

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR
SUBCOMMITTEE ON ENERGY**

**Seventy-Sixth Session
March 30, 2011**

The Committee on Commerce and Labor Subcommittee on Energy was called to order by Chair Marilyn K. Kirkpatrick at 4:30 p.m. on Wednesday, March 30, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman Kelvin Atkinson
Assemblywoman Irene Bustamante Adams
Assemblyman Ed A. Goedhart
Assemblyman Pat Hickey

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Steven J. Brooks, Clark County Assembly District No. 19

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Committee Policy Analyst
Sara Partida, Committee Counsel
Andrew Diss, Committee Manager
Jordan Grow, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Judy Stokey, representing NV Energy
David Hicks, Director, New Business Development and Special Projects,
NV Energy
Tom Clark, representing Interwest Energy Alliance and Black Rock Solar
Kyle Davis, representing Nevada Conservation League
Luke Busby, representing Clean Energy Center
Garrett Gordon, representing First Solar
Stacey Crowley, Director, Office of Energy, Office of the Governor;
Member, Nevada Energy Assistance Corporation
Luke Papez, Associate Project Manager, LS Power Development, LLC,
St. Louis, Missouri
Rose McKinney-James, representing Solar Alliance
Jesse Wadhams, representing Ormat Technologies and the Nevada Rural
Electric Association
Crystal Vera, Legislative Intern for Assemblyman Steven J. Brooks
Joe Johnson, representing Toiyabe Chapter of the Sierra Club
Randell Hynes, representing Nevada Solar Authority
Debra Gallo, Director, Government and State Regulatory Affairs,
Southwest Gas Corporation
Eric Witkowski, Consumer Advocate, Bureau of Consumer Protection,
Office of the Attorney General
Alaina Burtenshaw, Chair, Public Utilities Commission of Nevada

Chair Kirkpatrick:

[Roll was taken.] We are going to hear the bills out of order today, and since I have the most controversial bill, we will hear that one first. Mr. Atkinson can chair.

Acting Chair Atkinson:

We will start with Mrs. Kirkpatrick's bill, Assembly Bill 287.

Assembly Bill 287: Creates the Nevada Renewable Energy Transmission Authority. (BDR 58-520)

Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1:

Last session, we heard a lot about transmission and how important it was to have a transmission avenue to further energy within our state—both renewable and interstate.

Wyoming started a transmission authority, and then Colorado and New Mexico. I tried to figure a way Nevada could have one without the ratepayers being

responsible for the brunt of the cost, and I believe I have an idea that would allow revenue bonds to move forward. This is a working document, so I believe we will have to have many discussions about this. I am open to other options, but my biggest concern is for the ratepayers. We must be able to move ahead without the ratepayers being burdened by large increases. That has always been important to me. Transmission is important. Europe started working on it years ago, and transmission became a key reason why it is where it is today.

Assembly Bill 287 creates a Nevada Renewable Energy Transmission Authority that would be consistent with the ones in Wyoming and New Mexico. Both those states' agencies have been in place for a short time, and they plan on breaking ground in 2014. I thought Nevada should be the leader and I was hoping we could react a little bit faster. The purpose of the Authority is to facilitate the rapid development of renewable energy resources in Nevada through the identification and establishment of corridors for the transmission of electricity, and the financing, planning, acquisition, maintenance, and operation of the facilities. I believe transmission corridors are just as important as our interstate highways, so we must have a master plan as we move forward, and this bill allows for us to do that. That needs to be a key component as we move forward with any program. It solves a lot of problems on the local level, and it solves a lot of problems for state planning. We had one study in 2007, another was finished in 2009, and we allocated \$3 million to help map those areas we felt had potential.

One idea would allow for expedited permitting once we establish the corridors. Sections 18 and 19 establish the authority, which is composed of eight members. Three members are appointed by the Governor, one member serves at the pleasure of the Speaker of the Assembly, and one member is appointed by the Majority Leader of the Senate. In the bill the ex officio members are the State Treasurer and the State Controller, or their designees; the Director of the Office of Energy is a nonvoting member. The important piece of this bill is that the people who serve in this capacity must have some type of utility experience—with the utility industry, with education, or because they have knowledge concerning how transmission works.

In Senate Bill No. 358 of the 75th Session last session, two task forces were created. One dealt with state government, so we could expedite some of the projects we had with our money. We also created a task force under the Nevada Energy Commissioner. With the expertise we had on those task forces, we had a lot of good statewide conversation about transmission. However, they learned they could not come to a compromise. It was important that we had representatives from different industries on those task forces that could serve to attract the kinds of industry we want for our state. There are many

components to energy. There is big scale, smaller scale, transmission, and manufacturing, so by creating that task force, we actually had good, well rounded discussions about Nevada state policies.

Sections 20 through 24 identify the duties of the authority. It needs to be able to coordinate, plan, and prioritize. One thing we tend to lack within our state is communication. Last session as we were applying for land and grants, we discovered one of our agencies was completely on the opposite page from another agency. As a result, we spent a good month trying to get the federal government to understand we really were on the same page. Communication can either hurt or help you.

Sections 25 through 30 allow the authority to issue revenue bonds for financing. We did get an opinion from the bond council that this was something we could do—have revenue bonds for this particular piece. It would be a way for us to bond out to build transmission. You may have heard the expression "if we build it, they will not necessarily come," but that is contradictory to what I have been taught in this building since 2005, so I think we at least have to have the discussion today.

Sections 31 through 33 requires each public utility or municipal utility to pay a fee based on the kilowatt-hours of electricity the utility distributes to its retail customers. This will allow the cost to be spread across the base as opposed to just a small number of people paying for it. That is important, because we need collector feeder lines in order to export energy. Last session, I was accused of trying to tax the sunshine. Well, our state is unique. A number of places in our state need those collector lines to help with transmission to potential customers in California, Utah, Idaho, Wyoming, and Arizona.

It is an important topic, and we need to have this discussion. I do not know if there are any other bills this session talking specifically about transmission. The ultimate goal for the state is to export energy, because the ratepayers benefit and Nevada wins. Last session, I looked at Alaska, which has a great program relating to oil transmission. Nevada could benefit in a similar way by exporting sunshine and other renewable energies.

This is a working document, and I believe there is a fiscal note, so we have a little bit more time to work on it even when it comes back to the entire Committee. And I am open-minded on this subject.

Assemblyman Goedhart:

I applaud the thinking behind this bill. It is exactly the direction we have to go. This week Valley Electric Association (VEA), which is a regional rural

Ocooperative that encompasses most of southern Nye County and extends into Fish Lake Valley, announced it had filed for right-of-way for a 500-kilovolt transmission line from Pahrump all the way to Eldorado Valley south of Boulder City. We would have that direct access as well as access for five other feed-in lines we have made applications for. An area in the Amargosa Valley has been designated as a renewable energy zone. If you do not have the transmission lines, developers are very hesitant to invest, even in project feasibility studies, because these lines can take such a long time to come to fruition. We decided we were going to take the economic bull by the horns, and VEA made that first step. We do not know how long the process is going to take, but we decided we needed to get the process going; otherwise nothing was going to happen. I applaud the thinking and the efforts behind this bill, and would be glad to work with you and the other concerned parties to come up with some sort of language that would meet everyone's needs.

Assemblywoman Kirkpatrick:

Mr. Chairman, I am not opposed to people having concerns or wanting to propose amendments. I did tell them to submit concerns and proposed amendments to your office because I think the legislative record is very important. I really do have an open mind. The mission here is to figure out how we get transmission within our state. It is a win-win. Even if we export within our state, the ratepayers benefit.

Acting Chair Atkinson:

Is there anyone wishing to testify in favor of A.B. 287?

Judy Stokey, representing NV Energy:

We do have an amendment, but I would like to make a couple of comments first. NV Energy is committed to renewable energy development. Through our efforts, we are confident that we will meet our renewable portfolio standard (RPS) requirements through 2025. NV Energy agrees with Assemblywoman Kirkpatrick that Nevada requires a focused approach to advance transmission development in the state.

It is important that Nevada ensures that renewable development occurs with orderly processes that consider the impact of transmission development on Nevada citizens and its environment. Under your leadership last session, Assembly Bill No. 387 of the 75th Session was passed, and we think that was a great step towards planning for these transmission projects. We believe this is going to be the next big step. Assembly Bill 287, we believe, will take us to the place where we can actually start building those transmission lines. Obviously, as we are the only incumbent utility in the state that is regulated by

the state, you, the Legislature, will be involved every step of the way with everything we do. I will turn it over to David Hicks now, and he will go through our proposed amendment ([Exhibit C](#)).

Acting Chair Atkinson:
Are there any questions?

Assemblywoman Bustamante Adams:
Was NV Energy involved in the task force Assemblywoman Kirkpatrick mentioned?

Judy Stokey:
Yes, we were.

Assemblywoman Bustamante Adams:
During that discussion, were these amendments we are going to discuss brought up?

Judy Stokey:
No, these amendments were just put together within the last week or so.

David Hicks, Director, New Business Development and Special Projects, NV Energy:

In the 2009 Legislative Session, the Nevada Legislature passed A.B. No. 387 of the 75th Session, which showed great vision with regard to the identification of renewable energy zones and the development of transmission infrastructure to support those.

Today, in response to A.B. 287, we propose several amendments. The purpose of these amendments is twofold. One is to clear up remaining roadblocks for NV Energy to continue to develop, construct, and get approval for new transmission infrastructure, particularly to support renewable energy. Two is to true-up certain provisions with regard to the Utility Environmental Protection Act (UEPA) that was passed by this Legislature, in order to make it conformant with changes in the energy landscape that have occurred over the last nine or ten years since the original passage of UEPA.

With regard to removing roadblocks, the amendments we propose are threefold. One, we propose specific changes to the Nevada statutes that will allow utilities in Nevada, particularly NV Energy, to propose new transmission infrastructure and to propose the development and construction of new transmission infrastructure, not only to support the RPS requirements of the utility, but also for the export of renewable energy. Two, we propose amendments that will

allow the Public Utilities Commission of Nevada (PUCN) to review and determine whether or not to approve new transmission infrastructure, not only to support the RPS requirements of utilities, but also to support export of renewable energy. Three, we propose amendments that will allow the Commission to do so based upon a structured, phased approach by the utilities.

With regard to the Utility Environmental Protection Act, we propose several amendments, the purpose being to streamline the permitting and development of new transmission infrastructure. Currently, if NV Energy were to develop a corridor for new renewable energy infrastructure, when it files for preliminary review by a federal agency for that corridor, it would also have to file the UEPA amendment. We believe that this is premature during the additional due diligence process for new corridors. Therefore, we propose an amendment that will allow us to delay the filing of the UEPA until that initial due diligence is complete.

Second, the current form of the UEPA process does not allow a utility to participate in a UEPA filed by a nonutility entity, even when the infrastructure that is proposed under that UEPA may have an impact on the utility's customers. So we propose amendment language that will allow that process to take place—in other words, to allow participation by a utility when it can demonstrate that there are potential impacts to its customers.

Third, we propose amendment language to the UEPA statutes that will endeavor to have nonutility entities provide positive proof that their projects are valuable to the State of Nevada and its customers.

Acting Chair Atkinson:

Are there questions from Committee members? [There was no response.] I have a question about section 18, subsection 2 in the amendment, where it changes from the authority to an advisory board. Would this be the creation of another board?

David Hicks:

As Mrs. Kirkpatrick stated, this is a working document and one she admits will generate a lot of discussion with regard to how to proceed. We agree with that, and look forward to working with the members of this Subcommittee, with Assemblywoman Kirkpatrick, and with others in proceeding forward on this bill to hone it so it meets the best needs of Nevada and its customers.

Acting Chair Atkinson:

I do not think that answered my question. I understand that you are going to work together.

Judy Stokey:

Maybe I can help, Assemblyman Atkinson. We went from an authority to an advisory board because we believe the authority in this bill would have too much authority. We did not think we needed another level of bureaucracy to do what we are already doing, and we think an advisory board would be a better fit. Again, we would like to work with Assemblywoman Kirkpatrick on the best way to do that.

Acting Chair Atkinson:

With the Governor wanting to do away with boards, how would this work? I do not want to come up with something that would be dead on arrival, although maybe this would not fall into that.

Assemblywoman Kirkpatrick:

Being an authority gives them the ability to finance it, and that is the key piece that allows them to generate the revenue. That is why it requires a two-thirds vote to pass. I am not sure how an advisory board works, but I am open to discussion. The reason we used an authority originally was so they could generate revenue.

Acting Chair Atkinson:

That puts it to needing a two-thirds vote if we keep it at the authority level.

Assemblywoman Kirkpatrick:

I was prepared for that.

Acting Chair Atkinson:

Are there questions from Committee members? [There were none.]

Tom Clark, representing Interwest Energy Alliance:

Interwest Energy Alliance is the government affairs arm of the American Wind Energy Association. We do support the original framework of the bill, and look forward to working with Mrs. Kirkpatrick and the other stakeholders. It concerns me that it is a working document, because if 2009 was any example, I cannot make any plans for the month of May.

Kyle Davis, representing Nevada Conservation League:

Speaking to the bill as it was introduced, we are definitely supportive of the concept of finding a way to build transmission that will bring renewable energy on line. Obviously, transmission is a key component of developing renewable energy, and we need to find a way we can do it that will be good for the citizens of Nevada and for our environment. Obviously, the more we can plan in

advance and be certain we are building things in the right places, the better off we will be.

As we move through this process and develop some kind of infrastructure to build transmission, I do want to ensure these projects are going through some sort of environmental review so we can account for the impacts on the environment.

Speaking specifically to the amendment that has been proposed by NV Energy, as I said, there is a lot in the amendment we will need to review and probably will have more information on as we go forward.

I did notice that the amendments in section 35.8 are not really environmental in nature, and since we are talking about the Utility Environmental Protection Act, I would want to get more clarification as to why this is the appropriate place to put language such as this, where we are talking about the impact on customers rather than on the environment. To sum up, we are in support of the concept of finding a way to efficiently build transmission that will bring renewable energy online.

Acting Chair Atkinson:

I think most of you are in support of the concept of this bill at this point. Would that be fair to say? [Assemblywoman Kirkpatrick agreed.]

Does anyone have any questions for Mr. Davis? [There were none.]

Luke Busby, representing Clean Energy Center:

We are a small renewable energy developer in Reno, but we do contract work for large developers as well. I want to express our strong support for the concept behind the bill. Building transmission means that renewables will get built in Nevada.

I would like to draw the Subcommittee's attention to the provisions in the proposed amendment relating to the utility's ability to intervene in proceedings in which other parties are trying to get environmental review and approval of their projects.

Acting Chair Atkinson:

What part are you looking at?

Luke Busby:

It is the NV Energy amendments to section 35.7, *Nevada Revised Statutes* (NRS) 704.885. It states that "A utility may participate in a permit proceeding

as a party if it shows in its request to participate that the facility that is the subject of the proceeding will interconnect with the utility's transmission or distribution facilities, impact the ability of the utility to utilize a specific transmission corridor, or will otherwise affect the utility's operations." It would be hard for any third-party developer in this state to build a system within NV Energy service territory that would not have one of these impacts. This provision, if passed, would allow a basis for objection in statute to someone who is trying to build a project that would get power out of the state. I do not believe that is the direction we want to go. I believe competition in this industry is healthy for the state and that this provision is anticompetitive.

Acting Chair Atkinson:

Are there any questions for this witness? [There were none.]

Garrett Gordon, representing First Solar:

First Solar is a large-scale solar association. Obviously, we support the development of renewable energy and support the efforts to build more transmission lines in Nevada. We appreciate the bill sponsor's comments that this is a working document, and look forward to working with her and NV Energy to craft a good piece of legislation.

We have received NV Energy's amendment and passed it along to our clients and are waiting for their response. Once we have that response, we look forward to working with the sponsor in a working group to come up with a productive solution and a nice piece of legislation.

Acting Chair Atkinson:

Thank you for your testimony. Are there any questions from the Subcommittee members? [There were none.]

Stacey Crowley, Director, Office of Energy, Office of the Governor; Member, Board of Nevada Energy Assistance Corporation:

I am here to support the bill as written and look forward to working with interested stakeholders and the Chairman to develop a good solution.

As Assemblywoman Kirkpatrick mentioned, the Nevada Energy Assistance Corporation (NEAC) is working with American Reinvestment and Recovery Act (ARRA) funds to develop routing for two to three transmission routes for renewable energy transmission for export specifically, so we would be able to work with whatever group is created out of this to move that forward.

**Luke Papez, Associate Project Manager, LS Power Development, LLC,
St. Louis, Missouri:**

I am going to provide background on LS Power Development, LLC's experience related to the development of transmission for renewables and provide comments on A.B. 287 and the concept of a transmission authority.

LS Power is an independent power generation and transmission development company with projects in operation, under construction, and planned in Nevada that will represent over \$1 billion of capital investment. Our first transmission project under construction in Nevada is the One Nevada transmission line (ONLine) transmission project in eastern Nevada, which is a joint project with NV Energy. The ONLine transmission project will be in service by the end of next year, and will provide a critical infrastructure link between northern and southern Nevada. It will also enable hundreds of megawatts of renewable generation and provide hundreds of construction jobs for Nevada.

A key issue facing the renewable energy industry is the availability of transmission. As you know, many Nevada-based renewable resources, including geothermal, wind, and solar energies that could serve Nevada and be exported to neighboring states, are stranded because of lack of transmission. For new transmission to be built, renewable generators or new purchasers need to provide up-front commitments to pay to use the transmission capacity. Without those up-front commitments, financial institutions are not willing to provide financing for the transmission to be built. However, it is difficult for renewable generators to provide this commitment to pay for transmission until they have a commitment for the sale of the electricity they will produce. This is the so-called "chicken and egg" problem.

Based on our experience with other states, including Wyoming, LS Power believes a transmission authority, if properly structured and enabled, could play an important role in strengthening the development of transmission for renewable resources and related economic development in Nevada. With adequate risk management constructs, proper capitalization, appropriate membership, and a scope that allows the authority to provide a backstop for transmission developers that incentivizes commercial lenders to issue construction financing, the authority could lead the way in helping to break the chicken and egg problem that currently challenges renewable energy development in Nevada and across the West.

This can best be accomplished through partnering on development, risk, and expenses; assisting with project financing through bonds or millage fees; and/or providing a backstop to commercial financing. Mr. Chair, we appreciate the effort that went into the drafting of this bill. While we have not thoroughly

digested all the critical elements of the proposed legislation or any of the amendments, we would welcome any opportunity to participate in the discussions aimed at refining the transmission authority concepts to help unleash Nevada's renewable energy potential and bring more jobs to Nevada.

Acting Chair Atkinson:

Thank you. Are there any questions from the Subcommittee? [There were none.]

Rose McKinney-James, representing Solar Alliance:

I would like to join the chorus of people who are supporting the concept of establishing an authority to address transmission, which is a significant issue for the long-term health and sustainability of the solar industry. I also want to express our appreciation to Chairwoman Kirkpatrick for the time she has spent on this issue trying to identify a mechanism to make this work.

The Solar Alliance is a large group of solar developers. It includes developers that do both small- and large-scale projects. I have not had the opportunity to review with my client the amendments that have been submitted by the utility, but I hope to be able to do that and to participate in any discussions going forward, depending on the comments or interests my clients may have.

Acting Chair Atkinson:

Thank you. Are there any questions from Subcommittee members? [There were none.]

Jesse Wadhams, representing Ormat Technologies:

Ormat Technologies is a developer and operator of renewable energy and geothermal in Reno, Nevada. We are ready to help and be available.

Acting Chair Atkinson:

Is there anyone else wishing to testify in favor? [There was no response.] Is there anyone opposed or neutral? [There was no response.]

Mrs. Kirkpatrick, I heard the word *amendments* awhile ago; however, I only have one amendment, and it is from NV Energy. Has anyone else discussed this with you?

Assemblywoman Kirkpatrick:

Yes, but there were other concerns I said I would address. The one thing I do want to put on the record is, if you are going to be a naysayer, do not come work with us. Mr. Clark is correct. Last session, we were working well into the wee hours of the night trying to make good policy. Within this Legislature,

we did make some good policy, and for me, this is about two things: making sure that the ratepayers do not bear the brunt of the costs, and having good policy going forward for our state. We also need transmission so our state can flourish for the long term.

Acting Chair Atkinson:

Absolutely. To Mrs. Kirkpatrick and to the people who want to work with you, we do not have a lot of time—possibly only until April 11, as you and I have discussed. We would like to get something comprehensive by then.

Assemblywoman Kirkpatrick:

If it would be helpful, Mr. Chairman, I was able to get a fiscal note on it. The state would take a risk with a revenue bond.

Acting Chair Atkinson:

So you are saying that we have until after April 15 to work on this?

Assemblywoman Kirkpatrick:

I am hoping we do; however, I know that your Committee has to make a recommendation to at least keep the bill moving, so I promise to have something ready.

Acting Chair Atkinson:

Are there any other questions or comments from the Subcommittee members for Assemblywoman Kirkpatrick? [There were none.] Seeing none, we will close the hearing on A.B. 287.

We will now take Mr. Brooks' bill, Assembly Bill 442.

Assembly Bill 442: Establishes the Community Solar Garden Demonstration Program. (BDR 58-1082)

Assemblyman Steven J. Brooks, Clark County Assembly District No. 19:

Ladies and gentlemen on the Subcommittee, I want to thank you for taking the time to hear my bill. I have an intern named Crystal Vera, and I asked her which of my bills she wanted to introduce. She took a keen interest in this particular bill, so today I am going to ask you to allow me to turn the microphone over to Crystal, who has worked tremendously hard on this bill and brought the necessary partners to the table.

Crystal Vera, Legislative Intern for Assemblyman Steven J. Brooks:

Assembly Bill 442 intends to establish a Community Solar Garden Demonstration Program. Ten households will come together to be part of a

subscriber organization. They will then go to various organizations and get solar panels installed, such as from Black Rock Solar. The solar panels would produce no more than 2 megawatts of energy. These solar panels would be connected to the utility's grid, so during the day they will use energy from the solar panels, and during the night, when there is no sun, they will use the energy from NV Energy. Any excess energy will be sold back to the grid, allowing the residents to receive rebates.

Sections 3 through 12 provide the list of definitions. The definitions we believe to be important, and that should be looked at, are in sections 8 through 10, which describe the solar energy system, the subscriber, and the subscriber organization. Section 13 of the bill establishes the program and eligibility qualifications. Mr. Brooks has proposed an amendment ([Exhibit D](#)) that will limit eligibility to lower-income households.

Section 14 requires the Public Utilities Commission of Nevada (PUCN) to adopt regulations to carry out the program, as well as establish incentives for participants. Section 15 of the bill pertains to the annual plan that needs to be submitted by the utility pertaining to the recovery of reasonable and prudent costs associated with carrying out the program.

Section 16 sets forth certain requirements for the application process. Essentially, you apply to the utility, the utility selects you if you meet the eligibility requirements, and then it moves forward from there. Section 17 authorizes the subscriber organization to participate and meet net metering, which today I discovered is very complicated and hard to understand.

Section 18 regards portfolio energy credits—basically enabling the utility to take property of the use credits. Section 19 exempts these communities from being regulated as a public utility. Since we are gearing the program toward low-income individuals and households, obviously they do not have enough money to be treated and regulated as such.

Section 19 regards the submission of annual reports to the Governor and to the Legislature to see the progress of the program. Last, because this is a demonstration program, section 21 provides for an expiration date of December 31, 2021—so the demonstration would last ten years.

We have included a bill ([Exhibit E](#)) that passed the Colorado Legislature last year. Assembly Bill 442 is modeled after the Colorado bill. Right now, they are working on the rules for the Colorado bill, so they have not implemented the solar gardens. When we discussed this with one of their representatives, they mentioned that the rule-making process was taking a lot of time. That makes

sense, because you want to make sure before you establish this program that you have all your ducks in a row.

Along with Colorado and Nevada, other states such as Hawaii, Arizona, and Montana are pursuing legislation regarding renewable portfolio standards and other ways to get renewable energy into their states. Nevada has an abundance of renewable sources, and this bill is trying to take advantage of the opportunity the state has. Information regarding solar community gardens is also readily available online for people who are interested.

Utah has already established a program similar to ours, so I have included a contract and additional information from the SunSmart Project in St. George as an exhibit ([Exhibit F](#)).

Acting Chair Atkinson:

Mrs. Kirkpatrick, I will turn this meeting back over to you.

Chair Kirkpatrick:

Are there any questions from the Committee? [There were none.]

Mr. Brooks, are the amendments we have something you are aware of?

Assemblyman Brooks:

I am aware of the amendment I brought forward ([Exhibit D](#)). There is one other that has to do with organizations that are very similar but are not NV Energy. I am also familiar with another amendment that was brought forth that is pretty extensive. I do not agree with all the amendments, but there is one I would be willing to take into consideration and work with the sponsor on.

Tom Clark, representing Black Rock Solar:

This kind of program is right up my clients' alley. Black Rock Solar has been taking advantage of incentive programs and policies this body has instituted during the last couple of sessions—the Solar Generations Program being one of them. Black Rock Solar works with nonprofit organizations as well as educational facilities so that they can come forward, use the incentives already in place, and build a system for that nonprofit ([Exhibit G](#)).

They built a 150-kilowatt system on the roof of the Food Bank of Northern Nevada. The thousands of dollars the Food Bank will save on its energy costs every year must go to peanut butter, bread, and other foods to help its clientele. I had never heard of solar gardens until Mr. Brooks called last week about working with him on it. The concept needs to be pursued; the idea of using our natural resources to provide energy and, potentially, dollars to low-income

households is a really good one. As was testified to, other Western states have pursued this concept. A colleague of mine was the Governor of Colorado's energy czar. He committed to telling us what really worked in Colorado and what did not. Colleagues in other Western states have made me the same commitment. Even a state like Oregon is pursuing this same concept.

I have spoken with the bill's sponsor about this. It is a good idea that we need to pursue, but we have to do it right, and we are committed to doing it right so that we do not have 18 months of rule making as we have seen in Colorado and some other states.

This will put a policy in place that not only will help low-income people to benefit from our natural resources, but also will serve Mr. Brooks' intent with the legislation.

Assemblyman Hickey:

How does the financing of the infrastructure take place on these kinds of projects for a company such as the one you represent? How does it recoup its costs, and to what degree are those costs passed along to other ratepayers?

Tom Clark:

Black Rock Solar uses a model born from the Burning Man Project. The Burning Man annual event takes place near Gerlach, Nevada, and last year 52,000 people attended. The project's organizers believe in giving back to communities. They use a combination of financing from various entities, such as CleanPath Ventures, and then they use very well-trained but low-cost labor. The people who install these systems are electricians and contractors in their day jobs, but because they believe so much in the idea of giving something back to nonprofits and to people who need it, they can provide very low-cost labor. They use Solar Generation's production tax credit and low-interest financing from people who care about other people. That allows these projects to pencil out at a very low cost, thereby allowing the entity to take that cost savings and give it to the people they serve.

Assemblyman Hickey:

With funding indirectly from the state, would that in any way kick in prevailing wage requirements for some of these projects?

Tom Clark:

That is debatable. Because the funding does not technically come from the state—it is from the Solar Generations Program—the prevailing wage does not kick in. Depending on how the final bill ends up, prevailing wage would probably be something we would take a very serious look at.

Reading Mr. Brooks' bill, financing jumped to the top of the list for me. If more than ten low-income residences, or owners of those residences, commit to being part of the program, how do we get the money to finance them? The financiers are going to be looking for some kind of return on that investment to be able to pay for the construction and purchasing of materials. We have a third-party law in Nevada where third-party investors can own systems and lease the power back under a purchase power agreement (PPA) for a certain period of time. Most of those PPAs contain 20-year terms. They basically promise the owner of the building, such as Wal-Mart or the City of Reno, that over the 20-year life of that project, the owner will pay X amount for energy costs regardless of what happens to the rates for electricity during that time frame. We have been struggling to find a way to marry the existing programs in the state to accomplish the goal Mr. Brooks sets forth in this piece of legislation of providing electrons to low-income people.

Chair Kirkpatrick:

Mr. Brooks, section 13 of your bill says that the goal is for not less than 10 megawatts. What is the average solar garden's potential?

Assemblyman Brooks:

The average solar garden would develop 2 megawatts. We are proposing up to five different solar gardens, starting with one as a demonstration project and then moving forward. We would be capturing the sun with the solar screens and using the grid to export that to the ten homes. The occupants of those ten homes, based on our amendment, would have to be eligible to receive assistance as low-income individuals, so only low-income households would be eligible to apply for the demonstration solar garden, and the Public Utilities Commission of Nevada would be consistent with the proposed definition as part of the implementation of the program. Once the residents receive whatever energy can be utilized for their homes, they give it back to the grid, thereby giving it back to NV Energy, which will, in turn, give them rebates. The rebates can either be used at the homes or be sold to a third party to sell to recoup the money it had invested.

Assemblyman Atkinson:

I understand the effort to be certain that low-income households save energy and are incorporated into this scheme. As we all know from these discussions, the only people who can afford to conserve energy are people who have money and who do not need to. If low-income households are going to be a part of this program, how do we identify them?

Assemblyman Brooks:

If you look at the purchase agreement for the solar units in the SunSmart Project for the State of Utah ([Exhibit F](#)), what we are proposing is creation of a low-income application. *Nevada Revised Statutes* (NRS) 702.260 says that "to be eligible to receive assistance . . . a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty." Once they fill out this low-income application, they submit it to NV Energy or to the electric utility. The utility will make a decision based on proximity of the homes and how many actually qualify. They could be people living in apartment complexes or in traditionally older areas containing senior residents who might fall within the low-income parameters. Then they begin to design the project, which would be within close proximity to those individuals.

Assemblyman Atkinson:

So people would use that section of the NRS, which describes what a low-income household is, but when filling the application out, would they go by the standards already in the NRS?

Assemblyman Brooks:

Yes, in NRS 702.260.

Chair Kirkpatrick:

Does anyone else have any questions? [There were none.]

Would there have to be vacant land within these subdivisions? Where would these solar gardens be placed? Would one neighbor place the collectors in his backyard to benefit everyone, or would they be placed in a neighborhood park? I see this as being like a community well placed somewhere within the subdivision. How would that work for an apartment complex? I am trying to picture this, because with a community well, there is a separate piece of land containing the well everyone uses. How would that work?

Assemblyman Brooks:

Originally I felt the same way. If it was going to be an apartment complex, we could probably put the solar panels on carports or on rooftops. Technology continues to develop. I realize that when we are dealing with megawatts, there will need to be some land dedicated to this project. Tom will talk about how it has been done in some areas, but it could be a combination of those things.

Tom Clark:

The City of Reno is installing a distributive generation system at a wastewater treatment plant. It will be about a 700-kilowatt system covering a number of acres. At the thin-film solar cell installation at the 58-megawatt project in

Boulder City that we just dedicated, the average was about 8 acres per megawatt, so a 2-megawatt system is going to need some room. Whether you work with local municipalities—you mentioned using a park or a blighted piece of land that is vacant and could be dedicated to this type of program—you would definitely need that kind of mass if you were going to go that big.

Chair Kirkpatrick:

I ask because section 14 says that the Public Utilities Commission shall adopt regulations. They do not like it when we are not very clear concerning what they are supposed to adopt. We must make sure it will work.

Rose McKinney-James, representing Solar Alliance:

I am here to support A.B. 442 and the concept of what I will refer to as community solar. It is an aspect of solar development that is designed to broaden participation in the consumption and development of solar energy. I want to express my appreciation to Assemblyman Brooks for seeking a creative way to advance both the use and deployment of renewable energy.

Colorado approved a solar garden bill last year, but the rules in Colorado and Utah are somewhat different from what we face here. I like this concept, particularly with the amendment, as it takes into consideration the opportunity to broaden public participation in distributive generation. The way the bill is currently structured, subscribers would be able to take advantage of net metering, which has been described in this Committee as allowing you to generate your power and remain connected to the grid.

I pointed out via email to the sponsor of the bill that our net metering limitations are currently at 1 megawatt. There are a number of bills pending in this session dealing with net metering, so it is important to be certain to align the policies. The other thing that is exciting about this proposal is that it is a demonstration—a pilot. It allows us to step outside to look at other opportunities within a controlled set of circumstances.

From a public policy standpoint, I think this is an opportunity to take us in a new direction. I want to point out that in Colorado there are five key elements and also some challenges. First, you have to assemble a group of subscribers or stakeholders. Then you have to locate, identify, and have a site committed. After that, you have to enter into some sort of power purchase agreement with the utility, so participation with the utility becomes very important. Finally, you have to line up the financing to actually construct the facility.

Madam Chair, based on your experiences, you know there are land-use regulations that will have to be considered. In some instances there are

property tax issues and capacity constraints. All these things have to be considered in the context of this proposal, but if we get the right people to the table, our representatives from the utility and the utility commission, those with the broader expertise, I think we are on a very good path.

I do not think the value of a demonstration can be underestimated. New concepts generally present a range of opportunities and challenges. I was very impressed with Ms. Vera. I appreciate her presentation and the time she has committed to this concept. I would note for this Subcommittee that yesterday California approved its expanded portfolio standard—now it is at 33 percent. We are in close proximity now to an "800-pound gorilla," so that is one reason there is greater interest in the whole discussion around export because, aside from Nevada being a market in and of itself, we are in proximity to an even larger market. Those are my comments for the moment. I appreciate Mr. Brooks asking for some help in this regard, and I am happy to offer it.

Chair Kirkpatrick:

Does anyone have any questions? [There was no response.] If you want to propose amendments, come up to speak during the neutral testimony. If you like the bill as amended by Mr. Brooks, come forward now.

Joe Johnson, representing Toiyabe Chapter of the Sierra Club:

We are quite excited about this proposal. We believe it to be very beneficial and helpful. You are probably looking at the various complexities that have been identified. There may be potential changes that should be listed in the bill. We have thought that perhaps net metering might be better addressed by production-based incentives in the process of allocating revenues. We do have concerns that ultimately the cooperatives or nonprofits involved in this should become titleholders to the actual facility. It really addresses a long-biding concern that many incentive programs are fairly regressive in nature and this kind of balances that out. We would be happy to work on this bill.

Kyle Davis, representing Nevada Conservation League:

We want to be on the record as being in support of the bill. We think it is a good concept.

Chair Kirkpatrick:

Does anyone else want to speak in support of the bill as amended by Mr. Brooks? [There was no response.] Is there anyone in opposition to the bill?

Judy Stokey, representing NV Energy:

I do not like coming to the table opposing this bill, but I have spoken to the sponsor and raised quite a few concerns, so that is why I have signed in as

being opposed. As Ms. McKinney-James and Mr. Clark mentioned, there are a lot of issues that would have to be resolved before anything like this could happen. I know Colorado and several other states are attempting to do this, but it is not working yet, and I would rather learn from their mistakes. I would like to work with the bill's sponsor and with all the parties in the interim. We could go through all those complex issues and try to come up with a program we could support that would not hurt the ratepayers and our customers.

Chair Kirkpatrick:

Does anyone have any questions? [There was no response.] Does anyone wish to speak as neutral or does anyone have amendments?

Randell Hynes, representing Nevada Solar Authority:

I offered the many amendments that weighted this bill down. After speaking with Mr. Brooks, I thought it would be wise to address just one of the amendments, the proposed amendment 4 ([Exhibit H](#)). This proposed amendment would enable the demonstration program and answer some of the previous questions. If you take a look at proposed amendment 4, you will see the number 2,190. What I was attempting to do there was reduce the eligible customer requirements. If you could, strike 2,190 kilowatts and replace it with 250 kilowatts. I was trying to reduce that number, but I was using the hours in a year rather than the actual wattage.

The reason I proposed this to Mr. Brooks was that in section 17 there is an indication that this program would work off net metering. We have an existing law, NRS Chapter 704B—Providers of New Electric Resources—that allows a provider to put a system in, connect it to the grid, and sell that electricity to retail customers. The provider can put the system in anywhere on the grid, and it would be the provider's responsibility to find retail customers. By using this law and everything that is already in place, a provider could install 2 megawatts and organize a group of individuals to buy that electricity off a negotiated rate. So this would enable the program and enable the possibility of allowing any Nevadan to buy electricity off a solar park.

The only thing standing in the way of that occurring is that the minimum requirement to be a retail customer is to use 1 megawatt 24 hours a day, so you would have to be a big business using about 8,760,000 kilowatt-hours a year. If that figure were reduced to about 25 percent, a small group of individuals could form and buy electricity off a solar park, including low-income people who could negotiate a rate much lower than they could from the utility.

Chair Kirkpatrick:

If I remember correctly, former State Senator Titus was behind that proposal, and it benefitted large-scale mining and some of the hotels. At this point, no one has wanted to go off the grid and be responsible for his own power. NV Energy has always said that it has to be the provider of last resort when it comes to power, because it is on the hook, regardless. I am nervous about what you just mentioned because the large users are not using it. I would be afraid that smaller users would buy into something but not have any protection. How would that work?

Randell Hynes:

It is a way we could bring independent power producers in, put the system in, and follow all the rules. There is a mechanism already in place for the eligible customers to go to the PUCN and petition to go on a distributed-only tariff. NV Energy would continue to deliver the electricity; we are not considering that they would go off the grid.

Chair Kirkpatrick:

How can you have your cake and eat it too?

Randell Hynes:

That is what the law says. I am just stating that if we reduced the eligible-customer requirements, we could create these solar parks, allow the demonstration program to move forward without using net metering, and allow all Nevadans to form co-ops to buy electricity from solar parks.

To show you how it could possibly work, we approached a management group that owns 14 Burger Kings in Las Vegas. Each one of their locations is not an eligible customer, but if they were allowed to aggregate, they would meet the minimum consumption requirements. We could build a solar farm, and they could buy the electricity from that solar farm and receive the electricity as they always do from NV Energy on the distributed-only tariff.

Chair Kirkpatrick:

It is my understanding from several years ago that when you went off the grid, you were off the grid, but the rest of us must pick up the slack.

Randell Hynes:

When you go off the grid, you have a new power source generating into the grid. We are not actually going off the grid the way Barrick Gold Corporation did. They are operating independently.

Chair Kirkpatrick:

That is my point. I thought the statute you referenced did exactly that, but I am willing to go back and read it. It has been awhile since former Senator Titus brought it, but I thought that was its basis. Back then, many of the hotels thought they were going to do that until they realized that if there were any problems, the power company was not going to provide power for them. I am a firm believer that if you are going to reap all the benefits, you should take the risk.

Randell Hynes:

I welcome the opportunity to work with you on this.

Jesse Wadhams, representing Nevada Rural Electric Association:

I spoke with Mr. Brooks today, and we are suggesting a change to section 12. Rather than creating a new definition of utility, we recommend using NRS 704.7808, which is "provider of electric service." That would take us out of the bill. As a general improvement district (GID), we already have authority to do all these things.

Chair Kirkpatrick:

Are there any questions? Does anyone else want to testify in the neutral position? [There was no response.]

Assemblyman Brooks:

Judy Stokey from NV Energy was considerate enough to explain to me that she was going to oppose my bill. We are more than happy to hold off and work throughout the year to perfect the situation. Since Colorado cannot seem to work out its differences, we are probably putting the cart before the horse. We would like to follow what Colorado is doing, work with an interim committee, and have something ready to go next session with all necessary parties having signed on.

Chair Kirkpatrick:

Did you just kill your bill?

Assemblyman Brooks:

In all fairness, I do not believe we are ready for this bill. It is a good bill and is something we should be able to move forward on, but I would like to work with the interested parties on it.

Chair Kirkpatrick:

Perfect, Mr. Brooks. If you start right after session, you will be able to bring a lot of people to the table so that next session you would be ready to go. Do

not wait until December 2012 to work on this. I do like the concept and am excited to see you do this. We will close the hearing on A.B. 442 and open the hearing on Assembly Bill 215.

Assembly Bill 215: Revises provisions governing utilities. (BDR 58-593)

Debra Gallo, Director, Government and State Regulatory Affairs, Southwest Gas Corporation:

Several parties were involved in putting A.B. 215 together along with the consensus amendment that has been provided to you ([Exhibit I](#)). The bill will allow natural gas and electric utilities to make quarterly adjustments to the rate charged to customers in order to clear what we call "deferred energy accounts." Deferred energy accounts are interest-bearing balancing accounts where the difference between what the utility pays for its fuel—electric and natural gas—and what customers are billed for natural gas and electric are recorded each month. The current process in statute requires that a rate be set annually to clear that deferred energy account. By making smaller but more frequent quarterly adjustments, which is what A.B. 215 will do, the goal is to reduce the amount held in the deferred energy account.

Modifying the account process in this bill will result in rates that more accurately reflect the cost of natural gas or electricity. They will not affect the regulatory review of a utility's goal costs and practices for procuring natural gas and electricity, and it will benefit customers by preventing large balances in the deferred energy accounts.

Judy Stokey, representing NV Energy:

We are here in support of this bill and appreciate everyone working with us on it.

Eric Witkowski, Consumer Advocate, Bureau of Consumer Protection, Office of the Attorney General:

Ms. Gallo outlined the bill very well. We have worked for this and are here in support of the bill.

Alaina Burtenshaw, Chair, Public Utilities Commission of Nevada:

As Mr. Witkowski mentioned, we have been working on this bill since last summer and because of that have been able to get a fairly large consensus. Being able to reduce volatility in consumers' rates is very important. It is very nice to have a consensus.

Chair Kirkpatrick:

Is there anyone else who would like to testify in support of A.B. 215? [There was no response.] Is there anyone in opposition to A.B. 215? [There was no response.] Is there anyone neutral on A.B. 215? [There was no response.]

Assemblyman Atkinson:

I just wanted to commend the folks at NV Energy and Ms. Gallo and the Public Utilities Commission of Nevada for working this out.

Chair Kirkpatrick:

Does anyone else have any comments? [There were none.] At the end of the day, the consumer wins, so that is important. All right, we will close the hearing on A.B. 215.

Is there any public comment? [There was no response.] We are adjourned [at 5:55 p.m.].

RESPECTFULLY SUBMITTED:

Jordan Grow
Recording Secretary

RESPECTFULLY SUBMITTED:

Terry Horgan
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 30, 2011

Time of Meeting: 4:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 287	C	Judy Stokey	Proposed Amendment
A.B. 442	D	Crystal Vera	Proposed Amendment
A.B. 442	E	Crystal Vera	Bill from Colorado
A.B. 442	F	Crystal Vera	Information and Contract from the SunSmart Project
A.B. 442	G	Tom Clark	Information about Black Rock Solar
A.B. 442	H	Randell Hynes	Proposed Amendments
A.B. 215	I	Debra Gallo	Proposed Amendments