



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: DECEMBER 3, 2024

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: LEGAL BUDGET FOR THE LAW FIRM OF THOMPSON COBURN IN AN AMOUNT NOT TO EXCEED \$600,000 TO INITIATE A PETITION WITH THE FEDERAL ENERGY REGULATORY COMMISSION REGARDING THE CITY'S TRANSMISSION REVENUE REQUIREMENT - SUPPLEMENTAL APPROPRIATION

ISSUE:

To consider approval of a legal budget for the law firm of Thompson Coburn in an amount not to exceed \$600,000 to initiate a petition with the Federal Energy Regulatory Commission regarding the City's Transmission Revenue Requirement.

RECOMMENDATIONS:

That the City Council:

1. Approve a legal budget for the law firm of Thompson Coburn in an amount not to exceed \$600,000 to initiate a petition with the Federal Energy Regulatory Commission regarding the City's Transmission Revenue Requirement; and
2. With at least five affirmative votes, authorize the Chief Financial Officer, or designee, to record a supplemental appropriation in the amount of \$600,000 in the Electric Fund, PU Elec Power Supply Operation-Outside Legal Services account.

BACKGROUND:

City Charter section 702, "Eligibility, powers and duties of City Attorney," provides, in part, that "the City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein." However, City Charter section 1202(b) requires Board of Public Utilities approval for utilities expenditures over \$50,000.

The City Council has previously approved the retention of Thompson Coburn. Thompson Coburn has executed an Attorney Services Agreement with the City of Riverside for the provision of legal services. Thompson Coburn has represented the City of Riverside in matters before the Federal Energy Regulatory Commission (FERC) and the California Independent System Operator (CAISO) for several decades. One of the services Thompson Coburn has provided is

filing petitions at FERC regarding the City's transmission-related costs, which is called a Transmission Revenue Requirement petition.

On November 18, 2024, the Board of Public Utilities reviewed this item. The Board recommended approval of the proposed legal budget.

DISCUSSION:

Thompson Coburn is a law firm based in Washington DC that specializes in representing publicly owned electric utilities. In general, their work for the City includes monitoring and assisting with nearly all aspects of federal regulatory activity within the purview of the FERC that may affect the City's electric utility. Under the Federal Power Act ("FPA"), FERC regulates public utilities that engage in wholesale energy sales and/or provide interstate transmission services. Although the City's electric utility, as a department of a municipality, is not directly subject to FERC regulation under Part II of the FPA, FERC does regulate the California energy markets and transmission system administered by the California Independent System Operator Corporation (the "CAISO") and the activities of Southern California Edison Company ("SCE"), the utility with which the City's electric system is interconnected. Thus, FERC's regulations, policies, and adjudications can significantly impact the City's electric utility.

In 2003, the City became a Participating Transmission Owner in the CAISO, which turned over operational control of the City's transmission assets to the CAISO. In exchange, the City is compensated by other transmission users for its costs related to the operation and maintenance of its transmission assets through a charge called the Transmission Revenue Requirement ("TRR").

The TRR is subject to FERC review and approval. It has been reviewed three times since 2003. The most recent review was in 2011. Thompson Coburn has represented the City in all previous TRR filings. Because thirteen years have passed since the last review, it has become necessary to file a new petition with FERC regarding the TRR. This type of matter is separate from Thompson Coburn's other legal services and so a separate legal budget is necessary.

The Thompson Coburn budget for a TRR related FERC filing is \$600,000. The City is eligible to propose, and has previously proposed, recovery of a portion of Thompson Coburn's legal fees and costs associated with transmission-related matters in its FERC-approved TRR. The City's TRR is included in the rates that the CAISO charges for use of the CAISO-controlled transmission system. If approved, this portion of the City's legal fees and costs will be recouped by the City from the TRR revenues it receives from the CAISO. For example, in the City's most recent TRR filing at FERC (submitted in July 2011), it proposed to recover \$297,000 per year in transmission-related legal and regulatory costs. No party to that FERC proceeding challenged the City's recovery of those legal costs.

STRATEGIC PLAN ALIGNMENT:

The retention of experienced outside counsel to assist the City's electric utility supports the priorities of the City of Riverside's Envision Riverside 2025 Strategic Plan, specifically contributing to Strategic Priority No. 5 High Performing Government, by supporting the following:

Goal No. 5.4 – Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – Riverside is transparent and makes decisions based on sound policy, inclusive community engagement, involvement of City Boards & Commissions, and timely and reliable information. Use of outside counsel that specialize in areas of the law related to regulation of the City’s electric utility will assist the City in providing safe, reliable and affordable energy for all residents while allowing the importation of 100% zero-carbon electricity production by 2040.
2. **Equity** – Use of outside counsel that specialize in areas of the law related to regulation of the City’s electric utility protects all RPU customers which benefits the entire community.
3. **Fiscal Responsibility** – The City Attorney’s Office is expending funds in a careful and judicious manner balanced against the need for specialized legal counsel when the circumstances warrant.
4. **Innovation** – The retention of specialized legal counsel to provide specialized legal advice supports City innovation efforts by ensuring that such efforts comply with all aspects of the law.
5. **Sustainability & Resiliency** – Riverside is committed to providing safe, reliable and affordable energy for all residents while allowing the importation of 100% zero-carbon electricity production by 2040. Use of outside counsel that specialize in areas of the law related to regulation of the City’s electric utility will allow the City to accomplish that goal.

FISCAL IMPACT:

The approval of a new legal budget for the law firm of Thompson Coburn is in an amount not to exceed \$600,000 is for specialized legal assistance. Upon Council approval, a supplemental appropriation will be recorded in the amount of \$600,000 in the Electric Fund, PU Elec Power Supply Operation-Outside Legal Services Account No. 6120000-421100. There are sufficient reserves to accommodate the supplemental appropriation.

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