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Arizona Corporation Commission

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Attorneys for 10,000 West, LLC
Lynne A. Lagarde

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**BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE**

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY IN
CONFORMANCE WITH THE REQUIREMENTS
OF ARIZONA REVISED STATUTES
SECTION 40-360, et seq., FOR A CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
AUTHORIZING THE WEST VALLEY-NORTH
230 KV TRANSMISSION LINE PROJECT,
INCLUDING THE CONSTRUCTION OF
APPROXIMATELY 25 MILES OF 230 KV
TRANSMISSION LINES AND TWO
SUBSTATIONS IN MARICOPA
COUNTY, ARIZONA, ORIGINATING
AT THE PROPOSED TS2 SUBSTATION IN
SECTION 25 TOWNSHIP 3 NORTH, RANGE 2,
WEST, G&SRB&M AND CONTINUING TO THE
PROPOSED TS1 SUBSTATION IN
SECTION 20, TOWNSHIP 4 NORTH,
RANGE 2 WEST, G&SRB&M AND
TERMINATING AT THE PROPOSED TS5
SUBSTATION IN SECTION 29, TOWNSHIP 4
NORTH, RANGE 4 WEST, G&SRB&M

Docket No:
L-00000D-04-0127

Case No: 127

**MOTION FOR RECONSIDERATION OF ADMISSION OF WITNESS
TESTIMONY ON COMPARATIVE LAND COSTS (TS5 SITE)**

10,000 West, LLC, ("Owner"), hereby requests reconsideration of the admission of
witness testimony on the comparative land costs for Festival Ranch property being suggested for
consideration as an alternative location for the TS5 Substation.

In the Arizona Power Plant and Transmission Line Siting Committee ("Committee")
hearing on Tuesday, January 25, 2005, witness Dick Frye, appearing on behalf of Owner was

1 asked about the approximate cost per acre in the Festival Ranch Town Center if portions of this
2 Festival Ranch property had to be acquired for the TS5 Substation. Chairman Woodall, applying
3 her general policy of not allowing testimony relating to acquisition costs because of their
4 immateriality to this type of hearing, did not allow the witness to respond, but agreed to review
5 the transcript as to the prior introduction into the hearings of per-acre and total acquisition costs
6 referenced by Attorney Court Rich appearing on behalf of Hogan, Parker, Ivan & McDuff, LLC
7 (“HPIM”) relative to the per-acre and total acquisition cost of the private land owned by his client
8 upon which the TS5 Substation is recommended to be sited.
9

10 Attached as Exhibit A to this Motion are pages 130 – 132 of the Volume I Transcripts of
11 the Committee Hearings on January 24, 2005. The transcript confirms that Mr. Rich asked Mr.
12 Michael DeWitt, Arizona Public Service (APS) witness, in his cross examination whether he
13 would have any reason to doubt the \$45,000 per acre cost of residential parcels in the area of his
14 client’s property. Mr. DeWitt responded that he would not. Mr. Rich went on to state a total
15 acquisition cost of \$5.5 million. Upon objection by Mr. Campbell, Chairman Woodall stated that
16 Mr. DeWitt’s comments “should not be construed as admissions to be used in any further
17 proceedings.”
18

19 In the discussion that followed, Chairman Woodall said that she thought it was fair for the
20 question to be asked whether or not land acquired from private owners as opposed to land
21 acquired from the BOR was “likely to be cheaper or more expensive, one way or the other.” Mr.
22 DeWitt subsequently responded to questioning that it would be “more likely to be less expensive
23 to obtain from BOR.”
24

25 Owner respectfully requests that its witness, Dick Frye, be able to provide a similar
26 comparative per-acre cost of adjacent land on Festival Ranch which has been suggested by Mr.

1 Rich and his client as an alternative location for the TS5 Substation, with his testimony to be on
2 the same basis upon which the above-referenced cross-examination questions and testimony were
3 allowed by the Chairman, that is, solely as to whether the cost of acquisition is likely to be
4 cheaper or more expensive, depending upon from whom it is obtained, and not to be construed as
5 relevant to or used as an admission in any further proceedings.
6

7 The amounts of \$45,000 per acre and a total acquisition cost of \$5.5 million for the HPIM
8 property, which is the current recommended TS5 Substation site, are now part of the record before
9 the Committee. Inquiries as to comparative cost have been previously deemed fair questions in
10 this proceeding. Given that the costs associated with the HPIM site have already been made part
11 of the record before the Committee, the costs of Festival Ranch property should also be in the
12 record for the limited purpose of information needed for a comparison of costs.
13

14 Therefore, in the interest of fairness, the Owner of the Festival Ranch property wishes to
15 have its witness's comparative cost testimony on its property relative to the currently
16 recommended TS5 site allowed to be presented to the Committee, as was the comparative cost
17 information relative to BOR land. Without this information, the testimony on the record is
18 misleading. The Committee is left with the impression that moving the TS5 Substation onto BOR
19 land could be less expensive when in reality, it would not be only BOR land needed for the
20 substation. Festival Ranch property would also be required. Thus, it would be fair for the
21 Committee to be given its comparative costs as well.
22

23 RESPECTFULLY SUBMITTED this 17th day of February, 2005.
24
25
26

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4 By: Lynne A. Lagarde
5 Lynne A. Lagarde
6 Attorneys for 10,000 West, LLC

7 ORIGINAL and thirty-two (32) copies
8 of the foregoing filed this 17th day of
9 February, 2005.

10 The Arizona Corporation Commission
11 Utilities Division – Docket Control
12 1200 W. Washington Street
13 Phoenix, Arizona 85007

14 COPY of the foregoing mailed
15 this 17th day of February, 2005 to:

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18 Line Siting Committee
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24
25
26

EXHIBIT A

1 Q. When you acquire land from BOR or if you use
2 their right-of-ways or get a right-of-way granted within
3 their lands, what do you pay for that right-of-way
4 acquisition cost?

5 A. I don't know.

6 Q. Is there going to be someone testifying who
7 would know the answer to that question?

8 A. I can get you an answer to that question, I
9 think.

10 Q. Are you familiar with the cost of private land
11 in the area?

12 A. Yes.

13 Q. If I told you that an acre parcel, residential
14 parcel right now is going somewhere in the area of \$45,000
15 per acre, would you have any reason to doubt that's
16 accurate?

17 A. No, I wouldn't.

18 Q. So I think, if I do the math correctly, for
19 120 acres of private land right now -- and I think we can
20 assume that area is growing as you talked about -- we
21 would have a total acquisition cost of, I believe,
22 5.5 million. Does that sound correct?

23 MR. CAMPBELL: Excuse me just a second. I
24 just want to note for the record an objection to the
25 extent Mr. Rich is asking Mr. DeWitt to opine on appraisal

1 of property values. That might be the issue of a future
2 condemnation proceeding or acquisition proceeding, and I
3 certainly wouldn't want this testimony being perceived as
4 being relevant and appropriate for that. If he has an
5 opinion or agreeing with Mr. Rich's math, that would be
6 okay.

7 CHMN. WOODALL: Sustained. And Mr. DeWitt's
8 comments should not be construed as admissions to be used
9 in any further proceedings.

10 THE WITNESS: My answer was actually going to
11 be, since I am not a land agent, nor do I deal in
12 condemnation proceedings, I didn't feel I was the
13 appropriate one to answer that.

14 Q. BY MR. RICH: Have you dealt with projects in
15 the past where there has been acquisition of BOR land or
16 federal lands?

17 A. I personally have not, no.

18 MR. RICH: I guess, if I can just ask, there
19 will be someone that can answer some of these questions
20 that I have posed who is able to answer them?

21 MR. CAMPBELL: Are you talking about questions
22 dealing with acquisition of BOR land?

23 MR. RICH: Yes.

24 MR. CAMPBELL: I don't think any of our
25 witnesses probably could, any of our three witnesses could

1 testify to that. And I will certainly be happy to see
2 what we could do about getting an answer to that question,
3 but I don't think any of the three witnesses we have
4 proposed are land acquisition experts or appraisers.

5 CHMN. WOODALL: Mr. Rich, I normally do not
6 allow inquiry into cost of acquisition as it relates to
7 individual properties, because I think that those, it is
8 really not material as it relates to these proceedings. I
9 think it is fair for you to ask whether or not it is
10 likely to be cheaper or more expensive, one way or the
11 other. But I don't normally get into the nitty and gritty
12 of, you know.

13 MR. RICH: That was my intent. You asked it
14 better than I did, I guess.

15 CHMN. WOODALL: I mean I think that's fair if
16 APS has a witness that can say they think it is going to
17 be more expensive or less expensive to get it from the
18 BOR, I think that's a fair question.

19 MR. RICH: Should I -- would it be okay to ask
20 this witness or have we established that he is not --

21 CHMN. WOODALL: Mr. DeWitt, do you know if it
22 would be likely more or less expensive to get from BOR?

23 THE WITNESS: I would say it is more likely to
24 be less expensive to obtain from BOR. But again, I told
25 my counsel I would like to follow up with some folks to