MINUTES OF THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND TRANSPORTATION

Seventy-fifth Session
May 7, 2009

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:34 a.m. on Thursday, May 7, 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 Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

GUEST LEGISLATORS PRESENT:

Senator Steven A. Horsford, Clark County Senatorial District No. 4
Assemblyman Marcus Conklin, Assembly District No. 37

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

Judy Stokey, Director, Governmental Affairs, NV Energy
Pete Ernaut, NV Energy
Rose McKinney-James, The Solar Alliance
Robert E. Stewart, Vice President, Marketing, NV Energy

Fred Schmidt, Ormat Technologies, Inc.
Jeff Fontaine, Executive Director, Nevada Association of Counties
Kyle Davis, Policy Director, Nevada Conservation League
Jo Ann P. Kelly, Chair, Public Utilities Commission of Nevada
Donna Skau, Assistant Commission Secretary, Public Utilities Commission of Nevada

CHAIR SCHNEIDER:
We will start the hearing today with a presentation by Senator Townsend on basic electric energy concepts.

SENATOR TOWNSEND:
Later this morning, Senator Horsford will present and reinforce his vision for Senate Bill (S.B.) 358. We will then go through our options on how to meet that vision. In order to do that, it is best we better understand the basics. Everything we do in S.B. 358, or in the other bills we deal with in this Committee, is fundamentally related to this presentation.

SENATE BILL 358 (1st Reprint): Revises provisions related to energy. (BDR 58-1146)

Page 2 of my presentation, (Exhibit C, original is on file in the Research Library.) shows a basic diagram explaining the delivery from generation to distribution. Page 3 shows how we pay for our electric power. The Public Utilities Commission of Nevada (PUCN) has three commissioners, all of whom have testified in this Committee. We mandate the schedules in which the utilities file. We did this to help the PUCN manage their workload as well as having the public, investment communities, companies and interveners understand exactly when they have to be ready. Everyone who is a qualified intervener, including the PUCN staff and consumer's advocates, is allowed to make presentations and provide testimony. The commissioners ultimately determine who and what gets let in. Their role is to balance the interests of the customers, large, medium and small, with those of investors of the utility. This is a delicate balance in Nevada because of our tremendous growth in the north and south.

The other regulatory body is the Federal Energy Regulatory Commission (FERC). The first consumer's advocate in Nevada, Jon Wellinghoff, is now the Chairman of FERC, as appointed by President Barrack Obama. The FERC governs

everything outside of the PUCN's jurisdiction, particularly transmission and their rates.

The next two slides are an energy bill from NV Energy. On page 5, the top box is the key component. This box is how it is all put together. There are the "Electric charges," "Electric consumption," "Temp. green power financing (TRED [Temporary Renewable Energy Development Program])," "Renewable energy program (REPR) (new rate)," "Basic service charge," "Universal energy charge," "Business license fee," and in this bill, "Washoe Co. undergrounding surcharge." Depending on where you are in the State, you will have different county add-ons. It is important to go through the bill to understand it. We require by law that every one of these add-on charges be broken out so the consumer can see what we are adding. This way, if they have specific questions, they can ask the utility or their Legislators. The usage, broken down by month, is helpful on these bills as well. A bill that comes from the north generally has higher usage in the winter, while a bill in the south is much higher in the summer.

Page 6, Exhibit C, shows the components to our electric charges. While complex, it is important to understand. As we move into the testimony later this morning, there will be things discussed that directly relate to understanding the terminology on this page. The Base Tariff General Rate (BTGR), when you hear about a hearing in southern Nevada, is a general rate case, and that is the first component. This has to do with our generators, wires, wages, office expenses, returns on assets and etc. Moving on from BTGR, it gets a little more ethereal. The next one is the Base Tariff Energy Rate (BTER). There are two ways to get energy, either produce it yourself or buy it. The BTER is a recovery measured over a year and is allowed to be done over a 12-month period. Based on a 12-month historical average, we are projecting for a quarter so there is money captured. The Deferred Energy Accounting Adjustment (DEAA) is then when the BTER is trued up once the actual costs come in. We adjust the DEAA to the BTER based on the actual costs that come in; how much did we actually spend as opposed to what we projected.

SENATOR TOWNSEND:
While there are rate cases going on all the time, it is about each individual component. This is about the energy necessary to keep the lights on, but it is the two components that the company must deal with. It is their fuel to actually provide for their generators, which is our domestic generation, and it is the

purchased power that they get on the open market. This is crucial to understand. We do not produce enough energy for all of our needs. We spent, and sent out of state, about $9 billion last year of Nevada's hard-earned money for energy and transportation. That is fuel, natural gas, coal, purchased power—whether it is nuclear, coal or whatever—and transportation costs. One goal of this Committee has been to cut that down. How do we keep $9 billion in our own economy? This is a crucial debate. We have to pull back and get the long view on how it affects the average Nevadan in its totality. If we could keep just 10 percent of that $9 billion in this economy, I guarantee we would put a lot of people back to work in Nevada. As we work through this, people say, "Certain Senators like electric cars and certain Senator like solar and others like something else." While we all have our preferences, as a collective body working together, the goal is to keep as much money in Nevada as possible. When you look at the DEAA, remember that is fuel to drive our generators, coal or natural gas, and it is also the long-term, medium-term and short-term contracts we sign as well as spot prices on the open market.

In August, about a year ago, Las Vegas spiked from a 2,500 megawatt (MW) base load—in other words, no matter what the time of year, that is what Las Vegas uses—to 6,100 MW because of the heat and usage. That is an unbelievable spike. We did not have long-term, medium-term and short-term contracts to meet that load, so the utility was buying by the minute on the open market. That is real-time pricing and is the most expensive energy you can buy in the world. You have to pay whatever they say to keep the lights on.

On page 7 are the general types of rate applications. There is the general rate case, which is going on in southern Nevada right now. They are required to file these every three years. We required three years because if we did it every ten years, there would suddenly be a huge rate increase. The fuel and purchased power cases are a quarterly energy filing, and that is the BTER. The Renewable Energy Program (REPR), which we deal with in solar and wind, allows cost recovery for those programs. Deferred-energy cases are required to be filed every year. We did this for a reason; it was to shave the potential sticker shock to the customer. This is a dollar-for-dollar recovery. There is a prudency standard, insisted upon by former State Senator Dina Titus, that you do not automatically get everything you did. Did you prudently buy that power? If you did not, then that can be withheld.

Looking at general rate cases on page 8, Exhibit C, filings are staggered to help with the workload. Southern Nevada is at a certain time while northern Nevada is at another time. The BTGR is set so we can deal with things more orientated on the accounting side of the ledger; things such as debt, preferred equity and return to shareholders.

When somebody says the company is guaranteed a 10-percent return, that is the greatest misnomer in the world. They are allowed to earn a certain rate, but they may not get within a mile of it. If they get over it, they cannot keep the overage. The goal of having an allowable was so their investors and customers would know the goal is to get to that standard. They may not get there; their expenses may be completely out of control. Or, they may determine at some point in a quarter they want to take a write-down; then that is a decision they make. They are not guaranteed anything; not one penny, they have to earn it. If they earn over the allowable rate, it is then put into a different case, and that money is recaptured for ratepayers.

SENATOR TOWNSEND:
Page 9, Exhibit C, shows the renewable energy program filings. This deals with our programs in solar, wind and waterpower. The rebates and the new rates we implemented last fall are put into a DEAA filing. It is important to understand that these rebates and particular programs that help us encourage a developing program have a cost. It is important how we measure it against how we spread it out. It is important for you to be able to say, “We decided to do X, because here is what it does for us, and here is what it costs you as an average consumer.”

Page 10 deals with the BTER quarterly energy filings. We made these quarterly to better respond to markets. The energy market is a simple thing to understand. Energy is a commodity. Fuel is another commodity. These things move. I watch the movement in the commodity market most mornings. The phone will ring and a guy will say, “You’re short and you should be long,” or, “You’re long and you should be short.” They move every second, and it is a very dynamic market.

Since we have been in this building, oil has gone from $39 a barrel to $54 a barrel as of yesterday. That kind of increase drives all kinds of implications in our economy; particularly in Nevada. If an airline has not hedged and they are buying on the open market, their fuel costs have been driven up dramatically.

They may pass this cost on to their customers, which means the price of an airline ticket goes up as well. Other costs like trucking also go up. We have to follow commodities. They are very important, and that is why the BTER is developed the way it is.

These quarterly adjustments are projecting, based on a historical perspective, what it will cost them to meet it. Then, when the DEAA presents their actual costs, it is trued up. One thing, page 11, to understand about the DEAA is energy costs, fuel and purchased power is what they put into a plant—whether it is coal or natural gas—or what they buy on the open market as electricity. They make no money on that and there is no ability to make a profit. It is a dollar-for-dollar pass through. It is not part of a general rate case because energy does not go into those kinds of things.

On page 12, Exhibit C, is the Integrated Resource Plan (IRP). This is something you will deal with for years to come. When former consumer advocates Mr. Wellinghoff and Fred Schmidt sat down with me, we understood there was no planning going on in the State. Where do we want to be in 5, 10 and 20 years relative to the ability to provide energy to our growing needs? Our IRP has been looked to nationwide as a model for every state. The utility is required to file every three years. They have to determine the most efficient combination of construction projects, energy conservation, and fuel and purchased-power strategies. Those are the three key items they have to make a case for when they file. When they file their plan, consumer's advocates and staff are allowed to come in, analyze the plan, react to it and make suggestions for changes. They file every three years because as the economy and things such as demographics shift, they are allowed to shift with it. We have allowed the PUCN to retain the right to only things prudently done. If you go ahead with a plan, that does not mean you get it dollar-for-dollar, you have to go ahead with it prudently. You cannot build a gold-plated transmission line; that is not prudent. It has to be rational and defendable in front of the PUCN. When you are looking at a prudency standard on a resource plan, it is laborious and detailed, but it has to be done for the benefit of the public.

Page 13 lists the resource plan evaluation criteria. This includes generation, transmission, purchased power and demand-side management. This is all crucial. Without trying to get into too much of an advocacy role, we have been prudent in this Committee regarding conservation. The cheapest kilowatt we

can deal with is the one we do not have to produce. Any time we can help anyone manage their costs, we are significantly better off.

SENATOR TOWNSEND:
Page 14 shows historical peaks and what has happened over time with regard to our growth. Chair Schneider had shown a slide provided by an individual from Western Resource Advocates that dealt with physical growth versus load. Due to our unique temperatures, and maybe lifestyles because we are a 24-hour State, we consume more power per person than any other western state. I do not have an answer for that.

Page 15 shows that peak loads are met by projecting them. They look at conservation and are then met with a combination of long-term, medium-term, short-term and seasonal purchases. There is a growing excitement about smart grids and smart homes. On the market today, while sitting at your office, you can look on your computer and in real time see your energy usage. In jurisdictions that have focused on this, such as Seattle, Washington, and Berkeley, California, you can change when you want to turn appliances on in your home from the computer. You can decide when you want your clothes washed, your dishwasher on, air conditioner on and etc. These things are not pipe dreams. They are costly, but in about 24 months the average person will be able to afford this new technology. The more we use energy at a time when it does not cost the utility so much, the better off we are.

Page 16 deals with the portfolio standard. We are currently debating this issue. There has been a general consensus in a number of bills that 25 percent by 2025 is the goal we want to aim for. At some point, we will hear from individuals about distributive generation. That gave great concern to a number of us with regard to the costs.

Page 18 covers a non-rate financing application. The Temporary Renewable Energy Development Program assists renewable-energy developers get their project financed. The biggest problem we faced six to eight years ago was the company got into very dire financial conditions. Financial institutions would not loan money to finance a renewable-energy project just based on a contract from NV Energy. So, we carved out a separate revenue stream to help guarantee those contracts. This had never been done in this country, and a lot of work went into it. This helped us get through a terrible financial period with the company and helped renewable energy get started.

CHAIR SCHNEIDER:
Senator Horsford is now here to give us an overview on S.B. 358.

SENATE BILL 358 (1st Reprint): Revises provisions related to energy. (BDR 58-1146)

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):
I will be taking a step back and looking at the main elements of what we are trying to accomplish with S.B. 358. The details are extremely important, but I will leave that to your staff and others who need to make sure every detail is met. It is important for us to focus on the major objectives we would like to achieve. When we first presented some of these bills, we said we needed four major components to make Nevada the Country's leader on renewable energy. Those components are as true now as they were at the beginning of the Session. As we begin to close up what we are going to act on, it is important to remind ourselves of the product we hope to get at the end.

The first major component is a clear, streamlined and coordinated infrastructure to support Nevada's new energy economy. We need our regulations to work together and our governing structures to coordinate together. This includes the local, federal and State priorities that we are setting, assuring that we work as a team to bring renewable energy to our State and transmit it from the point of generation to the end point with the consumer. As it pertains to renewable energy, this focus must be on balancing all the new opportunities in large and small solar as well as an emphasis on energy efficiency. I am excited about the opportunities in solar, wind, geothermal and biomass. More of an application on energy efficiency will also help every home, school, business and public building that chooses to take advantage of these new opportunities.

The second major component is to create a long-term renewable-energy economy by attracting and retaining the renewable industries that we want. To do this, we need meaningful incentives for renewable developers to choose Nevada for their plants—creating thousands of jobs and needed revenues for education—and positioning Nevada as a major exporter of renewable energy. These incentives should strike the balance between being attractive enough to those industries and making sure there is a net benefit to every Nevadan. We can strike that balance. As Senator Townsend said, we cannot outcompete ourselves or compete with our surrounding states. We need to do what is right for Nevada.

The third major component should be to make renewable energy accessible and affordable for small businesses and homeowners. This can be done as we work to foster more distributed generation (DG). Renewable systems located at homes and businesses can jump-start another new industry and provide more jobs that we desperately need. The provisions we have talked about on the DG can be achieved. They can be achieved by improving our SolarGenerations Program and making a long-term investment to decrease energy costs to consumers.

The final major component we should maximize in our policy is promoting rapid implementation of innovation. Since this is our new industry, and there are technologies that have not been created yet, it is a perfect opportunity for entrepreneurs, creative thinkers and those individuals who want to be part of something big to find a way to bring those innovations forward. We need an infrastructure to cultivate that. The components should include building bridges between the Nevada System of Higher Education and the renewable- and energy-efficiency industries, both to help transfer those newly created technologies into the marketplace, as well as train and educate individuals for the new energy economy of tomorrow that will continue to evolve and change as things grow. This will enable Nevada to remain at the front of a rising industry. Nevada is currently the leader in renewables, but now that everyone has gotten on the bandwagon, our new challenge is how to maintain that advantage.

Ultimately, as the Country moves toward a national renewable-portfolio standard and more states look beyond their borders for reliable sources of renewable energy, it will be Nevada that can be positioned to export its abundant clean energy. We can continue to create new jobs and revenues for a sustainable future for all of our citizens. These are the objectives that we started with, and they are the objectives we have asked people to talk about and share their ideas on. We have proposed suggestions, there have been proposals made in the Assembly and there are still ideas that can be crafted. If we are able to focus on some of these key elements and components of what the policy should be, then we will get it right. We are getting the policy right because people from the solar and geothermal industry, our consumer advocate, the PUCN and the utilities are willing to come to the table. We are asking the questions that need to be asked and making sure that we do this in a way that is balanced and forward thinking, but does not move Nevada backwards or lose our advantage. With that, the representatives from the solar and utility

companies will come to talk about their approach and the approach they think will balance these components and specifically about distributed generation.

JUDY STOKEY (Director, Governmental Affairs, NV Energy):
We are here to support S.B. 358 and the proposal you will hear from Rose McKinney-James and Pete Ernaut. NV Energy and our Chief Financial Officer, Michael W. Yackira, have always been, and will continue to be, supporters of renewable energy. Renewable energy plays an important role in our economy and energy mix. This proposal will demonstrate our continued commitment to renewable energy and Nevada. We are encouraged by what you are going to hear today.

PETE ERNAUT (NV Energy):
We have attempted to work with all the stakeholders over the last few weeks; primarily between NV Energy and The Solar Alliance, to come to some idea and agreement on language that may work for this policy going forward. Our work can be seen on the document titled, "SB 358 Agreement on Issues" (Exhibit D). A number of these points have already been discussed, but in the midst of the more technical issues may have been lost in the bigger picture.

We have agreed to increase the overall renewable-portfolio standard (RPS) to 25 percent in 2025, which is a significant increase. Secondly, there has been another set-aside for solar. That increase has gone from 5 percent to 6 percent, beginning in 2015; this is also not an insignificant increase. Everyone should be commended on the effect of this as it marches us rapidly towards the end line that we all agree upon.

Today, we would like to focus on a couple of major issues that have been at the center of the most debate. This begins with the concept of DG. We began this discussion with the ideas of a certain percentage of carve-out. That elicited much debate and discussion between the entities. We have really changed our thinking on this to a much more workable program. As you know, there is the existing SolarGenerations project. This program is a system of rebates available to those solar projects that qualify and are funded by the mill tax. The agreement before you today would simply become an extension of the existing SolarGenerations project. The ease of efficiency and the administration is desirable. It also does not create a need for a whole other bureaucracy or administration, and more dollars could be administered to the program.

With that, the spreadsheet (Exhibit E) will help everyone follow along with the major points. The first and most important element is that the DG program would not be a requirement of the RPS. It would count toward the RPS, but not be a requirement. Why is that an important issue? At the heart of this debate is how the ratepayers are treated. The utility was increasingly uncomfortable that the ratepayer may be in a position of not only being guarantor of this program, and subject to fines and such if it was required by the RPS, but also the surety bond. If this industry did not perform, we were then on the hook to build it out. If you think about it as venture capitalists, we were putting the money up in the form of rebates. We are guaranteeing the project be done and then become the surety. Those were the elements of the debate.

What we have now is a middle ground which says we have a goal, set forth by Senator Horsford's amendment, which says to get to a 2-percent threshold by 2020. Line 8 of the spreadsheet shows that, beginning in 2010, we would start a one-tenth increase. This keeps increasing and ends with a 2-percent threshold in 2020. Line 2 tracks with the existing RPS increase that we have already discussed earlier in the Session and reflects the 25 percent by 2025, we just did not extend the spreadsheet to 2025.

So how would this work? The utility would put forth the opportunity, capacity and funds for the DG industry to access for these projects, then get a rebate through the SolarGenerations project in order to help fund these types of projects. The money is available, but like the mill tax, is only accessed when a qualified rebate comes forward. There is no huge pool of money outside the investment pool. The ratepayers are not affected by double since we would have a stagnant asset. The mill tax, as the SolarGenerations project now calls for, is only accessed when the project is qualified and comes for a rebate. This is a predictable risk.

The numbers on line 22, which is "Potential Rebates Paid ($ Mil)" beginning in 2009—we put 2008 in to show the existing program and give a relative scale—will be $34.5 million available for DG. As you follow the line across, in 2010 there is $13.4 million available, then $14.57 million the following year. Additionally, any unused capacity in any one program year would roll over from one year to the next. Those funds would then be available. Probably the best example of that is on line 15. A significant issue before the PUCN currently is the 6.3 MW that have been unused and have rolled over from program year 2008 to 2009. One of the most significant items of this potential agreement

between the solar people and ourselves—and accrues to the benefit of all involved—is that the 6.3 MWs would be assumed to be rolling forward in this scenario.

MR. ERNAUT:
Line 14 is also important. This line shows the number of MW each year that will be available. If you take $34.5 million, then you see that it is the 3.7 MW and the 6.3 MW, which is just the amount of money versus the MWs that it represents. If you follow line 14 across, that increases each year. Looking at line 10, ultimately the MWs of distributive solar grow to 82.8 total MWs in 2020. Also, this represents a commitment by the utility for up to $255 million in that 11-year period and over $70 million in the first 4 years alone.

On line 20 is the average rebate. Starting with the current average rebate of $3.45, it declines over time through 2020. This assumption takes into consideration testimony this Committee has heard before. The assumption is as this industry develops, the cost of solar will drop over the 11 years from $9 per watt to $7 per watt. Please understand these are educated guesses. We hope this to be true, but we had to make certain assumptions.

The next question is how will accountability work? First, you have the SolarGenerations project that exists and the PUCN overseeing it. Second, though, the accountability back to the Legislature comes in two forms. On items 11 and 12 of the narrative, Exhibit D, it calls for 2 look-back provisions; one in 2013 and one in 2017. Clearly, no Legislature can bind the next, and you can look back every two years if you like, but a mandated measurement tool will not be at the whim of each Legislature. Two look-back provisions would make sure this program is working the way we think it should, and that the industry is robust as we believed it to be. Those are good accountability issues.

Another issue brought forward and addressed in item 8 of the narrative is grandfathering. All of the currently existing distributive generation projects could not be used as credit in the first few years of this program. Although they would count towards the RPS, they would not count toward the money we are obligating in this particular program going forward. It starts fresh in that respect.

When you look at some of the numbers, such as line 14 under 2009 which is 3.7, Exhibit E, you may ask how we came to that number. This figure is based

on a point in time that is the basis of the SolarGenerations Program which is 3,760 kilowatts (KW). This probably needs further explanation, because it has some categorical limitations. On number 5 of the narrative, Exhibit D, the 3,760 KW is broken down into 2,000 KW for schools, 760 KW for public buildings and 1,000 KW for residential and small businesses. In the life of this program the PUCN can alter those categories, but that is another limitation in that two or three major projects could utilize the entire capacity. If we are going to look at DG, it is important from a public policy standpoint to look at a mix—small rooftop, medium-sized commercial, public buildings and schools—so we get a better look at what works and what may have challenges.

Item 13 of the narrative, Exhibit D, was another debated issue. Those that qualify for a project—and this is a challenge in the existing SolarGenerations project we are trying to fix—but the project does not get built, are holding on to that capacity and thereby denying a more qualified project from coming in and being built. In item 13, we are putting forth a "use it or lose it" provision that essentially says your project has to meet certain milestones, or you have to drop out of the queue. This way another project can take its place so we have viable, vibrant projects actually being built and utilizing this money.

Item 14 was probably the most difficult part of the talks and negotiations. This is the definition of DG. This is important because the essence of that is who owns the system? Is the ownership on the customer side of the meter or on the utility side of the meter? We began by demanding it was on the utility side of the meter. There were some very good arguments made by the solar coalition, though, that as long as there was a restriction on the sale of any excess power, that the ownership on the customer side made a lot of sense. This way they are free to negotiate deals with potential developers and potential projects without the confines of having to go through the utility. However, in the end we do not want to get in a position where we create miniutilities or wheeling possibilities for these projects or for them to take excess power and sell it around the existing utility.

ROSE MCKINNEY-JAMES (The Solar Alliance):
Mr. Ernaut has accurately described the give and take on item 14. It was important to The Solar Alliance to have a definition. This definition is used in many other jurisdictions. It is important to preserve the right of the homeowner or business owner who invests with the State through this rebate program. Leverage is an important public policy; a definition allowing them to have the

ongoing responsibility for making decisions on whom they interact with and what those terms are is key. This is not to generate a situation, though, in which the utility is faced with attempts to do retail wheeling, aggregation or anything else detrimental to their business case. This was a key point, and we were very pleased we were able to prevail.

MR. ERNAUT:
In summary, on the DG portion, NV Energy believes in DG and believes it will have long-term benefits. If we did not believe that, we would not be willing to underwrite this program. We also have to balance that issue with the responsibility we have for the protection of our ratepayers. This program represents a predictable risk. Take into consideration the issue Senator Horsford brought forward in his amendment on Monday—which caps net metering at one MW, that there are hard caps on any one program year and that the existing categorical caps between residential, public building and so forth in the 3,760 KW that start the SolarGenerations Program and exist today—we think there is a belt-and-suspenders approach that can be monitored as policy makers, the utility can predict, and the ratepayers can be protected.

Line 27 on the spreadsheet, Exhibit E, exemplifies that point. This project, in the years 2009 through 2012, represents an increase of 68 cents per month on the average residential bill. You have seen a lot of numbers in the testimony on DG, but I assure you this is the lowest and the one we are most comfortable with and confident in and represents the predictable risk.

The last issue we dealt with previously was the issue of decoupling, and that is point 16, Exhibit E. The issue of decoupling is a simple one. We are put in a position willingly, through our conservation programs, to convince our customers to use less of our product. The more successful we are, the less of it they use. At some point, we have to realize that our costs do not go down commensurately. The request in decoupling is that we are provided a way to recuperate some of that money. While it would not be 100 percent, and while we are comfortable with the rulemaking of the PUCN with certain parameters, we need to recover some of the money lost in the conservation program in order to sustain it. The decoupling language, I want to underscore, is important to the balance of this agreement between the two of us for your consideration. It is one that pressed as much our ability to make some amends on DG as well.

The last two points, Exhibit D, are a reminder from Monday's testimony that we talked about NV Energy's ability to buy renewables outside of the State. We have worked with the opponents and are nearing an agreement that would separate power from credits. We would not be able to buy credits from out of state, but actual power, so we will be comfortable with that. The last point is that all abatements, whether they eventually are done in this bill or another, would be available for the utility.

MRS. MCKINNEY-JAMES:
I would like to quickly review some of the items Mr. Ernaut has pointed out that serve as a basis for the agreement on issues. One of the primary issues here is we are revisiting the RPS in a way that will allow us to be competitive on a national basis. On a federal level, we are looking at a similar term and scope for the portfolio standard. This would allow us to retain our competitive position.

With respect to the look-back, it is important that when a program using public resources is established there is an opportunity to revisit it. I hope this will be a robust program that many people will take advantage of it, and that members of The Solar Alliance will be able to increasingly build their businesses.

Regarding the 6.3 MWs that remain in the SolarGenerations Program, we would like to take advantage of that moving forward. As it relates to our fundamental agreement, we are not interested in any grandfathering. We are not interested in taking advantage of existing parasitic load. Those issues have been resolved. This is a pay-as-you-go plan. It would have been an ideal circumstance to have this as part of the RPS, but since we are using the SolarGenerations Program, I have some comfort because the PUCN's overview will continue.

There are other measures making their way through the legislative process that deal specifically with the SolarGenerations Program. We strongly feel there is a need to revisit the program to make sure it is structured to take full advantage of these opportunities. You need to understand that what we have identified in these points of agreement must be in companionship with an improved SolarGenerations Program.

As it relates to item 5, Exhibit D, and the existing program, Mr. Ernaut indicated that we have allocations for schools and public buildings. In the other category, we want to reference small- to medium-sized commercial. We will rely on the

PUCN and, in some part, ongoing discussions relative to the SolarGenerations Program in terms of how we actually deal with those caps.

Looking at the definition, I have given you my best sense of why this is important and why this is an important point of negotiation. I am pleased to see we were able to arrive at the accommodation.

When we look at decoupling, this is a fairly technical area in the regulatory arena. We propose to ask the PUCN to conduct a study and look at the financial implications for the utility. We are putting into place the process of accountability. It will require the utility to quantify the savings they believe are appropriate for this recovery. This will be an ongoing consideration.

As it relates to our ability to secure funds from the stimulus package, there is an expectation that states at least take a look at decoupling as an approach to addressing future needs. While at times it was not pretty, this is an opportunity for our State to continue its path toward advancing this frontier.

CHAIR SCHNEIDER:
Could you explain decoupling?

ROBERT E. STEWART (Vice President, Marketing, NV Energy):
Decoupling is a generalized term. It was not specifically used in the stimulus package, but it refers to one of two sides on the issues surrounding the financial implications of conservation and energy efficiency. There are three elements to an appropriate mechanism to recognize and make equivalent an investment in energy efficiency with other alternatives such as generation. One is the recovery of costs of the program, its administration and any incentives paid to its participants. The second could be an incentive that makes a preference for conservation and energy-efficiency investments over generation. In this State today, we have a progressive mechanism that allows for the recovery of our investments, and we get an incentive that provides a higher rate of return on those investments in energy efficiency. We have a very progressive mechanism for those two components.

There is a third component which is when you invest in energy efficiency, you immediately begin reducing the usage by customers, and that reduces two things. One, to the benefit of the customers, we do not have to buy as much fuel and purchased power; that benefit flows directly to the consumer.

But the second component is what Senator Townsend was speaking about this morning in terms of our base rates. If we just have a rate case and begin investing in energy efficiency with rates that were set, the base rate times the amount of efficiency that is saved over that period of time reduces our revenues to cover the fixed costs that were in the rate case. If you go multiple years from that rate case to the next rate case—let us say the statutory limit in Nevada, which is three years—the investments you make in the first year, you lose about half of the kilowatt hours (KWh) that those investments would do in a full-year basis. But in the second year, you get a full-year reduction in the amount of KWh that is produced, and you get that full-year amount in the third. Then, when you do the investment in the second year, you begin to pancake that.

In our case, if you look at us today, we are in the middle of a governance, risk and compliance (GRC) situation. We are investing about $50 million a year for the installations that we will do in the State for energy efficiency. That $50 million can produce 400 million KWh of reduction in a full year. So, for this year we will do about half of that. Next year, we will do the full 400 million and another half for the investments we make the next year, and then in the third year, we have two full years of the reduction effect, plus a third half year; so, it pancakes up. Those dollars are what are called “disincentives.” In decoupling mechanisms, there are many types intended to mitigate that effect. Mitigate the disincentive of the base revenues that are lost to cover the fixed costs that were included in a previous GRC until the next general rate case trues up the rates.

From a decoupling standpoint, there are a lot of different ways you can do decoupling. The PUCN has undertaken a set of comments and replied comments on these issues. There are many parties involved, and there are proponents of what is called full decoupling and proponents for what we are seeking: a specific mechanism that uses the processes that we have in place to look at the specific effect on loss-base revenues between general rate cases. The generalized decoupling approach tends to propose a mechanism that eliminates the risk associated with many other factors that the company takes on, such as weather, growth and a number of other factors. This is what the PUCN is now reviewing and is approaching with respect to coming with the treatment of this disincentives issue. We support the PUCN in this effort. We are a participant, and we believe the process that they are going through should create a solution that will serve the State well.

SENATOR CARLTON:
The provision within this agreement on the decoupling language is a study that will be done?

MR. ERNAUT:
We see the study as largely inadequate. The PUCN rulemaking can certainly handle this issue.

SENATOR CARLTON:
This is a huge issue. It took us a long time to deal with a number of these other issues and vet them thoroughly. I personally would like to have more Committee discussion on decoupling, and what it actually means to the folks in this State. The little bit of research I have been able to do gives me some concern. That may just be the lack of knowledge and not being able to sit down and have Mr. Stewart explain it to me because we have many ways we are going in this bill right now. I have some real concerns when the company can ask for profit on energy that is being saved, when the whole goal is to conserve energy.

CHAIR SCHNEIDER:
We need some definitions in point 15 of your handout, Exhibit D, where it talks about *Nevada Revised Statutes* (NRS) 704.021, which was addressed in section 11.5 of the bill and is the definition of a public utility. Then on number 16 of your handout, Exhibit D, on decoupling, where it says, "Amend and replace Section 20.3 with attached language that allows NV Energy to file for recovery of lost revenues arising from these programs," we will need some additional language as well because staff is unsure about this.

FRED SCHMIDT (Ormat Technologies, Inc.):
> I testified before you a couple days ago, and as Mr. Ernaut explained this morning on their points, one of the issues we've been working on is to try and find a way to recognize or allow for some out-of-state competition in the renewable portfolio without essentially opening the floodgates so we undermine the development within our State. I have been working with NV Energy as well as Barrick [Gold Corporation], who has a significant interest in this since they have to acquire on their own since they have left the utility retail system and still have to comply with the RPS.

I have been working with them on an amendment to NRS 704.7815. It is also a provision which appears in the Assembly Bill (A.B.) 387, which you have not heard yet, but I have drafted the amendment so that it would go in S.B. 358 or in A.B. 387. Just for your information, I have talked to the sponsor of A.B. 387, Mr. Conklin, and he is agreeable to this amendment. He thinks it makes sense.

Let me briefly explain the purpose of the amendment and what it does. If we allow out-of-state renewable portfolio to be met by competing projects, we need to make sure that we avoid abuse of that by virtue of paper, as I called it the other day, paper transactions where the utility or Barrick's supplier could go and purchase what are typically referred to as station use credits for the generation that's used by a renewable facility to operate its project. In the case of geothermal, I think I said the other day it was up to 25 or 30 percent of the project. Other states do not recognize that, so my goal in this amendment is to ensure that that type of transaction does not occur and eat up our entire RPS. We won't get more renewable in Nevada, and we also won't even get renewable in neighboring states from it. We will just be sending money across state lines for it. So what I have done is amended the section as to what is a renewable-energy system.

If you look at the amendment in front of you (Exhibit F), it does two things. First, it recognizes by adding the phrase, "Uses the electricity in this state ... ," that anything that we develop in renewable in Nevada presumptively is good for our economy and is good, and that would count and recognize as a credit. That means that when we do generate station use in Nevada, which currently is recognized and required in many NV Energy contracts, that it would still count toward our RPS and help our utility to continue to meet the portfolio as it did this past year.

Then, the second part of the amendment is that where we have the phrase, or if you want to transmit or distribute electricity from a renewable-energy facility to a provider of electric service, and those are the entities like NV Energy or Barrick's supplier who currently have to comply, that you actually have to have it

delivered to them and used in the State. The purpose of that phrase is to make sure that the electricity is actually delivered and you just don't buy these credits from out of state; they actually deliver the renewable energy into the State and use it in the State. Now, when we make that change, those of us who've been working on this section a long, long time realize that the convoluted language we currently have in there, in the statute, talking about who owns or controls or operates the transmission system, which in the past was always put in there to make sure we didn't have the out-of-state competition, that all really becomes unnecessary.

The purple that you see in the amendment, Exhibit F, strikes all of that section. Senator Townsend, you may remember when Mr. Wellinghoff and I battled over this language. One thing we had in common we always did want to get rid of this convoluted language if we could. I think this amendment does that.

What it means is that there will be competition in the future from out of state, but anyone who does compete will have to pay the cost of transmitting the energy here, which will help our in-state development not be flooded with new competition overnight because they will have a cost that we only incur when we connect to the system and have to pay transmission here. But it is likely to resolve in more projects being eligible for the RPS, which is going to help the utility this coming year where they are projected to be short in meeting when we bump from 9 percent up to 12, because they will be able to go out and buy from the rural areas that aren't even connected to their system. I know they even have a project that they have announced but isn't connected to their system down in Searchlight for wind. They have one they announced a couple years ago in northeastern Nevada for wind.

They also might be able to buy credits from the Southern Nevada Water Authority or water district which has actually developed ten renewable systems in the last couple years. It gives them options they don't necessarily have today or aren't recognizing. That's part of the purpose because the theory is any renewable developed in the State of Nevada is good for the State of Nevada,

if we're purchasing it in the State of Nevada helping to meet our portfolio.

As I said, the amendment was supported by NV Energy and authorized by their vice president of renewable and their lobbyists to say that and also got confirmation by e-mail that Barrick was in support of this.

Ormat did not really want to do this. We would just as soon keep the competition in state solely, but we have facilities and we just bought a lot of leases in Utah. We have, as I think I said the other day, more plants in California than we have here. Will that come into Nevada? Not likely, because California pays 10, 20 percent higher than Nevada does. It's not clear that there will be a lot of out-of-state resources come in, but can projects like some of these major wind projects that may be years out but are being planned for Canada or the mountain states to ship huge amounts here, that could be competition in the future? Yes.

ASSEMBLY BILL 387 (1st Reprint): Makes various changes to provisions concerning energy resources. (BDR 58-223)

JEFF FONTAINE (Executive Director, Nevada Association of Counties):
We are delighted to hear there will be another opportunity to talk about the abatements in another bill. I want to reiterate there needs to be some mechanism for reclamation. I do not know if that is still something that could be considered in this bill or another bill, but we strongly believe that as these projects get built and the infrastructure gets put into place, we will have lots of wind turbines, acres of solar panels and geothermal wells.

While we hope that they all work and supply renewable energy for a long time, we have to be realistic and know that some may not work out. We want to make sure there is a mechanism at the county level to be able to address what is left behind. There are similar mechanisms in mining. It is administered by the Department of Conservation and Natural Resources. We request you consider some type of mechanism for counties to address this concern.

CHAIR SCHNEIDER:
Do you want the authority to require a bond or a fee that is paid every quarter, month or something similar to that?

MR. FONTAINE:
We have a proposed amendment that would create a renewable-energy generating facility reclamation fund to be administered by the Division of Environmental Protection. There would either be an agreement in writing to assume responsibility for the reclamation of any land or damages as a result of electrical-generating activities, or to file with the Division some sort of bond or surety. Those regulations could be developed by the State Environmental Commission. The mining reclamation fund would serve as a good model for this fund.

CHAIR SCHNEIDER:
Is there any authority to create a bond in the permitting process at the county level?

MR. FONTAINE:
I am unaware of any such authority.

KYLE DAVIS (Policy Director, Nevada Conservation League):
In general, we support the concept of increasing renewable-energy generation and increasing DG. I wanted to bring forward an amendment (Exhibit G) today. With this amendment, we are looking to clarify the language for the representative on the New Energy Industry Task Force so the right person will be the representative. This would be somebody from the environmental advocacy community that understands how issues of public lands and wildlife interplay. We would change it to say, "A representative from the environmental advocacy community with experience or knowledge in environmental or public lands issues."

SENATOR TOWNSEND:
In working with Senator Horsford and other parties to analyze S.B. 358 and amendment 4711 and come up with a workable structure to meet Senator Horsford's vision, the proposal for consideration titled, "Explanation of Revised Proposed Amendment to SB358 (First Reprint)" (Exhibit H) includes a number of issues. Most of these are set forth in the bill, but this is an outline so everyone can understand the opportunity for dialogue on a specific direction.

Using the bill, I would start with number two. This would establish the Renewable Energy and Energy Efficiency Authority as a separate entity and not connected organizationally to the PUCN or the Office of Energy. The Authority and the Nevada Energy Commissioner would assume the duties and responsibilities of the Office of Energy and the director as set forth in Senator Horsford's proposed amendment. We would be accepting what is already printed in the amendment. Additionally, the Authority would be authorized to retain legal counsel other than the Attorney General. I offer this because it is an Executive Branch agency dealing with the policy end as opposed to the regulatory end like the PUCN. This would allow the organization to have their own independent counsel as opposed to doing firewalls inside the Attorney General's Office.

Then looking at number 1 on the handout, Exhibit H, it would retain the Office of Energy and the Director of the Office. It states: "The duties of the Office and the Director would be limited to: (1) the collection and analysis of data relating to energy, energy conservation and renewable energy in this State." That is a lot of data. Senator Horsford has emphasized the ability to track everything that is done. Collection of data for this office would be a huge responsibility. The second responsibility to the Office of Energy would be "the processing of applications for abatements from property taxes and sales and use taxes by persons who own or construct energy-related facilities which are eligible for such abatements." The third responsibility would be "serve as the State's point-of-contact with the Federal Government on all energy-related issues and oversee applications for federal money and the distribution of federal money made available to the State for energy-related projects." That specific responsibility is targeted at the stimulus package so we would meet the federal government's standards.

Number 3, Exhibit H, states, "The amendment would require the Director of the Office of Energy and the Nevada Energy Commissioner will be required to use any portion of stimulus money that is available for administrative expenses to retain consultants to assist them in carrying out their duties and responsibilities." This Committee has been supportive of having consultant accounts because of the need to retain the services of highly specialized individuals for specific tasks. This is opposed to having individuals on staff.

Number 4 states, "The amendment would add another member to the New Energy Industry Task Force who will be a representative of a public utility in this

State ... ." The reason for this is they provide energy and renewables so they were the only ones left out. I recommend we look at that.

Number 5 states, "The amendment would include the proposed amendment submitted by the City of Henderson authorizing local governmental entities to establish improvement districts for renewable energy." This is an opportunity that could be available to local governments to help them deal with their challenges and the demands now made by small and large businesses and residential customers, but by those individuals that they are trying to recruit to come to their cities. This could be a very beneficial attribute to opportunities in the State.

SENATOR TOWNSEND:
Number 6 states, "The amendment would provide that the Office of Energy and the Renewable Energy and Energy Efficiency Authority would both be funded by the mill tax. The portion of the mill which is currently allocated to the Public Utilities Commission of Nevada would be reduced by 1 mill ... ." Currently, they are authorized to go to 3.5 mill. They are currently at 1.95 mill, so this would leave them a cushion of .55 mill, and then we would allocate that 1 mill between the Office of Energy and the Authority. The dominant portion of that revenue would be with the Authority. The purpose of this is to free up the General Fund money with which we currently fund the Office of Energy.

Number 7 states, "The amendment would remove the provisions relating to abatements of property taxes and sales and use taxes." As previously stated by Senator Schneider, it would be dealt with in another bill.

Number 8 states, "The amendment would replace certain references to the Nevada System of Higher Education with references to the Nevada Renewable Energy Integration and Development Consortium consistent with the amendment proposed by the Desert Research Institute." This would require the Consortium to work with the Nevada Institute for Renewable Energy Commercialization, as I proposed in an amendment a couple of days ago.

Lastly, number 10 states, "The amendment would include an additional requirement that the Nevada Energy Commissioner encourage the development of renewable energy in this State by developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist."

These are offered as points of discussion for this amendment. Senator Horsford and I have discussed these at length to try to meet his vision set forward in the original bill and in the amendment before us.

CHAIR SCHNEIDER:
I agree with this.

SENATOR LEE:
The cities and counties swim in the same revenue streams as we do a lot of the time, as do local hospitals. There are a lot of issues tied to this abatement issue. Where else should I look to make sure we get this energy going but without harming these communities?

SENATOR TOWNSEND:
We are taking the abatements out of this bill for a number of reasons. Abatements have become a serious issue to local governments, school districts, etc. Senator Horsford, Assemblywoman Kirkpatrick and I wrestled with this and had a number of things on the table. We thought it was in the best interest of the process to remove the discussion altogether from this bill. Assemblywoman Kirkpatrick will process her bill instead. By the time her bill gets here, the clarity of their proposal will be evident. It is a complex way to do it, but it addresses your concern and everyone's concerns about not hurting local governments while we encourage this development.

CHAIR SCHNEIDER:
We will close the hearing on S.B. 358 and move on to A.B. 510.

ASSEMBLY BILL 510: Revises various provisions governing the Public Utilities Commission of Nevada. (BDR 58-1140)

ASSEMBLYMAN MARCUS L. CONKLIN (Assembly District No. 37)
We have been looking at the issue contained within A.B. 510 for some time; this year seemed an appropriate time to bring it forward as the PUCN looks differently than it has in the past. In many respects, some changes are necessary. This bill attempts to insulate the commissioners and staff of the PUCN. The bill does two things. First, it provides for the unfettered work of staff and focuses the commissioners on the task at hand instead of the task of managing the staff. This will create better efficiencies in the PUCN. This bill is straightforward; it creates the position of executive director. That executive

director reports to the commissioners. All of the staff then reports to the executive director. You can image the layer of insulation that is created. This position has existed before on the board, but was lost after time as boards were bifurcated. There is no additional fiscal note—in other words, no increase to the mill rate—as the current assessment covers the cost of this position. We are just seeking to clarify that position and its role.

The last change is on page 12 of the bill. It is language allowing the PUCN to consider, not a new rate category, but rates adjusted for low income. It does not require them to do it, but should a proposal come forward that meets the standard of the PUCN, they can consider it. Also, on page 6 of the bill, some dates for filing a general rate case would change.

CHAIR SCHNEIDER:
Concerning the last portion about rates for low-income ratepayers, we have the same thing in S.B. 358.

JO ANN P. KELLY (Chair, Public Utilities Commission of Nevada):
I am here today to express my continued support for this legislation. The position that was outlined by Assemblyman Conklin is a needed position not only for the separation he expressed, but for the adequate administrative support an agency of our size needs. As Assemblyman Conklin indicated, the dollar amount for that kind of salary will not affect the mill. It will provide us with the kind of longevity and timing we need for our administrative sector. The salary is a conservative amount.

SENATOR TOWNSEND:
What are your actual salary and benefits?

DONNA SKAU (Assistant Commission Secretary, Public Utilities Commission of Nevada):
The fiscal note we are projecting is about $277,000 for the biennium. It is a very conservative salary. We are comparing it to the Chief of Administration with the Gaming Commission. The salary itself is $106,875 per fiscal year with benefits of about $24,000 on top of that, so between the two fiscal years, it is approximately $277,000.

SENATOR TOWNSEND:
You are not going to be able to find these requirements just anywhere. This will have to be a pretty narrowly defined and highly skilled individual.

MRS. SKAU:
We agree.

SENATOR TOWNSEND:
I am glad it was drafted that way. Are you concerned if $106,000 is going to be enough to get the type of person you need?

MRS. SKAU:
We are looking for some guidance from this Committee. We are mindful of the current economic status of the State. We did not want to come in with an aggressive amount. This is an extremely conservative salary for the type of responsibility and skill set this position will hold.

SENATOR TOWNSEND:
The amount of work we demand out of our Commissioners and our staff, and the amount of work that is in the bill that requires this new Commissioner and his or her staff, are substantial. This individual will not be bored.

MRS. SKAU:
That is a fair statement.

SENATOR TOWNSEND:
There are those who will say the State is in dire need, but the money that goes into this is utility ratepayer money. It is not state tax money. We have to give back the ratepayers something for the mill tax. In the past, you would have to compete against two components for manpower; the utility and some economic or lawyer issues. Now there are new providers, venture capitalists and institution capitalists, hiring highly skilled individuals. We need to make sure these positions are adequately funded so you do not have to settle for someone that is not the person you want.

CHAIR SCHNEIDER:
If the economy were better, what number would you suggest as starting pay?

MRS. SKAU:
The Nevada Transportation Authority has a similar position—that is where our position was transferred over to in 1997 when our agencies were split—and that position is currently paid $114,249. The Director of Regulatory Operations earns $117,030 annually, and this is one position that would be reporting to the executive director.

SENATOR BREEDEN:
Do you have a job description already developed for this position?

MRS. SKAU:
In our budget development, the commissioners did outline the job specifications for this position.

SENATOR BREEDEN:
Does this position require an advanced degree?

MRS. SKAU:
It will require a degree with utility-specific experience. The regulatory industry is unique.

MRS. STOKEY:
We support A.B. 510. On page 6, one of the items we were interested in is changing the dates of our rate cases. This is to mainly allow the rate cases to be decided, and the new rates go into effect after the hot summer months. Then on page 12, giving the option of a low-income rate is good.

CHAIR SCHNEIDER:
With there being no more business before the Committee, I will adjourn the Senate Committee on Energy, Infrastructure and Transportation at 1:31 p.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: