

# NV Energy stands to gain from late add in bill

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NV Energy lobbyists inserted into the Senate's key energy legislation last week a provision that would partially sever the link between energy consumption and the utility's profits — allowing the company to recoup through higher rates any revenue lost to conservation.

Without the last-minute amendment to Senate Bill 358, NV Energy says, it would have to cut back on fast-growing conservation efforts because of the recession and other factors.

The state's consumer advocate, however, says the provision amounts to a bailout of the utility masquerading as environmentalism.

Despite its potential effect on Nevadans' power bills, the amendment was hardly mentioned until the final day of hearings last week, moments before the amended version of SB358 was unanimously approved by the Senate Energy, Infrastructure and Transportation Committee.

Nevada Consumer Advocate Eric Witkowski, busy trying to fend off a 17 percent increase in electricity rates for households at hearings in Las Vegas, learned this month that the proposal had been inserted in the bill with the primary aim of nurturing a renewable energy industry in the state.

There was no time to provide analysis or mount a defense.

Containing his frustration, Witkowski offered a bit of understatement. "I'm a little concerned about it," he told the committee last week.

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In the 1970s, California became the first state to sever the link between energy consumption and utility profits. "Decoupling," as the shift in the rate structure is known, has since been adopted by many other states.

Environmentalists consider it an important policy to encourage energy savings, which they argue is the best way to curb the production of greenhouse gases and promote energy independence.

Although decoupling leads to rate increases, ratepayers can use programs funded by the utility to curb their energy use and keep monthly bills the same or lower, said Greg Kern, NV Energy's

director of energy efficiency. Without such rate hikes, it is increasingly difficult to persuade executives at NV Energy to support conservation because it hurts profits, he said.

Observers say NV Energy's enthusiasm for decoupling is a U-turn from the recent years of rapid growth in Southern Nevada, when the utility set about building more energy generation facilities. With population soaring, the utility wasn't worried about decreasing energy consumption from conservation.

"Growth used to pay for an awful lot of things," Kern said. "We're hoping we can set something up so the utility can continue to aggressively fund energy efficiency programs for consumers."

Kern said NV Energy was also motivated to seek the rate structure change by an increase in spending on conservation efforts compared with past years and less frequent rate hearings than in the past.

But Witkowski, who works for the Attorney General's Consumer Protection Bureau, is concerned that if decoupling is adopted, it will be nearly impossible to determine whether energy savings come from utility-driven efforts or other factors, including home foreclosures, efforts by business to save money during the recession and lower hotel occupancy. The rate increase, set to take effect this fall, will likely to drive down energy use "naturally" by prompting some people to use less electricity so their bills don't skyrocket, he said.

Public Utilities Commissioner Jo-Anne Kelly told lawmakers that sophisticated measuring tools can distinguish between declines in consumption based on conservation and those caused by other factors.

Kern and other utility officials insist they'll earn back only the savings they create through conservation programs.

Tim Hay, a former state consumer advocate and former public utilities commissioner, questioned the timing of the proposal, coming as power use is falling.

"No one in the country has introduced decoupling when there's flat load growth," he said. "It's just a pure giveaway to the utility."

When Hay was on the Public Utilities Commission, the commission studied the best way to promote conservation, he said. The commission decided it would be more effective and better for ratepayers to use methods other than decoupling.

The commission passed a rule a few years ago that allowed the utility to make a 15 percent profit on all of its energy conservation efforts — 5 percentage points more than it makes on other investments. The Legislature also passed a rule allowing the utility to use credit for savings from energy efficiency to fulfill part of its renewable energy requirements.

The plans worked. NV Energy invested heavily in conservation, including rebates for energy-saving light bulbs and energy-efficient appliances, as well as auditing services and other efforts.

Last year, the utility spent \$60 million on energy conservation, \$45 million of that in Southern Nevada.

At the same time, per capita electrical consumption began dropping, although it has remained higher than in other Western states. (One reason is that we have so many visitors.)

Hay said NV Energy has become one of the best large utilities in the country at promoting conservation, so decoupling isn't needed from a conservation standpoint.

"I think they're panicked about protecting shareholders," Hay said. "This is a way that cosmetically it looks like you're doing something proactive to save energy, but really you're just bailing out shareholders. The load forecasts they made were way, way excessive, but that's a risk shareholders should bear."

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Senate Majority Leader Steven Horsford coordinated the compromise energy bill.

At first he rejected calls from the utility to include decoupling, according to people involved in the discussions.

When Horsford introduced the first version of an amended SB358 before the committee at the end of last month, it included several requirements for rooftop solar, which the utility fiercely opposed.

According to people involved, Horsford told solar industry representatives after that hearing to negotiate with the utility outside his office and come up with a proposal. The conversations were tense, said Rose McKinney-James, a lobbyist for a consortium of photovoltaic solar companies.

Solar lobbyists agreed to rework the solar provision, and to add a version of decoupling that was very favorable to the utility.

"We attempted to craft something that would be amenable to both parties," McKinney-James said. "We didn't get exactly what we wanted. I'm calling this progress and success."

Witkowski had been involved months ago in conversations about SB358. But he wasn't around during those negotiations between the utility and the solar industry, he said. Witkowski was in Las Vegas at the rate hearing before the Public Utilities Commission on NV Energy's pending electricity rate increase.

Kyle Davis, who coordinates legislative strategy for a number of state environmental groups, said he supports studying decoupling, as called for in the original SB358.

"Anything we can do to dissociate the profit motive from saving energy, to keep it where they're not trying to sell more energy for profit, that's good," Davis said. "But there are a number of

different ways to do it and it's all in the details. I don't think we have enough information right now to go forward. We need to think about it a little bit."

But Stephen Wiel, the Nevada representative for the Southwest Energy Efficiency Project, said implementing some form of decoupling now will help keep energy use in check once growth picks up again in Las Vegas. He also worries that NV Energy will decrease its investments in energy efficiency during the recession if it doesn't have some way to make up the loss in revenue.

"The people who are arguing against this are really arguing that we don't want to do anything that can increase rates now, even if it saves customers a whole lot of money in the future," Wiel said. "It can be very shortsighted."

Witkowski is worried the utility will ask for another huge rate increase in a few years because it has plans to spend money on several large projects that will cost more than \$1 billion.

NV Energy officials said they don't expect energy conservation to affect those plans.

"You keep building power plants and power lines and then you spend \$60 million on conservation and earn back money from that as well, and then the economy starts to slow down and instead of changing strategy you just get back the loss sales from energy conservation," Witkowski said. "It's a sweetheart deal."