

IN THE SUPREME COURT OF NEVADA

NO SOLAR TAX PAC, a Nevada
political action committee,

Appellant,

vs.

CITIZENS FOR SOLAR AND
ENERGY FAIRNESS, a Nevada
political action committee; and,
THE HONORABLE BARBARA K.
CEGAVSKE, in her official capacity as
Secretary of State of the State of Nevada,

Respondents.

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Tracie K. Lindeman
Clerk of Supreme Court

CASE NO. 70146

First Judicial Dist. Ct. 16 OC 00030 1B

APPELLANT’S MOTION TO EXPEDITE

Appellant No Solar Tax PAC respectfully requests this Court to expedite the resolution of this ballot question case so that it could be resolved before the deadline to print and mail ballots for overseas and military voters, which is approximately August 26, 2016.

I. Facts and Procedural History

On January 25, 2016, Appellant No Solar Tax PAC (“Solar”) filed a referendum petition with the Secretary of State seeking to repeal part of Statutes of Nevada, Chapter 379 (2015) that relate to net metering systems. Joint Appendix (“JA”) 8. Specifically, the Referendum seeks to repeal the part of Chapter 379 that authorized the Nevada Public Utilities Commission to impose new rates and

charges on net metering customers that are different from the rates and charges imposed on other members of the same rate class. JA 8-13.

On February 16, 2016, the Citizens for Solar and Energy Fairness (“CSEF”), filed its Complaint for Declaratory and Injunctive Relief pursuant to NRS 295.009 and NRS 295.061. JA 1. Also on February 16, 2016, CSEF filed its opening brief in support of its Complaint. JA 19.

On March 2, 2016, Solar filed its Answer and Answering Brief. JA 37, 43. On March 4, 2016, the Secretary of State filed her Answer. JA 59. On March 9, 2016, CSEF filed its Reply Brief. JA 65.

The matter could not be set for hearing before the district court until March 28, 2016. On that date, the district court heard arguments from counsel for all parties. JA 177-225.

After hearing arguments, the district court ruled that the Referendum was more properly characterized as an initiative petition instead of a referendum. JA 45-46. The district court found that the Referendum “proposes a substantial change to the law and not a yay or nay vote on a statute or part thereof.” JA 227. The district court held: “The subject Referendum Petition is not a referendum as provided for in Article 19, Section 1 of the Nevada Constitution, but is actually an attempt to amend the statute which requires an initiative pursuant to Article 19, Section 2 of the Nevada Constitution.” *Id.*

Based on this holding, the district court granted CSEF declaratory and injunctive relief on its first claim and enjoined the Secretary of State from placing the Referendum on the ballot. JA 227. However, the district court stayed the injunction pending appeal so that signatures could be gathered and verified to determine if the Referendum qualifies for the ballot. *Id.*

On June 21, 2016, Appellant Solar submitted approximately 115,000 signatures to the county clerks, more than double the number of signatures required to qualify the Referendum.

On June 23, 2016, Solar filed its Reply Brief, so the matter is now fully briefed.

II. Argument

Expedited review is necessary to resolve this appeal before ballots are printed in early September.

The Uniformed and Overseas Citizens Absentee Voting Act requires that ballots be sent to UOCAVA voters 45 days before the general election. 52 U.S.C. § 20203(a)(8). The deadline to mail the ballots out to overseas and military voters is September 23, 2016. *Id.*; NRS 293D.320. However, it takes at least a couple weeks, if not several, for ballots to be finalized, proofed, and actually printed so that they can be mailed out by the UOCAVA deadline.

Therefore expedited treatment is required because the Secretary of State and the county clerks and registrars of voters will need to know by approximately the

last week in August whether this Referendum will appear on the November 2016 ballot. Solar recognizes the Court's workload and the disruption caused by requests such as this one. Solar also appreciates the Court's efforts to expedite these cases in order to preserve the ability for an appeal on what is an important issue of first impression.

Solar therefore respectfully requests that this Court set oral argument in this matter as promptly as its docket will allow, so that this appeal can be resolved prior to August 26, 2016.

III. Conclusion

For the foregoing reasons, Solar respectfully requests that this Court to expedite this matter so that it can be resolved prior to August 26, 2016, which is approximately the deadline for printing ballots for overseas and military voters.

DATED this 23rd day of June, 2016.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(d), I declare that I am an employee of White Hart Law, LLC and on this 6th day of May, 2016, I served a copy of the foregoing Appellant No Solar Tax PAC’s Opening Brief by Nevada Supreme Court CM/ECF Electronic Filing to:

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