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18-02010

Public Utilities Commission of Nevada
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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

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Nevada Power Company
and Sierra Pacific Power Company
d/b/a NV Energy

Application of NEVADA POWER COMPANY)
d/b/a NV Energy filed under Advice Letter No.)
485 to revise Tariff 1-B to establish the 2017)
Tax Rate Reduction Rider.) Docket No. 18-02010
/

Application of SIERRA PACIFIC POWER)
COMPANY d/b/a NV Energy filed under Advice)
Letter No. 605-E to revise Electric Tariff 1 to)
establish the 2017 Tax Rate Reduction Rider.) Docket No. 18-02011
/

Application of SIERRA PACIFIC POWER)
COMPANY d/b/a NV Energy filed under Advice)
Letter No. 326-G to revise Gas Tariff 1 to)
establish the 2017 Tax Rate Reduction Rider.) Docket No. 18-02012
/

**RESPONSE TO COMMENTS OF
WALMART STORES, INC. AND SAM’S WEST, INC.**

On February 27, 2018, Walmart Stores, Inc., and Sam’s Club Inc. (together “Walmart”), filed a petition for leave to intervene in the above-docketed matters. Nevada Power Company, d/b/a NV Energy (“Nevada Power”), and Sierra Pacific Power Company (“Sierra”, and together with Nevada Power, “the Companies” or “NV Energy”) do not oppose Walmart’s petition for leave to intervene in these consolidated dockets. However, in addition to seeking leave to intervene, Walmart filed comments addressing the filings, to which Nevada Power and Sierra hereby respond. In particular, the Companies address comments offered by Walmart to justify a request that the procedural schedule set in this matter be vacated.

Through these consolidated dockets, Nevada Power and Sierra seek to establish negative rate riders through which, beginning April 1, 2018, Nevada Power and Sierra would pass through to their electric and natural gas customers the impacts of the reduction in the corporate income tax rate, from 35 to 21 percent, and at Nevada Power, the elimination of the

1 domestic production activities deduction coming from the Tax Cuts and Jobs Act of 2017.
2 Overall, the filings result in a reduction in annual revenue of **\$58.8 million** at Nevada Power,
3 and **\$24.9 million** at Sierra (electric and gas).

4 In its comments, Walmart makes several assertions regarding the potential impacts of
5 excess accumulated deferred income taxes (“ADIT”) on the revenue reductions calculated
6 and shown in the filings. In this context, excess ADIT refers to the amount of accumulated
7 deferred income taxes currently on a utility’s books that exceed what would be on the books
8 if the corporate tax rate had been lower from the beginning, or *ab initio*. Stated simply, in this
9 context, excess ADIT represents the difference between ADIT calculated at the 35% marginal
10 corporate income tax rate and ADIT calculated at the 21% marginal corporate income tax
11 rate.

12 Since making the consolidated filings, Nevada Power and Sierra have fielded formal
13 and informal questions about the potential impact of excess ADIT on the calculations set forth
14 in the filings. In its responses to these inquiries, the Companies have explained that excess
15 ADIT is classified as either “protected” or “unprotected.” The majority of deferred taxes are
16 protected and include items such as accelerated depreciation and the investment tax credit.
17 Protected balances of excess ADIT may only be refunded to customers over the life of the
18 related asset pursuant to federal tax law, but no faster. Refunding protected excess ADIT at
19 rate greater than the depreciation or amortization rate of the related asset or account violates
20 the Internal Revenue Service’s tax benefit normalization rules. The Tax Cut and Jobs Act of
21 2017 specifically addresses this issue by authorizing the continued use of two methods for
22 normalizing excess ADIT for protected balances: the average rate assumption method, or
23 “ARAM,” and an alternative method when inadequate information exists within the utility
24 company’s accounting system to determine the average rate of depreciation or amortization
25 for the related asset or account.

1 In 1986, the Public Utilities Commission of Nevada and the Federal Energy
2 Regulatory Commission (“FERC”) addressed the amortization of excess ADIT for protected
3 assets. Pursuant to Nevada regulations, FERC guidance, and the provisions of the Tax
4 Reform and Jobs Act of 2017, Nevada Power and Sierra have calculated the excess ADIT
5 related to protected balances, established regulatory liabilities for these items at both utilities,
6 and begun to amortize the excess ADIT at the ARAM rate. This treatment is required by
7 Nevada Administrative Code 704 Sections 6526, 6528, and 6534, inclusive. Because the
8 period over which excess ADIT related to protected balances is returned to customers is
9 prescribed by Commission rule, FERC guidance and the Tax Reform and Jobs Act of 2017,
10 the amortization of excess ADIT related to protected balances is not addressed in the
11 consolidated filings.

12 Unprotected balances, which include items such as regulatory assets, regulatory
13 liabilities and miscellaneous differences between tax and book asset basis, are in rate base but
14 are not subject to this life-of-the-asset restriction. Thus the excess ADIT on unprotected
15 balances can be refunded to customers on a different schedule. Nevada Power and Sierra have
16 calculated the excess ADIT associated with unprotected balances and established a regulatory
17 liability in favor of its customers. Nevada Power and Sierra have not increased rate base or
18 yet begun amortizing the regulatory liability that represents the unprotected excess ADIT.
19 Instead, NV Energy is evaluating the when and how to flow this benefit to customers. NV
20 Energy thus has not made a final decision regarding the amortization of excess ADIT related
21 to unprotected balances.

22 Nevada Power and Sierra hope that this explanation of the issue of excess ADIT as it
23 arises in context of the change in the federal corporate income tax rate aids the Commission
24 as it considers Walmart’s comments, especially its request to vacate the procedural schedule
25 established for these consolidated dockets, pursuant to which the favorable impact of
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reductions in the corporate income tax rate may begin to be experienced by electric and natural gas customers as of April 1, 2018.

Dated this 5th day of March, 2018.

Respectfully submitted,
NEVADA POWER COMPANY
SIERRA PACIFIC POWER COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **NEVADA POWER COMPANY d/b/a NV ENERGY and SIERRA PACIFIC POWER COMPANY d/b/a/ NV ENERGY'S RESPONSE** in Docket No. 18-02010, 18-02011 and 18-02012 upon the persons listed below by electronic mail.

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Dated this 5th day of March, 2018

/s/ Lori Petersen
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