

1 **CODE: \$3550**

2 KATHLEEN DRAKULICH (NSBN 2759)
3 ADAM HOSMER-HENNER (NSBN 12779)
4 McDONALD CARANO WILSON LLP
5 100 W. Liberty Street, 10th Floor
6 Reno, NV 89501
7 Telephone: (775) 788-2000
8 Facsimile: (775) 788-2020
9 kdrakulich@mcwlaw.com
10 ahosmerhenner@mcwlaw.com

11 ARTURO J. GONZÁLEZ (*pro hac vice pending*)
12 AGonzalez@mofo.com
13 CHRISTOPHER J. CARR (*pro hac vice pending*)
14 CCarr@mofo.com
15 NAVI S. DHILLON (*pro hac vice pending*)
16 NDhillon@mofo.com
17 MORRISON & FOERSTER LLP
18 425 Market Street
19 San Francisco, CA 94105-2482
20 Telephone: (415) 268-7000
21 Facsimile: (415) 268-7522

22 JOSEPH R. PALMORE (*pro hac vice pending*)
23 JPalmore@mofo.com
24 MORRISON & FOERSTER LLP
25 2000 Pennsylvania Avenue NW
26 Washington, DC 20006
27 Telephone: (202) 887-6940
28 Facsimile: (202) 785-7547

Attorneys for Petitioner
THE ALLIANCE FOR SOLAR CHOICE

IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE ALLIANCE FOR SOLAR CHOICE,

Petitioner,

vs.

THE PUBLIC UTILITIES COMMISSION OF
NEVADA,

Respondent.

Case No.:
Dept. No.:

**PETITION FOR JUDICIAL
REVIEW**

**BUSINESS COURT REQUESTED
(Dispute Among Business Entities
Benefitting From Enhanced Case
Management)**

1 PARTIES OF RECORD BELOW:
2 NEVADA POWER COMPANY d/b/a NV
3 ENERGY; SIERRA PACIFIC POWER
4 COMPANY d/b/a NV ENERGY; ATTORNEY
5 GENERAL'S BUREAU OF CONSUMER
6 PROTECTION; PUBLIC UTILITIES
7 COMMISSION OF NEVADA'S REGULATORY
8 OPERATIONS STAFF; SOLAR ENERGY
9 INDUSTRIES ASSOCIATION; BOMBARD
10 RENEWABLE ENERGY; GREAT BASIN
11 SOLAR COALITION; SOUTHERN NEVADA
12 HOMEBUILDERS ASSOCIATION; VOTE
13 SOLAR; WASHOE COUNTY SCHOOL
14 DISTRICT; NEVADANS FOR CLEAN
15 AFFORDABLE RELIABLE ENERGY; AND
16 SIERRA CLUB.

17 **PETITION FOR JUDICIAL REVIEW**

18 1. In accordance with NRS 703.373, Petitioner The Alliance for Solar Choice
19 ("TASC") submits this Petition for Judicial Review of the following Orders issued by Respondent
20 the Public Utilities Commission of Nevada ("Commission") in Docket Nos. 15-07041 and 15-
21 07042 (together, "Orders"):

- 22 • Order dated December 23, 2015 on the Applications of Nevada Power Company d/b/a NV
23 Energy and Sierra Pacific Power Company d/b/a NV Energy (together "NVE" or the
24 "Utility") for approval of a cost-of-service study and NEM tariffs;
- 25 • Order on Reconsideration and Rehearing dated February 17, 2016; and
- 26 • Modified Final Order dated February 17, 2016.

27 Copies of the Orders are attached as Exhibits 1-3 to the Appendix to this Petition for Judicial
28 Review, filed concurrently.

29 2. Founded by large rooftop solar energy companies in the United States, TASC
30 lawfully intervened in Docket Nos. 15-07041 and 15-07042. NVE initiated the proceedings
31 before the Commission that resulted in the unlawful and misguided Orders now being challenged
32 by TASC.

33 //

34 //

1 **THE CONTROVERSY**

2 3. This action challenges the unlawful decision and Orders of the Commission to end
3 the ability of Nevadans to choose to generate their own electricity from rooftop solar panels by
4 rendering future installation of such panels uneconomical through the termination of the “net
5 energy metering” program effective January 1, 2016. The Commission’s action not only puts a
6 stake in the heart of future rooftop solar development, but it also unjustly applies the new rates
7 and new rate structure to customers who applied for, installed or contracted with the Utility to
8 connect rooftop solar units before January 1, 2016. Under the Commission’s prior net metering
9 tariff, the Utility was required to measure the difference (in kilowatt hours) between the
10 electricity delivered by the net metering customer to the Utility and the electricity delivered by
11 the Utility to the net metering customer, and bill the net metering customer only for the
12 difference, thus incentivizing the installation of rooftop solar capacity.

13 4. The Commission’s decision is a big win for the Utility, at the expense of Nevada
14 rooftop solar customers who elected to install rooftop solar in order to control their electricity
15 costs, reduce their dependency on the Utility, and reduce carbon emissions. The Commission’s
16 decision has also led to massive layoffs by rooftop solar companies (which have fled Nevada) and
17 put rooftop installers out of work. Unless relief is granted by this Court, rooftop solar power
18 generation may well cease to exist in Nevada.

19 **CLAIMS**

20 5. TASC’s substantial rights have been prejudiced because the Commission’s
21 findings, inferences, conclusions and decisions included in the Orders fail to meet the statutory
22 standards set forth under NRS 703.373 for safeguarding the substantive rights of the parties.

23 6. TASC specifically seeks judicial review of the Commission’s Orders pursuant to
24 NRS 703.373 and requests that this Court set aside the Commission’s Orders as TASC’s
25 substantial rights have been prejudiced as the Commission’s conclusions and decisions are:

- 26 (a) In violation of constitutional or statutory provisions;
- 27 (b) In excess of statutory authority of the Commission;
- 28 (c) Made upon unlawful procedure;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (d) Affected by other error of law;
- (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Arbitrary and capricious or characterized by abuse of discretion.

RELIEF REQUESTED

WHEREFORE, TASC requests that this Court review the Orders, the underlying administrative record and other evidence, and prays for the following relief:

- A. That the Court vacate and set aside the Orders in their entirety;
- B. That the Court issue other and further relief as it deems just and proper, including fees or costs; and
- C. That the Court enter Judgment in favor of TASC and against the Commission.

AFFIRMATION
(NRS 239B.030)

The undersigned hereby affirms that this Petition for Judicial Review does not contain the social security number of any person.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: February 17, 2016

McDONALD CARANO WILSON LLP

By: /s/ Adam Hosmer-Henner
Adam Hosmer-Henner

KATHLEEN DRAKULICH (NSBN 2759)
ADAM HOSMER-HENNER (NSBN 12779)
kdrakulich@mcwlaw.com
ahosmerhenner@mcwlaw.com

ARTURO J. GONZÁLEZ (*pro hac vice pending*)
AGonzalez@mofo.com
CHRISTOPHER J. CARR (*pro hac vice pending*)
CCarr@mofo.com
JOSEPH R. PALMORE (*pro hac vice pending*)
JPalmore@mofo.com
NAVI S. DHILLON (*pro hac vice pending*)
NDhillon@mofo.com
MORRISON & FOERSTER LLP

Attorneys for Petitioner
THE ALLIANCE FOR SOLAR CHOICE