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12 Attorneys for Plaintiff Southern California Edison Company

FILED

MAR 04 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

13 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

14 IN AND FOR CARSON CITY

15 SOUTHERN CALIFORNIA EDISON,)

16 Plaintiff,)

17 v.)

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

18 THE STATE OF NEVADA, ex rel.)
19 DEPARTMENT OF TAXATION,)

Dept. No.: 1

20 Defendant.)
21)
22)
23)
24)
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26)
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28)

AMENDED CASE APPEAL STATEMENT

29 Southern California Edison Company hereby submits its Case Appeal Statement pursuant
30 to Rule 3(f) of the Nevada Rules of Appellate Procedure.

31 **1. Name of appellant filing this case appeal statement:**

32 Southern California Edison Company.

33 **2. Identify the Judge issuing the decision, judgment, or order appealed from:**

34 District Court Judge James T. Russell.

35 **3. Identify each appellant and the name and address of counsel of each appellant:**

36 Plaintiff/Appellant: Southern California Edison Company

37 Appellant's attorneys: Norman J. Azevedo, Esq., 405 North Nevada Street, Carson City,

38 Nevada 89703, (775) 883-7000, and Charles C. Read, Esq. (pro hac vice application to be filed in

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1 the Nevada Supreme Court) and Haley McIntosh, Esq., Jones Day, 555 South Flower Street,
2 Fiftieth Floor, Los Angeles, CA, 90071-2300, (213) 489-3939.

3 **4. Identify each respondent and the name and address of appellate counsel, if known,
4 for each respondent:**

5 Defendant/Respondent: State of Nevada ex rel. Department of Taxation

6 Respondent's attorney: Adam Paul Laxalt, Attorney General, by Gina C. Session, Chief
7 Deputy Attorney General, 100 North Carson Street, Carson City, NV 89710-4717, (775)
8 684-1207.

9 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not
10 licensed to practice law in Nevada and, if so, whether the District Court granted that
11 attorney permission to appear under SCR 42:**

12 Charles C. Read, Esq. (pro hac vice application to be filed in the Nevada Supreme Court)
13 and Haley McIntosh, Esq., Jones Day, 555 South Flower Street, Fiftieth Floor, Los Angeles, CA,
14 90071-2300, (213) 489-3939.

15 **6. Indicate whether an appellant was represented by appointed counsel in the District
16 Court:**

17 No.

18 **7. Indicate whether appellant was represented by appointed counsel on appeal:**

19 No.

20 **8. Indicate whether appellant was granted leave to proceed in forma pauperis; and the
21 date of entry of the District Court Order granted such leave:**

22 No.

23 **9. Indicate the date the proceedings commenced in the District Court:**

24 January 15, 2009

25 **10. Provide a brief description of the nature of the action and result in the District
26 Court, including the type of judgment or order being appealed and the relief
27 granted by the District Court:**

28 Through its de novo trial before the District Court, Southern California Edison Company
sought a full refund of tax paid to the Nevada Department of Taxation from March 1998 through
December 2000 on its use of coal at the Mohave Generating Station near Laughlin, Nevada.
Southern California Edison Company claimed that it was statutorily exempt from use tax and that

1 the Department's imposition of use tax violated the Commerce Clause of the United States
2 Constitution. Alternatively, Southern California Edison Company claimed that it was entitled to
3 partial refunds of use tax based on several Nevada tax statutes. In its Findings of Fact,
4 Conclusions of Law, and Decision, dated December 15, 2014, and Amended Findings of Fact,
5 Conclusions of Law, and Decision, dated December 17, 2014¹, the District Court denied
6 Southern California Edison Company's claims and found that it was entitled to no refund.
7 Southern California Edison Company then filed a Motion To Amend Findings of Fact and
8 Conclusions of Law and to Amend Judgment or Direct Entry of a New Judgment pursuant to
9 Rules 52(b) and 59(e) of the Nevada Rules of Civil Procedure. On January 30, 2015, the District
10 Court issued an order denying that motion. Southern California Edison Company appeals.

11 **11. Indicate whether the case has previously been the subject of an appeal to or original**
12 **writ proceeding in the Supreme Court:**

13 This matter previously has been before the Nevada Supreme Court on an appeal related to
14 Nevada's Open Meeting Law and on an original writ proceeding regarding the appropriate
15 standard of review: Case No. 48292 - *Chanos v. Nevada Tax Commission and Southern*
16 *California Edison*; Case No. 55228 - *Southern California Edison v. The First Judicial District*
17 *Court of the State of Nevada, In And For Carson City, and the Honorable James Todd Russell.*

18 **12. Indicate whether this appeal involves child custody or visitation:**

19 No.

20 .../

21 .../

22 .../

23 .../

24 .../

25 .../


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27 _____
28 ¹The Amended Findings of Fact and Conclusions of Law were issued by the Court
pursuant to NRCP Rule 60(a), to clarify that the Court heard the matter on a trial de novo
standard, not as a petition for judicial review.

13. Is this a civil case, indicate whether this appeal involved the possibility of settlement:

Southern California Edison Company remains interested in the possibility of settlement.

Dated this 4th day of March, 2015.


NORMAN J. AZEVEDO, ESQ.
State Bar No. 3204
405 North Nevada Street
Carson City, Nevada 89703
(775) 883-7000
Attorney for Plaintiff/Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the 4 day of March, 2015, I placed a copy of the foregoing document in the U.S. Mail, postage prepaid, addressed as follows:

Gina C. Session, Esq.
Office of the Attorney General
100 North Carson Street
Carson City, NV 89710-4717


Rhonda Azevedo