

SB547: A HISTORY OF NRS 704B AND ENERGY DEREGULATION IN NEVADA

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ENERGY DEREGULATION

- In the 1990's, there was a push to deregulate electricity across the Western United States. Several states passed laws that demonopolized their energy sector.
- This was done under the assumption that reduced regulation and market-based approaches will always lead to good results for consumers.

WESTERN ENERGY CRISIS OF THE LATE 90'S/EARLY 2000'S

- This deregulation would **not** be successful.
- California saw rolling blackouts, rate instability (with some consumers seeing massive hikes in their electric bill), and a host of other problems. Millions of customers in that State alone were affected.
- Some utilities shut down plants in order to increase prices.
- Other states, including Nevada, were affected, but the California example is most remembered.
- The crisis would cost the economy billions of dollars.

WHAT NEVADA DID

- The Nevada Legislature passed a law in 1997 (AB366) that directed the State to open its energy market. However, this ultimately would not come to fruition.
- California's crisis as well as blackouts and price increases in Nevada were the key factors in Nevada slamming the brakes on its deregulation push. Legislators and Governor Kenny Guinn kept delaying the open market deadline as the crisis in the west unfolded.
- In 2001, to protect Nevada's economy and ratepayers, the Legislature chose to keep a regulated utility structure through AB369 and AB661.

WHAT NEVADA DID

- “Watching our neighbors next door, I can’t in good faith let this continue to happen.” –Former Governor Kenny Guinn regarding energy deregulation.

NRS 704B

- In 2001, as a result of the damage done to Nevada's regulated utilities by the western energy crisis, lawmakers needed to provide a way for large organizations that put a lot of stress on the electric grid to find a way to supply their energy needs independently by creating **new electric resources**.
- Nevada was reliant on power markets for over 50% of its electricity, and power markets were high and volatile. The utilities were burning through their cash and credit trying to keep up. To **relieve** the utilities and, in turn, other ratepayers from having to supply them, the large customers used their own credit to purchase power and **build** generation.

NRS 704B

- They thus created a process by which entities could file an application to leave the umbrella of NV Energy and **build their own power plants**– outlined in Chapter 704B of the Nevada Revised Statutes.

APPLICATION OF NRS 704B

- Companies that left under the original intent and framework of NRS 704B and built generation:
 - Barrick- (applied in 2004)
 - Newmont (hybrid)- (applied in 2004)

QUESTION 3 (2016 & 2018)

- Question 3 was an attempt to revive the energy deregulation proposal of the late 1990's.
- It passed in 2016, but **failed** by a decisive margin (67%-33%) in 2018. Nevadans were concerned about emulating the mistakes that California and Nevada made in the late 90's.
- This wouldn't, however, stop the efforts of companies to procure energy in the open electricity markets.

LEVERAGING OF NRS 704B

- Over the past few years, several major businesses (including casinos, manufacturers, and data centers) have left, or explored leaving, the NV Energy umbrella under NRS 704B because of a desire to purchase their own cheaper electricity and be freed from **public policy costs/regulations** associated with the public energy grid – **outside the purview of the law's original purpose.**
- In effect, they are trying to attain what wasn't accomplished through the Question 3 campaign and the deregulation lobbying efforts of the late 1990's.
- Under current law, this is perfectly legal.

LEVERAGING OF NRS 704B

- Companies that have left under NRS 704B and are buying electricity in the markets:
 - Switch (applied in 2014 (south), 2016 (north))
 - MGM (applied in 2015)
 - Wynn (applied in 2015)
 - Caesar's (applied in 2016)
 - Peppermill Reno (applied in 2017)

LEVERAGING OF NRS 704B

- Companies that have filed to leave under NRS 704B :
 - SLS Las Vegas (December 2018)
 - MSG Las Vegas (October 2018)
 - Boyd Gaming (November 2018)
 - Raiders' Stadium (September 2018)
 - Fulcrum Sierra BioFuels (June 2018)
 - Station Casinos (June 2018)

LEVERAGING OF NRS 704B

- Companies that have filed to leave under NRS 704B (cont.):
 - Georgia-Pacific Gypsum (September 2018)
 - South Point Casino (December 2018)
 - Air Liquide (February 2019)
 - Cosmopolitan (February 2019)
 - The Drew (April 2019)

HARMS TO CONSUMERS

- Too many organizations leaving the electric grid has a breadth of potential impacts to Nevada consumers:
 - Increased prices.
 - Stresses on the electric grid caused by companies hopping back-and-forth between alternative supplies and the main grid.
 - Unpredictable demand causing unforeseen problems.
 - Evasion of public policy costs and fees by large companies.
 - Less renewable energy.
 - Shifts costs to residential customers.

HOW SB547 WILL ADDRESS THIS

- Eligible customer is defined.
- New electric resource is defined.
- Provider of new electric resource is defined.
- Requiring recovery of certain public policy costs from eligible customers
- Requiring providers of new electric resources to pay governmental fees.

HOW SB547 WILL ADDRESS THIS

- Strengthening the requirements that an eligible consumer must meet before they purchase energy from providers of new electric sources.
- Requires that an eligible customer for new electric sources must file an application at least 280 days before they begin attaining the applicable energy.
- The PUC will be empowered to establish annual limits on the amount of energy an eligible customer may attain from providers of new electric resources to assist in planning.
- Companies would have to demonstrate that their utilization of NRS 704B furthers the public interest.

HOW SB547 WILL ADDRESS THIS

- Provide licensure of “providers of new electric resources” and include them in the PUC’s mandate to collect annual mill assessments.
- Requires annual revenue reports to be filed by providers of new electric resources, with the PUC having the power to conduct an audit.
- Requires eligible customers to conduct annual vulnerability assessments, prepare emergency response plans, and submit these to the Division of Emergency Management of the Nevada Department of Public Safety.

HOW SB547 WILL ADDRESS THIS

- Requires eligible customers to pay any cost, rate, or fee which would be due to the electric utility for the service territory of the eligible customer continued to purchase energy from the electric utility, is associated with the implementation of programs established pursuant to the NRS.
- The PUC would be able to revoke any orders for failure to pay taxes or fees authorized by this legislation.

FURTHER RESOURCES

- http://energy.nv.gov/uploadedFiles/energynvgov/content/Programs/TaskForces/2017/11-07-2017_EnergyChoice_Agenda6_PUCN%20Presentation.pdf
(Historic overview conducted by the Public Utilities Commission regarding energy deregulation in Nevada).