

THE ENERGY CHOICE INITIATIVE

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~(omitted material)~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 19. Article 1 of the Nevada Constitution is hereby amended by adding thereto a new section to read as follows:

1. The People of the State of Nevada declare that it is the policy of this State that electricity markets be open and competitive so that all electricity customers are afforded meaningful choices among different providers, and that economic and regulatory burdens be minimized in order to promote competition and choices in the electric energy market. This Act shall be liberally construed to achieve this purpose.

2. Effective upon the dates set forth in subsection 3, every person, business, association of persons or businesses, state agency, political subdivision of the State of Nevada, or any other entity in Nevada has the right to choose the provider of its electric utility service, including, but not limited to, selecting providers from a competitive retail electric market, or by producing electricity for themselves or in association with others, and shall not be forced to purchase energy from one provider. Nothing herein shall be construed as limiting such persons' or entities' rights to sell, trade or otherwise dispose of electricity.

3. (a) Not later than July 1, 2023, the Legislature shall provide by law for provisions consistent with this Act to establish an open, competitive retail electric energy market, to ensure that protections are established that entitle customers to safe, reliable, and competitively priced electricity, including, but not limited to, provisions that reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the grant of monopolies and exclusive franchises for the generation of electricity. The Legislature need not provide for the deregulation of transmission or distribution of electricity in order to establish a competitive market consistent with this Act.

(b) Upon enactment of any law by the Legislature pursuant to this Act before July 1, 2023, and not later than that date, any laws, regulations, regulatory orders or other provisions which conflict with this Act will be void. However, the Legislature may enact legislation consistent with this act that provides for an open electric energy market in part or in whole before July 1, 2023.

(c) Nothing herein shall be construed to invalidate Nevada's public policies on renewable energy, energy efficiency and environmental protection or limit the Legislature's ability to impose such policies on participants in a competitive electricity market.

4. Should any part of this Act be declared invalid, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the remaining provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. This subsection shall be construed broadly to preserve and effectuate the declared purpose of this Act.

KEY FINDINGS

- Nevadans currently enjoy some of the lowest average electricity rates in the country, and Nevada is a leader in solar and renewable energy development, as well as job and business growth.
- The Energy Choice Initiative is reasonably likely to increase the average monthly electric bills of Nevadans, at least the in the short term, *i.e.*, the first 10 years. These cost increases will potentially diminish over the years as Nevada's new open-market paradigm becomes established, Nevada's economy and population grows, and the transition costs are paid off.
- Large commercial customers will likely see more immediate benefits from the Energy Choice Initiative due to the elimination of an alleged residential subsidy and reduced impact fees relating to NRS Chapter 704B.
- Ambiguous language within the Energy Choice Initiative makes it difficult to discern its full legal meaning and scope, and purported objectives of the measure appear to be in conflict with each other.
- No state has ever deregulated its energy market or made energy policy by amending its state constitution, which make the implications of the Energy Choice Initiative relatively permanent and unique to Nevada.
- Plain language of the Energy Choice Initiative removes the authority of the PUCN and, subsequently, the Nevada State Legislature to control the generation component of a bundled electricity rate. This will cause new exposure for Nevada ratepayers to market volatility and profit-driven ratemaking practices. It may also bring theoretical benefits of open market competition to Nevada.
- The Energy Choice Initiative will likely require in excess of 100 million dollars in new startup costs and, thereafter, over 45 million dollars in new annual operation and maintenance costs.
- NV Energy will likely be forced to divest its generating assets and assign its long-term power purchase contracts to new owners. Nevada ratepayers will remain liable for any financial losses incurred by NV Energy from these stranded costs, which could foreseeably exceed several billion dollars. While these stranded costs will not be new to Nevada ratepayers, they will offset any possible benefits from an open and competitive market created by the Energy Choice Initiative.
- At least 400 union electrical employees are likely to lose their jobs, and hundreds more may be negatively affected by the Energy Choice Initiative. The Energy Choice Initiative will also likely create new jobs for Nevadans, but what those jobs will be remains speculative and unestablished.
- Net Energy Metering (NEM)/rooftop solar laws and policies recently enacted through Assembly Bill 405, as well as other energy programs, will likely be negatively affected by the Energy Choice Initiative.
- The California Independent System Operator (CAISO) appears the most viable option for Nevada to participate in an organized wholesale market. Yet, this option has challenges, due to the need for bi-state legislation and changes to CAISO's governance structure to ensure Nevada's interests are represented.
- It remains an open question as to who will serve as a provider of last resort (POLR) for NV Energy's former Nevada customers in a retail market. This remains an area of concern given Nevada's diverse geography and population demographics.
- The Energy Choice Initiative can be implemented by July 1, 2023. But it will require an immediate and unprecedented commitment by Nevadans of financial, legislative, and legal resources.

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RISKY & COSTLY

Massachusetts Bombshell: Attorney General's study finds electricity deregulation has cost consumers hundreds of millions of dollars

Seniors, low-income and minority communities hit especially hard

LAS VEGAS, NEVADA, April 3, 2018 — Today, the Coalition to Defeat Question 3 responded to Massachusetts Attorney General Maura Healey's release of findings from a two-year study of the state's deregulated residential electricity market. The study concluded that a so-called "competitive supplier market" for residential electricity supply had cost residents \$176.8 million more than if they had stayed with their traditional utility provider over that same time. It was conducted from July 2015 to June 2017.

In light of the findings, Attorney General Healey called for an end to Massachusetts' "competitive supplier market" for residential electricity customers.

"This report is yet another example of how electricity deregulation has failed consumers in other states, and why Question 3 would have serious adverse consequences for consumers in Nevada," said former Nevada Attorney General Frankie Sue DelPapa, who is a Co-Chair of the Coalition to Defeat Question 3.

Attorney General Healey's study outlines how "competitive suppliers" promise consumers big savings on their electricity bills but ultimately deliver

significantly higher prices. The study further details how predatory sales practices particularly target low-income, senior, and minority communities by luring them into contracts that actually cost them hundreds of dollars more. The study found that over the two-year period, an average lower-income consumer who signed up with a “competitive supplier” paid about \$375 more than if their electricity had been purchased from a traditional utility.

Read more about the Massachusetts study [here](#).

BACKGROUND ON QUESTION 3: If passed on Nevada’s November 2018 statewide ballot, Question 3 would dismantle Nevada’s existing electricity system – one of the most affordable and reliable in the nation – and replace it with a new, unknown system established by the legislature and courts.

Nevada’s average retail electricity price is already lower than all 14 deregulated states, including Massachusetts.

When California attempted to deregulate their electricity system in the early 2000s, it led to skyrocketing rates, rolling blackouts, the Enron scandal, and over \$40 billion in added costs for consumers and taxpayers. Today, California’s electricity rates are nearly double Nevada’s rates.

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April 3, 2018

Clean Energy Advocates Oppose Nevada Ballot Question 3

Nevada's Clean Energy Progress at Risk if Voters Approve Question 3

Thursday, July 26, 2018

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Las Vegas, NV -- Today, four clean energy groups, Natural Resources Defense Council, the Sierra Club, Southwest Energy Efficiency Project, and Western Resource Advocates, announced their opposition to Question 3 on Nevada's ballot this upcoming election. Question 3 would deregulate the state's electricity market and could disrupt the state's progress toward a clean energy future.

If Question 3 passes, NV Energy would get out of the energy supply business and have to sell all of its power plants. The Nevada Legislature would have until 2023 to establish a new, deregulated electricity market. There is no evidence that this new market structure would lower rates below current levels for residential customers.

Most importantly, a deregulated market would interrupt NV Energy's commitment to double its current level of renewable energy generation by 2023, call into question the future of utility-sponsored energy efficiency programs, and introduce uncertainty into the state's recovering rooftop solar industry.

Dylan Sullivan, Natural Resources Defense Council senior scientist, issued the following statement:

"Question 3 has been sold to voters as a way to get more renewable energy online in Nevada, but it will actually make it more difficult. There will be years of market uncertainty as the legislature figures out how to implement complex restructuring, and even after that, electricity retailers have shown a reluctance to sign the long-term contracts it takes to get new renewables built."

Anne Macquarie, Chair of Sierra Club's Toiyabe Chapter, issued the following statement:

"If Question 3 passes, it will upend the clean energy progress we're making here in Nevada. Right now, NV Energy has big plans for new solar infrastructure, and the rooftop solar market is quickly recovering, but that may all change. The uncertainty of a deregulated market threatens all of Nevada's clean energy momentum, and that's bad for jobs, it's bad for public health, and it's bad for clean air and water."

Howard Geller, SWEEP's Executive Director, issued the following statement:

"NV Energy spent nearly \$500 million helping its customers save energy and reduce peak demand over the past decade, and customers are now saving 2.7 billion kilowatt-hours per year as a result of NV Energy's programs. Households and businesses served by NV Energy are expected to save nearly \$700 million as a result of the utility's energy efficiency programs implemented over the past decade. In addition, NV Energy has proposed ramping up its programs to help customers save energy starting in 2019. If Question 3 passes, it would call into question the future of these cost-effective energy efficiency programs. Therefore, SWEEP urges Nevadans to vote NO on Question 3."

Robert Johnston, Western Resource Advocates' Senior Staff Attorney in Nevada, issued the following statement:

"NV Energy has changed course on renewable energy and is proposing new solar projects that will double its current level of renewable generation by 2023. By taking NV Energy out of the electricity generation business at this critical juncture, passage of Question 3 not only will kill these important projects, but it is likely to create a cloud of legal and regulatory uncertainty that could chill the development of new renewable projects by anyone else over the next 4-5 years while the Legislature figures out the complicated details of restructuring Nevada's electricity markets. We urge Nevadans to vote No on Question 3."

About the Sierra Club

The Sierra Club is America's largest and most influential grassroots environmental organization, with more than 3 million members and supporters. In addition to helping people from all backgrounds explore nature and our outdoor heritage, the Sierra Club works to promote clean energy, safeguard the health of our communities, protect wildlife, and preserve our remaining wild places through grassroots activism, public education, lobbying, and legal action. For more information, visit www.sierraclub.org.

About the NRDC

The Natural Resources Defense Council (NRDC) is an international nonprofit environmental organization with more than 3 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Bozeman, MT, and Beijing. Visit us at www.nrdc.org and follow us on Twitter [@NRDC](https://twitter.com/NRDC).

About SWEEP

The Southwest Energy Efficiency Project (SWEEP) is a public-interest organization promoting greater energy efficiency in Nevada, Arizona, Colorado, New Mexico, Utah, and Wyoming. For more information, visit www.swenergy.org

About Western Resource Advocates

Western Resource Advocates (WRA) works to protect the West's land, air, and water so that our communities thrive in balance with nature. WRA's team of scientists, lawyers, and economists craft and implement innovative solutions to the most complex natural resource challenges in the region. For more information, visit www.westernresourceadvocates.org and follow us on Twitter [@wradv](https://twitter.com/wradv).

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State	Average Electricity Price (cents/kWh)
Connecticut	17.24
Massachusetts	16.48
Rhode Island	16.28
New Hampshire	15.66
New York	14.47
New Jersey	13.38
Maine	12.80
Maryland	12.21
District of Columbia	11.73
Delaware	11.09
U.S. Average	10.27
Pennsylvania	10.19
Ohio	9.84
Illinois	9.38
Texas	8.43
Nevada	8.38
<p><u>Source:</u> U.S. Energy Information Administration 2016 Annual Electricity Price Data by State <i>(most recent available)</i></p>	