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The Battle to Increase Nevada’s Renewable Energy Portfolio Standard; an Insight into RPS Policy Changes.

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The Battle to Increase Nevada’s Renewable Energy Portfolio Standard; an Insight into RPS Policy Changes.

Alondra Regalado
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Introduction</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Climate Change</td>
<td>3</td>
</tr>
<tr>
<td>Overview</td>
<td>3</td>
</tr>
<tr>
<td><strong>Renewable Portfolio Standard</strong></td>
<td>3</td>
</tr>
<tr>
<td>How does RPS work</td>
<td>3</td>
</tr>
<tr>
<td>Public Utilities Commission of Nevada</td>
<td>4</td>
</tr>
<tr>
<td>Utilities Compliance + PEC Trading System</td>
<td>4</td>
</tr>
<tr>
<td><strong>Assembly Bill 206 (2017)</strong></td>
<td>4</td>
</tr>
<tr>
<td><strong>Renewable Energy Promotion Initiative - Question 6</strong></td>
<td>5</td>
</tr>
<tr>
<td>A Different Policy Route</td>
<td>5</td>
</tr>
<tr>
<td>Path to the Ballot</td>
<td>6</td>
</tr>
<tr>
<td><strong>Energy Choice Initiative - Question 3</strong></td>
<td>7</td>
</tr>
<tr>
<td>Connection</td>
<td>7</td>
</tr>
<tr>
<td>Policy Overview</td>
<td>7</td>
</tr>
<tr>
<td>Restructuring</td>
<td>8</td>
</tr>
<tr>
<td>Affect on RPS</td>
<td>8</td>
</tr>
<tr>
<td><strong>Senate Bill 358 (2019)</strong></td>
<td>8</td>
</tr>
<tr>
<td>Changing Gears</td>
<td>9</td>
</tr>
<tr>
<td>Amendments</td>
<td>9</td>
</tr>
<tr>
<td>Passage</td>
<td>10</td>
</tr>
<tr>
<td><strong>Conclusion</strong></td>
<td>10</td>
</tr>
</tbody>
</table>
INTRODUCTION

Climate Change
Greenhouse gas emissions from industrialized societies have changed the temperature of the earth’s surface, atmosphere, ocean and climate systems. Although scientists have been aware of the effects of greenhouse gas emissions and climate change as early as the 1970’s, world leaders have been slow to react and implement proactive policies. As federal administrations and national leaders abdicate their leadership in mitigating climate change, the responsibility to implement proactive policies now lies with local bodies, such as states, private companies and individuals.

Overview
Nevada’s abundant renewable energy resources have made the state a target for the growing renewable energy industry. The development of that industry is constrained and shaped by the policy set in place by state governments. This paper will go over the ongoing battle to increase Nevada’s renewable energy portfolio standard by reviewing the policy’s history, development, implementation and feasibility.

RENEWABLE PORTFOLIO STANDARD

Along with thirty other states, Nevada has chosen to implement a Renewable Energy Portfolio Standard (RPS) to help minimize environmental degradation that comes with using non-renewable energy sources. The RPS requires that a certain percentage of electricity sold by an electricity utility company be generated from renewable energy resources. Under Nevada Revised Statutes (NRS) 704.7811, renewable energy is defined as biomass, geothermal, wind, solar and waterpower. Notably, waterpower is limited in that the water cannot be derived from a dam or requires new apportations for its diversion.

Nevada’s first renewable energy portfolio standard was introduced in 1997 during the 69th State Legislature. Assembly Bill 366 (1997) mandated that 0.2 increments of solar be included in Nevada’s energy portfolio (Brooks 2017). It was not until 2001 that the current format of renewable portfolio standards was outlined during the 71st session. In accordance with NRS 704.7801, Nevada’s RPS will increase every two years until it reaches 25 percent in 2025. The RPS has continually been updated and expanded upon ever since.

How does RPS work?
According to the U.S. Energy Information Administration (2012), “an RPS sets a minimum requirement for the share of electricity to be supplied from designated renewable energy resources by a certain date.” Renewable resources can include things like wind, solar, geothermal, biomass or reverse polymerization. Under current state law, electric utilities companies must submit an annual report to the Public Utilities Commission of Nevada (PUCN) showing proof that they
are complying with the RPS by producing a certain number of “portfolio credits.” The PUCN holds the ability to impose fines or provide exemptions to utilities not meeting their goal.

**Public Utilities Commission of Nevada**

The Public Utilities Commission of Nevada (PUCN) is the regulatory agency that ensures utilities are complying with laws passed by the Nevada State legislature. The PUCN currently regulates around 400 investor owned utility companies in Nevada (“About PUCN” n.d.). The most notable company being NV Energy, which supplies energy to 1.3 million customers or roughly 44% of the Nevada population (“About NV Energy” n.d.).

**Utilities Compliance + PEC Trading System**

In Nevada, electric utility companies must “generate, acquire or save electricity” from renewable energy systems or efficiency measures. The inclusion of “acquiring” electricity and efficiency measures allows for better flexibility and implementation of the policy. Nevada currently has a “Portfolio Energy Credits (PEC) Trading” program in accordance with NRS 704.7821. This program gives renewable energy producers the ability to sell energy credits to electric utility companies that are required to meet the state RPS, alleviating a utility’s compliance burden. NRS 704.7821.2 also allows electric utility companies to implement energy efficiency programs to comply with up to 25% of their RPS requirement. Utilities are required to submit an annual Energy Efficiency and Conservation Program Verification and Measurement Report to show to the PUCN how their programs are saving energy compared to actual demand (Energy Efficiency n.d.). NV Energy, for example, created an “Energy Smart Schools” program that helps schools input things like LED gym lighting and set-back thermostats.

**ASSEMBLY 206 (2017)**

During the 2017 Nevada State Legislature, Assemblyman Brooks, Frierson, Yeager, McCurdy II, Watkins and Fumo sponsored Assembly Bill 206 (2017) that would increase Nevada’s RPS goal:

“AB 206 revises the portfolio standard…so that by calendar year 2030 and for each calendar year thereafter, each provider of electric service will be required to generate, acquire or save electricity from renewable energy systems or efficiency measures not less than 40 percent of the total amount of electricity sold by the provider to its retail customers…”

Not only would there be an overall increase to the RPS, but the bill would have addressed other related issues. For example, this bill would have allowed energy storage to only account for 10% of the “saved” electricity by utilities for compliance of the RPS. AB 206 also included findings and declarations regarding the purpose of establishing the RPS.
The legislature would encourage new renewable energy projects and ensure that any benefits of an increased RPS be received by state residents.

Section 1.4 of AB 206 would have allowed electric utility companies to offer electricity made from renewable energy to customers at a higher rate so that customers themselves could support the utility’s efforts to generate more energy from renewable resources. This would have been a great way to push utility compliance cost to energy consumers in a nonobligatory and fair manner; basically a “donate to the cause” scenario. Section 3 would have eliminated the requirement that a certain percentage of energy produced to comply with the RPS be from solar, allowing for other renewable resources to compete. With energy saving comes the need for storage and the solar industry is no stranger to storage. AB 206 would have allowed for utility companies to use energy storage towards reaching the RPS, but storage could not account for more than 10% of total electricity required to save for portfolio systems.

The bill passed on party lines in the state assembly and senate. It passed the Assembly 30-12 and the Senate 12-9, with Democrats voting in favor and Republicans voting against (AB 206 2017).

Although Governor Sandoval proved to be a supporter of clean energy policy through the 2017 Nevada Legislature, he ultimately decided to veto the bill renewable energy advocates were pushing for the most. Assembly Bill 206 was vetoed on June 16th after successfully passing both the senate and assembly. Sandoval was worried that the pending deregulation of the energy market would hinder any substantial steps required to integrate more renewable energy into electric systems. Sandoval stated that “although the promise of AB 206 is commendable, its adoption is premature in the face of evolving energy policy in Nevada” (Snyder & Valley 2017).

### RENEWABLE ENERGY PROMOTION INITIATIVE - QUESTION 6

**A Different Policy Route**

There is an ongoing initiative in Nevada to increase the RPS to 50% renewable energy by 2030, compared to its current goal of 25% by 2030. This initiative is spearheaded by Nevadans for Clean Energy Future and is a reaction to Governor Brian Sandoval vetoing Assembly Bill 206 during the 2017 Nevada State Legislature, which was a measure approved by lawmakers that would have increased the RPS to 50% by 2030.

The veto of AB 206 mobilized many environmental organizations in Nevada. The lack of state action on RPS influenced a new wave of grassroots organizing. A local collation of environmental non-profits called the “Nevadans for Clean Energy Future” raised $10.74 million in an effort to increase Nevada’s RPS, including $10.35 million from NextGen Climate Action (Rindels 2018). They submitted a ballot question that asked voters during the 2018 midterm elections to vote on an increase to Nevada’s RPS.
**Path to the Ballot**

In Nevada, a citizens initiative to amend the constitution must be approved twice by voters on two separate general elections (NV Const. Art. XVI § 1). In order for a question to be added to the ballot, the number of signatures required is equal to ten percent of the total votes cast in the last general election which amount to 112,543 signatures. Those signatures must also have been distributed through the four congressional districts.

Nevadans for Clean Energy Future filed 230,000+ signatures on June 18, 2018. Secretary of State Barbara Cegavske determined that 133,005 of those signatures were valid, certifying that the Renewable Energy Promotion Initiative would be on the November 6, 2018 ballot as Question 6. (Rindels 2018).

The Renewable Energy Promotion Initiative (2018), would gradually increase Nevada’s Renewable Energy Portfolio Standard to 50% by 2030. The new RPS would be incrementally increased through four time periods:

- 26 percent for calendar years 2022 and 2023
- 34 percent for calendar years 2024 - 2026
- 42 percent for calendar years 2027 - 2029
- 50 percent by 2030 and afterwards.

The ballot measure “shall be liberally construed,” as described by Assemblyman Chris Brooks, “…to make sure that to the extent possible with a constitutional amendment, that the Legislature had the ability to interpret, and put in place policies that meet those objectives” (Snyder 2018). An increase to the RPS will require that more electricity to be produced by renewable energy resources by utility companies, guaranteeing Nevadans right to consume renewable energy.

The Renewable Energy Promotion Initiative (2018) or Question 6 will only increase Nevada’s RPS by amending NRS 704.7821.1 and does not involve any of the additional amendments that were included in Assembly Bill 206 (2017). To put it into perspective, the ballot initiative calls for a paragraph long amendment while the bill included around 15 pages worth of amendments. Those additional amendments within AB 206 are the extra “padding” necessary to implement renewable portfolio standards and make them appealing to utility companies.

Question 6 passed with 59% of voters in favor of the amendment, 562,729 votes in all. It is due on the 2020 presidential ballot.
**ENERGY CHOICE INITIATIVE - QUESTION 3**

**Connection**
The RPS increase debate came at a time when voters were also weighing in on energy choice. On November 8th 2016, the Energy Choice Initiative passed with 72% of votes in support of it (Griffin 2016). Governor Sandoval created the Energy Choice Committee with the duty to guide the legislature in implementing its responsibility to guarantee energy choice. In Nevada, a citizen initiative petitions to amend the constitution must be approved twice by voters on two separate general elections (NV Const. Art. XVI § 1). Curing the 2018 midterm elections, Nevadas voted No on the Energy Choice initiative.

**Policy Overview**
The Electricity Market includes generation, transmission, distribution and retailing (Meredith, 2018). In Nevada, NV Energy owns all levels of the supply chain and bundles its services which is why it’s considered a monopoly.

During the last presidential election, the Energy Choice Initiative (2016) sought to break up NV Energy’s energy supply monopoly. This initiative was meant to increase competition and innovation and decrease electricity cost to consumers by amending the Nevada State Constitution. The amendment did not outline what the energy market should look like but merely mandated that the NV legislature ensure energy choice to Nevada residents (Griffin 2017). The amendment read as followed:

> 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.

New participants in the market would come as; independent power producers, competitive suppliers, and independent system operators ((Meredith, 2018). A competitive supplier purchases electricity and related services from the wholesale electricity markets for resale to customers (Mass.gov). Independent system operators (ISO) are a way for existing energy monopolies to satisfy the requirement of providing non-discriminatory access to transmission (FERC). ISO’s are meant to be neutral, independent, and typically non-profit organization with no financial interest in generating facilities that administers the operation and use of the transmission system (FERC).

**Restructuring**
Rather than addressing this policy as deregulation or breaking up a monopoly, a more descriptive word would be “restructuring” of the Nevada energy market. The main push for Question 3 was to facilitate Nevada Energy into an
Organized Wholesale Market (OWM). A OWM creates a network of centralized generation and high voltage transmission lines, for a bulk power system (Future Electric Utility Regulation). The Federal Energy Regulation Commission ensures prices are just and reasonable by approving market rules and algorithms (Barbash, 2018). NV Energy is currently operating under a Traditional Wholesale Market which means that they operate on bilateral contracts; buyers and sellers negotiate directly to trade electric power.

If the market had gone through this restructuring, there would be more retail providers that serve could take off NV Energy’s total retail load. NV Energy would still own the transmission system but would not own generation. The utility’s ability to balance energy supply and demand for Nevada would be removed, and there would need to be grid reliability services implemented. The PUCN would lose its ability to determine energy rates.

**Affect on RPS**

The Energy Choice ballot initiative did not state any explicit requirement to integrate more renewable energy into the organized wholesale market. Research indicates that there is no correlation in an increase in renewable energy generation after a shift to an organized wholesale market.

**SENATE BILL 358 (2019)**

**Changing Gears**

As mentioned previously, the Renewable Energy ballot initiative was a direct reaction to the vetoing of Assembly Bill 206 during the 79th Nevada State Legislature. It was a citizen’s initiative petition spearheaded by a local coalition of environmental non-profits. This policy route is a shaky one, constitutional amendments are never the easy road to travel on. In Nevada, a citizen initiative petition to amend the constitution must be approved twice by voters on two separate general elections (NV Const. Art. XVI § 1).

During a Growth and Infrastructure Committee meeting (2019), Senator Chris Brooks stated:

“The ballot initiative [Renewable Energy Promotive Initiative] came from the frustration of voters when the measure was brought up in the 2017 Legislative Session. The measure passed both Houses and was then vetoed by the Governor. That created the frustration that lead to the ballot initiative effort.”

Brooks officially introduced Senate Bill 358 during this 80th Nevada State Legislature in an effort “to align the language in this bill to stand the test of that constitutional amendment in the event it were to pass.” Senate Bill 358 (2019) is the successor of AB 206 and seeks the same goal as the Renewable Energy Promotion Initiative (2018) by amending the current RPS law.
Amendments

Section 6 of SB 358 (2019) gives higher authority to electricity utility companies by allowing them to acquire renewable energy facilities without approval from the PUCN. This section also outlines a mechanism in which utilities can charge a “just and reasonable” price for electricity that is generated by the facility and excluding it from the utility’s rate base.

Electric and gas utilities submit applications to the PUCN to recover fuel and purchased power costs every year. Pursuant to NRS.704.187, “Costs for purchased fuel and purchased power means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy.” It is against the law for utilities to profit on fuel and purchased power costs, thus thus costs are passed on to the ratepayers (Fuel and Purchased Power Costs” 2013).

Amendments to Section 17 (NRS 704.7715) expand the definition of renewable energy to include waterpower. Waterpower is defined to be “power derived from standing, running or falling water which is used for any plant, facility, equipment or system to generate electricity” but does not include energy produced from the Hoover Dam (SB 358 2019). This amendment was meant to accommodate rural communities that generate most of their power from water.

Section 22 of the bill includes the most drastic of amendments, calling for a phasing out of the non-renewable energy credits system. Chris Brooks remarked during a Growth and Infrastructure committee meeting that “although efficiency should always be the goal, it does not translate to clean energy.” This bill would phase out energy efficiency credits in a declining fashion by 2024.

Section 22 amends the total amount of electricity sold by the provider to its retail customers in Nevada yearly to match with the proposal of Question 6. The new RPS would be incrementally increased through the following time periods:

- 24 percent by 2021
- 29 percent for 2022 and 2023
- 34 percent for 2024 through 2026
- 42 percent for 2027 through 2029
- 50 percent by 2030 and afterwards.

The bill also sets a goal of zero carbon emissions by 2050.
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**Passage**

Senate Bill passed the Nevada State Assembly with a vote of 40 to 0 with 2 excuses. The bill passed the State Senate with a vote of 21:0. Governor Steve Sisolack signed the bill into law of April 22, 2019. During a press event he announced that “Nevada is open for business as a renewable leader and our commitment to growing our clean energy economy will not falter or fade due to the political climate” (DeHaven, 2019).

**CONCLUSION**

The current climate crisis calls for immediate action and the renewable portfolio standard has proven itself to be an effective policy solution to help minimize the environmental degradation that comes with state's reliance on fossil-fuel-fired energy sources. Roughly 50% of all growth in U.S. renewable electricity generation and capacity since 2000 is associated with state RPS requirements (Borbose 2017).

Implementation of the RPS has proved to be successful since it first became law and any proposed increase to the RPS should be seen with brave eyes. NV Energy, Nevada’s largest electric utility company, has been able to surpass its RPS requirement for the past 8 years (NV Energy 2018). Nationwide, actual growth in renewable energy generation exceeds minimum growth required by state RPS policies (Borbose 2017). NV Energy's Senior Vice President of Renewable Resources, Dave Ulozas, stated in a press release that NV Energy has “been able to accomplish this while keeping electricity rates about 15 percent lower than they were nearly a decade ago.” NV Energy is currently looking to go beyond its 46 renewable energy projects and they’ve got over a hundred independent renewable energy projects and battery storage systems within Nevada bidding for a NV Energy contract (NV Energy 2018).

With regards to political feasibility, an increase to the renewable portfolio standard in Nevada has developed into a non-partisan consensus. The RPS is overwhelming supported by Nevadans and elected officials alike. With the groundwork laid down by Assembly Bill 206, the first round of voting for Question 6 and Senate Bill 358 passed with overwhelming support. Nevada is on its way to become a leader in renewable energy generation and there is no foreseeable end to further increases to the RPS.
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