



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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Carson City, Nevada 89701-4717

ADAM PAUL LAXALT
Attorney General

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Chief of Staff

December 11, 2015

Via First Class Mail

Fred Voltz
1805 North Carson Street, #231
Carson City, Nevada 89701

Re: Open Meeting Law Complaint No. 13897-158, Public Utilities Commission

Dear Mr. Voltz;

The Attorney General's Office (AGO) has investigated your Open Meeting Law (OML) complaint that alleges the Public Utilities Commission of Nevada (PUCN) violated the OML because its hiring process for a new executive director was opaque and closed to the rate-paying public, which you allege violates both the letter and spirit of the OML. The complaint also alleges that Counsel Lina Tanner's response to your request for "Freedom of Information Act" (FOIA) documents violated the Nevada's Public Records Act; however, the AGO has no enforcement jurisdiction over the Public Records Act. NRS chapter 239.

The complaint's allegation regarding violation of OML notice and posting requirements (attachments 8 and 9) is stated incorrectly. Agendas must be posted before 9:00 a.m. of the third working day before the public meeting, but this rule does not apply to supporting materials, nor to the applicant's résumé.

The complaint states concern about the opaque nature of the search committee and its composition of "high level" PUCN employees. It is illustrated with a list of six "unanswered questions," but the issues raised in the list of questions is outside the jurisdiction of the AGO's enforcement power. The general public was given two periods of public comment during PUCN's July 22, 2015 public meeting. Two periods of public comment is the minimum number of comment periods allowed under the OML. The OML does not require more than two periods of public comment or that the public be given time to ask questions of the candidates at any time during a public meeting.

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This office has jurisdiction to investigate OML complaints and seek civil remedies against public bodies including injunctive relief to require compliance with the OML, or to prevent violation(s) of the OML. A criminal misdemeanor penalty and a monetary penalty are also authorized relief against individuals in any court of competent jurisdiction. NRS 241.037; NRS 241.040.

After review and investigation we find no OML violation based on the PUCN's "public hiring process." The Nevada Legislature sets the parameters for public participation for all public bodies. The complaint alleges that PUCN's allowance for public input and participation is illegal. The AGO's investigation and review finds that it is in compliance.

This complaint does not state a cognizable violation of the OML. We are closing our file on this complaint.

Sincerely,
ADAM PAUL LAXALT
Attorney General

By:


GEORGE H. TAYLOR
Senior Deputy Attorney General
Bureau of Government Affairs
Open Meeting Law

Cc: Carolyn Tanner, Esq.
Alaina C. Burtenshaw, Chairman
Rebecca Wagner, Commissioner
David Noble, Commissioner