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6 IN THE FAMILY DIVISION  
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE

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10 NEWMONT NEVADA ENERGY  
11 INVESTMENT, LLC, a Nevada limited  
12 liability company,

Plaintiff,

Case No. CV12-01471

Dept. No. B13

13 vs.

14 SIERRA PACIFIC POWER COMPANY  
15 d/b/a/ NV ENERGY, a Nevada  
16 corporation,

Defendant.

17  
18 **ORDER GRANTING MOTION TO INTERVENE**

19 This Court has reviewed Great Basin Transmission South, LLC's Motion to  
20 Intervene, filed March 11, 2013, and all pleadings and papers on file. It now finds and  
21 orders as follows:

22 **Findings of Fact**

23 1. Great Basin Transmission South, LLC ("Great Basin") requests that the  
24 Court allow it to intervene in this case for the limited purpose of participating in all  
25 aspects of the preliminary injunction proceeding. Great Basin argues that in light of its  
26 75% undivided interest in the "One Nevada Transmission Line" Project ("ON Line  
27 Project"), and "[g]iven the magnitude of the project, the far-reaching ramifications of even  
28 a temporary alteration of that project and Great Basin's substantial ownership interest" in  
the ON Line Project, it should be granted permission to intervene in this matter, either as a

1 matter of right, or permissively for the purposes of participating in the preliminary  
2 injunction proceeding. Newmont Nevada Energy Investment, LLC ("NNEI") opposes the  
3 intervention, alleging that Great Basin's intervention is untimely, will unduly prejudice  
4 NNEI, and further that Great Basin's interests are already adequately protected in this  
5 litigation.

#### 6 Conclusions of Law

7 1. NRCP 24 provides for both intervention of right and permissive intervention.  
8 Upon timely application, a party shall be permitted to intervene as a matter of right when  
9 the applicant claims an interest relating to the property or transaction which is the subject  
10 of the action and the applicant is so situated that the disposition of the action may as a  
11 practical matter impair or impede the applicant's ability to protect that interest, unless the  
12 applicant's interest is adequately represented by existing parties. See NRCP 24(a)(2).  
13 Additionally, upon timely application, a party may be permitted to intervene when an  
14 applicant's claim or defense and the main action have a question of law or fact in common.  
15 See NRCP 24(b)(2).

16 2. For this Court to allow intervention by Great Basin in this matter, Great  
17 Basin must establish that: (1) it has a sufficient interest in the litigation's subject matter; (2)  
18 that it could suffer an impairment of its ability to protect that interest if it does not  
19 intervene; (3) that its interest is not adequately represented by existing parties; and (4) that  
20 its application is timely. See American Home Assur. Co. v. Eighth Jud. Dist. Ct., 122 Nev.  
21 1229, 1238, 147 P.3d 1120, 1126 (2006).

22 3. This Court finds that intervention by Great Basin in this matter is  
23 appropriate pursuant to NRCP 24(a), and therefore grants Great Basin's request to  
24 intervene. Rule 24, as well as an applicant's burden of establishing the above four  
25 elements, is to be construed liberally in favor of intervention. Citizens for Balanced Use v.  
26 Montana Wilderness Ass'n, 647 F.3d 893, 897 (9th Cir. 2011) (citing Prete v. Bradbury, 438  
27 F.3d 949, 954 (9th Cir. 2006)).

28 4. Great Basin has established a sufficient interest in this litigation's subject  
matter. Whether an applicant for intervention as of right demonstrates sufficient interest

1 in an action "is a 'practical, threshold inquiry,' and '[n]o specific legal or equitable interest  
2 need be established." Id. at 897 (quoting Greene v. United States, 996 F.2d 973, 976 (9th Cir.  
3 1993)). Great Basin has a substantial interest in the subject matter of this litigation, by  
4 virtue of its substantial undivided 75% ownership interest in the ON Line Project, and  
5 Great Basin will be unable to protect this interest if it does not intervene in this action. It is  
6 appropriate to allow all stakeholders to actively participate in the litigation, particularly  
7 stakeholders with ownership interests of the magnitude of Great Basin's.

8         5.         Additionally, the Court finds that Great Basin's interest is not adequately  
9 protected in this matter. The burden of showing inadequacy of representation is "  
10 'minimal' and satisfied if the applicant can demonstrate that representation of its interests  
11 'may be' inadequate." Citizens for Balanced Use, 647 F.3d at 898 (citing Arakaki v.  
12 Cayetano, 324 F.3d 1078, 1086 (9th Cir. 2003)). Great Basin has indicated that it does not  
13 believe its interests can be adequately protected by Sierra Pacific, as Great Basin has  
14 separately financed its ownership interest, and it is the majority owner of the line and  
15 seller of capacity on the line for a fixed term, while Sierra Pacific is a small minority owner  
16 and a buyer of capacity on the line. While Sierra Pacific and Great Basin's interests may be  
17 similar at this time, those interests may diverge at some subsequent point in this litigation,  
18 particularly in light of the differing ownership and financing interests described above.  
19 The Court cannot conclude that Sierra Pacific and Great Basin's interests and ultimate  
20 objectives are identical, such that Sierra Pacific will necessarily adequately protect Great  
21 Basin's interests in this proceeding.

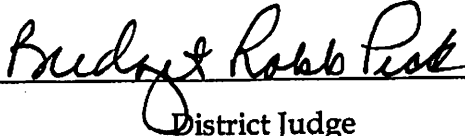
22         6.         In determining the timeliness of Great Basin's Motion, "[t]he most important  
23 question to be resolved...is not the length of the delay by the intervenor but the extent of  
24 prejudice to the rights of the existing parties resulting from the delay." Lawler v.  
25 Ginochio, 94 Nev. 623, 626, 584 P.2d 667, 669 (1978). Although there was some delay in the  
26 filing of the Motion to Intervene by Great Basin, the Court does not find significant  
27 prejudice to NNEI or the other Parties in this case by virtue of any delay. This Court is  
28 mindful of NNEI's arguments with regard to potential prejudice by virtue of Great Basin's  
intervention in this matter. Great Basin's intervention is not an invitation to Great Basin to

1 attempt to hinder or delay these proceedings, which this Court will not permit.  
2 Additionally, this Court will hold Great Basin to its representations that it will abide by all  
3 currently set dates and deadlines, both for discovery and for the preliminary injunction  
4 hearing.

5 7. Therefore, Great Basin's Motion to Intervene is GRANTED.

6 **IT IS SO ORDERED.**

7 Dated: April 1, 2013.

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10 District Judge

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