MINUTES OF THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND TRANSPORTATION

Seventy-fifth Session
April 30, 2009

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:54 a.m. on Thursday, April 30, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Maggie Carlton, Vice Chair
Senator John J. Lee
Senator Shirley A. Breeden
Senator Barbara K. Cegavske
Senator Dennis Nolan

COMMITTEE MEMBERS ABSENT:

Senator Randolph Townsend (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Assembly District No. 24
Assemblyman Sheila Leslie, Assembly District No. 27

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Laura Adler, Committee Secretary

OTHERS PRESENT:

Charles M. Benjamin, Ph.D., J.D., Director, Nevada Office, Western Resource Advocates; President, Nevadans for Clean Affordable Reliable Energy
Robert Johnston, Nevadans for Clean Affordable Reliable Energy
Kyle Davis, Policy Director, Nevada Conservation League
Joe Johnson, Sierra Club
Judy Stokey, Director, Governmental Affairs, NV Energy
Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada
Tom Clark, Black Rock Solar
Jason Geddes, Ph.D., City of Reno; Renewable Energy and Energy Conservation Task Force

CHAIR SCHNEIDER:
We will start the hearing with Assembly Bill (A.B.) 402.

ASSEMBLY BILL 402 (1st Reprint): Revises provisions related to resource planning by public utilities. (BDR 58-888)

ASSEMBLYMAN DAVID P. BOBZIEN (Assembly District No. 24):
This bill deals with energy resource planning, which is a process through which a regulated utility must go every three years. It is the formulation of a plan that assesses the needs for power in Nevada and also puts forth proposals for how those power demands are to be met. I would share this sentiment with a number of members of the Committee that it is an important discussion to have. As put forth in this bill, that discussion benefits by a fuller participation by members of the public. What we will hear from others testifying on A.B. 186, is that in the past it has been a tricky situation with the Public Utilities Commission of Nevada (PUCN) in terms of allowing other parties to intervene in this process where comment and influence are a part of it. This bill sets out a workable and clear path for how the PUCN can assess quality of potential intervention. This bill makes sure it is not overburdensome to the process, but at the same time encourages people to be a part of that process.

CHARLES M. BENJAMIN, PH.D., J.D. (Director, Nevada Office, Western Resource Advocates; President, Nevadans for Clean Affordable Reliable Energy):
The Nevadans for Clean Affordable Reliable Energy (NCARE) is ten organizations that have coalesced together to form a not-for-profit entity under Nevada law. We enter particular PUCN dockets to put forth a point of view before the

commission on environmental impacts of the utility's integrated resource plan and amendments to that plan. We have been frustrated in those efforts, and that is why I came to Assemblyman Bobzien.

You have received prepared testimony in which I lay out the various dockets and you can see that the problem is the way the PUCN has interpreted the *Nevada Administrative Code* (NAC) 703.580 (Exhibit C). This is a direct and substantial interest test. It has become extremely difficult for us to be granted full intervention, and if we are granted intervention, it is done as an exception to that rule, or we are granted intervention in some parts of it but denied intervention in what we think are other critical parts of the docket. I am relatively new to Nevada. I arrived two years ago from Kansas where I did similar work. I was hired by Western Resource Advocates to do the same kind of work I just described. I can tell you that before the Kansas Corporation Commission, there was no problem with these kinds of interventions.

Western Resource Advocates has people like me who work with coalitions in six other states in the intermountain west. Intervention is not a problem in these other states where it is routinely granted and you get to fully participate. But, Nevada stands out as an exception, and it has been extremely frustrating to us, because we have spent the money to hire experts, we engaged the process with a qualified attorney and yet, our intervention is limited. Let me also say that it is not just us; there are other parties who are representing industrial groups, senior citizen groups, etc. I have been told by people who have been here a lot longer than I have, including Mr. Johnston, who you will hear from, that this is a relatively recent phenomenon at the PUCN.

It has only been the last six or so years that they have taken this much more restrictive view. It is puzzling to us because, in a way by doing that, all the PUCN hears from is the utility, the consumer advocate and the staff. The PUCN, in effect, is limiting the amount of information they are allowing themselves to receive. The purpose of intervention and why it is so important is the experts input of their testimony and the cross-examining of other parties. That is why we want to do more than just comment; we want to intervene, which gives a full hearing on all the facts and issues. These are complex issues that affect all your constituents, as those of you from Las Vegas know. These integrated resource planning dockets affect rates in a big way; they affect the future of electric power in this State, and they also affect the environments as the Chair pointed out earlier.

We are not asking for special treatment once we get in; we just want to get into the process. We think the legislative intent was to have an open process, but somehow that has gone astray. The language in A.B. 402 would merely state legislative intent.

SENATOR CARLTON:
What has happened in the last six years? Do we know?

DR. BENJAMIN:
Yes, I do have an idea, because what this is about is that we have been restricted.

SENATOR CARLTON:
I mean, what changed it? If they were doing it before and the last six years have been a problem, what was the dynamic that changed?

DR. BENJAMIN:
Our attorney, Mr. Johnston, can testify to that because he was here at the time the change took place. I feel like more of a victim of it, so I cannot tell you what was the motivation, but the problem is the language in the NAC regulation that has been passed saying you have to show a direct and substantial interest. It is almost as if the proposals for developing new generation or new transmission virtually have to be in your front yard before you can have a direct and substantial interest. We have interests in the environment and the environmental impact is what the utility is proposing, and that is deemed direct and substantial. That is our frustration; yet we feel there is a substantial impact. Again, as pointed out with air quality, that is a good example, but somehow that is not considered direct and substantial.

SENATOR CARLTON:
So, it is in the NAC. Did anyone ever cite the statutory authority? It seems they were doing it one way, and then it changed. If the statute did not change, then the privileges should not have changed.

DR. BENJAMIN:
We have it in our petitions for leave to intervene. Again, Mr. Johnston can provide greater detail.

ROBERT JOHNSTON (Nevadans for Clean Affordable Reliable Energy):
I am in support of A.B. 402. The intent is to address and correct a problem created by the relatively recent practice of the PUCN in severely limiting or preventing entirely participation in the integrated resource-plan proceedings. When I say, relatively recent, it is because the resource-planning statutes have been around for some time becoming part of Nevada utility law with the passage of S.B. No. 161 of the 62nd Session—that is now 26 years ago. The PUCN's practice of eliminating or preventing participation really started in 2002. I should note that Senator Townsend of this Committee was one of the key sponsors of the 1983 law regarding resource-planning laws.

I also have some personal knowledge of the context in which that legislation was enacted. At the time, I was staff counsel of the PUCN and I was involved in the initial rule making that implemented S.B. No. 161 of the 62nd Session. If we look back at the genesis of the resource-planning staff, the concern was some of the major cost drivers for utility rates, such as investment in new generation facilities and fuel costs to run those facilities, were being determined in large part by resource-planning decisions made by the utility some five or ten years earlier before the rate impact is felt by consumers. These resource-planning decisions were being made without adequate public input on PUCN review. The PUCN and the public did not get a chance to weigh in on resource-planning decisions until late in the game after the planning process had been completed. The utility came before the PUCN for a permit to actually construct the facilities or, in some instances, where a permit to construct was not required by statute, the utility came before the PUCN to ask to have these new resources included in the rate-base. These concerns were addressed in S.B. No. 161 of the 62nd Session by mandating a systematic periodic public review of the utility's forecast and demand for the utility's selection of the least costly resources to meet that forecasted demand.

This process now, and as always, required a public hearing prior to the PUCN's determination as to the adequacy of the claim. The process required that at that hearing any interested member of the public may comment regarding the contents and adequacy of the plan. From the get-go, it was intended that this be a process that allowed public input. Intervention as a party was not addressed in S.B. No. 161 of the 62nd Session, and for the first 19 years after the law was passed, I would have thought it unnecessary to have any legislative direction as to intervention. That is because during the first 19 years, the PUCN had a liberal standard for intervention that was consistent with, what I believe,

is the clear intent of the resource-planning statutes and also consistent with the general practice of utility commissions throughout the country, as Mr. Benjamin testified specifically with respect to Kansas and the western states.

However, in 2002, and this goes to Senator Carlton's question, the PUCN changed the intervention regulations, not just with respect to integrated resource-plan proceedings, but generally with respect to all proceedings in front of the PUCN. This made it difficult to get into proceedings, so that as a practical matter for interested persons other than utility, PUCN staff and the Bureau of Consumer Protection (BCP), Office of the Attorney General, it has been difficult to participate in integrated resource planning. If interested persons would like to submit public comments, that is specifically allowed by statute, but if you want to present testimony or documentary evidence or cross-examine witnesses, the unwelcome mat has been out. The message has been clearly conveyed that the PUCN's strong preference has been to limit these integrated resource-plan proceedings to the utility, the PUCN staff and the BCP.

There was no legislative direction behind this change. This was something the PUCN did by regulation. As I said, it was broader than integrated resource-plan proceedings; it was aimed at all proceedings in front of the PUCN.

MR. JOHNSTON:
This policy has been misguided and particularly so with respect to integrated resource-plan proceedings where the whole purpose was to encourage public input. This is one of those instances where the PUCN has been punishing the many to get at the few. By that, I mean, out of concern that a person, an entity or an association would be allowed intervention, and then run amuck in the proceedings resulting in unnecessary expense, delay and aggravation. The PUCN made the decision to keep everyone out other than what they considered to be the key parties. By so doing, the PUCN restricted the voices heard in the process in a manner that is damaging to public interests in Nevada. It should not only be the utility or the PUCN staff or the BCP, who has a relevant avenue to present in resource-planning proceedings.

Assembly Bill 402 addresses this problem by requiring the PUCN to grant interventions where the interested person clearly intends to present relevant material evidence on the adequacy of the plan. It starts with the presumption of good-faith participation in the process, which is warranted. It also preserves the PUCN's ability to limit or prohibit continued participation if it turns out that

presumption of good faith was misplaced, and the party has nothing to add to the process or they are trying to unduly broaden the issues or engage in some ulterior motive of discovery that has nothing to do with the issue before the PUCN on resource planning.

I do not know if that addresses your question, Senator Carlton. I do not believe there is any legislative action that made this change. Again, the change was much broader in integrative resource planning. Our concern is only with resource planning where the practice, as it has been implemented by the PUCN over the last six years, is inconsistent with the original legislative intent of S.B. No. 161 of the 62nd Session.

CHAIR SCHNEIDER:
Mr. Nichols has a possible interpretation on how the language is being interpreted by the PUCN.

MATT NICHOLS (Committee Counsel):
> I don't know that I can speak to that directly, but I did want to point out to the Committee that the requirement that a person who wishes to intervene before various regulatory bodies, that they show a direct and substantial interest in the issue before that regulatory body, is a requirement that goes beyond the public utilities commission. For instance, the Tax Commission, the State Environmental Commission and the Taxicab Authority. A petition to intervene before any of those regulatory bodies also requires that the would-be intervener show a direct and substantial interest. So, the issue that is at issue here is how that language is interpreted by the Public Utilities Commission. How they interpret a direct and substantial interest in the case. And so, I just wanted to point out that this is not a unique requirement to the Public Utilities Commission.

CHAIR SCHNEIDER:
Was the regulation changed in 2002?

MR. JOHNSTON:
That is correct. I would like to add to the comments of your counsel. Direct and substantial interest has always been, at least since I have been involved and that goes back to 1978 in the PUCN's rules and practices procedure, a direct

and substantial interest test. The language of concern that was added in 2002 is in NAC 703.580. At that point, the PUCN added the language, and I can read it: "A person has a direct and substantial interest in a proceeding if: (a) A statute explicitly confers on the person a right to intervene;..." So there is deference to the Legislators who made a policy determination as to the wisdom of allowing certain entities to participate. I will continue reading:

> or (b) The person claims an interest relating to the property or transaction which is the subject of the proceeding and the person is so situated that the disposition of the proceeding will, as a practical matter, impair or impede the ability of the person to protect that interest, unless the person is adequately represented by existing parties.

That has been the key language that has been interpreted and applied by the PUCN in preventing entities such as NCARE from participating or only allowing our participation by saying they are going to waive the requirements in this instance.

An example is load forecast. The argument is NCARE has not shown how they have an interest. I do not know how to apply that when talking about an interest in load forecast, which is an integral part of resource planning. I do not know if anyone has an interest in load forecast relating to the property or transaction which is the subject of the proceeding. Or the entity is so situated that as a practical matter, if they are not allowed intervention, it will impair or impede their ability to protect that interest. What the PUCN said is that the entity has not shown anything other than speculative interest in how the load forecast at issue in this proceeding could affect them; intervention denied.

That is an explanation of a particular regulation that has caused us concern, NAC 703.580, and we believe A.B. 402 would address that.

SENATOR CARLTON:
This is something we see happening within the interim where you have an open-ended statutory authority, and through the regulatory process, it becomes legislative session, part 2, because if you did not get it in the Legislature, you get it through the regulations. The thing I have tried to watch for in serving on the regulation subcommittee is whenever one of these comes forward, where does the statutory authority actually lie, and compare it to that. I have watched too many different entities take that authority one step too far. I wonder if the

regulation is the problem, because that is what it is sounding like right now, but without being able to compare the regulation to the authority in front of me, that is difficult to discern. Did anyone question the regulation? Did anyone go back to the Legislative Commission and say we have a problem with the regulation and would like it reviewed? It seems to me that it is the regulation that is the problem.

MR. JOHNSTON:
I would agree it is the regulation that is the problem as applied to integrative resource-plan proceedings. The PUCN, like most regulatory agencies, is required to implement rules of practice and procedure governing proceedings for them. This change was made as part the PUCN's general authority to implement regulations governing practice and procedure. This regulation has much broader application than integrative resource planning. The problem identified here arises from the application of this regulation to the integrative resource-plan process. I am not aware that the PUCN's authority to promulgate regulations concerning intervention in their proceedings was ever challenged. I concede the PUCN has the authority to adopt regulations providing for practice procedure before them.

I do not think A.B. 402 is unique as far as providing guidance as to who may be a party in particular proceedings; in this case, resource planning. If you look at the Utility Environmental Protection Act of 1971 (UEPA), also in *Nevada Revised Statutes* chapter 704, that has specific designation of who is a party, just on asking to be a party in proceedings before the PUCN. In the original version of A.B. 402, we were relying on incorporating that language into resource planning. There is a problem with the regulation, but it is a problem that can best be solved by legislation.

SENATOR CARLTON:
We all know the regulations come back to the Legislative Counsel Bureau for review to make sure they are within the guidelines, then they go either to the subcommittee on regulations or to the full Legislative Commission for review and are voted on. It is not a hidden system, it is open, so I am curious as to how this happened and we did not have a clue.

CHAIR SCHNEIDER:
It is like when we pass laws, and then two years later we are back trying to fix them. There is usually something unforeseen like one little word. I would like to ask a question. Let us say a company is going to fire up that big coal plant in

Laughlin. There is a group of lung specialists in Las Vegas that could be denied from testifying. I understand the coal-fired plant is easy to operate, but it is going to affect the quality of life and the health of the people in Las Vegas and Kingman, Arizona. So, they could be denied from testifying, is that it?

MR. JOHNSTON:
The statute expressly provides that they would be allowed to submit comments to the PUCN in a resource-plan proceeding considering you hypothetically fire up the coal plant, but the statute and regulations provide no assurance they would be allowed to participate as an intervener and, perhaps, hire and bring in expert witnesses to testify as to the environmental impact. There is no assurance under the current policy and regulation.

KYLE DAVIS (Policy Director, Nevada Conservation League):
We are in support of A.B. 402. For the record, our organization is also a member of NCARE, the organization Mr. Benjamin referred to earlier. The key point is that the production of energy does have environmental impacts. What we are trying to do is make sure these environmental impacts are properly accounted for in the resource-planning process. The way it works right now is you make these resource plans and decide how we are going to meet energy needs, and without the environmental voice at the table, it has happened that the environmental voice has not been properly accounted for. Then you end up with environmental impacts such as the Chair outlined. What we are seeking is public involvement; a public process where we can present those issues and they can be given a fair hearing.

I want to follow up on the previous discussion. What is going on right now is that the PUCN has the authority and within that authority adopt the regulations you see before you. If they would have come back to the Legislative Commission, that would have been within their authority. What we are seeking is legislative intent and guidance on what that authority ought to be with respect to what we are talking about. It is not that their regulations were drafted incorrectly; it is that we feel this is a more appropriate way to draft the regulations so that it allows for more public involvement.

JOE JOHNSON (Sierra Club):
We are also members of NCARE and we are in support of A.B. 402. I would like to bring your attention to a letter that Ernest Nielsen wrote to Scott Young (Exhibit D). I would like to emphasize that Mr. Nielsen and I often work on

low-income issues as in past participation before the PUCN on matters of demand-side management, particularly in relationship to low-income individuals. Often it has been difficult to get into the proceedings based upon the issue that is of consumer interest. Therefore, the office of consumer advocacy will represent that. Obviously, as Mr. Nielsen points out in his letter, not all classes of consumers have the same interest, and it is difficult for one agency to represent multiple interests, as noted in the paragraph that says, "Of course the AG has a wide array of responsibilities in these dockets and cannot be all things to all consumers. The interests of consumer subgroups do not always align with each other."

JUDY STOKEY (Director, Governmental Affairs, NV Energy):
We want to go on record that we had originally opposed this bill on the Assembly side and there were some changes made, so we are moving more to the neutral side. We still believe the PUCN has that authority, and they have been doing it the right way. We do not believe that they are not represented in these hearings. We do believe the consumer advocate has their best interests. Actually, the PUCN has allowed intervention by these groups in the past, so they have not been completely left out. When we do build facilities that are on federal lands, they are definitely involved in all of those environmental hearings and in the UEPA hearings.

ASSEMBLYMAN BOBZIEN:
This has been a good hearing, and I am grateful for Senator Carlton's query that brought out the meat of the bill and why we are pursuing this. There are a few threads to bring back together and raise it up. From a policy perspective, it is important to note the relationship between the Integrated Resource Plan (IRP) and the UEPA process. There was mention made that the original bill took the specific dictates of UEPA in terms of who is granted party status and put that into the IRP, because we were looking for parity in connection there. Think of the IRP process as being the global view of what our energy needs are in the State and how we propose to address them. The UEPA is more site specific in whether you turn on the coal plant or not discussion. Overall, energy policy is better served by having full participation at all those levels. Otherwise, if you have people with concerns about those specific sources of energy, and they are not able to address those concerns in the context of all the tough decisions to make about energy, and they are forced to go with, if you will, Not In My Back Yard-site (NIMBY-site) specific battles at the UEPA process, I do not think that is the best way to do energy policy. In the long run, regardless of your

perspectives on the different forms of energy or how we should go forward, the discussion would be better served if we could have fuller participation at the IRP level.

CHAIR SCHNEIDER:
We will include in the record written comments from former PUCN commissioner Stephen Wiel, Ph.D. who now works with Southwest Energy Efficiency Project (Exhibit E). We will close the hearing on A.B. 402 and open the hearing on A.B. 186.

ASSEMBLY BILL 186 (1st Reprint): Revises the definition of "public utility" and "utility." (BDR 58-189)

ASSEMBLYMAN SHEILA LESLIE (Assembly District No. 27):
From a layperson's viewpoint, I brought forward this bill to clarify State law to make sure we allow businesses and homeowners who want to get together to lease or purchase a renewable-energy system on their home to be able to do that. There were a lot of questions in Nevada law whether a homeowner who wanted to do that with a third party would then be redefined as a public utility and not be able to sell their excess power back to the power company. Commissioner Wagner of the PUCN issued an order in December, and there was a lot of support to codify that order into State law to take away any ambiguity that might be there.

We are on the first reprint of A.B. 186, and I understand there is an additional amendment the power company is going to suggest today. I also heard their questions this morning. I have not discussed with NV Energy about whether that amendment may have some unintended consequences. I am sorry I am not bringing you a perfect bill yet, but your Committee will have to do more work to figure out what is the right language. It is a short bill, but we want to make sure the language is right, and this Committee has a lot more expertise in this area than I do. I am sure, with your wisdom, you will come up with a second reprint that will be even better.

REBECCA D. WAGNER (Commissioner, Public Utilities Commission of Nevada):
The intent is to codify a PUCN decision and make it clear in the law that third-party ownership is allowed. Essentially, it is a financing mechanism, and the reason why I was supportive of this as a commissioner was it is one more opportunity for us to get more solar installed in an affordable way. It is thinking

outside of the box. It is progressive and will lead to additional entities being able to take advantage of solar; particularly nonprofits, schools, public buildings and the City of Reno. It creates a dynamic that will enable the additional installation of solar. I am aware that NV Energy has an amendment (Exhibit F), and I need to think it all the way through. At first blush, I thought it was okay, but I want to make sure we are getting it right, and I do not have to come up with another PUCN decision trying to interpret the statute again. I would like the opportunity to make sure we get it right.

MS. STOKEY:
My comments are similar to Assemblywoman Leslie's and Commissioner Wagner's. We are in support of A.B. 186. We do have a small amendment, Exhibit F, and thought it would be okay, so we will work on it as we all have the same intent in mind.

There has been many discussions on renewable energy this Session, more than I have ever seen. NV Energy has been a leader in, and supporter of, renewable energy and this is a financial way to help people who cannot afford to put these solar systems on their homes. We do agree with the third-party ownership and the fact that we want the residential customers to have a system to support their energy needs. We do want to tighten up the language to make sure it does not open up the whole aggregation discussion again. You will see on the amendment, Exhibit F, we added, "... to no more than one customer of the public utility per system." I would like to work with Assemblywoman Leslie and Commissioner Wagner on getting the language right so that everybody is okay with it.

CHAIR SCHNEIDER:
At first blush, it looks like no more than one customer. If I had an apartment building with individually metered tenants and put solar on the building and over the parking lot, and I brought that electricity into the apartments, would I be eliminated from doing it because I am giving it to more than one customer? Could the same thing be said for a strip mall? If I own a strip mall with four or five stores that are individually metered and I put solar above the building and over the parking lot, does this preclude me from doing that?

MS. STOKEY:
That may be where the confusion lies. If you are a mass-metered unit, then no. It would be one meter, and you would be able to supply that. With multiple

meters, that is where we have the issue. We want to make sure it is not expanding out to that.

CHAIR SCHNEIDER:
So, I could not do it?

MS. STOKEY:
I do not believe you could do this, and that is why Commissioner Wagner wants to work on this with us.

CHAIR SCHNEIDER:
Do you agree to work on that?

MS. STOKEY:
We will work on it.

CHAIR SCHNEIDER:
The amendment may go away.

MS. STOKEY:
I commit to work on it.

SENATOR NOLAN:
This last week I had the opportunity to tour a building that had implemented its own solar program with subtenants. In discussion with the building owners, they seemed frustrated about their interaction with NV Energy regarding what type of credits they were told they were going to be allowed upon the installation of the solar project, and what they actually were left with. They believed they were working in good faith based on what they were told would happen and it did not. This is a large facility that you are probably familiar with that has solar-covered parking and roof panels in southern Nevada, and they also had sublessees. The owners said if they had to do it again, it does not pencil out. They did the solar project as a good neighbor. It was an expensive project, and they will never see the return on investment; but they wanted to do their part in promoting solar energy and were in a financial position to do so. Most people are not in a financial position to do a solar project and would not without some type of incentive that would allow them to do that.

If, in fact, you had a large building with a number of tenants who wanted to self-meter and pay their own power bill, is that a possibility? Or if they could not do that, and you only wanted to examine one meter, would the primary leaseholder on that facility be allowed to collect the power bill on behalf of the sublessees? They would actually be collecting the utility company's money and then forwarding it on. I do not know if there is something in the law that would prohibit them from collecting the utility payments of sublessees.

MS. STOKEY:
I am sad to hear people were having that many problems. I am not sure if that was with our solar generation program or what the issues were. If I can get more specifics, I will look into that.

As to your question, that is where the aggregation issue comes in. We want to make sure that somebody is not going to be selling this power to others. With a mass-meter unit, they typically get their power bill and split it amongst their tenants and pay that. The actual customer, our customer, is the person who has the meter and that is who we deal with.

I did not think the amendment was intended to open up the aggregation issue, but that is what I would like to work on with the sponsor to make sure.

CHAIR SCHNEIDER:
If the person who owns the shopping center or the apartment building is just passing the power through and giving it away for free to their tenants, this would not prohibit that?

MS. STOKEY:
If the customer, the landlord, has that one meter.

CHAIR SCHNEIDER:
The tenants would still have individual meters.

MS. STOKEY:
That is what is not allowed in this bill, unless Commissioner Wagner wants to correct me.

CHAIR SCHNEIDER:
Because they are solar, especially apartment buildings, they would still buy electricity at night from the utility company. They are individually metered, but would the electricity during the day be prohibited under this amendment, Exhibit F?

MS. STOKEY:
I believe it would be prohibited under the bill and the amendment, but we will clarify that.

CHAIR SCHNEIDER:
Did Assemblywoman Leslie just see this amendment today?

MS. STOKEY:
No. I had sent it to her the middle of last week.

CHAIR SCHNEIDER:
Then this amendment was not presented on the Assembly side? This is something new?

MS. STOKEY:
Right. We had put on the record the statement that it was for one customer, one site, and we want to make sure it got codified in law.

COMMISSIONER WAGNER:
I am not certain I can clarify it. It is an issue of one building, multiple meters, and when you say multiple meters, those are all individual customers of the utility. If you were the landlord or the building owner and you wanted to put a solar system on your building to benefit your tenants, that is not allowed, because that would be considered aggregation. This bill does not address that. That is the concern I want to work through to figure out a way to make that works so that if you are a building owner, it is a new building and you want to advertise that you have solar, but you have individual meters instead of a master meter, you would be precluded from doing this. That would be a whole segment, both in a multi-family residential setting as well as a commercial setting that we would preclude that. I am not sure I would be able to figure out a way around that. If the intent is to enable this to allow people to install solar and benefit from solar, so long as they are not becoming the utility and reselling the power, that is what we want to avoid. I am sure that did not clarify it at all.

SENATOR CARLTON:
When I read this bill I did not think about strip malls. I looked at the bill as we were talking about leasing a system and putting it on your roof. I thought that was the problem we were attempting to solve. Apparently, by trying to solve that problem, we have opened up a number of different problems.

COMMISSIONER WAGNER:
That is correct. We have a tendency to think of residential customers. I am sure as Legislators that you think those are your constituents, and as commissioner, I think of them primarily. But you also have a whole commercial sector who should be able to benefit the same way by being able to install a system for their own use on their own building. It does go beyond residential. It would be any customer of the utility whether it was Newmont Mining, a strip mall owner or average Joe Q. Public.

SENATOR CARLTON:
It seems as though it would be site specific, because you are talking about a site, a strip mall. If they are taking that benefit and selling power to the strip mall across the street, that is a different thing. It seems to me that one set of solar on one site would address the issue that we are trying to get at by eliminating the meter discussion and talking about site specific.

COMMISSIONER WAGNER:
I agree, but that is the hang-up. It is having some strip malls that are master-metered; meaning there is only one meter and it is divvied up. I would assume the landlord is compensated through rent for that. That is easy, that scenario works. Where a strip mall is already constructed, it has individual meters, and if all those tenants wanted to install solar, they would install the solar system on the roof individually. That does not make a lot of sense, because if you could do one big system to address the whole building, then it would be less expensive. They would benefit from the economy of scale. It is more of, I do not want to say a regulatory hang-up, but it is that function of individual customers and individual systems. We need to figure out a way to make sure we can capture the economy of scale in a situation where you have multiple meters. To make sure that it is fair, this goes beyond the scope of the jurisdiction of the PUCN, but if you are a tenant who does not want to participate, then you do not have to. It is something we need to sort out about how to make that work, if there are individual meters and then one system.

You are correct. It is not talking about the strip mall across the street, and we are trying to avoid that. That is the collision course of letting these entities become their own little public utility. That is what we are trying to avoid.

CHAIR SCHNEIDER:
What if there is a homeowners' association that gets together saying they want to cover all their parking areas and all their roofs, and there are 300 individual houses or a big condominium complex? That opens up another problem of saying you cannot put it on a condominium because that is a common area. The association goes in together to buy a $1 million solar system for their complex. This works with all their 300 units and can operate 12 hours a day during the summer, during the peak load they can generate their own electricity; then at night, they buy electricity from the power company. Can they do that?

COMMISSIONER WAGNER:
It would have the same problems when you have multi-metered customers in a condominium, which I would assume would all be multi-metered like in an apartment complex; they would have their own meters. That would be precluded by this. It is precluded in law right now. This does not address that. It is the same for the homeowners' association.

TOM CLARK (Black Rock Solar):
We support A.B. 186 and the amendments that were brought forward in the Assembly. We look forward to working with the parties to clarify that one sentence that is making this a difficult bill. We envisioned large rooftops, industrial parks and those kinds of things where there is one owner who wants to lease a system and put up 30 kilowatts (kW), 90 kW or 100 kW of solar for that particular facility. We will work out the details as far as what happens when there are multiple meters as well.

MR. DAVIS:
We support the bill. I am intrigued by the concepts being discussed and would like to explore those further. With this bill, it is going to be a way to get more solar on rooftops.

JASON GEDDES, PH.D. (City of Reno; Renewable Energy and Energy Conservation Task Force):
We are supportive of A.B. 186. The bill supports the effort to put in more solar and renewables. It will help public entities in the fact that you are able to

partner with private entities who are eligible for the federal tax credits to lower the cost of these systems and allow us to put them in. It also addresses that mid-range issue in between the solar-generations program, which is generally 30 kW to 50 kW systems, and the utility when they are going to build a system at a megawatt or above. This allows putting in systems that are within that range to get the financing to fill that gap, whether it is a museum, a church, a synagogue or a school where a bigger system is needed than the program operates, but not a full utility-skill system; this fills that niche and closes that area.

One question for the group which is working on the amendment is how that would come about. At the City of Reno, we are looking to put in a big system at our wastewater treatment plant that would provide the load for that plant; but we would also like to put in a couple of smaller systems at some of our other sites like city hall, the bowling stadium and so forth. We would like to do that as one agreement. We are the City of Reno with 450-plus meters that we are metered on. In each building, we would make sure we did not exceed the load for that building. If we could put in four or five of them and still stay under that one megawatt, that is what we are looking to do. I do not know if we would have to do it as an agreement, or if we would we have to get five separate agreements on the five separate meters. I think that would be allowable in the law. If that could also be addressed while they are working on the bill, we would appreciate it.

CHAIR SCHNEIDER:
The issues associated with this bill will take work. We will have a week or so to get this wrapped up.

SENATOR CEGAVSKE:
One of the questions I have been asking over the last several weeks has an answer from the research staff regarding the disposal of the compact fluorescent lightbulbs and other electronic waste. It seems northern Nevada has a plan, and areas where things can be dropped off. I am disheartened that in the largest populated area of the State, Clark County, they do not have anything. Home Depot has set up recycling, and it does say “including all Nevada locations,” so check with your local Home Depot to see if it applies in the south. Everything except broken lightbulbs is shipped to Minnesota, which is surprising. I would like to thank the Research Division for getting an answer to one of my many questions.

CHAIR SCHNEIDER:
Committee, we are expecting an amendment on A.B. 25, which we heard in an earlier Committee meeting. Assemblyman Atkinson's bill has a large amendment, and he was expecting to have it by 10:30 a.m. So, we will recess this Committee until the amendment arrives. With that, we will stand in recess at 10:02 a.m. until the call of the Chair.

ASSEMBLY BILL 25 (1st Reprint): Revises provisions governing examinations of applicants for a Nevada driver's license. (BDR 43-343)

I have called the Committee back to order at a side bar on the Senate Floor. There being no further business, the Senate Committee on Energy, Infrastructure and Transportation is adjourned at 12:30 p.m.

RESPECTFULLY SUBMITTED:

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Laura Adler,
Committee Secretary

APPROVED BY:

_____
Senator Michael A. Schneider, Chair

DATE: _____