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**BEFORE THE ELECTRICAL FACILITIES REVIEW BOARD**

PACIFICORP, an Oregon corporation,

Petitioner,

vs.

THE CITY OF WEST JORDAN,

Respondent.

**MEMORANDUM IN OPPOSITION  
TO MOTION TO HOLD  
PACIFICORP'S "EXCESS COST"  
TESTIMONY IN ABEYANCE**

Petitioner, PacifiCorp, hereby submits this Memorandum in Opposition to the Motion to Hold PacifiCorp's "Excess Cost" Testimony in Abeyance ("Motion") filed by Respondent, the City of West Jordan ("West Jordan"), on November 2, 2005.

**ARGUMENT**

In its Motion, West Jordan requests that the Electrical Facility Review Board (the "Board") hold in abeyance all of evidence relating to "excess cost" in the testimony filed by PacifiCorp's witnesses Carol Hunter and Darrell Gerrard until the second phase of this proceeding.<sup>1</sup> The basis for the request is West Jordan's assertion that during the September 12,

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<sup>1</sup>The scope of West Jordan's Motion is unclear. West Jordan fails to specify whether it is requesting to hold in abeyance only those portions of the testimonies referring to "excess cost" in the context of the Electrical Facility

2005 scheduling conference, the Board and the parties agreed to bifurcate the proceeding to address only “the need for a substation in West Jordan and . . . the technical feasibility of alternative sites” in the November 7, 2005 hearing (“Nov. 7<sup>th</sup> Hearing”). (West Jordan Motion at 2). West Jordan’s assertion misconstrues the purpose of the bifurcated hearing schedule and the purpose of the cost information in the testimony. Moreover, West Jordan has itself submitted evidence of costs generally. Accordingly, the Motion should be denied.

**1. The Cost Information in the Testimony Is Relevant to the November 7 Hearing.**

This action involves two issues: (1) whether locating a substation outside of the target area will impair PacifiCorp’s ability to provide safe, reliable, adequate, and efficient service to its customers, and (2) what actual excess costs will West Jordan be required to pay if PacifiCorp is required to construct the substation outside of the target area. At the September 12, 2005 scheduling conference, these two issues were bifurcated.

With respect to the first issue, determining whether West Jordan’s actions have impaired PacifiCorp’s ability to provide safe, reliable, adequate, and efficient service entails a number of factors. Obviously, the costs associated with alternative sites—which are sizeable—is a necessary component of the “efficiency” determination. Indeed, PacifiCorp’s initial estimate of cost for these alternative sites range between \$7.9 and \$9.8 million as compared to \$4.6 million for PacifiCorp’s preferred site at 3200 West.

Certainly, PacifiCorp’s use of this cost information in the filed testimony was in no way intended to be conclusive for purposes of establishing actual excess costs. (Indeed, PacifiCorp

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Review Board Act, or all portions of the testimonies containing any reference to cost generally. Mr. Gerrard’s testimony does not discuss “excess costs” in the context of the Electrical Facility Review Board Act. The discussions of cost in Mr. Gerrard’s testimony relate to the evaluation of the alternative sites, which is relevant to the issues before the Board in the Nov. 7<sup>th</sup> Hearing. Those portions of Mrs. Hunter’s testimony that discuss “excess cost” are responsive to issues raised by Mr. Gary Luebbbers’ testimony and relate to the site selection, and therefore are also relevant to the Nov. 7<sup>th</sup> Hearing .

only had one week to prepare any analysis of the City's five sites, including estimated costs.) Instead, that cost information was provided merely as PacifiCorp's best estimate of what those costs are for the purpose of informing the Board, and the City, of the potential economic impact and inefficiencies, which cannot be overlooked at this stage. In the event the Board were to determine that West Jordan may force PacifiCorp to construct a substation outside of the target area, the parties will prepare more precise cost estimates in the second phase of this action to establish the actual excess costs that West Jordan will be responsible to pay under the Electrical Facility Review Board Act.

**2. The City of West Jordan Itself Included Evidence of Costs, Recognizing that Such Information Is Relevant to the November 7 Hearing.**

Just as PacifiCorp has, West Jordan also recognizes that costs cannot be wholly divorced from the issues currently before the Board. In fact, West Jordan itself addressed costs and efficiencies in its own pre-filed testimony. For example, the testimony of the City's own expert, Mr. Joe Beste, contains the following:

Q: In your opinion, does the substation have to be located at that site [the 3200 West Site] in order for UP&L to provide safe, adequate, reliable, and efficient service to the residents of West Jordan?

A: No. Several sites could accommodate PacifiCorp's statutory mandate to provide safe, adequate, reliable, and efficient service.

(Pre-Filed Test. of Joe Beste, at 5 ll. 89-93.) In fact, the City had Mr. Beste perform his own sort of cost analysis for the five proposed sites:

Q: Of the five sites [proposed] sites, would you recommend any of them over the others?

A: Probably the West Jordan annex site or the Welby annex site *due to the potential of lower costs* . . . .  
. . . .

Q: In your analysis of these sites which you put together in Exhibit 2, you added a category. What was that category?

A: Proximity to new load.

Q: Why is that important?

A: *Shorter distribution distances reduce cost.*

(*Id.* at 6 ll.122-26 (emphasis added) & at 13 ll. 288-92 (emphasis added).)

Facing this testimony, PacifiCorp had to respond with its own testimony regarding costs. Certainly, the City could not expect the Board to consider Mr. Beste's cost testimony and ignore PacifiCorp's.

**3. The Board Can Consider for Itself Whether the Testimony Regarding Cost is Relevant.**

Finally, even if the Board were to determine that the cost testimony may be more appropriate for the second phase, individual Board members may still find this information helpful to put other issues into context. If they do, the information is available. If not, the information can be ignored by those Board members.

**CONCLUSION**

For the reasons stated above, the Board should deny West Jordan's Motion to Hold PacifiCorp's "Excess Cost" Testimony in Abeyance.

Dated this \_\_\_\_ day of November, 2005.

STOEL RIVES LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of November 2005, I caused a true and correct copy of the foregoing **MEMORANDUM IN OPPOSITION TO MOTION TO HOLD PACIFICORP'S "EXCESS COST" TESTIMONY IN ABEYANCE** to be sent by Fascimile to the following:

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