compared Question 3 to net metering and recommended the Brookings's Institute as a resource to study the impact of the issue.

There was no additional public comment.

Chair Susac closed agenda item No. 2.

- 3. Approval of Minutes from February 7, 2018 Meeting:** Chair Susac opened agenda item No. 3 and asked for any changes or a motion. Mr. Brooks made a motion to approve the minutes and it was seconded. The motion carried unanimously.

Chair Susac closed agenda item No. 3

- 4. Committee Discussion and Consideration of Policy Recommendations to the full Committee on Energy Choice – Chair Jeremy Susac:** Chair Susac opened this agenda item and began the discussion on the recommendations.

Chair Susac began his overview and stated, I distilled the main topics into the following three: determine day 1 wholesale market structure; retail market structure, attributes and retail market goals; and provider of last resort and stable homebuilding development costs.

It was my view that a successful implementation of a restructured energy market for Nevada should include, but not be limited to, contracting with an existing independent systems operator with a robust wholesale market, located in close geographic proximity to the State of Nevada, and already integrated with Nevada and other neighboring states. By using the word integrating I was referring to transmission.

Subsection B is Nevada's interstate contract with the neighboring ISO shall retain Nevada's ability to control Nevada's own fuel mix, retain popular demand-side programs like energy efficiency and net metering, and provide future governors and legislators with the legislative flexibility and power to make further changes to ensure consumer protection.

There is also an alternate recommendation if you find merit with the first one. To create a Nevada-only Independent Systems Operator, and contract with neighboring wholesale markets to increase the availability of a robust wholesale market while providing the Nevada Legislature and the governor with the flexibility and power to make changes to the ISO to ensure consumer protection when designing its restructured market structure.

Those are essentially the recommendations, Mr. Sagara do you have any comments at this point?

Mr. Sagara, stated, I think you have encompassed a point I wanted to make. It is that in order to have good retail competition a deep, wholesale market is a must. A Nevada only wholesale market would need to be studied by economist to show whether the market is deep enough, I am not sure a Nevada only market would be large enough. I am not aware of a smaller state where they have been able to have their own ISO.

Chair Susac said, so to summarize your changes is it fair to say in A and B, the systems operator should have a robust, deep and liquid wholesale market. You would be comfortable with it and as it relates to the other you do not believe Nevada is deep and liquid enough and so you would like to see it further studied.

Mr. Sagara replied, I am not against it but I am just questioning whether some additional language is necessary just because a Nevada only ISO may not be competitive enough to offer retail choice.

Chair Susac stated, we will discuss the preliminary report from the PUCN shortly, but it is interesting that the report stated the CAISO was the most practical and economical way of going about this. I believe the report states the cost to form our own ISO would be about \$100 million and we heard testimony that it would cost more like \$500 million, but we also heard testimony that the cost savings would far exceed the cost of establishing one. We heard up to \$1.8 billion on annual benefits. Chair Susac then turned it over to the rest of the Committee.

Mr. Brooks stated, throughout our meetings it seemed like there was one common theme that everyone could agree on, that was that we would need to be a part of a larger wholesale market. So I support A and B and understand the motivation for the alternate and I think it can stay in there.

Chair Susac replied, to keep unity I would suggest we pass A and B and leave the alternative out. Just for the record I would like to state that we received upwards of twenty presentations, we examined all kinds of platforms, and received input from the public. We were reminded that 73% of the public voted for energy choice so with that I move to approve A and B and remove the alternate. Mr. Brooks seconded, the motion carried unanimously.

Moving on to the second retail market recommendation: The Governor, Speaker and Senate Majority Leader shall create a joint committee to address specific legislative and/or regulatory actions needed for a competitive retail electricity market inclusive of Providers of Last Resort. The newly-created Committee should be administratively housed in the PUCN and have dedicated PUCN staff to assist the Committee with legislative recommendations no later than the start of the 2021 Legislative Session.

My thinking there was that there was a lot of complexity around the retail electricity market and I didn't want to overstep. But I would like to hear from the other members on this recommendation.

Mr. Brooks said, I think this is the best way to handle it since it should be ongoing and have staff. My only issue is the governance, where the members are appointed, and I think it is lop sided to the Executive in that you have three members in the Executive and the Chair appointed by the Executive Branch. The Commission is also appointed by the Governor as well as the PUC's staff. I would like to see an alternate form of appointing the members so that the majority of the Board more accurately reflects the will of the voters.

Mr. Susac replied, great point I understand I overlooked this.

Mr. Brooks added, I know we will also face the challenge of finding nine people who are available. If any of my colleagues have ideas, please let me know.

Mr. Abboud stated, this is a tough one, but I agree with Mr. Brooks that the public and the Legislature need to have as much say as possible.

Mr. Brooks asked, do you think that the way we select the Board needs to be outlined in this document?

Chair Susac replied, I don't think that is necessary for our purposes. We can just recommend establishing a Committee and we don't need to go on and specify where it should be housed and the appointing process. Unless you think we should add that the Legislature should have a key a central role in the process.

Mr. Brooks stated, I would agree. Maybe we can remove the third paragraph first sentence and add that the Legislature and the Governor's Office will determine how a Board will be selected but I do think it makes sense for it to be housed with the PUCN.

Chair Susac restated the recommendation with the changes. The Legislature and the Governor, shall create a joint committee to address specific legislative and/or regulatory actions needed for a competitive retail electricity market inclusive of Providers of Last Resort. The newly-created Committee should be administratively housed in the PUCN and have dedicated PUCN staff to assist the Committee with legislative recommendations no later than the start of the 2021 Legislative Session. Chair Susac made a motion to approve and Mr. Brooks seconded it. The motion carried unanimously.

Chair Susac moved on to the third recommendation. Provider of Last Resort Recommendation: Successful implementation of a restructured energy market for Nevada should include, but not be limited to, ensuring the Public Utility Commission has the necessary power to establish Providers of Last Resort (POLR) for back-up electric service in each area of Nevada open to competition. The Policy of POLR service shall serve a necessary safety net for customers whose chosen retail energy provider is unable to offer or continue electric service. The POLR service should be intended as temporary service and used only under rare circumstances. These circumstances shall be defined by State Law no later than the conclusion of the Legislative Session of 2021.

Chair Susac moved to approve and Mr. Brooks seconded, the motion carried unanimously.

Chair Susac closed agenda item No. 4

**5. Update on PUCN Investigatory Docket #17-10001 Pertaining to the Energy Choice Ballot Initiative – Matt Morris:** Chair Susac opened agenda items No. 5 and welcomed Mr. Morris.

Mr. Morris said, I think I will let the Chair direct the discussion on this topic. The PUCN made its preliminary report available yesterday morning but I am not prepared to summarize it or walk through the report. The PUC's staff indicated sometime this month the PUC will make a final

decision on that report. There is one more step in that process before the report becomes final, but the expectation is that the PUC will be presenting the report to the full Committee in May.

Mr. Brooks stated, I don't think any of our recommendations change based on the report, so I think we can move forward with all our recommendations while we continue to review that report.

Chair Susac stated, Yes and I would like to remind everyone that the report has no binding effect in general and it is a preliminary report that will need to be approved.

Mr. Abboud asked, was Mr. Reynolds asked to present this report today?

Mr. Morris replied, we requested that someone from the PUCN present, but I have not received a reply yet.

Mr. Abboud continued, I am going to use this opportunity to give some feedback. This Committee was tasked with providing substantive suggestions on how to open the energy market. There was a lot of cynicism about this report since the beginning along with a lot of mistrust. I don't think we thought we would be here to review a report that clearly violates Nevada law. This is a 110-page opinion letter from a biased regulator who thinks he has the authority of a judge. I would implore everyone on the Committee to review the authority the Commissioner of the PUCN has.

Mr. Reynolds chose to select the information that supports his opinion. The PUC shut down roof top solar and signed off on cases that earned the utility \$200 million dollars in over earnings. They have a history of issuing decisions that a majority of Nevadans disagree with. Governor Sandoval has done as much as a governor can do to limit the proliferation of bias and overreach of the PUCN. I think every Nevadan appreciates the work of the Governor, but it has not fixed the problem.

When the PUCN has a question, they get it from the utility. The government agency is so intertwined with and dependent on the utility it regulates that friendships are born, and alliances are made. It creates a system of insiders that the average citizen cannot enter. We have a system that has failed, and we need to replace it. Joe Reynolds should be held responsible for this report for his ethical violations.

Mr. Abboud continued to describe Mr. Reynolds duties and responsibilities, and accused Mr. Reynolds of ethical violations. He said, the report states Nevada has some of the lowest rates, but he does not cite any authority and doesn't mention Nevada is average ranking 24<sup>th</sup>. The report continues, the energy choice initiative is reasonably likely to increase the monthly electric bills of Nevadans at least in the short term. He then proceeded to point out unfounded conclusions in his opinion.

Mr. Abboud then said, for the record ECI is not deregulation, it is reregulation. Deregulation was used 32 times in this report which mischaracterizes what it really is. The report is disgraceful, and Joe Reynolds has overstepped his authority. It is a mistake to adopt or approve

this report in any way, it could be against the law. This report violates Nevada's ethics laws and offers nothing of value.

Mr. Sagara stated, I am generally in agreement with Mr. Brooks which is that we are not impacted by this report.

Chair Susac said, thank you Mr. Abboud for your comments.

Chair Susac closed item No. 5.

**6. Public Comments and Discussion:** Chair Susac moved on to public comment.

Mr. Wellinghoff stated, I am responsible for policy for the Energy Choice Initiative. I was the former chief counsel to the PUCN and drafted the IRP statute. First of all this is not a report in that it was not taken to the Commission for approval so it has no official status. There is no evidence in the document. This is a highly unusual proceeding with no testimony or cross examination. I was shocked to see there were 'findings', these should be based on substantial evidence of record which does not exist. Mr. Reynolds took it upon himself to make a series of alleged findings. The first finding states that Nevada has some of the lowest electric rates in the country, this depends on which data you take. What he failed to say was that Nevada does not have the lowest bills in the country, which I provided to Mr. Reynolds and it was ignored. Mr. Wellinghoff detailed several other findings which were erroneous in his opinion.

Seeing no other comments, Chair Susac closed agenda item No. 6.

**7. Adjournment:** Chair Susac thanked all for their participation and attendance and adjourned the Meeting.