

ONE HUNDRED ONE NORTH CARSON STREET
CARSON CITY, NEVADA 89701
OFFICE: (775) 684-5670
FAX No.: (775) 684-5683



555 EAST WASHINGTON AVENUE, SUITE 5100
LAS VEGAS, NEVADA 89101
OFFICE: (702) 486-2500
FAX No.: (702) 486-2505

Office of the Governor

June 16, 2017

The Honorable Barbara Cegavske
Nevada Secretary of State
101 North Carson Street
Carson City, NV 89701

RE: Senate Bill 392 of the 79th Legislative Session

Dear Secretary of State Cegavske:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 392 ("SB 392"), which is entitled:

AN ACT relating to energy; revising provisions relating to payment of incentives to certain participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt regulations establishing standards for the operation of community solar gardens; requiring a subscriber to a community solar garden to receive a credit on the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar garden; setting forth the contractual requirements for a subscription to a community solar garden; requiring a utility to purchase the unsubscribed electricity of a community solar garden; requiring the Commission to issue portfolio energy credits to a subscriber organization that installs a community solar garden; providing that such portfolio energy credits are the property of the subscriber organization; repealing provisions requiring an electric utility to create a Lower Income Solar Energy Pilot Program; and providing other matters properly relating thereto.

There is much to commend in SB 392. If designed correctly and properly integrated into Nevada's rapidly evolving energy markets, community solar gardens have the potential to allow more Nevadans to take advantage of solar energy. However, it is not the intent of SB 392 or the idea of community solar gardens that causes concern, but the bill's timing and framework. If passed, SB 392 could further disrupt Nevada's energy markets at a time when those markets

face uncertainty, and are already in the process of fundamental change. This disruption brings with it unnecessary risks, and likely unintended consequences, that could harm both Nevada's ratepayers and its broader clean energy economy. At this time, the possible benefits of SB 392 do not outweigh the risks. As such, I cannot support the bill.

Although styled as the natural companion to rooftop solar, community solar gardens have more in common with large-scale commercial solar facilities than with the individual solar panels installed atop a home or business. Unlike rooftop solar, where the limited benefits and burdens (lease payments, maintenance, and other costs) are largely borne by the individual users, community solar gardens have a far broader reach. In fact, while a single solar garden on a single parcel of land cannot generate more than 12 megawatts of electricity (still a significant amount), there is nothing to stop the aggregation of multiple gardens on multiple parcels of land, which will generate more electricity than a large-scale commercial solar facility.

Therefore, community solar gardens operate like small utilities—utilities within utilities—but they are not regulated like other utilities. They set their own prices and select their own customers. Moreover, community solar gardens not only escape the regulations governing other utilities, they also largely avoid the costs and fees that other utilities pay. And while employees of the public utilities will likely be called upon to handle technical and maintenance issues at the gardens, there are no assurances that these facilities will meet the same safety and security levels.

Additionally, while the hope is that community solar gardens will expand solar use and spur economic growth in the clean energy economy, there is a risk that these gardens will mostly compete with large-scale commercial solar facilities. As commercial solar has expanded in Nevada, they have brought with them good jobs and cleaner energy. And the energy they generate is spread across the grid, benefiting all ratepayers alike.

SB 392 puts Nevada's commercial solar industries in jeopardy, because it gives community solar gardens an unfair competitive advantage. One, because the utilities are required to buy a community solar garden's unsubscribed energy. Two, because the utilities are then required to issue an above-market energy credit to the community solar garden's subscribers. These advantages could create a perverse incentive to create solar gardens at the expense of commercial solar facilities, doing more harm than good.

Community solar gardens are also offered as the means to deliver the benefits of solar energy to low-income and other Nevadans who currently cannot participate in programs like rooftop solar. To that end, SB 392 does contain some statutory mandates that would likely result in the participation of some small businesses, low-income residents, and non-profit organizations. But there is no guarantee that these new participants will be more than a very small subset of the total universe of community garden subscribers. The bill says that at least 10 percent of the total generating capacity of solar gardens be made available to low-income residents or those providing services to low-income residents, but there is no requirement that this electricity actually go to low-income residents.

It bears mentioning that SB 392 seeks to add even more change and uncertainty to an energy market already saturated in change and uncertainty. Yesterday, I signed into law Assembly Bill 405 (“AB 405”), which will lead to a dramatic expansion of rooftop solar in Nevada. SB 392 attempts to link itself to AB 405 by requiring the solar energy credits to be the same for both rooftop solar and community solar gardens.

Although I am confident that the system set up by AB 405 will be beneficial to Nevada and its solar energy economy, it is unclear whether these bills are compatible or conflicting.

There is also the looming second passage of the Energy Choice Initiative in 2018 (the “Initiative”), in which Nevada’s voters will likely enshrine energy choice into Nevada’s Constitution. SB 392 does not properly account for this reality. Currently, there is only one primary energy company that provides electricity to 90 percent of the residents in Nevada. According to SB 392, this provider will have to purchase all unsubscribed electricity generated by a community solar garden. Should the Initiative pass, the incumbent utility will be required to exit, and sell off its generation assets, including renewable generation and purchase power agreements. It is not clear who will then be required to purchase these unsubscribed credits, as there will no longer be one dominant utility.

Because of these and other concerns, SB 392 did receive broad opposition. Both the current utilities and many labor organizations opposed the bill, echoing many of the worries listed above.

Finally, as I mention in my contemporaneous veto of Assembly Bill 206, which would have increased Nevada’s renewable portfolio standards, I have supported and will continue to support efforts to bolster Nevada’s growing clean energy economy. The timing on both of these bills, however, is just not right, nor have the issues been fully vetted. Therefore, along with the ideas proposed in Assembly Bill 206, I will amend my Executive Order creating the Committee on Energy Choice (“CEC”) to also consider community solar gardens.

The purpose of the CEC is to study the very complex issues discussed above, their interrelationships, and potential consequences on energy policy and costs in Nevada in anticipation of the adoption of the Initiative. The CEC will meet regularly for the next 13 months and ultimately make recommendations to me in July 2018, in advance of the 2019 Legislature. It is my position that such an approach is prudent and better answers the questions on how energy choice will affect Nevada’s RPS, community solar gardens, net metering, energy storage, exiting companies and the effects on ratepayers, as well as informing me, the 2019 Legislature, and regulatory agencies.

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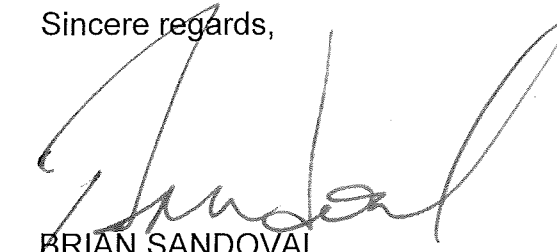
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For these reasons, I veto Senate Bill 392 and return it without my signature or approval.

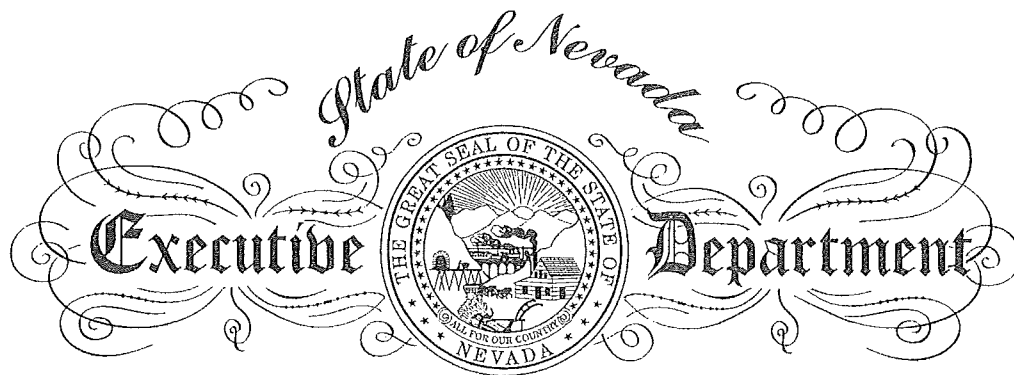
Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

*cc: The Honorable Mark Hutchison, President of the Senate (without enclosure)
The Honorable Jason Frierson, Speaker of the Assembly (without enclosure)
The Honorable Aaron Ford, Senate Majority Leader (without enclosure)
Claire J. Clift, Secretary of the Senate (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)*



Executive Order 2017-10

ORDER AMENDING EXECUTIVE ORDER 2017-03

WHEREAS, I, as Governor of the State of Nevada, established the Governor's Committee On Energy Choice ("CEC") by issuing Executive Order 2017-03 on February 9th, 2017;

WHEREAS, the issues the CEC was tasked with addressing included, but was not limited to:

- A. The need to amend laws governing the generation, transmission, purchase, and delivery of electricity to all Nevadans;
- B. Ensuring that all Nevadans have reasonable access to the open energy markets;
- C. Protecting consumers from energy-rate increases caused by the opening of energy markets;
- D. Preventing ratepayers and investors from possible economic losses associated with stranded investments;
- E. Promoting innovation and development in Nevada's renewable energy industries;
- F. Developing and expanding Nevada's energy industries such that Nevada become a net exporter of energy; and
- G. Providing Nevadans with energy choice as soon is reasonably practical or possible;

WHEREAS, the 79th Legislative Session recently concluded with the passage of, among other legislation, two bills concerning renewable energy: (1) Assembly Bill 206, which would have raised Nevada's renewable portfolio standards; and (2) Senate Bill 392, which would have allowed community solar gardens to begin operating in Nevada;

WHEREAS, both bills were vetoed on Friday, June 16th, 2017, because, among other things, there was significant uncertainty as to how the policies in the bills would be affected by the proposed amendment to the Nevada Constitution contained in the upcoming 2018 ballot question: The Energy Choice Initiative (the "Initiative");

WHEREAS, the members of the CEC are uniquely qualified to examine whether or how to implement the ideas in Assembly Bill 206 and Senate Bill 392 should Nevada's voters pass the Initiative for the second time;

WHEREAS, it is necessary and prudent that the CEC study, review, and discuss Nevada's renewable portfolio standards and community solar gardens, and make recommendations to the Office of Governor and the Legislature prior to the 2019 Legislative Session; and

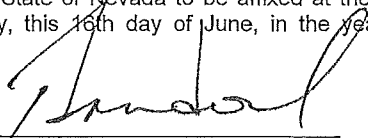
WHEREAS, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada."

NOW, THEREFORE, by the authority vested in me as the Governor by the Constitution and laws of the State of Nevada, it is hereby ordered as follows:

1. Executive Order 2017-03 shall be amended to add the following topics to those the Governor's Committee On Energy Choice shall address:

- a. Increasing Nevada's renewable portfolio standards;
 - b. Allowing community solar gardens to begin operating in Nevada.
2. Executive Order 2017-03 shall remain in force and effect in all other respects.

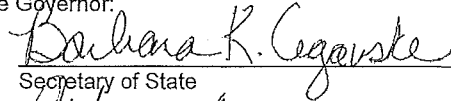
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 16th day of June, in the year two thousand seventeen.



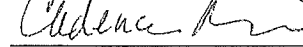
Governor of the State of Nevada



By the Governor:



Secretary of State



Deputy Secretary of State