

STATE OF NEVADA
 PUBLIC UTILITIES COMMISSION OF NEVADA
 9075 W. Diablo Drive
 Suite 250
 Las Vegas, Nevada 89148-7674

LV02397

RECEIPT

RECEIVED FROM:

Date 7/28/2014

Lionel Sawyer & Collins
 Attorneys at Law
 300 S. Fourth Street, Suite 1700
 Las Vegas, NV 89101

AMOUNT: \$ 50 00

Fifty dollars AND zero /100 DOLLARS

How Paid:	Cash	Check <u>X 120183</u>	Money Order	Draft
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Type of Receipt	Filing Fee <u>X</u>	TDD	Copy Service	RAIL	Mill Assessment	Other
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Account	Paid in Full <u>X</u>	On Account
Amount of Account	\$ <u>50</u> <u>00</u>	
Account Paid	\$ <u>50</u> <u>00</u>	
Balance Due	\$	<u>0</u>

MEMO

New Filing

Received by Joseph Bryant

LIONEL SAWYER & COLLINS

ATTORNEYS AT LAW
300 SOUTH FOURTH STREET, SUITE 1700
LAS VEGAS, NEVADA 89101

July 28, 2014

WRITER'S DIRECT DIAL NUMBER
(702) 383-8970
LBULLEN@LIONELSAWYER.COM

Via Hand Delivery to PUCN Las Vegas Office

Ms. Breanne Potter
Assistant Commission Secretary
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701-3109

Re: Petition of Moapa Solar, LLC for Declaratory Order that the Moapa Solar Energy Center on Tribal Land is not Subject to the Utility Environmental Protection Act;
Docket No. 14-07 _____

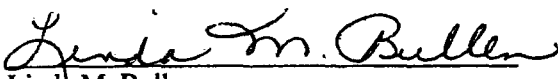
Dear Ms. Potter:

Enclosed for filing, please find the Petition of Moapa Solar, LLC ("Moapa Solar") for Declaratory Order that the Moapa Solar Energy Center on Tribal Land is not Subject to the Utility Environmental Protection Act ("UEPA") (the "Petition"). The documents comprising the Petition are:

1. Petition;
2. Draft notice; and
3. \$50.00 filing fee.

If you have any questions about this filing, please do not hesitate to contact me directly at (702) 383-8970.

Best Regards,

By: 
Linda M. Bullen
Lionel Sawyer & Collins
Attorneys for Moapa Solar, LLC

Encl.: Petition
Draft notice
\$50.00 filing fee

RECEIVED
PUBLIC UTILITIES COMMISSION
OF NEVADA LAS VEGAS
14 JUL 28 PM 3:44

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

2 Petition Of Moapa Solar, LLC For A Declaratory Order)
3 That The Moapa Solar Energy Center On Tribal Land Is) Docket No. 14-07 ____
4 Not Subject To The Utility Environmental Protection Act)
_____)

5 **PETITION FOR A DECLARATORY ORDER**

6 In accordance with Nevada Administrative Code ("NAC") Sections 703.540 and 703.825,
7 Moapa Solar, LLC ("Moapa Solar" or "Petitioner") hereby submits to the Public Utilities
8 Commission of Nevada (the "Commission") this Petition for a Declaratory Order ("Petition").
9 Moapa Solar requests that the Commission issue a declaratory order finding that the solar field
10 and associated facilities located on Moapa Band of Paiute tribal lands are not subject to the
11 Utility Environmental Protection Act ("UEPA"), NRS 704.870 et seq.

12 This Petition is brought pursuant to NAC § 703.825(1). In support of the Petition, Moapa
13 Solar states the following:

14 **I. Introduction**

15 Moapa Solar is a wholly owned subsidiary of RES Americas Developments Inc. RES
16 Americas Developments Inc. is a wholly owned subsidiary of Renewable Energy Systems
17 Americas, Inc. Moapa Solar was formed for the purpose of developing, owning and operating a
18 solar facility on the Moapa River Indian Reservation (the "Reservation") and its principal place
19 of business, mailing address and telephone number are: 11101 West 120th Avenue, Suite 400,
20 Broomfield, Colorado 80021; (303) 439-4200.

21 All correspondence related to this Petition should be sent to the undersigned counsel:

22
23 Linda M. Bullen
24 Lionel Sawyer & Collins
25 300 South Fourth Street, Suite 1700
26 Las Vegas, NV 89101
27 Phone: (702) 383-8970
28 Fax: (702) 383-8845
lbullen@lionelsawyer.com

1 **II. Legal Authority**

2 Moapa Solar has entered an agreement to lease tribally-owned land for up to fifty-four
3 years on the Reservation for the purpose of constructing, operating and maintaining the Moapa
4 Solar Energy Center ("Center"), a photovoltaic solar power generation facility of up to 200
5 megawatts ("MW") and associated infrastructure. Transmission lines connecting the Center to
6 the electric grid and an access road cross Federal land administered by the U.S. Bureau of Land
7 Management ("BLM").

8 NAC § 703.825(1) provides that "[a]ny interested person may petition the Commission
9 for a declaratory order or an advisory opinion as to the applicability of any statutory provision or
10 any regulation or decision of the Commission." This Petition requests a declaratory order
11 holding that the solar field and associated facilities located on Moapa Paiute tribal lands is not
12 subject to UEPA.¹ This project will be constructed on the Reservation, home to the federally
13 recognized Moapa Band of Paiute Indians (the "Moapa"). *See* Fed. Reg., Vol. 79, No. 19,
14 January 29, 2014, at 4750.

15 **III. Discussion**

16 The solar facility falls within UEPA's general definition of a utility facility because it is a
17 renewable energy facility whose energy output exceeds 70 MW. The portion of the Center
18 located on tribal land is not, however, subject to jurisdiction of the Commission under UEPA
19 because it is subject to exclusive federal and tribal jurisdiction based on the following: (1)
20 **federal preemption:** the BIA, the federal agency acting as fiduciary for the Moapa, has
21 exclusive jurisdiction over the Center as a tenant on tribal land under a federal lease; (2)
22 **infringement on tribal jurisdiction:** Commission jurisdiction over the Center would infringe
23 upon the Moapa's inherent jurisdiction to regulate affairs on tribal lands; and (3) **no compelling**
24 **state interest:** as confirmed by UEPA's exemption of facilities under federal jurisdiction, there
25 is no compelling state interest in the Center that is not addressed or preempted by federal and
26 tribal regulation.

27 _____
28 ¹ The transmission line and access road located on Federally-owned, BLM-administered
land are indisputably subject to UEPA. *See* Docket Number 12-08023.

1 When determining whether a state regulatory authority may exercise jurisdiction over
2 non-tribal enterprises on tribal lands, the courts follow the Supreme Court decision in *Williams v.*
3 *Lee*, 358 U.S. 217 (1959). In *Williams*, the Supreme Court established a two-part test comprised
4 of factors one and two, above. The first factor asks whether the exercise of Commission
5 authority over the Center is preempted by federal law. The second factor asks whether the
6 exercise of Commission authority unlawfully infringes on the right of the Moapa to make its own
7 laws and be ruled by them. *Williams*, 358 U.S. at 220. As stated in the leading Indian law
8 treatise, “[s]tate jurisdiction over nonmembers on fee land [owned by non-Indians within a
9 reservation] is constrained both by tribal rights to regulate nonmembers in order to protect core
10 tribal government interests and by federal preemption of state authority.” Cohen's Handbook of
11 Federal Indian Law § 10.02 (2012). These constraints apply even more forcefully on tribally
12 owned land. *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 10 (1987).

13 Additionally, regulation of the Center does not present the type of compelling state
14 interests required to overcome the presumption of tribal jurisdiction over facilities on tribal lands.
15 See *Grand Canyon Skywalk Development, LLC v. 'Sa' Nyu Wa Inc.*, 715 F.3d 1196, 1205 (9th
16 Cir. 2013) (holding that the location of a corporation on tribal land is sufficient to confer tribal
17 jurisdiction since “there are no obvious state interests at play”). Courts grant a presumption of
18 tribal jurisdiction over activities on tribal lands unless a compelling state interest is at stake. See
19 *Iowa Mut. Ins. Co.*, 480 U.S. at 10 (holding that civil jurisdiction over the activities of non-
20 Indians on reservation lands presumptively lies with the tribe); *Water Wheel Camp Recreation*
21 *Area v. LaRance*, 642 F.3d 802, 814-816 (9th Cir. 2011) (dismissing the few exceptions to tribal
22 jurisdiction over non-tribal members operating on tribal lands as inapplicable to tribal regulation
23 of a commercial operation on the reservation). UEPA’s exemption of federally regulated
24 facilities supports the concept that there are no compelling state interests in regulating utility
25 facilities on Moapa lands. NRS § 704.865(3)(c).

1 **Factor 1. Federal Preemption: BIA oversight of the affairs of the federally recognized**
2 **Moapa constitutes exclusive federal jurisdiction over the Center**

3 Commission regulation of the Center would conflict with “the *purpose or operation* of a
4 federal statute, regulation, or policy.” *Crow Tribe of Indians v. State of Mont.*, 819 F.2d 895, 898
5 (9th Cir. 1987) *aff’d sub nom. Montana v. Crow Tribe of Indians*, 484 U.S. 997 (1988) (citations
6 omitted; emphasis in original). The Moapa are a federally recognized Indian Tribe under section
7 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of
8 June 15, 1935 (49 Stat. 378). The Moapa operate pursuant to a Constitution that was approved
9 on April 17, 1942. One purpose of the Constitution is to allow the Moapa to exercise rights of
10 home rule to the fullest extent possible. Article III of the Constitution establishes the Business
11 Council as the governing body of the tribe. Article V provides the Business Council with the
12 power to manage all economic affairs and enterprises on the reservation and to promulgate and
13 enforce ordinances that provide for the manner of making, holding, and revoking assignments of
14 tribal lands or interests therein and that provide for the licensing of nonmembers on the
15 reservation for business.

16 Moapa Solar is the tenant of the Moapa pursuant to a ground lease agreement entered into
17 between the parties dated April 28, 2014 for the purpose of constructing solar power facilities on
18 tribally owned lands within the reservation boundary to support and further the Moapa's
19 economic interests. The Ground Lease was approved by the BIA on June 11, 2014 pursuant to 25
20 U.S.C. § 415(a) and 25 C.F.R. Part 162, subpart E. The Department of the Interior Secretarial
21 Order 3285A1 has prioritized the development of environmentally responsible renewable energy
22 on lands under its jurisdiction.

23 Through the oversight of the BIA and under the National Environmental Policy Act at 42
24 U.S.C. § 4321 et seq. (“NEPA”) and its implementing regulations at 40 C.F.R. Part 1500, the
25 environmental effects from construction of the Center have been thoroughly analyzed. The BIA
26 issued a final EIS (“FEIS”) dated February 2014 which was approved pursuant to a BIA Record
27 of Decision (“ROD”) dated May 2014. The BIA’s ROD, Section 6, provides 21 pages of
28 mitigation measures for the solar project covering soils, water quality and quantity, air quality,

1 biological resources, cultural resources, transportation issues, and public health and safety. As
2 stated at section 6.8 of the ROD, "All mitigation measures discussed and recommended by state
3 and Federal agencies were adopted for this Project." The significant tribal and federal interests
4 involved in Center are subject to federal statutes, policies, and regulations that preclude
5 overlapping state jurisdiction.

6 **Factor 2. Infringement on Tribal Jurisdiction: Commission jurisdiction over the Center**
7 **would infringe upon the Moapa's inherent jurisdiction to regulate affairs on**
8 **tribal lands**

9 Assertion of Commission jurisdiction over the Center would impact the Moapa's regulatory
10 jurisdiction, which is based on the tribe's inherent power to exclude parties from its reservation
11 and the associated jurisdiction to regulate their conduct if it chooses to permit them on the
12 reservation. *See Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 144 (1982) (noting that the
13 power to exclude "necessarily includes the lesser power to place conditions on entry, on
14 continued presence, or on reservation conduct"); *South Dakota v. Bournland*, 508 U.S. 679, 691
15 n.11 (1993) ("Regulatory authority goes hand in hand with the power to exclude."); *see also*
16 *Montana v. U. S.*, 450 U.S. 544, 557 (1981) (recognizing a tribe's inherent authority to condition
17 the entry of non-Indians on tribal land through regulations); *Water Wheel*, 642 F.3d at 811-12
18 (finding tribal jurisdiction over a non-tribal member's corporation based on its location on tribal
19 land). As explained by the Ninth Circuit Court of Appeals:

20 where the non-Indian activity in question occurred on tribal land, the
21 activity interfered directly with the tribe's inherent powers to exclude
22 and manage its own lands, and there are no competing state interests
23 at play, the tribe's status as landowner is enough to support regulatory
24 jurisdiction . . . Finding otherwise would contradict Supreme Court
precedent establishing that land ownership may sometimes be
dispositive and would improperly limit tribal sovereignty without
clear direction from Congress. . . .

25 *Water Wheel*, 642 F.3d at 814.

26 The Moapa enjoy the presumption under federal Indian law that state jurisdiction does not
27 apply to the reservation. *See, e.g., Three Affiliated Tribes of the Fort Berthold Reservation v.*
28 *Wold Engineering, P.C.*, 476 U.S. 877, 884, 893 (1986). This strong presumption in favor of

1 preemption is well-illustrated in several Supreme Court cases. In *Ramah Navajo School Board,*
2 *Inc. v. Bureau of Revenue*, 458 U.S. 832, 836-847 (1982), the court held that federal policy and
3 law preempted the State of New Mexico from taxing a non-Indian company's gross receipts for
4 the construction of a tribal school on an Indian reservation pursuant to a contract with the Tribe.
5 Similarly, in *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 333-344 (1983), the court
6 considered the asserted overlapping interests of tribal, state, and federal agencies and ruled that
7 the existing federal regulatory scheme preempted application of state hunting and fishing laws to
8 the reservation. *See also Crow Tribe*, 819 F.2d at 900; *Grand Canyon Skywalk*, 715 F.3d at 1205
9 (holding that the status of the land in question as tribal land is sufficient to confer tribal
10 jurisdiction since "there are no obvious state interests at play").

11 For its part, the Moapa had in place or have issued ordinances and resolutions pursuant to
12 the authority granted by its Constitution to regulate the Center. These ordinances and resolutions
13 address tribal employment rights, desert tortoise management and conservation, tribal sales and
14 use taxes, project financing, related commercial transactions, and a request for BIA approval of
15 specific lease terms regarding compensation, term, performance bonds, letters of credit,
16 decommissioning, security, and insurance that will support the tribe's interest in a stable and
17 productive facility. The Moapa Business Council has a specific constitutional right to manage
18 enterprises established through leases to nonmembers on the reservation. Moapa Constitution,
19 Art. V; *see also Montana*, 450 U.S. at 566.

20 Federal laws support the Moapa's right to exercise home rule including the Indian Long-
21 Term Leasing Act, 26 U.S.C. § 415(a) and the 25 C.F.R. Part 162 regulations flowing from that
22 statute. Also applicable is the Indian Right-of-Way Act of 1948, 25 U.S.C. § 323, and its
23 implementing regulations at 25 C.F.R. Part 169.

24 **Factor 3. No Compelling State Interest: Federal and tribal regulations adequately cover**
25 **state interests as recognized through the UEPA exclusion of jurisdiction over**
26 **facilities that are federally regulated**

27 When determining jurisdiction on tribal lands, unless explicitly granted by Congress or
28 based upon a compelling state interest, a tribe's power to regulate on tribal lands will exclude

1 state regulation. *See Grand Canyon Skywalk*, 715 F.3d at 1205. There are very few cases since
2 its *Montana* decision in which the Supreme Court has found a compelling state interest to
3 supersede tribal regulation of non-tribal members on tribal land. *See Water Wheel*, 642 F.3d at
4 814-816 (discussing how specific exceptions to tribal regulatory authority do not limit tribal
5 jurisdiction over a non-tribal corporation operating on tribal lands).

6 In the case of the Center, the state interests in electric transmission lines and associated
7 facilities are addressed through federal and tribal regulation of the facility. UEPA is intended to
8 “provide a forum for the expeditious resolution of all matters concerning the location and
9 construction of electric . . . transmission lines and associated facilities.” NRS § 704.825(2).
10 Through the FEIS the BIA, as fiduciary for the tribe, thoroughly considered matters related to the
11 location and construction of the facility, including environmental effects and values. *C.f.* NRS
12 §§ 704.835(1)(b) and 825(1)(c) (outlining UEPA requirements to protect environmental values
13 and minimize adverse environmental effects when siting new utility facilities).

14 UEPA recognizes there is no compelling state interest in utility facilities under the
15 exclusive jurisdiction of the federal government, such as the Center. UEPA sets a standard that
16 comports with the findings of federal Indian law as outlined in the previous sections. The
17 Commission should not assert jurisdiction over any utility facility “over which an agency of the
18 Federal Government has exclusive jurisdiction.” NRS § 704.865(3)(c). The combination of
19 federal jurisdiction over the Center, the presumption of Moapa regulatory authority over a
20 facility on tribal lands, and UEPA’s explicit disclaimer of a state interest in regulating a federally
21 regulated facility proscribe the Commission’s jurisdiction over the Center.

22 Inherent tribal sovereignty and cooperative efforts with the Federal Government to create
23 tribal regulatory structures allow the Moapa to govern their reservation's environment,
24 commerce, natural resources, gaming and other matters, except where federal law dictates
25 otherwise. When tribes exercise their sovereignty and conducting business and development
26 under tribal/federal governance structures, courts routinely hold that state laws relating to hunting
27 and fishing, gaming, electric utility, oil and gas, and other areas do not apply to tribal reservation
28 land. *See, e.g., New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983) (holding that

1 "concurrent" state/tribal governance over natural resources would unjustifiably interfere with
2 Congress' commitment to encourage tribal self-sufficiency and tribe's rights to regulate
3 reservation resources); *North Dakota Public Service Comm'n, supra* (permitting co-op to sell
4 electricity to reservation tribe without need for certificate of convenience and necessity);
5 *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987) ("State's interest in
6 preventing the infiltration of the tribal bingo enterprises by organized crime does not justify state
7 regulation of the tribal bingo enterprises in light of the compelling federal and tribal interests
8 supporting them."). Here, the Moapa's federally recognized and protected sovereignty, which
9 allows the tribe to make its own laws and be ruled by them, remains intact. *See White Mountain*
10 *Apache Tribe v. Bracker*, 448 U.S. 136 (1980). In addition, the Federal Government's programs
11 related to the solar facility development, executed by the BIA, BLM and other federal agencies,
12 demonstrate clear intent to protect tribal self-governance and tribal resources, and, pursuant to
13 NRS 704.865(3)(c), Nevada cannot exercise jurisdiction on a subject "[o]ver which an agency of
14 the Federal Government has exclusive jurisdiction."

15 The absence of state regulatory authority over non-tribally owned and operated facilities
16 on tribal land is evidenced in the approach of the State of Arizona with regard to energy facilities
17 operating on tribal lands within the state. The Navajo Generating Station is a 2250 MW power
18 plant located on the Navajo Indian Reservation near Page, Arizona. The Navajo lease the land
19 on which the power plant is located to non-tribal members, but have no ownership interest in the
20 plant itself, which is owned by the U.S. Bureau of Reclamation (24.3% interest), Salt River
21 Project (21.7% interest), Los Angeles Dept. of Water and Power (21.2% interest), Arizona Public
22 Service (14.0% interest), NV Energy (11.3% interest), and Tucson Electric Power (7.5%
23 interest). Even though the Navajo Nation does not own the Navajo Generating Station, the plant
24 has been exempted from state environmental regulation by the Arizona Department of
25 Environmental Quality because it is located on tribal lands. *See Declaration of Phillip C.*
26 *Thompson, Esq. attached here as Exhibit 1.* The power plant is subject only to Federal
27 environmental regulation, notwithstanding the makeup of its ownership.

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Exhibit 1
Declaration of Phillip C. Thompson

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DECLARATION OF PHILLIP C. THOMPSON

PHILLIP C. THOMPSON declares as follows:

1. I am an attorney with Lionel Sawyer & Collins ("LS&C"), counsel for Moapa Solar, LLC. I have personal knowledge of the facts stated here except those stated on information and belief, and, as to those facts, I believe them to be true.

2. On July 18, 2014, I had a telephone conversation with Ian Bingham, Tribal Liaison on Environmental Quality for the Arizona Department of Environmental Quality.

3. Mr. Bingham informed me during that conversation that the Navajo Generating Station on the Navajo Indian Reservation near Page, Arizona, does not operate under any permits issued by the Arizona Department of Environmental Quality. He further informed me that the reason the Navajo Generating Station is not required to have such permits is because it is located on sovereign land which is not subject to regulation by the Arizona Department of Environmental Quality.

4. Mr. Bingham further informed me that the same is true of South Point Energy Center located in the Fort Mojave Indian Reservation in Mohave Valley, Arizona. The plant does not operate under any permits issued by the Arizona Department of Environmental Quality. It is exempt from regulation by the Arizona Department of Environmental Quality because it is operated on sovereign land.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 28, 2014.


PHILLIP C. THOMPSON

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Lionel Sawyer & Collins and on the 28th day of July, 2014, I caused to be served a true and correct copy of the **PETITION FOR A DECLARATORY ORDER THAT THE MOAPA SOLAR ENERGY CENTER ON TRIBAL LAND IS NOT SUBJECT TO THE UTILITY ENVIRONMENTAL PROTECTION ACT** by U.S. Mail or as indicated below to the following parties:

Via Electronic Mail and U.S. Mail to:

Staff Counsel Support
Public Utilities Commission of Nevada
1150 E. William Street
Carson City, Nevada 89701-3109
pucn.sc@puc.nv.gov

Via Electronic Mail to:

Jordan Pinjuv, Assistant Staff Counsel
Public Utilities Commission of Nevada
9075 W. Diablo Drive, Suite 250
Las Vegas, Nevada 89148
jpjuv@puc.nv.gov

Via Hand Delivery to:

Ms. Tammy Cordova, Staff Counsel
Public Utilities Commission of Nevada
9075 W. Diablo Drive, Suite 250
Las Vegas, Nevada 89148

Via Electronic Mail to:

Christopher A. Hilen
Associate General Counsel
NV Energy
6100 Neil Road
Reno, NV 89511
chilen@NVEnergy.com

Via U.S. Mail to:

Attn: Mr. Eric Witkoski
Office of the Attorney General
Bureau of Consumer Protection
100 North Carson Street
Carson City, Nevada 89701-4717

Via U.S. Mail to:

Attn: Leo Drozdoff
Nevada Department of Conservation and
Natural Resources
901 South Stewart Street, Suite 1003
Carson City, Nevada 89701

Via U.S. Mail to:

Attn: Breanna Potter
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 8971-3109

DATED this 28th day of July, 2014.


Patty Gonzalez

**PUBLIC UTILITIES COMMISSION OF NEVADA
DRAFT NOTICE
(Applications, Tariff Filings, Complaints, and Petitions)**

Pursuant to Nevada Administrative Code ("NAC") 703.162, the Commission requires that a draft notice be included with all applications, tariff filings, complaints and petitions. Please complete and include **ONE COPY** of this form with your filing. (Completion of this form may require the use of more than one page.)

A title that generally describes the relief requested (see NAC 703.160(4)(a)):

Petition of Moapa Solar, LLC for a Declaratory Order that the Moapa Solar Energy Center on Tribal Land is not Subject to the Utility Environmental Protection Act (the "Petition")

The name of the applicant, complainant, petitioner or the name of the agent for the applicant, complainant or petitioner (see NAC 703.160(4)(b)):

**The petitioner is Moapa Solar, LLC ("Moapa Solar").
Linda M. Bullen of Lionel Sawyer & Collins is legal counsel for the petitioner.**

A brief description of the purpose of the filing or proceeding, including, without limitation, a clear and concise introductory statement that summarizes the relief requested or the type of proceeding scheduled **AND** the effect of the relief or proceeding upon consumers (see NAC 703.160(4)(c)):

Pursuant to the Petition, Moapa Solar respectfully requests that the Public Utilities Commission of Nevada issue a declaratory order finding that the solar field and associated facilities located on Moapa Paiute tribal lands are not subject to the Utility Environmental Protection Act, NRS 704.870 et seq.

A statement indicating whether a consumer session is required to be held pursuant to Nevada Revised Statute ("NRS") 704.069(1)¹:

A consumer session is not required.

If the draft notice pertains to a tariff filing, please include the tariff number **AND** the section number(s) or schedule number(s) being revised.

The draft notice does not pertain to a tariff filing.

¹ NRS 704.069 states in pertinent part:

1. The Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110 inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale or an application to clear its deferred accounts; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.