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IN THE SUPREME COURT OF THE STATE OF NEVADA

SOUTHERN CALIFORNIA EDISON,
Petitioner,

v.

THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA in
and for Carson City, and THE
HONORABLE JAMES T. RUSSELL,
Judge thereof,

Respondents.

THE STATE OF NEVADA *ex rel.*
DEPARTMENT OF TAXATION

Real Party in Interest

Case No. 09-0C-00016-1B

Docket No. 55228

FILED

MAR 12 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

**EDISON'S REPLY TO THE AMICUS CURIAE BRIEF OF THE
LEGISLATURE OF THE STATE OF NEVADA**

The *Amicus Curiae Brief of the Legislature of the State of Nevada* ("Amicus Brief"),
filed on March 3, 2010, merely repeats the positions and arguments raised by the Nevada
Department of Taxation in its *Answer to Southern California Edison's Petition for Writ of
Mandate*. Southern California Edison ("Edison") addressed all of the issues raised in the Amicus
Brief in its *Original Petition for Writ of Mandamus* ("Petition") and in the briefings in the
District Court included in Edison's *Evidentiary Appendix*, filed concurrently with the Petition.

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10-06132

Rather than filing a Reply that repeats arguments already made, the chart below indicates where in the Petition and Evidentiary Appendix Edison has addressed the issues raised in the Amicus Brief. Edison respectfully requests the Court to review those portions of the record.

Issues Raised in Legislature's Amicus Brief	Citations to Petition and Evidentiary Appendix
1. Plain Language Analysis of NRS 372.680	Petition at 9:12 - 11:21; Evidentiary Appendix at 046-051, 141-143
2. Purpose of Statutory Amendments and Effect on the Judicial Remedy Provided by NRS 372.680	
a. A.B. 884 (1989) - Amendment to NRS 233B.130	Petition at 19:4 - 20:23; Evidentiary Appendix at 171-173
b. S.B. 375 (1997) - Amendment to NRS 360.245	Petition at 20:24 - 24:2; Evidentiary Appendix at 148-151, 154-156, 172-174
c. S.B. 362 (1999) - Amendment to NRS 372.680 and Other Tax Refund Statutes	Petition at 24:3 - 27:28; Evidentiary Appendix at 054-057, 142-143, 177-178
3. Mr. Azevedo's Memorandum and Statements to the Senate Committee	Petition at 25:13 - 26:18; Evidentiary Appendix at 055-057, 331-333

Part 2 of the Amicus Brief contains a discussion of what it calls the "legislative history" of Senate Bill 362 ("S.B. 362") which amended NRS 372.680 in 1999. First, NRS 372.680 is not ambiguous and therefore, there is no basis for trying to determine its legislative history. Second, what the Amicus Brief offers as legislative history is the Legislative Counsel's *interpretation* in 2010 of remarks made to legislative committees by a Deputy Attorney General plus the *speculation* that the legislators must have shared that interpretation because they voted for passage of S.B. 362. This Court has held that after-the-fact descriptions of intent by legislators themselves are not probative of legislative history. *See A-NLV-Cab Co v. Taxicab Auth.*, 108 Nev. 92, 95 (1992) ("In construing a statute we do not consider the motives or understandings of individual legislators who cast their votes in favor of it . . . Nor do we carve an exception to this principle simply because the legislator whose motives are proffered actually

1 authored the bill in controversy; no guarantee can issue that those who supported his proposal
2 shared his view of its compass.”) (quoting *Cal. Teachers Ass’n v. San Diego Cmty. Coll.*, 621
3 P.2d 856, 860 (Cal. 1981)). Surely the Amicus Brief’s efforts to divine the Legislature’s intent
4 from the Legislative Counsel’s interpretation of remarks by a non-legislator must be considered
5 similarly unpersuasive.

6
7 The fact that multiple *amici curiae* have filed briefs in this case, both supporting and
8 opposing Edison’s Petition, underscores the importance of the issue raised by the Petition and the
9 need for oral argument.

10 Dated: March 9th, 2010

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12 By: 

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CERTIFICATE OF MAILING

I hereby certify that on the 9th day of March, 2010, I placed a copy of the foregoing
in the United States Mail, postage pre-paid, addressed to:

The Honorable James T. Russell
First Judicial District Court
885 E. Musser Street
Carson City, NV 89701
Respondent

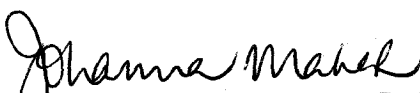
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