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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

SOUTHERN CALIFORNIA EDISON,

Case No. 55228

Petitioner,

vs.

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

Respondents,

and

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

Real Parties in Interest.

**RESPONSE TO MOTION TO CONSOLIDATE  
PETITIONS FOR WRIT OF MANDAMUS**

State of Nevada, *ex rel.* Department of Taxation, through its counsel Catherine Cortez Masto, Attorney General, by Gina C. Session, Chief Deputy Attorney General, hereby submits its Response to Motion to Consolidate Petitions For Writ of Mandamus filed by Southern California Edison.

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1 The Nevada Supreme Court has discretion to consolidate matters for decision when  
2 consolidation assists with the disposition of the cases. NRAP 3(b). The Nevada Department  
3 of Taxation ("Department") agrees that the issues presented in the instant case and Case  
4 No. 56740, *State of Nevada Department of Taxation, Petitioner v. Second Judicial District*  
5 *Court of the State of Nevada in and for the County of Washoe and Honorable Janet J. Berry,*  
6 *Respondents, and Sierra Pacific Power Company and Nevada Power Company, Real Parties*  
7 *in Interest* are the same. In both cases, the parties are asking the Court to determine whether  
8 a petition for judicial review or a trial *de novo* is the appropriate standard for a district court  
9 after a final decision in a contested case before the Nevada Tax Commission.

10 Consolidation in this instance poses some difficulties, however. The two cases have  
11 different respondents. The District Court Judges, Russell and Berry, made opposite  
12 determinations with Judge Russell in *Southern California Edison*, finding the case should be  
13 heard as a petition for judicial review and Judge Berry in *NV Energy*, finding that it should be  
14 heard as a trial *de novo*. The Department, as the Real Party in Interest, is the Respondent in  
15 *Southern California Edison* and the Petitioner in *NV Energy*. Likewise, *Southern California*  
16 *Edison* is a Petitioner and *NV Energy*, as the Real Parties in Interest, is a Respondent. The  
17 undersigned counsel is unsure how Oral Argument would proceed in such a circumstance.

18 Having stated those concerns, the Department defers to this Court to determine  
19 whether consolidation is appropriate for these matters. The Department is prepared to go  
20 forward with Oral Argument as scheduled on November 2, 2010.

21 Respectfully submitted this 25th day of October, 2010.

22 CATHERINE CORTEZ MASTO  
23 Attorney General

24 By: /s/ Gina C. Session  
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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 25<sup>th</sup> day of October, 2010, I served a true and correct copy of the foregoing **Response to Motion to Consolidate Petitions For Writ of Mandamus**, by mailing a copy thereof to:

The Honorable James T. Russell  
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First Judicial District Court  
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/s/ Susan Johnson  
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