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3 -BEFORE THE ELECTRICAL FACILITY REVIEW BOARD-
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5 Electric Facility Review Board Review) DOCKET NO. 05-999-08
6 of a Dispute between PacifiCorp and) ORDER DESIGNATING
7 West Jordan City) GEOGRAPHIC AREA
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10 ISSUED: November 28, 2005
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12 By The Facility Review Board:

13 By request dated April 25, 2005, PacifiCorp (PacifiCorp or the Company) asked the
14 Electrical Facility Review Board (Board) to convene and address a dispute with West Jordan
15 City (the City) concerning the location and construction of an electrical substation within the
16 City. In the Board’s proceedings, PacifiCorp is represented by Jeff Richards, of PacifiCorp,
17 Mark E. Hendley and Greg Monson, of Stoel Rives LLP; West Jordan City is represented by
18 Jody K. Burnett and Robert C. Keller, of Williams and Hunt, and Stephen F. Mecham, of
19 Callister, Nebeker & McCullough.

20 Since 2002, PacifiCorp has desired to locate and construct an electric service substation
21 to meet growing electric service needs in West Jordan City. PacifiCorp identified an area, called
22 the critical load area, in which existing and expected electrical load growth would (or has)
23 outpaced the reasonable service and operating capacity of its existing electric service distribution
24 infrastructure or utility plant. PacifiCorp sought a substation site that would permit the new
25 substation to be integrated with other substations, distribution and transmission facilities
26 (existing and planned), allowing PacifiCorp to provide safe, efficient and reliable electric service
27 to its customers. PacifiCorp identified what it denominated as the “target area,” between 2700

28 West and 3300 West and 6900 and 7200 South in West Jordan City, in which PacifiCorp desired
29 to build the new substation.

30 PacifiCorp had various meetings with officials and representatives of the City and West
31 Jordan City citizens to try to identify a substation site within the target area that would meet
32 PacifiCorp's needs and be acceptable to the desires of the City and its citizens. Although
33 PacifiCorp and the City have previously been able to locate, grant approval for and construct
34 new substations outside of the target area, they have been unable to reach agreement on a
35 location for a new permanent substation site within the target area. PacifiCorp became
36 increasingly concerned about the inability to locate a substation site, continued customer load
37 growth showed that some type of substation was needed soon to avoid potential service
38 interruptions or curtailment to its customers. On December 16, 2004, PacifiCorp applied to the
39 City for conditional use permits to construct a permanent and a temporary substation at 3200
40 West and 7000 South.

41 On February 2, 2005, the City's Planning and Zoning Commission decided to issue a
42 conditional use permit for a permanent substation and deny a permit for a temporary substation.
43 As allowed by the City's municipal code, a citizen appealed the Planning and Zoning
44 Commission's decision to the West Jordan City Council. At a February 22, 2005, City Council
45 meeting, after a failed vote to affirm the appeal and a failed vote to deny the appeal, the Council
46 directed the matter back to the Planning and Zoning Commission to explore whether alternative
47 sites for a permanent substation within the target area might be identified. However, on March
48 15, 2005, the City Council rescinded its February 22 direction to study alternative sites within
49 the target area and readdressed the appeal on PacifiCorp's request for a conditional use permit to

50 construct a permanent substation at 3200 West and 7000 South. The Council then approved the
51 citizen appeal and reversed the decision of the City's Planning and Zoning Commission.

52 PacifiCorp, utilizing the granted conditional use permit for a temporary substation,
53 proceeded to install the temporary substation and it has been providing service support since
54 mid-2005. As its name indicates, the temporary substation is just that, temporary. PacifiCorp
55 must decommission the temporary substation by August 31, 2006; pursuant to the West Jordan
56 City Council's decision. PacifiCorp and the City recognize that a permanent substation needs to
57 be constructed. Since the City Council's March 15, 2005, decision, the parties are no closer in
58 reaching agreement on a site for a permanent substation within the target area. PacifiCorp
59 appealed the City Council's March 15th decision to the District Court. The District Court ruled in
60 the City's favor, PacifiCorp has appealed that court decision to the Utah Court of Appeals.
61 PacifiCorp desires to have a permanent substation constructed by early summer of 2006, in order
62 to be available to provide service support during Utah's summer peak load.

63 Soon after the filing of the April 25, 2005, request to convene the Board, PacifiCorp and
64 the City agreed to additional efforts to identify a mutually acceptable location for the permanent
65 substation; PacifiCorp's April 25th Board request was withdrawn. However, these last efforts
66 proved unsuccessful as well. On August 30, 2005, PacifiCorp refiled a Petition for Review and
67 Expedited Treatment (Petition). PacifiCorp states that it is "seeking review by the Board because
68 the City has prohibited the construction of electric facilities which are needed to provide safe,
69 reliable, adequate, and efficient service to its customers and because the City has imposed
70 requirements on the construction of facilities that will result in estimated excess costs without
71 entering into an agreement with PacifiCorp for the actual excess costs. (Petition, page 2.)
72 Through its Response to the Petition, the City disputes PacifiCorp's claim that the City has

73 prohibited any construction or imposed requirements on construction without agreeing to pay for
74 excess costs. The City contends that the permanent substation site identified by PacifiCorp is not
75 the only site location on which a substation can be built to provide safe, reliable, adequate and
76 efficient service. Through a scheduling conference with the Board, PacifiCorp and the City, a
77 bifurcated schedule for Board proceedings was set. Under the bifurcated schedule, the parties
78 and the Board would first address the site location dispute, and then in the second phase resolve
79 any disputes on the specific excess costs that may be associated with a particular site location
80 that may be identified.

81 In preparation for evidentiary hearings before the Board, PacifiCorp and the City prefiled
82 written direct, rebuttal and surrebuttal testimony. This written testimony was later admitted at
83 November 7 and 8, 2005, evidentiary hearings, as well as the live testimony of the parties'
84 witnesses. In summary, PacifiCorp's testimony and position is that a permanent substation must
85 be constructed soon, in order to be operational before the beginning of the 2006 Summer peak
86 load period. While PacifiCorp has a preference for the 3200 West and 7000 site (Preferred Site)
87 it has identified, PacifiCorp would accept an alternative site, as long as it is located within the
88 target area; the area located between 2700 West and 3300 West and 6900 South and 7200 South.
89 The City's testimony and position can be summarized as the substation site need not be located
90 in the target area. The City identifies a number of possible site locations, all outside the target
91 area, which the City maintains can be used by PacifiCorp, in lieu of the 3200 West and 7000
92 South site, without impairing PacifiCorp's ability to provide safe, reliable, and adequate service.

93 The Electrical Facility Review Board Act, Utah Code §§54-14-101, *et seq.*, (the Act)
94 acknowledges a local government's authority to "require or condition the construction of a
95 facility in any manner," but only as long as the "requirements or conditions do not impair the

96 ability of the public utility to provide safe, reliable, and adequate service to its customers; and
97 the local government pays for the actual excess cost resulting from the requirements or
98 conditions” *Id.*, at Section 201. The Act’s definitions provide that a facility includes an
99 electrical substation and an electrical substation includes the substation site. *Id.*, at Section
100 103(5) and (9). Where a local government has prohibited a facility to be constructed, the Board
101 may “specify any general location parameters [for a facility] required to provide safe, reliable,
102 adequate, and efficient service to the customers of the public utility.” *Id.*, at Section 305(3).

103 For each of the site locations proposed by the City, the evidence shows that construction
104 of a substation at any of the City’s suggested sites will require miles of additional transmission
105 and distribution facilities compared with such facilities that result from construction at the
106 Preferred Site or a site located within the target area. With the addition of more transmission and
107 distribution facilities, the safety and reliability of PacifiCorp’s network and service is degraded.
108 There is also anticipation that these additional transmission and distribution facilities, beyond
109 those needed for a substation site within the target area, would engender their own objections.¹
110 The evidence also establishes that location of the disputed substation at the City’s suggested sites
111 or otherwise outside of the target area diminishes PacifiCorp’s ability to efficiently and
112 adequately utilize the capacity of other substations to provide service to areas proximately
113 located to the target area and the target area itself. While the City argues that construction of the
114 substation outside the target area is technically feasible, the evidence shows detrimental impact
115 for each of the specific sites identified by the City and generally for any substation site located

¹At this point of the proceedings we do not address specific excess costs. We note, however, that additional costs come with additional transmission and distribution lines. The alternative site locations do bring an impact upon PacifiCorp’s costs and the efficiency of its network.

116 outside the target area.² We conclude that the City's position that the substation may be located
117 outside the target area without impairing PacifiCorp's ability to provide safe, reliable, and
118 adequate service must be rejected. Because PacifiCorp has indicated that the Preferred Site is not
119 the only location within the target area that it will accept, we need not rule that the Preferred Site
120 is the only possibility. Pursuant to Utah Code Section 54-14-305(3), we conclude and find that
121 the substation shall be located within the general area between 2700 West and 3300 West and
122 6900 South and 7200 South in order for PacifiCorp to provide safe, reliable, and adequate
123 service.

124 DATED at Salt Lake City, Utah, this 28 day of November, 2005.

125 /s/ Richard M. Campbell, Chairman

127 /s/ Ted Boyer,

129 /s/ Ron Allen,

131 /s/ Joe Johnson,

133 /s/Monette Hurtado

²Indeed, for one of the City's proposals, a substation would be built outside the target area, but would still require another substation to be built within the target area in order to provide service to customers.