

# ABOUT YOUR PUBLIC UTILITIES COMMISSION

BY JOE REYNOLDS, ESQ.

My wife has informed me that a sure way to ruin an otherwise fun conversation is to bring up “megawatts” or “distributed generation systems.”<sup>1</sup> But with the ongoing energy policy discussions in Nevada, *e.g.*, energy choice, electric vehicles, rooftop solar, battery storage and recently-enacted laws,<sup>2</sup> energy-related conversations are more important than ever to the short- and long-term financial future of our state. They are discussed every day at the Public Utilities Commission of Nevada (PUCN), and the decisions being made will touch every person and business in Nevada. Now appears to be a good time to reintroduce PUCN and give a brief overview of what it does and why.

## History of PUCN

More than a century ago, PUCN was first established by Nevada law as the Railroad Commission of Nevada. As explained in a 1908 report by the newly-formed commission to then-Nevada Governor John Sparks, it was created to protect Nevadans from discriminatory treatment and unfair business practices at the hands of the railroads that were the lifeline for transportation and commerce in the west.<sup>3</sup> The report recognized that “[n]o State in the union has suffered more [from unfair rates by railroad operators],

relatively, from unjust discrimination at the hands of interstate carriers, and with respect to interstate traffic within its borders, than has the State of Nevada.”<sup>4</sup>

Today, electric transmission lines are the new railroad tracks of the west, forming a primary resource for all business and economic activity. With them, an undeniable nexus between economic development, renewable energy technology and environmental values is emerging on Nevada’s energy landscape. Many of these issues are being addressed in ongoing proceedings before PUCN, some of which involve familiar international businesses like Apple, Google, Tesla, Switch and Walmart, as well as many of the well-known resort and gaming properties in Nevada. Yet, the mission of PUCN remains the same as it was more than a century ago: to protect Nevadans from unfair and discriminatory rates and practices. Indeed, every cent of the monthly utility bills received by most Nevada residents and businesses is scrutinized by PUCN to ensure it is fair and reasonable; the average cost for electricity paid by Nevadans is among the lowest in the nation.<sup>5</sup>

## Organization of PUCN

PUCN is a fairly unique executive-branch agency of the state with quasi-judicial and quasi-legislative responsibilities. It is headed by a chairman and two commissioners, who are appointed by the governor. About 100 people work at PUCN, many of them licensed and certified engineers, accountants, lawyers and economists. An executive director is appointed by

PUCN to assist in running the day-to-day operations and oversee agency finances. Unlike most other agencies, PUCN has its own general counsel, which is entirely independent of the Office of the Nevada Attorney General.

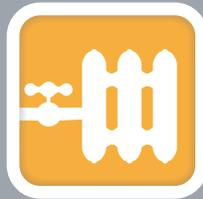
The commission is governed by the laws enacted by the Nevada State Legislature and governor, namely, Chapters 703 and 704 of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC). It is subject to the Administrative Procedures Act set forth in NRS 233B, the Public Records Act set forth in NRS 239, the Open Meeting Law set forth in NRS 241 and the Ethics in Government laws set forth in NRS 281A. PUCN’s main office is located in Carson City with a smaller office in Las Vegas.

## Duties of PUCN

PUCN oversees the full or limited regulation of more than 500 entities engaged in providing electric, natural gas, telecommunications, water, wastewater and rail services to approximately 2.9 million Nevada residents, as well as Nevada businesses. By far the largest and best-known of these entities is NV Energy, consisting of Nevada Power Company and Sierra Pacific Power Company. These regulated entities engage in billions dollars of annual financial transactions and have billions dollars in assets within PUCN’s jurisdiction.

The commission’s basic regulatory duties are set forth in Nevada law and include:

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## ABOUT YOUR PUBLIC UTILITIES COMMISSION

1. Providing for the fair and impartial regulation of public utilities;
2. Providing for the safe, economic, efficient, prudent and reliable operation and service of public utilities; and
3. Balancing the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates.<sup>6</sup>

To serve these objectives, PUCN's mission statement provides for the following:

"The Public Utilities Commission of Nevada serves to protect the public interest, ensure fair and reasonable utility rates, and regulate the delivery of utility services to benefit the economy, the environment, and all Nevadans."

But PUCN's overriding goal is simple: serve the public interest.

### Nature of PUCN Proceedings

Proceedings before PUCN can be generally grouped into three categories: public agenda meetings, contested legal cases, and workshops and investigatory dockets.

#### Public Agenda Meetings

The first of these are publicly-noticed agenda meetings, with all three members of PUCN in attendance. These meetings occur approximately every two to three weeks throughout the year and are videoconferenced between Carson City and Las Vegas, as well as streamed live on the internet. Subject to the Open Meeting Law, PUCN listens to public comment, deliberates as a full body on issues and votes on matters (a majority rules).

#### Contested Legal Cases

The second of these proceedings are contested cases, often involving adversarial positions, evidence, witnesses, fact-finding and legal conclusions—and, of course, they often involve lawyers too. The Office of the Nevada Attorney General's Bureau of Consumer Protection and the Regulatory Operations Staff of PUCN participate in these proceedings as independent advocates. One member of the commission is designated by the chairman to preside over the case, and he or she is prohibited from discussing it ex parte with PUCN Regulatory Operations staff or anyone else.<sup>7</sup> The order of these proceedings is set forth in regulation; the Nevada Rules of Civil Procedure apply when the regulations are silent.

#### Workshops and Investigatory Dockets

A third category of proceeding involves workshops and investigatory dockets. These often lead to drafting regulations or the issuance of reports. Unlike contested cases, these proceedings are not adversarial and involve discussions about policy and the best ways to implement it.

Key to PUCN's mission is public involvement. Each of the above-listed proceedings includes procedures for providing the public with notice of what PUCN is doing and giving Nevada residents several opportunities to comment.

#### Future of PUCN

Bob Dylan once sang, "...for the times they are a-changing."<sup>8</sup> This is certainly true at PUCN, and for energy issues in Nevada. The regulatory framework governing energy in Nevada *must* evolve and change too; we cannot continue approaching 21st century ideas, technologies and businesses with rigid 20th century paradigms and mindsets. This is not to say that well-settled regulatory principles and financial

realities should be ignored, but we should never be afraid to challenge and rethink the status quo either. Whatever emerges from the ongoing energy conversations in Nevada, PUCN is ready to help build our energy future and will continue serving Nevadans, as it has done for the past 100 years. **NL**

1. "Distributed generation systems" is a fancy-sounding phrase that often refers to electricity from rooftop solar systems. See NRS 701B.055.
2. Some of the new laws passed during the recent 79th Nevada Legislative Session include: Senate Bill 145 (establishing electric vehicle incentive program); Senate Bill 146 (expanding energy resource planning); Senate Bill 150 (revising energy efficiency goals); Senate Bill 65 (planning for utility resources); Assembly Bill 405 (restoring net energy metering); and Senate Bill 204 (investigating energy battery storage).
3. *First Annual Report of the Railroad Commission of Nevada*, at 4 (Gazette Publishing Company, April 10, 1908).
4. *Id.* at 15.
5. Nevada is ranked as the 14<sup>th</sup> best state in the nation for the lowest cost of per kilowatt hour for residential electricity. U.S. Energy Information Administration (July 2017), available at <https://www.eia.gov/state/rankings/#/series/31>.
6. NRS 704.001.
7. NRS 703.301(3); NAC 703.481.
8. Bob Dylan, *The Times They Are A-Changin'*, on *The Times They Are A-Changin'* (Columbia Records 1964).



**JOE REYNOLDS** was appointed to serve as the chairman of the Public Utilities Commission of Nevada by Governor Brian Sandoval in October 2016. Prior to his appointment to PUCN, Reynolds served as Sandoval's general counsel. Before joining the governor's office, he was the chief deputy attorney general for the Bureau of Litigation of the Nevada Attorney General's Office, under former Nevada Attorney General Catherine Cortez Masto. Reynolds is a Nevada native.