

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Energy Choice Initiative Investigation and Workshop /

Docket No. 17-10001

COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

The National Energy Marketers Association (NEM)¹ hereby submits Comments pursuant to the Notice of Energy Choice Initiative Investigation and Workshop issued October 11, 2017, in the above-referenced proceeding. In 2016, Nevada citizens resoundingly approved the Energy Choice ballot initiative. The Energy Choice ballot initiative, if approved again in 2018, will create a constitutional right for Nevada consumers to shop for electricity. By Executive Order 2017-03, the Governor established the Governor's Committee on Energy Choice (GCEC), to identify and analyze the issues associated with implementation of the Energy Choice Initiative, which commenced work in April 2017. The instant proceeding was initiated by the Commission upon the request of the GCEC that was submitted by letter on September 27, 2017. The request was made following extensive discussion by the Committee, in recognition of the Commission's subject matter expertise and to permit the gathering of information and creation of a record from a diverse array of stakeholders.

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies. This document reflects the views of the National Energy Marketers Association and does not necessarily reflect the views of any specific member of the Association.

The GCEC identified four issues that it requested the Commission investigate: 1) a prospective timeline for implementation of the Initiative; 2) amendments to laws or policies that would be necessitated to establish a competitive electric market; 3) wholesale electric market options; and 4) retail electric market options, including consideration of pros and cons, best practices and structure for Nevada, and provider of last resort service. The Commission determined that this investigation shall also examine an additional issue. The fifth issue for investigation as identified by the Commission is the potential financial benefits and risks to Nevada residents and businesses associated with the Initiative as well as strategies that can be pursued to maximize the benefits and mitigate the risks.

NEM is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies. NEM was formed when the retail choice movement was just beginning and is celebrating its 20th anniversary this year. NEM and its members have participated in regulatory proceedings across the country related to the implementation of energy choice. NEM members serve energy consumers of all sizes in the jurisdictions open for competition, and NEM members look forward to serving the energy consumers of Nevada with a diverse array of energy products, services and technologies. Given this experience, NEM can meaningfully contribute to the record to be developed by the Commission in this investigation and appreciates the opportunity to offer these comments for consideration.

In NEM's view, Nevada has chosen an extremely opportune time to implement electric choice and is well-positioned to adopt a best-in-class market structure. Indeed, the consumer demand for energy choice options, as evinced by the ballot initiative, continues to grow. This demand is fueled by an expanding array of energy and energy-related products, service and technologies, such as

distributed energy resources (DER). Consumers are becoming increasingly savvy about energy and technology-enabled energy choices. However, utility monopoly core competencies do not lie in the creation, development and offering of innovative products and services. That is where competitive energy providers excel – proactively identifying consumer preferences and then nimbly and swiftly creating responsive products to meet evolving consumer demand. Competitive energy providers that make these offerings available are funded by at-risk capital rather than ratepayer-backed guarantees.

Importantly, the Commission and legislature do not have to make decisions about the implementation of energy choice in a vacuum. There is a large and growing body of experience from other retail choice jurisdictions. In addition, Nevada previously considered the implementation of energy choice. From these experiences, it is possible to construct a market model that draws upon best practices and lessons learned and then customizes the Nevada market model in a manner that recognizes Nevada’s unique characteristics and leverages its distinct advantages, such as its abundant renewable resources. Moving forward with retail choice at this time should also be significantly enhanced through the availability of energy-related technology and information that was not previously available, was prohibitively expensive or otherwise largely inaccessible twenty years ago. These technological advances permit competitive providers to make more innovative offerings and also spur consumer engagement in energy purchasing decisions.

NEM’s comments on the issues identified for consideration are set forth below:

1) Prospective timeline for the implementation of the Initiative.

The ballot initiative, if passed again in 2018, would establish a constitutional right to choose competitive electric service for all consumers. That constitutional right would be established for consumers *upon the effective date of the amendment*. The amendment also establishes an outer boundary deadline date by which the electric market must be opened for consumers, while also recognizing and permitting for earlier market implementation and opening. The amendment language specifically provides that,

“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 amendment further provides that, “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.” Taken together this language provides for electric market opening by no later than July 1, 2023, while permitting the date for market opening to be advanced earlier in time. Between the effective date of the constitutional amendment and the deadline date for market opening, stakeholders should be engaged on multiple fronts to prepare.

Once consumers gain the constitutional right to shop after a successful ballot initiative in 2018, there are numerous implementation steps that the Commission and other stakeholders can take to begin preparation for electric market opening while awaiting legislation to be passed. Consumer education about the change in the electric market should be pursued well before the market opening date so that consumers have an adequate opportunity to understand and apprise themselves of the

options that will become available. Likewise, utility rate unbundling is a foundational requirement of moving forward with electric choice and should begin well prior to market opening. Utility rate unbundling performs a valuable consumer education function in and of itself because it allows consumers to begin to familiarize themselves with the components of their energy bills.

Technical implementation issues should also be tackled early on before market opening. This includes electronic data sharing standards for communication between the utility and competitive energy providers related to customer enrollment, customer information and billing information. Information exchange protocols have already been developed in other retail choice states. In order to allow competitive energy providers to minimize technology implementation costs and streamline operations, existing information exchange protocols should be leveraged and utilized in Nevada to the greatest extent possible. Relatedly, the process by which competitive energy providers timely receive consumer usage data to permit innovative product offerings should be addressed.

The Commission will also have to initiate rulemakings to establish competitive energy provider certification standards, consumer protection requirements, and provider of last resort requirements. Pending more specific legislative direction on those subjects, and to expedite the compilation of an informed record, those issues can begin to be explored more informally through workshops and investigations.

NV Energy has indicated that it does not wish to serve in the commodity merchant function role and plans to focus on delivery-related functions when the market opens. NEM strongly supports this decision as fundamental to a well-functioning retail market. In order to facilitate NV Energy's exit from the merchant function role, strategies for minimizing stranded costs must be

expeditiously developed, including the treatment of existing contracts and any procurement-related activities undertaken during the market transition.

Determinations about the structure and functioning of the wholesale market will also need to be made. The functioning of the wholesale and retail markets are inextricably linked. Wholesale market rules should be implemented to coordinate with and support the functioning of the retail market.

2) Amendments or repeals to any current Nevada laws, policies, or existing energy programs that may be necessary to establish an open and competitive electricity market in Nevada.

Title 58 of the Nevada Revised Statutes is generally reflective of the traditional, vertically integrated utility monopoly model. For the most part, Title 58 provides for the provision of bundled electric service by the electric utility monopoly provider. An exception is provided for certain eligible customers to purchase energy from an alternative provider under Chapter 704B. The Commission's implementing regulations are premised on this historical utility regulation model. Upon second passage of the Energy Choice Initiative, current laws, regulations and policies will need to be modified to explicitly incorporate the constitutional right of all consumers to shop for competitive energy services and to end the utility's exclusive franchise monopoly for the provision of electricity. Current laws and policies must also authorize competitive energy providers to render electricity and other energy-related products, services and technologies to consumers.

3) Options reasonable available to Nevada in designing and establishing a wholesale electric service market, including but not limited to, reliance on existing bilateral markets; establishments of contractual relationships and possible governance structures with multi-state independent system operators (ISOs); and/or regional transmission organizations (RTOs).

Retail markets can and do work under different wholesale market configurations. NEM's retail energy marketer members participate in the various wholesale markets established to date. This includes energy-only markets established in ERCOT and Alberta, Canada as well as the capacity markets established in PJM, NYISO and ISONE. The key is establishing a wholesale market that permits market participants to engage in clear and transparent transactions that enable liquidity in the marketplace. NEM submits that the retail electric market can be accommodated during a transitional approach to establishing a wholesale market, during which bilateral contracts are utilized pending a formalized competitive wholesale market structure.

NEM members have identified the energy-only wholesale market structure as a best practice for supporting a robust retail market environment and the availability of diverse product offerings to consumers. Other important elements for a wholesale market structure that supports robust retail competition include: 1) governance by an independent Board; 2) a diverse and inclusive stakeholder process for wholesale market rule development; 3) an active independent market monitor to ensure competitive and efficient market results; and 4) minimal regulatory intervention and interference in market outcomes.

It is important that the wholesale market structure is coordinated and compatible with the functioning of the retail market and competitive retail providers business models, as compared with utility monopolies with captive customers. Wholesale market structures that retain the vestiges of vertically integrated utility monopoly preferences and rate-setting processes do not

support retail choice. While utilities can pass through after-the-fact wholesale market costs such as uplift payments or retroactive rebills through existing rate mechanisms, competitive retail providers have difficulty doing so because they do not have a captive customer base. Accordingly, it is important that increasing costs experienced during market events be permitted to be included in market-based pricing mechanisms.

4) Options reasonably available to Nevada in designing and establishing a competitive retail electric service market, including, but not limited to, relative pros and cons; the best practices and structure for Nevada; and options for a service provider of last resort.

a) Pros and Cons of Establishing a Competitive Retail Electric Service Market

Nevada is considering implementing a competitive retail electric market at an extremely opportune time. The time is now to seize upon the technological innovations that are rapidly being realized in the competitive energy sector, consumers increasing awareness of energy choice options and desire to control their own energy destiny, and the existing knowledge base that has been accrued about retail energy competition through the experience of other states as well as Nevada's own prior study. Indeed, the highly popular ballot initiative is proof positive of the primary advantage of establishing a retail electric market – consumers desire to exercise choice. Consumers are increasingly interested in managing their energy usage and making energy purchasing decisions. This is driven by numerous factors including the desire to exert increased control over household and/or business energy costs, in response to environmental concerns and a desire to make “green” choices, to have an improved and customized customer service experience, and to utilize innovative energy technologies. Utility monopolies are poorly suited to develop, create and offer energy choices. Utility rate-setting processes and tariff approval processes only accommodate a

one-size-fits-all approach to products. Competitive energy providers can rapidly respond to evolving consumer preferences and meet consumer demands.

Consumers today have a much greater understanding of energy and energy options as evinced by the ballot initiative. Moreover, consumers today are far more technologically savvy, and the internet provides unfettered access to abundant informational resources, that can be supplemented through targeted consumer education campaigns about retail energy choice. Finally, consumers in the digital age expect to be able to shop and purchase all manner of goods and services and have those purchases fulfilled instantaneously, or nearly so. There is simply no reason to differentiate energy and energy-related services from the products that consumers to shop for. Competitive energy providers are uniquely situated to meet the needs of the 21st century energy consumer.

The population density in Nevada varies significantly in different parts of the State. NEM is aware that concerns have been expressed that it will be difficult for a retail electric market to serve consumers in the less populated areas. To the contrary, so long as the delivery infrastructure exists to serve those customers, competitive energy providers can and will provide energy service options. A primary determinant of whether consumers in less populated areas are offered competitive options is the extent to which customer acquisition and enrollment processes are approved and implemented to facilitate it. For example, the provision of customer lists to competitive suppliers aids in cost-effective customer acquisition. Likewise, allowing suppliers to utilize traditional and new technology-enabled methods to enroll customers without unnecessary restrictions or barriers will also help.

Customer aggregation programs have been utilized in some states to permit consumers to leverage their joint buying power to procure energy at a lower cost or to buy particular energy products,

such as renewable energy, or both. Aggregation programs, when properly designed in a competitively neutral manner, may be an option to consider in market opening, as a means of familiarizing consumers with choice and may potentially enhance mass market consumer participation in retail energy markets. Importantly, an aggregation program should not supplant individual consumer shopping or prevent individual consumers from continuing to exercise their right to shop for a different choice of supplier to suit the consumer's personal preferences.

b) Best Practices and Structure for a Competitive Retail Electric Service Market in Nevada

NEM has a number of recommendations regarding the best practices and structure of a well-functioning and robust competitive retail electric market. *The most important recommendation and foundation upon which the success of the market is largely determined is the utility monopoly's exit from the commodity merchant function and focus on its core competency of ensuring the reliability of the delivery infrastructure.* If the utility does not have to divert its finite resources to perform competitive commodity-related functions as well as monopoly distribution functions, and instead is incented to focus on upgrading and maintaining distribution facilities this should encourage utility delivery system reliability, resilience and robustness. This is becoming more important as DER deployment is becoming increasingly widespread. The competitive retail marketplace should be relied upon to provide consumers with electricity and other energy-related products, services and technologies.

Retaining the utility in the merchant function with the utility's instant economies of scale, dominant market position, and guaranteed cost recovery makes it impossible to realize the benefits of competition. This is because it inherently distorts the competitive playing field and requires a significant amount of regulatory intervention and oversight to try to ensure a level competitive

playing field. A utility has multiple unfair competitive advantages as the incumbent monopoly commodity provider because it has instant market share without customer acquisition costs as well as guaranteed cost recovery without the risks faced by their competitive supplier counterparts in the market. In addition, a regulatorily-determined price will always be a poor proxy for a true market-based price as it suffers from timing lags, reconciliations, lack of transparency, and does not reflect the full costs of providing 24/7 no-notice commodity service. Commodity supply and related services, information and technologies are inherently competitive functions. Allowing the utility to remain in the commodity merchant role, and provide other competitive products, discourages competitive entities from doing so, thereby reducing downward pricing pressure and the realization of efficiencies in the marketplace.

Additional NEM recommendations regarding the best practices and structure of a well-functioning and robust competitive retail electric market include:

- **Unbundled Utility Rates and Market-Based POLR Pricing** – Utility rate unbundling permits consumers to see and understand the full extent of the costs associated with utility service and permit consumers to make accurate, informed choices. In order for consumers to make rational energy purchasing decisions, and to engage in price-responsive demand behavior, they must be able to see and respond to market-based commodity pricing signals.
- **Consumer Education** – Consumer education is a critical component to a well-functioning market. Consumer education is a key component to supporting customers’ ability to meaningfully exercise choice in the retail energy marketplace. Competitive suppliers provide consumers with energy shopping information at many

points of contact and in many formats, and welcome the opportunity to engage with potential and current consumers about questions they may have. This is fundamental to forming a long-term relationship with a satisfied customer. Consumers also rely on and trust the Commission as a source of objective energy choice information. A robust consumer shopping website² is an excellent education tool. Utilities should also be called upon to provide information about energy shopping opportunities through, for example, informational mailings and their websites.

- **Reasonable Consumer Protection Requirements, Supplier Certification and Marketing Standards** – NEM and its members developed and adopted a “Consumer Bill of Rights”³ evincing marketers’ commitment to ethically serve energy consumers. NEM’s Consumer Bill of Rights addresses the need for clear marketer responsibilities and consumer expectations with respect to appropriate marketing practices. These rights include access to energy products and services that provide what they promise and are presented and described in clear and understandable language; accurate price and usage information; terms and conditions written in plain language; explanation of how to terminate a contract and at what cost; and a fair and timely complaint resolution process.

NEM and its members also developed and adopted “National Marketing Standards of Conduct”⁴ that set forth a list of practices that form a common basis for doing business

² See, e.g., the electric shopping website of the Pennsylvania Public Utility Commission available at PAPowerSwitch.com and the electric shopping website of the Public Utility Commission of Texas available at powertochoose.org.

³ Available at: http://www.energymarketers.com/Documents/Consumer_Bill_of_Rightsfinal_formatted.pdf

⁴ Available at: <https://www.energymarketers.com/Documents/ACF74.pdf>

in today's energy marketplace. These business practices pertain to competitive supplier marketing and sales activities, supplier agents, customer enrollment, customer contracts and complaint resolution.

Other retail choice jurisdictions have developed robust rules and policies related to consumer protection requirements, supplier certification and marketing practices. NEM submits that the regulations adopted by the Pennsylvania Public Utility Commission⁵ and Public Utility Commission of Texas⁶ represent best practices in this regard and would be useful resources to consult in designing rules for the Nevada retail market.

- **Efficient and Cost-Effective Means to Enroll Consumers** – Competitive suppliers must be allowed to market to and acquire customers on an efficient and cost-effective basis. Traditional means of customer enrollment, including door-to-door sales, telephonic enrollment and internet enrollment are evolving with technology, and should be permitted to do so. Another tool that permits competitive suppliers to efficiently and cost-effectively enroll customers is the provision of customer lists.
- **Expeditious Consumer Switching Timeframes** - Customer energy choice must be easy to execute. The ability to switch energy suppliers is the ultimate consumer protection. Choice should not be complicated or expensive. Consumers have come to expect that they can purchase products and services and receive them without delay.

⁵ See 52 Pa. Code § 111, Marketing and Sales Practices for the Retail Residential Energy Market and 52 Pa. Code § 54.31, Electricity Generation Supplier Licensing.

⁶ See Texas Administrative Code 25.107 Certification of REPs and 25.471 Consumer Protection Rules for Retail Electric Service.

For example, switching cell phone providers can be effectuated and completed through a single phone call. Consumers will rightfully expect a similar experience when shopping for competitive energy products.

- **Consolidated Billing of Utility Delivery Charges and Competitive Supplier Charges** – Consumers prefer to receive a single consolidated bill for utility delivery charges as well as for competitively-provided energy products and services. This includes supplier consolidated billing in addition to utility consolidated billing.
- **Timely Competitive Supplier Access to Data** - Competitive suppliers need timely access to granular data in order to design and provide innovative products that are responsive to consumer needs. The need for suppliers to have timely access to data is especially critical to enabling the deployment of, and realization of benefits from, distributed energy resources. A streamlined mechanism must exist by which competitive suppliers can obtain billing quality data for all of their customers, with customer authorization. Customers should be able to authorize third party providers to have access to their information, and the access should be free of charge. NEM members report that ERCOT's process for providing suppliers with access to data is the best in the industry.
- **Requirements for Prudent and Aggressive Management of Stranded Costs and Avoidance of Punitive Exit Fees** – Measures should be taken to mitigate utility stranded costs stemming from existing contracts and any procurement activities that may take place during the market transition. Relatedly, consumers that exercise their right to shop should not be saddled with excessive and punitive exit fees. Verified

stranded costs should be collected in a competitively neutral manner from all customers, shopping and non-shopping.

- **Competitive Markets Ombudsperson** – Commissions in many retail choice states have designated Staff to serve as an ombudsperson for competitive retail suppliers. Designated Staff in this role have taken a lead in proactively identifying potential market issues and engaging stakeholders in developing solutions. It also provides suppliers with a knowledgeable and consistent point of contact to address questions and problems.
- **Code of Conduct** – A Code of Conduct⁷ should be adopted to ensure competitive neutrality among utilities, affiliates and non-affiliated energy providers. The Code of Conduct should govern commercial transactions between regulated and unregulated energy service providers.
- **Provision of Regulatory Certainty to Encourage Supplier Entry, Investment and Market Participation** - Regulatory certainty, including the establishment of a date certain by which the retail market will open, will permit competitive suppliers to make investments to participate in the marketplace and to develop innovative products and services to serve consumers of all sizes. Investment capital must have both political and financial certainty in order to be competitively deployed for the benefit of consumers.

⁷ See NEM's Uniform Code of Conduct for Regulated and Unregulated Suppliers of Energy and Related Services and Technologies available at: <http://www.energymarketers.com/Documents/FinalUCC.pdf>

c) Options for a Service Provider of Last Resort

The Provider of Last Resort (POLR) function can and should be fulfilled by an entity or entities other than the utility. Indeed, the commodity merchant function is a naturally competitive function. It is not necessary for the utility to act as the POLR because marketers have the ability and experience to supply these services to customers. Marketers have long been involved in developing and aggregating electric generation supply, and providing utilities with energy as a commodity. In many cases marketers have supplied utilities with energy and related services on an outsourced basis for years, enabling those utilities to provide energy supply services. As part of the process of transitioning to competitive entities acting as POLR, the Commission may want to examine the validity of separating the performance of this backstop role by the need being met, i.e., low income consumers, credit challenged consumers, or consumers that do not currently have a competitive supplier.

5) Potential short- and long-term financial benefits and risks to the residents and businesses of Nevada that may be associated with implementing the Initiative and the best strategies for maximizing any benefits (e.g., savings) and mitigating any risks (e.g., costs).

a) Financial Benefits and Risks to Nevada Residents and Businesses Associated with Energy Choice

There are significant financial benefits to Nevada consumers to be realized through the implementation of energy choice. There are also strategies that can be implemented to maximize those benefits and mitigate the risks. From a general perspective, other industries that have deregulated have experienced an average price reduction of approximately thirty percent.⁸ Annual

⁸ “Extending Deregulation, Making the U.S. Economy More Efficient,” by Robert Crandall (2008); See also “Economic Deregulation and Customer Choice: Lessons for the Electric Industry,” by Robert Crandall and Jerry Ellig (1997).

impacts on the U.S. economy specifically associated with energy price competition range in the tens of billions of dollars per year. Recent studies have shown that customers in retail choice jurisdictions have received significant benefits in terms of price, investment, and efficiency in comparison with those customers in jurisdictions that have retained the traditional utility monopoly model.⁹ For example, weighted-average prices in the monopoly states rose by nearly 15%, while in the competitive market jurisdictions total weighted average prices declined by 8%. The inflation-adjusted price changes for major customer classes in choice and monopoly states are dramatic, with customers in choice jurisdictions experiencing an 18% decline compared to the experience in monopoly states.

The Texas retail electric market structure in particular, under which the utilities have exited the commodity merchant function, has provided significant benefits to consumers. Those benefits include over one hundred retailers participating in the marketplace to provide consumers with over four hundred products; an approximate 60% reduction in rates since the introduction of competition; robust customer shopping in all customer classes; extensive availability of price comparison information and consumer education resources; and an exceedingly low complaint rate.¹⁰

Consumers additionally benefit from energy choice because of the increased availability of a slate of energy choices such as different pricing options and new and innovative products, including DER, that enable them to better control their energy usage and manage their energy budgets. Retail

⁹ “Restructuring Recharged: The Superior Performance of Competitive Electric Markets 2008-2016,” by Philip R. O’Connor (2017); “Evolution of the Revolution: The Sustained Success of Retail Electricity Competition,” by Philip R. O’Connor and Erin O’Connell-Diaz (2015).

¹⁰ “Scope of Competition in Electric Markets,” report of the Public Utilities Commission of Texas available at: http://www.puc.texas.gov/industry/electric/reports/scope/2017/2017scope_elec.pdf

competition can also offer benefits such as providing retailing services such as billing and customer care on a more efficient, less costly and more customized basis; procuring wholesale power at a lower price than utilities; utilization of sophisticated technologies to permit consumers to better control energy usage and associated costs; and hedging price risks and weather variability.

When a retail energy market is opened, utility rate unbundling permits price competition by suppliers of energy and related products, services and technologies, including DER. Price competition can increase the competitiveness of local business, attract new business to the state, increase economic activity and operate in a manner similar to a tax rollback for businesses and consumers alike. Price competition also permits state and local governments to reduce expenditures on energy and related services, benefitting state and local budgets.

b) Strategies for Maximizing Consumers Benefits and Mitigating Consumer Risks

With respect to the issue of maximizing consumer benefits and mitigating consumer risks, NEM offers two observations. First, by opening the retail market to competition, when the utility exits the commodity merchant function and focuses on its core delivery functions, this shifts commodity-related risks away from captive ratepayers and to competitive suppliers. It is far more efficient and will encourage greater investment in both utility delivery infrastructure and competitive energy products and services, if ratepayer-backed capital is directed to delivery infrastructure maintenance and upgrades while competitive suppliers at-risk capital is focused on developing and providing energy and energy-related products, services and technologies. Consumers should not be required to take risks that the market is willing to bear. Competitive market participants are expert at controlling supply-related risks, and they do so without the

requisite guaranteed return of and return on utility investments, the risks of which are borne by captive ratepayers.

Second, consumer benefits of energy choice are maximized, and risks are minimized, when market participants have regulatory certainty about the timing and implementation of the market opening and then have regulatory certainty about the rules, policies and practices they must comply with going forward. In particular, establishing a date certain by which the utility will exit the merchant function will signal to the competitive supplier community a firm commitment to energy choice that will incent supplier investment of capital and resources to serve Nevada consumers.

Significantly, the retail choice jurisdictions that have chosen to retain the incumbent utility monopoly as a direct competitor with other competitive suppliers in the marketplace to provide commodity and other energy-related products and services, have delayed and diminished the full realization of the benefits of energy choice. This is caused by incumbent utility market power and economies of scale coupled with inadequate utility delivery rate unbundling and lack of market-based pricing signals to consumers. While there have been regulatory efforts undertaken in those jurisdictions to level the playing field under those circumstances, the numerous and distinct advantages of the incumbent utility monopoly are difficult to overcome when they are permitted to compete in the retail marketplace. It inhibits competitive supplier market entry and participation and limits the ability of suppliers to offer competitive prices, products and innovations against artificially understated utility monopoly rates.

Conclusion

NEM appreciates this opportunity to submit comments on the Commission's Investigation of issues related to the Energy Choice Initiative and looks forward to future opportunities to assist the Commission in pursuing a new market vision for the State of Nevada.

Respectfully submitted,

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Dated: December 7, 2017.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION in Docket 17-10001 upon all parties of record in this proceeding by electronic service to the following:

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