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Filed For: UC Won LLC

In accordance with NRS Chapter 719,  
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by: /s CurtLedford

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agent or  
representative of the signer(s) and  
UC Won LLC

# Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • [crl@dvclaw.com](mailto:crl@dvclaw.com)  
5795-B Rogers Street  
Las Vegas, NV 89118

August 15, 2019

Trisha Osborne  
Assistant Commission Secretary  
Public Utilities Commission of Nevada  
1150 E. William Street  
Carson City, NV 89701

**Re: UC Won, LLC Petition for a Declaratory Order  
Docket No. 19-\_\_\_\_\_**

Dear Ms. Osborne:

Please find enclosed for filing the Petition for Declaratory Order by UC Won, LLC (“UC Won”) confirming that a renewable energy facility that delivers energy on a retail basis to only one customer is not subject to regulation by the Commission and not subject to the requirements of NRS Chapter 704B.

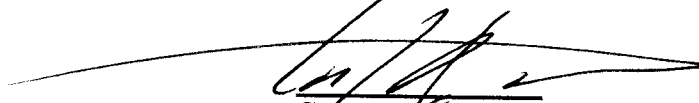
Please note that Exhibit A to UC Won’s Petition includes commercially sensitive information that UC Won has designated *confidential* in accordance with NAC § 703.5274. The information in Exhibit A contains project-specific electrical and engineering information, design specifications, and electrical diagrams that are commercially sensitive, proprietary, and confidential. Pursuant to NAC § 703.5274(2), UC Won hereby requests that this information be filed under confidential seal and not be disclosed.

Exhibit A has been printed on pink paper, stamped “Confidential” and placed in a sealed envelope as required by NAC 703.5274(1). Pursuant to NAC 703.5274(8), UC Won will provide copies to the Commission’s Regulatory Operations Staff and to the Attorney General’s Consumer Advocate. UC Won requests that the exhibit be maintained as confidential in its entirety for a period of five (5) years or as long as otherwise lawfully allowed, whichever is longer. Confidential treatment of the designated information will not impair the ability of the parties to fully investigate UC Won’s Petition.

Letter to T. Osborne  
August 15, 2019  
Page 2 of 2

Thank you for your assistance. If you have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Curt R. Ledford', with a long horizontal flourish extending to the left.

Curt R. Ledford  
Nevada State Bar No. 9101  
Davison Van Cleve, PC  
5795-B Rogers Street  
Las Vegas, NV 89118  
Tel: 503.241.7242  
crl@dvclaw.com  
Of Attorneys for UC Won, LLC

1 **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

2 Petition for Declaratory Order by UC Won, )  
3 LLC confirming that a renewable energy ) Docket No. 19-08 \_\_\_\_\_  
4 facility that delivers energy on a retail basis to )  
5 only one customer is not subject to regulation )  
by the Commission and not subject to the )  
requirements of NRS Chapter 704B. )

6 **PETITION FOR DECLARATORY ORDER**

7 UC Won, LLC, (“Petitioner”) by and through its undersigned counsel, Curt R. Ledford of  
8 the law firm of Davison Van Cleve, P.C., hereby files this Petition for Declaratory Order  
9 (“Petition”) in accordance with Nevada Administrative Code (“NAC”) 703.825, seeking a  
10 declaratory order<sup>1</sup> from the Public Utilities Commission of Nevada (“Commission”) confirming  
11 that a renewable energy facility that delivers energy on a retail basis to only one customer is not  
12 subject to regulation by the Commission and not subject to the requirements of Nevada Revised  
13 Statutes (“NRS”) Chapter 704.

14 **I. LEGAL AUTHORITY**

15 **1. Legal authority for Petition.**

16 NAC 703.825(1) provides that “[a]ny interested person may petition the Commission for a  
17 declaratory order or an advisory opinion as to the applicability of any statutory provision or any  
18 regulation or decision of the Commission.” Pursuant to NAC 703.540(2) and (3), once filed, the  
19 Commission has sixty (60) days within which to set a petition for further proceedings, and once  
20 set for further proceedings, the Commission has one hundred and twenty (120) days to issue a  
21 ruling on the petition.

22 **2. The Commission’s authority to regulate public utilities under Nevada law.**

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25  
26 \_\_\_\_\_  
27 <sup>1</sup> Petitioner respectfully requests that if the Commission deems that an advisory opinion be more appropriate in this  
28 docket, then the Commission consider this Petition as a petition for advisory opinion accordingly.

1 The Commission was created by the Nevada Legislature to supervise and regulate the  
2 operation and maintenance of public utilities in Nevada.<sup>2</sup> As a creature of statute, the Commission  
3 only possesses the authority granted to it by the Legislature.<sup>3</sup> “Public utility” is defined in NRS  
4 704.020 and NRS 704.021. NRS 704.020 states that the Commission “...may supervise, regulate  
5 and control all such utilities, subject to the provisions of this chapter....” Finally, NRS 704.001  
6 confers upon the Commission the power to regulate public utilities to the extent of its jurisdiction.

## 7 **II. DESCRIPTION OF THE RENEWABLE ENERGY PROJECT**

8 Petitioner is in the process of developing a unique and proprietary renewable energy  
9 generation project that uses solar thermal heat to augment geothermal energy production and  
10 output (the “Project”). The only fuel sources that the Project will use to generate electricity are  
11 geothermal energy and solar energy, both of which qualify as renewable energy pursuant to NRS  
12 704.7811. Petitioner intends to sell the energy produced by the Project to exactly one customer  
13 (“Customer”) located outside of the certificated service territory of Sierra Pacific Power Company  
14 (“SPPC”) (the “Proposed Transaction”). Petitioner will supply Customer with all of Customer’s  
15 energy needs from the output of the Project. All electrical infrastructure necessary to connect  
16 Customer to the Project will be provided for by Petitioner, up to a single meter, which will be the  
17 point of demarcation between Customer’s facilities and Petitioner’s. Neither the Project nor the  
18 Customer will be interconnected to the electrical grid of SPPC. The Project will be located on  
19 land owned or legally controlled by Customer. A one-line drawing of the proposed structure is  
20 attached as Confidential Exhibit A.

## 21 **III. ARGUMENT**

### 22 **A. The Project is not a “public utility” pursuant to NRS Chapter 704.**

#### 23 **1. The plurality requirement of “persons” under NRS 704.020(2)(a) ensures** 24 **that the Project is not a public utility under Nevada law.**

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25 <sup>2</sup> NRS 703.150.

26 <sup>3</sup> *Steamboat Canal Co. v. Garson*, 43 Nev. 298; 185 P. 801 (1919).

1 In determining whether a utility facility should be regulated by the Commission, the  
2 Commission must look to NRS 704.020 and NRS 704.021, the state’s statutory definitions of  
3 “public utility,” the relevant portions of which are copied below:

4 **NRS 704.020 “Public utility” or “utility” defined.**

5 1. “Public utility” or “utility” includes:

6 (a) [...]

7 2. “Public utility” or “utility” also includes:

8 (a) Any plant or equipment, or any part of a plant or equipment, within this State for the production,  
9 delivery or furnishing for or to other persons, including private or municipal corporations, heat, gas, coal  
10 slurry, light, power in any form or by any agency, water for business, manufacturing, agricultural or  
11 household use, or sewerage service, whether or not within the limits of municipalities.

12 (b) [...]

13 ↪ The Commission may supervise, regulate and control all such utilities, subject to the provisions of this  
14 chapter and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality,  
15 town or village, unless otherwise provided by law.

16 3. The provisions of this chapter and the term “public utility” apply to all railroads, express companies,  
17 car companies and all associations of persons, whether or not incorporated, that do any business as a common  
18 carrier upon or over any line of railroad within this State.

19 **NRS 704.021 “Public utility” or “utility” further defined.** “Public utility” or “utility” does not  
20 include:

21 [...]

22 10. Persons who for compensation own or operate individual systems which use renewable energy to  
23 generate electricity and sell the electricity generated from those systems to not more than one customer of  
24 the public utility per individual system if each individual system is:

25 (a) Located on the premises of another person;

26 (b) Used to produce not more than 150 percent of that other person’s requirements for electricity on an  
27 annual basis for the premises on which the individual system is located; and

28 (c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or  
use on premises other than the premises on which the individual system is located.

↪ As used in this subsection, “renewable energy” has the meaning ascribed to it in NRS 704.7811.

[...]

Determining what electric facilities fall within the definition of “public utility” requires an  
exercise in statutory interpretation. It is well-established that words in a statute must be given their  
plain meaning unless doing so violates the spirit of the act.<sup>4</sup> Whenever possible, “words will be  
given their ordinary meaning.”<sup>5</sup>

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<sup>4</sup> *Pub. Employees’ Benefits Program v. Las Vegas Metro Police Dep’t*, 124 Nev. 138, 147; 179 P.3d 542 (2008).  
<sup>5</sup> *Dumaine v. State*, 103 Nev. 121, 125, 734 P.2d 1230, 1233 (1987).

1 For purposes of this Petition, Petitioner does not dispute that the Project’s electrical  
2 generating and delivery components are plant or equipment, located in the State of Nevada, used  
3 for the production, delivery, and furnishing, of electric power.<sup>6</sup> But, the Project’s facilities are  
4 used to produce and deliver energy to only one person – Customer. Neither Petitioner nor the  
5 Project will be selling energy to the public<sup>7</sup> or serving any other person in the State.

6 The ordinary meaning of the word “persons” is “more than one person.” Simply put, plural  
7 means plural. The word “persons” cannot describe a single person. Because there is only one  
8 customer in this case, the electrical plant and equipment comprising the Project is not used for the  
9 purpose of serving “persons.” If “persons” are not being served by the Project, then these facilities  
10 do not qualify as a “public utility” under the definition provided in NRS 704.020, which means  
11 that the Legislature has not conferred upon the Commission the ability to regulate them.

12 The Commission has already made the determination that plural means plural. In Docket  
13 05-3002, citing to Staff’s argument that the provision of heat to only one person did not meet the  
14 definition of “public utility,” this Commission held that the such facilities were outside its  
15 jurisdictional purview.<sup>8</sup> Such is also consistent with the Nevada Attorney General’s view. In  
16 1964, the Nevada Attorney General’s Office issued AGO 109, which adopted the plain-meaning  
17 interpretation of this statute and determined that because of the plural used by the Legislature,  
18 electric service to only one customer would not make the electrical equipment in question a “public  
19 utility” under Nevada law.<sup>9</sup>

20 With respect to the Project, the transaction between Petitioner and Customer involves an  
21 arm’s length agreement between two sophisticated parties. Neither Petitioner nor the Project is  
22 offering service to the public, and instead, electric service is provided on a single-case basis to one  
23

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24 <sup>6</sup> NRS 704.020(2)(a).

25 <sup>7</sup> Even though the Project uses geothermal resources to create a portion of the output, the provisions of NRS  
704.669 are not triggered because the Project is not offering geothermal services to the public.

26 <sup>8</sup> Docket No. 05-3002, Order at 2-3 (May 5, 2005.)

27 <sup>9</sup> NOAG Op. 109 (1964).

1 customer. Therefore, since the Proposed Transaction only involves plant and equipment that will  
2 serve only one customer, the definition of public utility provided in NRS 704.020 and NRS  
3 704.021 is not triggered, the public interest would not be affected, and the Commission cannot  
4 regulate the Project under NRS Chapter 704.

5 **2. NRS 702.021(10) also ensures that the Project is not a public utility under**  
6 **Nevada law.**

7 NRS 704.021(10) provides a qualified exemption from the definition of public utility. The  
8 Legislature has concluded that certain types of facilities do not implicate the public interest in a  
9 way that demands regulation thereof, which also simultaneously furthers the State's interest in  
10 developing renewable energy facilities in Nevada.

11 Looking specifically to the requirements of the exemption in NRS 704.021(10) and  
12 comparing these to the proposed Project, all of the requirements are met: (i) Petitioner intends to  
13 provide energy to Customer in exchange for compensation, (ii) the Project will be an individual  
14 system that uses renewable energy exclusively to generate electricity, (iii) Petitioner intends to sell  
15 the electricity generated from the renewable energy facility to exactly one customer; (iv) the  
16 Project will be located on land owned or legally controlled by Customer; (v) the Project will  
17 produce not more than 150% of Customer's requirements for electricity on an annual basis for the  
18 premises in which the Project is located; and (iv) the Project will only serve Customer and is not  
19 part of a larger system that aggregates electricity generated from renewable energy for resale or  
20 use on premises other than the premises on which the individual system is located. All of the  
21 requirements for this exemption are met, and thus the Project is not a "public utility" pursuant to  
22 NRS 704.021(10). Therefore, the Project cannot be regulated by the Commission under NRS  
23 Chapter 704.

24 **3. In the alternative, the Commission can elect to not regulate the Project.**

25 NRS 704.020 specifically states that the Commission "may supervise, regulate and control  
26 all such utilities, subject to the provisions of this chapter...." By this, the Commission has the  
27 discretion to determine whether a facility is a jurisdictional public utility, even if the Commission  
28 determines that the facility meets the "public utility" definition provided in NRS 704.020.



1 Assuming *arguendo* that this Commission decides the Project is a public utility under Nevada law,  
2 the Commission should still find that regulation of the Project is unnecessary.

3 The Commission has in the past determined that operations that may otherwise qualify as  
4 a public utility under NRS 704.020 are not affected with a public interest, and therefore chose not  
5 to exercise jurisdiction over those facilities.<sup>10</sup> Again, this is an arm’s length transaction between  
6 sophisticated parties. There is no nexus or connection to a regulated public utility. The Customer  
7 is choosing to procure its energy from a locally sourced, 100% renewable energy project. All  
8 necessary logistical, practical, environmental, and economic components of this decision have  
9 been considered by both Petitioner and Customer. None of the State’s policy objectives, including  
10 those related to renewable energy and codified in NRS Chapters 701, 701B, and 704, would be  
11 contravened by this transaction. In fact, this Proposed Transaction even exceeds the 50%  
12 renewable portfolio standard requirement set by SB 358,<sup>11</sup> and actually furthers the Legislature’s  
13 stated goal of being 100% green by 2050.<sup>12</sup> It also achieves the policy objective of subsection 10  
14 of NRS 704.021 – allowing the people of this state to procure renewable energy from individual  
15 providers for their own specific needs.

16 For these reasons, if the Commission concludes that the Project is a “public utility” under  
17 NRS 704.020 or that the legislative exemption created by NRS 704.021(10) is not applicable in  
18 this case, the Commission should exercise its subjective authority to *not* regulate the Project.  
19 There is just no compelling reason to do so.

20  
21 **B. The Proposed Transaction does not trigger the provisions of NRS Chapter 704B.**

22 **1. Recent changes to NRS Chapter 704B by SB 547 demonstrate that the**  
23 **Proposed**  
24 **Transaction does not trigger the provisions of NRS Chapter 704B.**

25 <sup>10</sup> See, Docket Nos. 05-3002 and 07-04030.

26 <sup>11</sup> SB 358 (2019).

27 <sup>12</sup> *Id.*

1 NRS Chapter 704B was created in 2001 by the Nevada Legislature in response to the  
2 California energy crisis.<sup>13</sup> In 2019, the Legislature amended its provisions through SB 547, which  
3 was signed by the Governor in June of 2019.<sup>14</sup> While the definition of public utility in NRS  
4 Chapter 704 focuses specifically upon utility plant and equipment,<sup>15</sup> NRS Chapter 704B focuses  
5 upon the energy transaction instead.<sup>16</sup> NRS Chapter 704B creates a program by which a “provider  
6 of new electric resources” may sell to an “eligible customer” energy, capacity or ancillary  
7 services.<sup>17</sup> An eligible customer may not purchase energy, capacity or ancillary services from a  
8 provider of new electric resources unless the transaction has been approved by the Commission.<sup>18</sup>

9 Provider of new electric resources is defined as:

10 **NRS 704B.130 “Provider of new electric resources” and “provider” defined.** “Provider of new  
11 electric resources” and “provider” mean a person who makes energy, capacity or ancillary services from a  
12 new electric resource available to an eligible customer.

13 Before SB 547, eligible customer was defined as:

14 **NRS 704B.080 “Eligible customer” defined.** “Eligible customer” means an end-use customer which is:

- 15 1. A nongovernmental commercial or industrial end-use customer that has an average annual load of 1 megawatt  
16 or more in the service territory of an electric utility.
- 17 2. A governmental entity, including, without limitation, a governmental entity providing educational or health  
18 care services, that:
  - 19 (a) Performs its functions using one or more facilities which are operated under a common budget and common  
20 control; and
  - 21 (b) Has an average annual load of 1 megawatt or more in the service territory of an electric utility.

22 But, the provisions of SB 547 now include a new subsection 4:

- 23 4. A nongovernmental commercial or industrial end-use customer that: (a) was not an end-use  
24 customer of an electric utility at any time before the effective date of this act; and (b) would have an average  
25 annual load of 1 megawatt or more in the service territory of an electric utility.

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26 <sup>13</sup> See, presentation from Senator Brooks in SB 547 (2019), May 23, 2019.  
27 [https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=43882  
&fileDownloadName=SB547\\_Presentation\\_Senator%20Brooks.pdf](https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=43882&fileDownloadName=SB547_Presentation_Senator%20Brooks.pdf)

28 <sup>14</sup> SB 574 (2019).

<sup>15</sup> See, NRS 704.020(2)(a).

<sup>16</sup> The statutory heading for NRS 704B.300-NRS 704B.360, et. seq., is titled “Transactions with Eligible  
Customers.”

<sup>17</sup> NRS 704B.300.

<sup>18</sup> NRS 704B.310(1), as modified by SB 547 (2019.)

1 One could now make the argument that this broad definition in subsection 4 sweeps in any  
2 transaction involving a new non-governmental commercial or industrial end-use customer that has  
3 not yet been a customer of the utility, thereby compelling a 704B.310 application before any  
4 transaction can take place. However, a careful analysis of the law and facts shows that the NRS  
5 Chapter 704B is not relevant to the Proposed Transaction.

6 **2. The Customer is not an “eligible customer” under NRS 704B because it will**  
7 **not be located in the service territory of an electric utility.**

8 Very simply, the Customer is not an eligible customer because it will not be located in  
9 SPPC’s service territory, which is an explicit eligibility requirement under Section 12, subsection  
10 4(b), of SB 547.<sup>19</sup> The Customer will be physically located on property that is directly adjacent to  
11 the Project, and the Project is located outside the service territory of SPPC. Thus, the second test  
12 in subsection 4 in SB 547 is not met, and Customer is not an eligible customer. If Customer is not  
13 an eligible customer under NRS 704B, then the prohibition on sales to eligible customers in NRS  
14 704B.310(1) is never implicated.

15 **3. Determining that 704B is applicable to the Proposed Transaction creates an**  
16 **absurd result.**

17 Even if Customer was located in SPPC’s service territory, the provisions of NRS Chapter  
18 704B are still not triggered by the Proposed Transaction. Nevada law is clear that statutes  
19 involving the same subject matter should be interpreted “harmoniously with one another to avoid  
20 an ... absurd result.”<sup>20</sup> Clearly, the Legislature has intentionally carved-out regulatory exemptions  
21 for on-site renewable generation from the definition of public utility.<sup>21</sup> This gives customers and  
22 energy providers freedom from unnecessary regulation and eliminates barriers to increasing the  
23 State’s renewable resources. Why would the Legislature then simultaneously require that this

24 \_\_\_\_\_  
25 <sup>19</sup> Which, once codified, will become NRS 704.080(4)(b).

26 <sup>20</sup> *Horizons at Seven Hills v. Ikon Holdings*, 132 Nev. Adv. Op. 35, 373 P.3d 66, 70 (2016). *See also, Orr Ditch &*  
*Water Co. v. Justice Court of Reno Twp., WASHOE City.*, 64 Nev. 138, 151; 178 P.2d. 558, 564 (1947) (in accord.)

27 <sup>21</sup> NRS 704.021(10).

1 same renewable energy transaction be regulated under NRS 704B, prohibiting such from  
2 happening without a lengthy regulatory process before the Commission? Such a determination  
3 creates an absurd result.

4 This absurd result is compounded even further when you look at the 1 MW threshold  
5 requirement in the definition of “eligible customer.” If the Commission were to take the view that  
6 Customer is an eligible customer under NRS 704B.080(4), and that the Proposed Transaction thus  
7 requires a 704B.310 application, this could only happen if the Project is over 1 MW in size. If the  
8 Project were under 1 MW, it would explicitly not meet the definition of eligible customer. This  
9 result is arbitrary to say the least, and the Legislature could never have intended this inverse  
10 qualification mechanism. It strangely creates an artificial incentive for a large project owner to  
11 end-around the inverse eligibility requirements by separating the facility into multiple *smaller*  
12 projects that ultimately serve the same customer. This arbitrary and inefficient barrier to  
13 renewable energy development could not have been the Legislature’s intent. Instead, the more  
14 logical conclusion is that the exemption provided by NRS 704.021(10) simply operates to allow  
15 the Project and the Proposed Transaction to occur without triggering the requirements of NRS  
16 704B.

17 Additional support for this conclusion can be found in the language of NRS 704B itself.  
18 Numerous provisions have been put in place to ensure that a customer that chooses to employ  
19 704B does so in a way that does not harm the incumbent utility, its ratepayers, or the public  
20 interest.<sup>22</sup> The Commission’s regulations reflect the same. There are statutory requirements for  
21 the utility to install time of use meters<sup>23</sup> and an eligible customer must offer an additional ten  
22 percent of certain new contracts to an electric utility.<sup>24</sup> And, the statutes impose a duty upon the  
23 electric utility to provide specified services to the departing customer, with the law requiring that:

24 \_\_\_\_\_  
25 <sup>22</sup> See, NRS 704B.310(6)(a), NRS 704B.310(6)(b), and NRS 704B.310(7).

26 <sup>23</sup> NRS 704B.340.

27 <sup>24</sup> NRS 704B.320(2).

1            “[a]n electric utility shall provide all transmission, distribution, metering and other  
2 components of electric service that are necessary for a provider of new electric resources  
3 to sell energy, capacity and ancillary services to an eligible customer pursuant to the  
4 provisions of this chapter. An electric utility shall provide each such component of electric  
5 service pursuant to the tariffs and service agreements filed with and approved by the  
6 appropriate regulatory authorities having jurisdiction over each such component of electric  
7 service.”<sup>25</sup>

8 None of these requirements make any sense when the electric utility is not interconnected to the  
9 Customer or the Project. Under the Proposed Transaction, there are no transmission or distribution  
10 services, the Customer is not a customer of the utility in any way, and there are no utility meters.  
11 The entire structure is separate and distinct from the electric utility, completely detached from any  
12 of the electric utility’s customers, and has no impact upon the grid whatsoever. In short, the  
13 Proposed Transaction has nothing to do with the electric utility. It is clear then to see that the  
14 provisions of NRS 704B do not contemplate this type of service. In fact, every 704B application  
15 that has been approved by this Commission to date had some nexus to an electric utility that was  
16 either serving, or would otherwise be serving, an existing customer of the utility. Such is not the  
17 facts in this case. Customer is not, and will never be, an existing customer of an electric utility.  
18 Therefore, the Commission should conclude that NRS Chapter 704B is not triggered by the  
19 Proposed Transaction.

20            **4. Finding that NRS Chapter 704B is not applicable to the Proposed Transaction**  
21 **accomplishes the Legislature’s intended purpose.**

22            Nevada law states that the court’s primary duty is to always construe a statute so as to  
23 accomplish the Legislature’s purpose.<sup>26</sup> Many times in recent history, the Legislature has stated  
24 that it is a policy of the State of Nevada to expand renewable energy systems throughout the State.  
25 In NRS 701B, the Legislature declares that it is the policy of this State to “[e]stablish a sustainable  
26 and self-sufficient solar renewable energy industry in this State in which solar energy systems are

27 \_\_\_\_\_  
28 <sup>25</sup> NRS 704B.350(1).

<sup>26</sup> *NL Industries v. Eisenman Chemical Co.*, 645 P.2d. 976 (1982).

1 a viable mainstream alternative for homes, businesses and other public entities.”<sup>27</sup> In NRS 704,  
2 the Legislature declares that it is the policy of the state to “[e]ncourage private investment in  
3 renewable energy resources” and “[e]nhance the continued diversification of the energy resources  
4 used in this State.”<sup>28</sup> This year, in SB 358, the Legislature doubled the amount of renewable energy  
5 that the regulated utilities must procure by 2030. Petitioner recognizes that these policy statements  
6 and initiatives were made in concert with specific state-sponsored renewable and infrastructure  
7 incentive programs, net metering programs, and energy sales requirements, but the words and  
8 intent of the Legislature vis-a-vis renewable energy are undeniable, and they cannot be ignored.  
9 This year, the Legislature actually explicitly encouraged exactly what the Project provides – 24  
10 hour, clean renewable energy – which will help reduce carbon emissions to zero by 2050. And  
11 the exemption that is created through the definition of public utility, as described above, offers a  
12 specific exemption that allows the Project to provide that energy directly to its Customer – no  
13 different than what a rooftop solar provider provides to a business or homeowner in this State.  
14 Requiring an unnecessary Chapter 704B process is contrary, and even opposite, to the policy  
15 declarations of the Legislature, and the Commission should determine accordingly.

## 17 5. CONCLUSION

18 For all of these reasons, Petitioner respectfully requests that this Commission issue a  
19 declaratory order confirming that:

- 20 (i) The plurality requirement of “person” in NRS 704.020(2)(a) ensures that the Project  
21 is not a public utility under Nevada law; and
- 22 (ii) NRS 704.021(10) ensures that the Project is not a public utility under Nevada law;  
23 and

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25  
26 <sup>27</sup> NRS 701B.190(2).

<sup>28</sup> NRS 704.766.

- 1 (iii) The Proposed Transaction does not trigger the provisions of NRS Chapter 704B  
2 because the Project and the Customer will both be located outside the service  
3 territory of SPPC; and  
4 (iv) Even if the Project and Customer were located inside the service territory of SPPC,  
5 the provisions of NRS Chapter 704B do not apply, where such a determination would  
6 create an absurd result and be contrary to the Legislature's stated and intended  
7 purposes.  
8

9 Respectfully submitted this 15<sup>th</sup> day of August, 2019.

10  
11 

12 Curt R. Ledford, Esq.  
13 Nevada Bar No. 9101  
14 Davison Van Cleve, P.C.  
15 5795-B Rogers Street  
16 Las Vegas, Nevada 89118  
17 Tel: (503) 241-7242  
18 crl@dvclaw.com

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28 *Of Attorneys for UC Won, LLC*

## EXHIBIT A

Exhibit A is CONFIDENTIAL and will be provided to the Commission under seal pursuant to NAC § 703.5274. Exhibit A has been redacted in its entirety.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing **Petition for Declaratory Order of UC Won, LLC** upon the parties below via electronic mail.

Dated at Portland, Oregon, this 15<sup>th</sup> day of August, 2019.

/s/ Jesse O. Gorsuch  
Jesse O. Gorsuch  
Paralegal

Staff Counsel Division  
Public Utilities Commission of Nevada  
9075 West Diablo Drive, Suite 250  
Las Vegas, NV 89148  
pucn.sc@puc.nv.gov

Tammy Cordova  
Staff Counsel  
Public Utilities Commission of Nevada  
1150 East William St  
Carson City, NV 89701  
tcordova@puc.nv.gov

Attorney General's Office  
Bureau of Consumer Protection  
100 N. Carson St.  
Carson City, NV 89701  
bcpserv@ag.nv.gov