Angel De Fazio, BSAT POB 29194 Las Vegas, NV 89126 702/490-9677 NTEFUSA@Aol.Com

July 6, 2014

Mr. George Taylor Office of the Attorney General ATTN: OML Coordinator 100 N. Carson St. Carson City, NV 89701

Via email: gtaylor@ag.nv.gov, ctanner@puc.nv.gov,

Re: Carolyn Tanner, General Counsel NV Bar Number 5520 David Noble, Commissioner NV Bar Number 6761 (Inactive) Public Entity: PUC 1150 E. William Street Carson City, NV 89701-3109 Breanne Potter, Ass't PUC Secretary

OML No.: 14-017

#### Dear Mr. Taylor:

This is in response to Mrs. Tanner's Response to the Initial Complaint commonly referred to as 14-017, dated June 18, 2014.

In her response under 'factual history', there are TWO consumer sessions that are held, not just 'ONE' as she tried to infer. One 'normally' at 1 p.m. and the other at 6 p.m., to accommodate those who work the 'normal 9-5 workday. She specifically referenced 'rate cases'. There hasn't been 'security' at the consumer sessions since the smart meter dockets. Mrs. Tanner is a newbie to the consumer sessions, as there haven't been that many since her tenure that started in August 2013. I do not recall since February 2012, there being 'security' at any meetings, hearings, consumer sessions etc.

The employees are the ones who 'make sure the building is accessible', at least at the Diablo Office, I am going to extrapolate that this is the same up in Carson City.

The obvious 'attempt' to feign that since there is a 'not' a full commission' that it is not subject to the Open Meeting Law (OML) is bogus. If Mrs. Tanner was fully cognizant of what consumer sessions entails, that there are different types, some on specific dockets and others that are statutorily mandated.

If she in fact was fully 'knowledgeable' she would know that the annual consumer sessions that are held, are reported to the legislature and therefore, are subject to the OML. Even with only one of the commissioners in attendance, along with representatives of the BCP and some of the regulated utilities, this is no different than the consumer sessions in questions, aside from the required reporting to the legislature.

Mrs. Tanner as fully delineated in my prior complaint proclaimed 'extensive knowledge in OML'. Therefore, she should know this.

Mrs. Tanner's 'analysis' of the 'independence' of these two dockets is flawed. As she even stated without the actual citation from the order to wit:

#### Page 201

In a combined general rates application with Nevada Power Company d/b/a/ NV Energy or a companion filing with Nevada Power Company d/b/a NV Energy's next general rates application, whichever comes first, Sierra Pacific Power Company d/b/a NV Energy shall..." [emphasis added] Exhibit A

This Order was signed on February 3, 2014 regarding the Sierra Pacific Rate Case. For all intents and purposes the Sierra rate case dockets 13-6002-4 has been adjudicated and the smart meter recovery is the subject of the current dockets in question 14-05004-5.

Since the initial grant covered both service territories and was 'divided' between the territories there is still that 'full' recovery amount to be determined in these dockets. As there is a 'percentage' of certain aspects of the grant that are allocated to either Sierra or NV Power. Such as accounting fees, legal fees, etc.

We can accept that it is 'cost/time' effective to do a single hearing, but, the issue is not 'cost/time' but the subject matter that is at the center of this complaint and participate in both consumer sessions.

Smart meter recovery is a factor that was 'carried' over from Sierra's rate case and dependent on south's ability to recover said smart meter costs. There is a large percentage of the same type of 'fees' that played into the rate case of Sierra are being brought forth in the south's rate case.

It clearly confirms the association of both of these rate cases, not independent as Mrs. Tanner tried to deflect in her response. Also, Noble was the presiding commissioner of the Sierra rate case and should have recalled this, as he was the one who did all the background work prior to this order being presented to the full commission and signed off by the balance of the commissioners.

As stated above Mrs. Tanner is not a 'seasoned' employee who knows how many video conferencing has been done.

Even back in 2012 with the 'annual' statutory consumer session to be held in two of the largest counties in NV, this was video conferenced to Carson City, at both sessions at 1:30 p.m. and 6 p.m. Exhibit B

Thursday, October 11, 2012 1:30 p.m. Public Utilities Commission of Nevada 9075 West Diablo Drive Las Vegas, NV 89148

VIA VIDEO CONFERENCE TO: Hearing Room A Public Utilities Commission of Nevada 1150 East William Street Carson City, NV 89701

#### And:

Thursday, October 11, 2012 6:00 p.m. Public Utilities Commission of Nevada 9075 West Diablo Drive Las Vegas, NV 89148

VIA VIDEO CONFERENCE TO: Hearing Room A Public Utilities Commission of Nevada 1150 East William Street Carson City, NV 89701

Upon information and believe the facilities in Washoe County are not afforded the ability to video conference, only the office located in Carson City.

On July 2, 2014, the PUC issued notices regarding consumer sessions along with what is 'new' an 'informational session prior to the consumer session being held. "At the INFORMATIONAL SESSION, the Commission's Regulatory Operations Staff will conduct a one-hour utility ratemaking presentation." Exhibits C, D

There has never been in ANY prior notice of mandatory consumer sessions, has this 'informational session' been brought forth. It appears that since the rate making can be viewed as an 'after the fact' explanation of the how rates are determined and right after two rate cases have been filed. These informational sessions are almost a month after the consumer sessions that address this complaint. This is an obvious attempt to try an 'explain' the process after the public has had the opportunity to address their concerns on this issue, without a full understanding of said ratemaking policy/protocols. You don't close the barn door after the horse has left.

Everything on the PUC's website 'invites' the public to participate, submit comments, nothing excludes participation by territory, the key phrase is 'any interested party'. Then when there is interest in a docket, they change the 'request' to suppress public input. Mrs. Tanner is under the misguided impression that she is the overseer of the First Amendment regarding the OML and that she and the PUC can 'adjust' it to limit said public participation. The entire purpose of the OML is for public participation, not, selective participation when it suits their myopic view as to how much they want to 'endure' from the public.

Nor in their 'offering' emphatically state it was 'restricted' to those in x,y,z areas.

What about persons who have homes in both areas, are they to be discriminated against?

The PUC has a 'form' for commenters and there is no codicil that you have to be 'directly' impacted on said docket that you wish to comment on. This is 'identical' to when they issue a procedural order calling for comments, wide latitude, then hacking away at the 'request' to fit their 'purpose'. Everything the PUC posts on their site is to 'encourage' public participation, then they carve it down to what they want to really have to endure under said 'participation'. Exhibit E

- **3.10** Quasi-judicial proceedings The 2011 Legislature subjected all public body meetings of a quasi-judicial nature to the OML. Only meetings of the Parole Board of Commissioners are exempt, but only when acting to grant, deny, continue, or revoke parole of a prisoner, or when modifying the terms of the parole of a prisoner. "Quasi-judicial proceedings are those proceedings having a judicial character that are performed by administrative agencies." Stockmeier v Nev. Dep't of Corr. Psychological Review Panel, 122 Nev. 385, 390 (2006). The Court in Stockmeier stated that an administrative body acts in a quasi-judicial manner when it refers to a proceeding as a trial, takes evidence, weighs evidence, and makes findings of fact and conclusions of law from which a party may appeal an adverse decision to a higher authority. Id. at 391-92. The Stockmeier Court citing Knox v. Dick,99 Nev. 514, 518, 665 P.2d 267, 270 (1983), stated that "the taking of evidence only upon oath or affirmation, the calling and examining of witnesses on any relevant matter, impeachment of any witness, and the opportunity to rebut evidence presented against the employee' was 'consistent with quasi-judicial administrative proceedings
- **4.04** Quasi-judicial proceedings no longer exempt from OML Assembly Bill 59, 2011 made all meetings of a public body that are quasi-judicial in nature subject to the OML. Only the Nevada Board of Parole Commissioners is exempt, but only when acting to grant, deny, continue, or revoke parole for a prisoner or to establish or modify the terms of the parole of a prisoner.
- 13.03 Relationship of Open Meeting Law to the First Amendment to the Constitution of the United States. Once the right to speak has been granted by the Legislature (NRS 241.020(2)(3)), the full panoply of First Amendment rights attaches to the public's right to speak. The public's freedom of speech during public meetings is vigorously protected by both the U.S. Constitution and the Nevada Constitution. Freedom of expression upon public questions is secured by the First Amendment.

New York Times Co. v. Sullivan, 376 U.S. 254, 269 (1964). This constitutional safeguard was fashioned to assure unfettered interchange of ideas for bringing about political and social changes desired by the people. See §§ 8.04 and 8.05 above, for detailed discussion of the scope of public comment. In Sandoval, 119 Nev. at 156, 67 P. 3d at 906-907 (2003), the Board of Regents alleged that limiting the discussion of the Regents to the topics on the agenda unlawfully limited the Regents' right to free speech. The Supreme Court denied this argument and stated that the Open Meeting Law was not overly burdensome on the Regents' right to free speech because the Regents could discuss what they wanted, whenever they wanted, just not at a meeting governed by the Open Meeting Law at which the issue for discussion was not agendized.

This is nothing short of a 'contract', that now the 'offering/PUC' party upon acceptance and 'completion', by the interested party/public, the offering party wants to change the 'terms and conditions'. The PUC 'offered' thru their procedural order a request for 'interested parties to file a request to be a commenter'. Said 'interested' parties, submitted their requests in the prescribed time period, they were 'accepted' by the 'offering' party, by their 'accepting' and posting on said relevant dockets'. Now, the 'offering' party has decided to 'amend' the 'contract' and discriminate against those who they do not want to be participants. This was an 'open' call, no territorial limitations as to who can be an 'interested' party.

Nor has there ever been a 'requirement' in any procedural order limiting participation by territory.

The PUC doesn't 'control' who can be an 'interested' party and after the fact decide that they don't want them involved. These consumer sessions are an 'open' meeting and as such, any 'party' that is 'interested' is afforded the right to appear and voice their concerns/opinions', without restrictions.

The public has First Amendment rights both under the US and NV constitutions. Any restrictions is a violation of their right to freedom of speech.

The PUC as they always assert, are a 'quasi-judicial body/entity' and as such, are required to uphold said rights, as the commissioners are made to take the oath of office that grants these to the public.

Both Tanner and Noble had to take this oath also when they were admitted to the NV Bar, so, there is no 'plausible deniability' on either of their parts.

**NRS282.020** Form of official oath. Members of the Legislature and all officers, executive, judicial and ministerial, shall, before they enter upon the duties of their respective offices, take and subscribe to the following oath:

I, ......, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any state notwithstanding, and that I will well and faithfully perform all the duties

of the office of ....., on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.

### NV Constitution Section 9 Text: Liberty of Speech and the Press:

"Every person may freely speak, write and publish his sentiments on all subjects being responsible for the abuse of that right, and **no law shall be passed to restrain or abridge the liberty of speech** or of the press."

The Attorney General's Office is charged with making sure that the statutes, laws, constitutional issues are upheld and enacted as written. Not to grant 'exception' to public bodies who seek to 'control' the rights of the residents of Nevada.

The obvious attempt to try and 'convey' that she has an 'in' with you, by making it 'appear' that she is on a first name basis' to try and infer, 'see, I know him and he will side with me' lands upon deaf ears.

Anything short of not allowing full expression/participation is a direct infringement and obstruction of said rights of the public.

We are requesting an **EXPEDITED** decision, as our rights are being severely impacted, and we should not be subject to any backlog of cases in the Attorney General's Office.

Please issue any correspondence to the main complainant via email at **NTEFUSA@Aol.Com.** 

Thanking you in advance for your prompt attention to this matter.

DATED and DONE this 6<sup>th</sup> day of July, 2014.

/s/

Angel De Fazio, BSAT **Primary Complainant** 

### **Additional Complainants**

/s/ /s/

Fred Voltz Sheila Z. Stirling, Ph.D.

/s/

Jonathan Friedrich Bruce Kittess

/s/

Carole Fineberg Colonel Robert Frank, USAF (Ret.)

/s/

A. Jane Lyon Richard Schweickert, Ph.D.

/s/	/s/
National Toxic Encephalopathy Foundation	Michelle Johnson, ND
/s/	/s/
Juanita Cox	Ken Koeppe
/s/	/s/
Nikki Young	Joyce Hazard
/s/ Penny Hess	

## **EXHIBIT A**

- 10. In a combined general rates application with Nevada Power Company d/b/a NV Energy or a companion filing with Nevada Power Company d/b/a NV Energy's next general rates application, whichever comes first, Sierra Pacific Power Company d/b/a NV Energy shall provide the following information in support of cost recovery for the Advanced Service Delivery Project and Nevada Dynamic Pricing Trial: a) testimony and exhibits demonstrating that it was prudent for the gas division to participate in the Advanced Service Delivery Project; b) an update to its 20-year life cycle analysis, including the costs and benefits of distribution planning function and outage management functions; c) evidence regarding the costs and benefits of the distribution planning and outage management and their impacts on ratepayers; d) an assignment of costs and benefits by company (Sierra Pacific Power Company d/b/a NV Energy and Nevada Power Company d/b/a NV Energy) and by Sierra Pacific Power Company d/b/a NV Energy's gas and electric divisions; e) documentation and evidence, with witness support, of the costs and benefits of the Advanced Service Delivery Project to Sierra Pacific Power Company d/b/a NV Energy's gas division and how these costs and benefits relate to any costs and benefits of Sierra Pacific Power Company d/b/a NV Energy's electric division; f) the results of the Department of Energy final audit; and g) a report as to how employee transfers are accounted for in the life cycle analysis.
- 11. In its next general rates application, Sierra Pacific Power Company d/b/a NV Energy shall include the cumulative customer service level metric for purposes of evaluating the Short-Term Incentive Pay benefits.
- 12. In its next general rates application, Sierra Pacific Power Company d/b/a NV Energy shall include information on the costs of Rule 9 facilities in the determination of cost-based basic service charges for gas customers.

- 13. Failure to comply with the compliances and directives in this Order may subject Sierra Pacific Power Company d/b/a NV Energy to administrative fines pursuant to Nevada Revised Statutes 703.380 and/or revocation of the underlying relief granted as appropriate.
- 14. The Commission may correct errors that have occurred in the drafting or issuance of this Order without further proceedings.

By the Commission,

ALAINA BURTENSHAW, Chairman

REBECCA D. WAGNER, Compaissioner

Concurring in part-and dissenting in paragraph 128

DAVID NOBLE, Commissioner and

Presiding Officer

Concurring in part and dissenting in paragraph 464

Attest:

BREANNE POTTER,

Assistant Commission Secretary

Dated: Carson City, Nevada

(SEAL)

## **EXHIBIT B**

### BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Commission sponsored Consumer Session to be held in	)	
Clark County, Nevada, pursuant to NRS 704.069(2).	)	Docket No. 12-07010
	)	

#### NOTICE OF CONSUMER SESSION

Pursuant to Nevada Revised Statutes ("NRS") 704.069(2), the Public Utilities

Commission of Nevada ("Commission") is required to hold at least one general consumer session in the county with the largest population within the state of Nevada each calendar year.

Clark County is currently the county with the largest population within the state of Nevada. The Commission has designated this matter as Docket No. 12-07010.

Pursuant to NRS 704.069(2), NOTICE IS HEREBY GIVEN that the Commission has scheduled CONSUMER SESSIONS to solicit public comments and questions to be held as follows:

THURSDAY, OCTOBER 11, 2012 1:30 p.m. Public Utilities Commission of Nevada 9075 West Diablo Drive Las Vegas, Nevada 89148

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

And:

THURSDAY, OCTOBER 11, 2012 6:00 p.m. Public Utilities Commission of Nevada 9075 West Diablo Drive Las Vegas, Nevada 89148

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SICRITAS' ASSIST	

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Docket No. 12-07010 Page 2

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

Interested persons may appear and be heard on any topic concerning a public utility regulated by the Commission. Public comments may be limited to five (5) minutes per person at the discretion of the Commission. If within 15 minutes after the start of the Consumer Session, no member of the public has appeared to participate or comment, the Consumer Session may be adjourned at the discretion of the Commission.

This notice has been posted at the county courthouses located in Reno, Carson City, and Las Vegas.

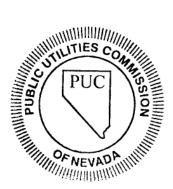
By the Commission,

**BREANNE POTTER** 

Assistant Commission Secretary

Dated: Carson City, Nevada

08-67-12 (SEAL)



# **EXHIBIT C**

#### BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Commission sponsored Consumer Session to be held in	)	Declark No. 14 07002
Clark County, Nevada, pursuant to NRS 704.069(2).	)	Docket No. 14-07002
	,	

#### NOTICE OF CONSUMER SESSION

Pursuant to Nevada Revised Statutes ("NRS") 704.069(2), the Public Utilities

Commission of Nevada ("Commission") is required to hold at least one general consumer session in the county with the largest population within the state of Nevada each calendar year.

Clark County is currently the county with the largest population within the state of Nevada. The Commission has designated this matter as Docket No. 14-07002.

Pursuant to NRS 704.069(2), NOTICE IS HEREBY GIVEN that the Commission has scheduled CONSUMER SESSIONS to solicit public comments and questions to be held as follows:

TUESDAY, AUGUST 19, 2014 1:00 p.m. Hearing Room A Public Utilities Commission of Nevada 9075 West Diablo Drive, Suite 250 Las Vegas, Nevada 89148

And:

TUESDAY, AUGUST 19, 2014 6:00 p.m. Hearing Room A Public Utilities Commission of Nevada 9075 West Diablo Drive, Suite 250 Las Vegas, Nevada 89148

Interested persons may appear and be heard on any topic concerning a public utility regulated by the Commission. Public comments may be limited to three (3) minutes per person at the discretion of the Commission. If within 15 minutes after the start of the Consumer

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COMM/COUNSEL MSF for SAC	7/2/14
SECRETARY/ASST. SEC.	

Docket No. 14-07002 Page 2

Session, no member of the public has appeared to participate or comment, the Consumer Session may be adjourned at the discretion of the Commission. To accommodate individuals who enter the Commission office who are sensitive to fragrance and chemical products, please use sparingly or not at all: perfumes, colognes, and perfumed body lotions, aftershave, hair products, etc.

NOTICE IS HEREBY GIVEN that the Commission has also scheduled an INFORMATIONAL SESSION for consumers. At the INFORMATIONAL SESSION, the Commission's Regulatory Operations Staff will conduct a one-hour utility ratemaking presentation. The INFORMATIONAL SESSION is to be held prior to the Consumer Sessions, and as follows:

TUESDAY, AUGUST 19, 2014 11:00 a.m. Hearing Room A Public Utilities Commission of Nevada 9075 West Diablo Drive, Suite 250 Las Vegas, Nevada 89148

This notice has been posted at the county courthouses located in Reno, Carson City, and Las Vegas.

By the Commission,

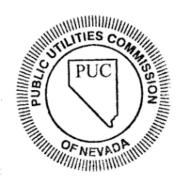
BREANNE POTTER

Assistant Commission Secretary

Dated: Carson City, Nevada

7-2-14

(SEAL)



# **EXHIBIT D**

#### BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Commission sponsored Consumer Session to be held in	)	
Washoe County, Nevada, pursuant to NRS 704.069(2).	)	Docket No. 14-07001
	)	

#### NOTICE OF CONSUMER SESSION

Pursuant to Nevada Revised Statutes ("NRS") 704.069(2), the Public Utilities

Commission of Nevada ("Commission") is required to hold at least one general consumer session in the county with the second largest population within the state of Nevada each calendar year. Washoe County is currently the county with the second largest population within the state of Nevada. The Commission has designated this matter as Docket No. 14-07001.

Pursuant to NRS 704.069(2), NOTICE IS HEREBY GIVEN that the Commission has scheduled CONSUMER SESSIONS to solicit public comments and questions to be held as follows:

THURSDAY, AUGUST 21, 2014 1:00 p.m. Washoe County Commission Chambers 1001 E. 9th Street, Building A Reno, Nevada 89512

And:

THURSDAY, AUGUST 21, 2014 6:00 p.m. Washoe County Commission Chambers 1001 E. 9th Street, Building A Reno, Nevada 89512

Interested persons may appear and be heard on any topic concerning a public utility regulated by the Commission. Public comments may be limited to three (3) minutes per person at the discretion of the Commission. If within 15 minutes after the start of the Consumer Session, no member of the public has appeared to participate or comment, the Consumer Session

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COMM/COUNSEL MSF FO, SAC	7 12 114
SECRETARY/ASST. SEC.	

Docket No. 14-07001 Page 2

may be adjourned at the discretion of the Commission. To accommodate individuals who enter the Commission office who are sensitive to fragrance and chemical products, please use sparingly or not at all: perfumes, colognes, and perfumed body lotions, aftershave, hair products, etc.

NOTICE IS HEREBY GIVEN that the Commission has also scheduled an INFORMATIONAL SESSION for consumers. At the INFORMATIONAL SESSION, the Commission's Regulatory Operations Staff will conduct a one-hour utility ratemaking presentation. The INFORMATIONAL SESSION is to be held prior to the Consumer Sessions, and as follows:

THURSDAY, AUGUST 21, 2014 11:00 a.m. Washoe County Commission Chambers 1001 E. 9th Street, Building A Reno, Nevada 89512

This notice has been posted at the county courthouses located in Reno, Carson City, and Las Vegas.

By the Commission,

**BREANNE POTTER** 

**Assistant Commission Secretary** 

rum Potto

Dated: Carson City, Nevada

7-2-14

(SEAL)



## **EXHIBIT E**

## NOTICE OF INTENT TO PARTICIPATE AS A COMMENTER AND/OR COMMENTS

#### PUBLIC UTILITIES COMMISSION OF NEVADA

1150 E. William Street Carson City, NV 89701-3109 Ph: (775) 684-6101 / Fax: (775) 684-6110



9075 W. Diablo Drive, Suite 250 Las Vegas, NV 89148-7674 Ph: (702) 486-7210 / Fax: (702) 486-7206

April 13, 2012

#### www.puc.nv.gov

Pursuant to Nevada Administrative Code ("NAC") 703.491, a person who is not a party to a proceeding may participate as a commenter if the person files a notice of intent to participate as a commenter. To participate as a commenter, file one copy of this form with the Public Utilities Commission of Nevada ("Commission") by the due date in the initial notice of the proceeding in which you wish to participate. (A commenter need not use this specific form to file notice of intent to comment or to file comments.)

The Commission is a quasi-judicial body, similar to a court of law, and is required by the law to make its decisions based upon the evidence in the record. Evidence is submitted by parties to Commission proceedings. Pursuant to NAC 703.491, a commenter is not a party to Commission proceedings. While written comments will be made part of the record in the proceeding, they will not be treated as evidence. Therefore, written comments cannot be considered by the Commission when making a decision in a particular docket. The Attorney General's Bureau of Consumer Protection ("BCP") represents the interests of ratepayers before the Commission. Such representation often includes the submission of evidence as a party to Commission proceedings. If you have questions about the BCP's representation of ratepayers, please contact the BCP for more information.

**INSTRUCTIONS:** Complete and file a copy of this form by mailing a hard copy or delivering it in person at either Commission office location, or by filing it electronically via the Commission's electronic filing system.

Commenter Name:		
Commenter Email and/or Posta	ll Address	
Email:	Street Address:	
City:	State:	ZIP:
Docket Number:		
Comments Concerning Issues	in the Docket*:	
		am placing myself on a service list, and I provide for myself will be publicly available.
Signature		