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9 **EARTHJUSTICE**

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20 *Attorneys for Petitioner Vote Solar*

21 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
22 IN AND FOR CARSON CITY**

23 VOTE SOLAR,

24 Petitioner,

25 vs.

26 THE PUBLIC UTILITIES COMMISSION OF
27 NEVADA,

28 Respondent.

29 NEVADANS FOR CLEAN AFFORDABLE
30 RELIABLE ENERGY; NEVADA POWER
31 CO. d/b/a NV ENERGY and SIERRA
32 PACIFIC POWER CO. d/b/a NV ENERGY;
33 THE NEVADA ATTORNEY GENERAL'S
34 BUREAU OF CONSUMER PROTECTION;
35 THE ALLIANCE FOR SOLAR CHOICE;
36 SOLAR ENERGY INDUSTRIES
37 ASSOCIATION; and GREAT BASIN
38 SOLAR COALITION;

Participating parties.

Case No.: 16-OC-000521 B
Department No.: 2

CASE APPEAL STATEMENT

1 **1. Name of appellant filing this case appeal statement:** Vote Solar

2 **2. Identify the judge issuing the decision, judgment, or order appealed from:**

3 The Honorable James E. Wilson, Jr., District Court Judge, First Judicial District Court of the
4 State of Nevada in and for Carson City, Department 2.

5 **3. Identify each appellant and the name and address of counsel for each appellant:**

6 Petitioner-Appellant Vote Solar is represented by the following counsel:

7 **WOLF, RIFKIN, SHAPIRO**
8 **SCHULMAN & RABKIN LLP**
9 Christopher W. Mixson, Esq.
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11 5594-B Longley Lane
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800 Wilshire Boulevard, Suite 1000
Los Angeles, CA 90017

13 **4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):**

14
15 The respondents have not at this time identified appellate counsel. Counsel for
16 respondents in the First Judicial District Court in the State of Nevada are as follows:

17 For the Public Utilities Commission of Nevada:

18 Garrett E. Weir, Esq.
19 Hayley Williamson, Esq.
20 1150 E. William St.
Carson City, NV 89701-3109

For Nevadans for Clean Affordable Reliable Energy:

Western Resource Advocates
Robert G. Johnston, Esq.
550 W. Musser St., Suite H
Carson City, NV 89703

21 For Nevada Power Co. d/b/a NV Energy and Sierra Pacific Power Co. d/b/a NV Energy:

22 **NV Energy**
23 Elizabeth Elliott, Esq.
24 6100 Neil Rd.
Reno, NV 89511

For the Nevada Attorney General's Bureau of Consumer Protection:

Eric Witkoski, Esq.
Michael Saunders, Esq.
10791 W. Twain Ave., Suite 100
Las Vegas, NV 89135-3022

25 **Lewis Roca Rothgerber Christie, LLP**

26 Leif Reid, Esq.
27 50 W. Liberty St., Ste. 410
28 Reno, NV 89501

1 For The Alliance for Solar Choice:

2 **McDonald Carano Wilson, LLP**
3 Kathleen Drakulich, Esq.
4 Adam Hosmer-Henner, Esq.
100 W. Liberty Street, 10th Floor
Reno, NV 89501

5 **Morrison & Foerster, LLP**
6 Arturo J. Gonzalez (pro hac vice requested)
7 Christopher J. Carr (pro hac vice requested)
8 Yonatan E. Braude (pro hac vice requested)
9 Navi S. Dhillon (pro hac vice requested)
425 Market St.
San Francisco, CA 94105-2482

9 **Morrison & Foerster, LLP**
10 Joseph R. Palmore (pro hac vice requested)
11 2000 Pennsylvania Ave., NW
Washington, DC 20006

For the Solar Energy Industries Association:

McDonald Carano Wilson, LLP
Lucas M. Foletta, Esq.
100 W. Liberty St., 10th Floor
Reno, NV 89501

For the Great Basin Solar Coalition:

Jerry M. Snyder
429 Plumb Ln.
Reno, NV 89509

12 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not**
13 **licensed to practice law in Nevada and, if so, whether the district court granted that**
14 **attorney permission to appear under SCR 42 (attach a copy of any district court**
15 **order granting such permission):**

16 Jill Tauber and Sara Gersen of the Earthjustice law firm are not licensed to practice law in
17 Nevada. The district court granted Ms. Tauber and Ms. Gersen permission to appear under SCR
18 42 in the orders attached hereto as Exhibits 1 and 2.

19 Arturo J. Gonzalez, Christopher J. Carr, Yonatan E. Braude, Navi S. Dhillon and Joseph R.
20 Palmore, all of the Morrison & Foerster LLP law firm, are not licensed to practice law in Nevada.
21 Each had filed a request to the district court to appear *pro hac vice*, which requests had not been
22 granted by the district court at the time of filing of the final order appealed from by Petitioner-
23 Appellant Vote Solar herein.

24 **6. Indicate whether appellant was represented by appointed or retained counsel in the**
25 **district court:**

26 Petitioner-Appellant Vote Solar was represented by retained counsel in district court.

27 **7. Indicate whether appellant is represented by appointed or retained counsel on**
28 **appeal:**

Petitioner-Appellant Vote Solar is represented by retained counsel on appeal.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
date of entry of the district court order granting such leave:

1 Petitioner-Appellant Vote Solar did not seek and was not granted leave to proceed in forma
2 pauperis.

3 **9. Indicate the date the proceedings commenced in the district court (e.g., date**
4 **complaint, indictment, information, or petition was filed):**

5 The district court proceeding was initiated on March 4, 2016, by the filing of Vote Solar's
6 Petition for Judicial Review with the First Judicial District Court of the State of Nevada.

7 **10. Provide a brief description of the nature of the action and result in the district court,**
8 **including the type of judgment or order being appealed and the relief granted by the**
9 **district court:**

10 The Petition for Judicial Review was filed seeking judicial review of two orders issued by
11 Respondent the Public Utilities Commission of Nevada in its consolidated regulatory Docket Nos.
12 15-07041 and 15-07042. Those orders approved a new electric rate structure to be applied to 1)
13 NV Energy's customers who have already installed rooftop solar panels on their homes or small
14 businesses, and 2) customers who install rooftop solar panels in the future. Vote Solar sought
15 judicial review of the Commission's orders because Vote Solar's substantial rights had been
16 prejudiced by the orders, which were in violation of constitutional and statutory provisions; in
17 excess of the statutory authority of the Commission; made upon unlawful procedure; affected by
18 other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on
19 the whole record; and/or arbitrary or capricious or characterized by abuse of discretion. More
20 specifically, Vote Solar argued that the orders 1) violated the constitutional due process rights of
21 existing rooftop solar customers because they were not adequately notified that the electric utility
22 rates for those existing rooftop solar customers were at risk of being changed in the course of the
23 Commission's proceeding, and 2) violated Nevada law that requires electric utility providers to
24 offer "net metering" because the new rate structure ended net metering for affected customers. On
25 September 12, 2016, the District Court entered the final Order in this action, which granted Vote
26 Solar's petition in part by finding that the Commission's orders violated the due process rights of
27 existing net metering customers, but denied Vote Solar's petition in part by upholding the
28 Commission's rate structure for customers who install rooftop solar in the future.

11. Indicate whether the case has previously been the subject of an appeal to or original
writ proceeding in the Supreme Court and, if so, the caption and Supreme Court

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docket number of the prior proceeding:

Petitioner-Appellant Vote Solar is not aware of any previous appeals or original proceedings in the Nevada Supreme Court.

12. Indicate whether this appeal involves child custody or visitation:

This appeal does not involve child custody or visitation.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Petitioner-Appellant Vote Solar does not believe this appeal involves the possibility of settlement at this time.

Affirmation pursuant to NRS 239B.030

The undersigned hereby affirms that the foregoing does not contain the social security number of any person.

Dated this 2nd day of November, 2016.

Respectfully submitted,

By: 

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Attorneys for Petitioner-Appellant Vote Solar

1 CERTIFICATE OF SERVICE

2 I hereby certify that I have this day served the foregoing **CASE APPEAL STATEMENT**
3 upon all parties of record by mailing a copy, properly addressed with postage prepaid, to the
4 following:

5 For the Public Utilities Commission of
6 Nevada:

7 Garrett E. Weir, Esq.
8 Hayley Williamson, Esq.
9 General Counsel
10 Public Utilities Commission of Nevada
11 1150 E. William Street
12 Carson City, NV 89701-3109

For Nevadans for Clean Affordable Reliable
Energy:

Robert G. Johnston, Esq.
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550 W. Musser Street, Suite H
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10 For Nevada Power Co. d/b/a NV Energy and
11 Sierra Pacific Power Co. d/b/a NV Energy:

12 Elizabeth Elliott, Esq.
13 NV Energy
14 6100 Neil Rd.
15 Reno, NV 89511

For The Alliance for Solar Choice:

Kathleen Drakulich, Esq.
Adam Hosmer-Henner, Esq.
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14 Leif Reid, Esq.
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17 For the Nevada Attorney General's
Bureau of Consumer Protection:

18 Eric Witkoski, Esq.
19 Michael Saunders, Esq.
20 10791 W. Twain Avenue, Suite 100
21 Las Vegas, NV 89135-3022


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Association:

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McDonald Carano Wilson, LLP
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Reno, NV 89501

21 For Great Basin Solar Coalition:

22 Jerry M. Snyder
23 429 Plumb Ln.
24 Reno, NV 89509

25 Dated this day 2nd of November, 2016.

26 
27 Laura Simar,
28 An employee of Wolf, Rifkin, Shapiro,
Schulman & Rabkin LLP