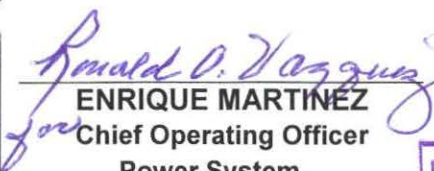
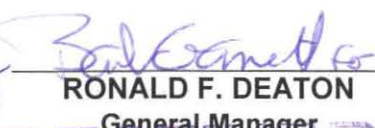
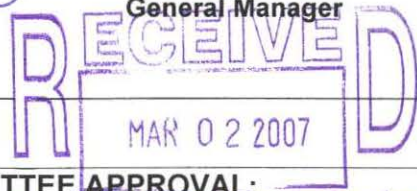


## DOCKETED

<b>Docket Number:</b>	16-RPS-02
<b>Project Title:</b>	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
<b>TN #:</b>	212412
<b>Document Title:</b>	11-2007-03-28-BC Hydro LADWP Board Letter for Reso-007-166 (Bates Nos. LA000099-LA000104)
<b>Description:</b>	N/A
<b>Filer:</b>	Pjoy Chua
<b>Organization:</b>	LADWP
<b>Submitter Role:</b>	Applicant
<b>Submission Date:</b>	7/22/2016 4:47:50 PM
<b>Docketed Date:</b>	7/22/2016

16

# LADWP BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: March 2, 2007
SUBMITTED BY:		SUBJECT:
 <b>ENRIQUE MARTINEZ</b> Chief Operating Officer Power System		Power Purchase Agreements With Powerex Corp. (LADWP No. BP 05-020A and BP 05-020B)
 <b>RONALD F. DEATON</b> General Manager		<b>FOR COMMISSION OFFICE USE:</b> <b>RES. No. 007 166</b> <b>MAR 06 2007</b> 3-COPY RES. TO- CDD-Power System 3/28/07
 <b>BOARD COMMITTEE APPROVAL:</b> Board of Water & Power Com'rs. CITY OF LOS ANGELES		
CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		IF YES, BY WHICH CITY CHARTER SECTION: 373, 674 (a)(2)

## PURPOSE:

- Obtain authority to enter into two Power Purchase Agreements (Agreement), LADWP Nos. BP 05-020A and BP 05-020B, between Powerex Corp (Powerex) and the City of Los Angeles acting by and through the Department of Water and Power (LADWP) which provides for the purchase of renewable energy from small hydroelectric generating facilities located in British Columbia, Alberta, Washington or Oregon Control Areas. This Agreement is for four (4) years, nine (9) months. (Since this Agreement is less than 5 years, it is exempt from the proposed provisions of SB 1368.)
- As part of its Renewable Portfolio Standard (RPS), the LADWP has a goal to supply 20% of its retail energy from renewable energy sources by 2010. The Agreement is the result of a competitive bid Request for Proposal (RFP) process, and is an important component of the LADWP's commitment to meeting the goals of its RPS.
- The Agreement will allow the LADWP to purchase renewable energy from RPS qualified hydroelectric facilities for the purpose of supplying renewable electricity to the ratepayers of Los Angeles. The purchase of 438,000 MWh of renewable energy per year will enable the LADWP to meet 1.9% of its RPS goal. The renewable energy will be delivered to the LADWP at the Nevada Oregon Border where the LADWP's and Bonneville Power Administration's electric systems meet on the Pacific DC Intertie, and therefore, no additional transmission infrastructure or transportation is required.

## BACKGROUND:

These Agreements are a result of a RFP, a competitive bid process that the LADWP initiated on June 30, 2004, in order to acquire renewable energy resources. On September 18, 2004, proposals were received from several firms having the capability to provide renewable energy from sources such as wind, biomass, landfill gas, geothermal, and other sources. It was the intent of the LADWP to award multiple

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contracts under the RFP. Eligible proposals were subjected to a detailed evaluation and due diligence review of the Proposers' ability to deliver, and a comparison of costs and benefits offered.

Powerex was short listed by the LADWP based on the above criteria. The LADWP negotiated the Agreement with Powerex in which Powerex would sell to the LADWP, 50 MW (25 MW per Agreement) of renewable energy from small hydroelectric generating facilities with a nameplate rating of 30 MW or less and other renewable energy resources, located in the British Columbia, Alberta, Washington or Oregon Control Areas.

Under the terms of the Agreement, the LADWP contractually agrees:

- The LADWP shall purchase, from Powerex, 50 MW (25 MW per Agreement) of renewable energy generation from RPS qualified hydroelectric facilities located in the British Columbia, Alberta, Washington or Oregon Control Areas, with an annual renewable energy delivery to the LADWP of 438,000 MWh for a period of four (4) years and nine (9) months. Under certain restrictions pursuant to Sections 4.8 (e), (f), (g) and (h) in the Agreement, Powerex may deliver renewable energy from small hydro electric generating facilities and other RPS qualified renewable energy resources such as biomass and wind, from additional control areas.
- The LADWP shall pay for the energy, on a fixed \$/MWh basis, at the energy rate determined from the Renewable Reference Price and Pricing Refresh Mechanism. The estimated cost of the renewable energy purchases over the four (4)-year, nine (9) month term of the Agreement is \$151,876,500 and is not to exceed \$186,204,000. (This is based on the price cap of \$89.50/MWh).
- Powerex intends and expects 100% of Delivered Energy in any hour will be Renewable Energy. If it is determined that the Delivered Energy in any hour is not Renewable Energy, the LADWP shall return an amount of energy equivalent to Delivered Energy that is not Renewable Energy. Powerex shall pay LADWP the Energy Price for each MWh of Returned Energy returned to Powerex pursuant to Section 4.7.
- The month following the Delivery Month Powerex shall render one bill for the aggregate amount payable by LADWP for Delivered Energy netted with, if any, amount payable for Energy returned by LADWP to Powerex.
- If less than 90% of Delivered Energy is Renewable Energy in each of two consecutive rolling 12-month periods during the Term, Powerex shall be in default and the LADWP shall have the right to terminate the Agreement.
- Under the default condition, the LADWP shall be entitled to determine its Gains, Losses and Costs.



- Under the Credit terms of the Agreement, Collateral Thresholds have been established. Should a party's credit exposure exceed the applicable threshold, additional Performance Assurance will be required. For the LADWP, should the market value of the undelivered energy decrease in market value beyond the Collateral Thresholds listed in Section 7.3, the LADWP will be required to provide Performance Assurance in the form of cash. The cash will be held in a Control Account, administered by US Bank. Any cash deposited will eventually be returned to the LADWP at the earlier of contract expiration or reversion of market value of the remaining deliverable energy to within the Collateral Threshold. Deposits made into the Control Account will remain in the form of cash as opposed to higher interest earning investments typical of other LADWP short-term investments.
- Given that the accounting of green and brown power, power rate calculation, and power delivery schedules are complex and can involve technical intricacies, Article XI of the Agreements specifies that disputes will be resolved by way of binding arbitration at the American Arbitration Association (AAA). Binding arbitration will allow the parties to select from a panel of experienced arbitrators to adjudicate any dispute. This control over selection of the adjudicator(s) is particularly important given the highly technical and complex nature of the Agreements and should lead to a more equitable result. In contrast to a lawsuit, binding arbitration also provides a relatively inexpensive and expedited dispute resolution mechanism. The binding arbitration provision in the Agreements specifies that the arbitration will be conducted locally in Los Angeles. For these reasons, it is recommended that the Board authorize binding arbitration as the dispute resolution mechanism.
- The Agreement includes audit provisions (Sections 8.3 and 8.4) appropriate to the review of the power purchase process and to validate the delivery of green power. Cost recovery for green power audits is provided for if a discrepancy of greater than 5% between quantity of green power delivered and the amount billed for is found.

Powerex has executed the Agreement. The Agreement will become effective after it is approved by the Water and Power Board of Commissioners, approved by City Council Ordinance and executed by the General Manager of the LADWP.

#### **COST AND DURATION:**

- The Renewable Energy Price for this energy will be determined by a Renewable Reference Price and Pricing Refresh Mechanism. The Renewable Reference Price is the energy price established by Powerex on the Agreement Reference Date (the date when the Agreement has been executed by Powerex and submitted to the LADWP to go to the Board). The Renewable Reference Price is \$73.00 per MWh as set at the Agreement Reference Date of March 1, 2007. The Renewable Reference Price will be adjusted by the Pricing Refresh Mechanism once the Agreement has been approved by the Los Angeles City Council and notice given to Powerex of such approval (Pricing Date). This adjustment is based on the percentage changes of the NYMEX Gas Index and SP 15 energy pricing.

- A price cap and price floor for the Renewable Energy Price has been set at \$89.50/MWh and \$60/MWh, respectively. At the Pricing Date, if the Renewable Energy Price is greater than \$89.50/MWh, the LADWP has the option either to not execute this Agreement or waive this right and accept the final pricing. If the Renewable Energy Price is below \$60/MWh, Powerex has the option either to withdraw from delivery of this Agreement or waive this right and accept the final pricing.
- Total annual expenditures are not to exceed \$39,201,000 in the fiscal year beginning 2006-07 and ending 2011-12 (4-years, 9 months) and will be paid from the Power Revenue Fund.
- The Agreement shall terminate on the earlier of the following: (a) Four years nine months from the Commencement Date of April 1, 2007, (b) by a default of the Agreement and termination by the non-defaulting Party, or (c) by mutual agreement of the Parties.

**FUNDING SOURCE:**

- Power Revenue Fund
- Starting Fiscal Year 2006-2007 and ending Fiscal Year 2011-2012

**FISCAL IMPACT STATEMENT:**

The total expenditures may total \$186,204,000 for the four years nine months duration of the Agreement. The funds will be used to purchase renewable energy as part of LADWP's Renewable Portfolio Standard. This will benefit the ratepayers of Los Angeles by supplying them with green energy.

**TYPE OF INSURANCE COVERAGE(S):** Not Applicable. This is a power purchase contract.

**PRE-AWARD CHECKLIST**

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Contract Compliance
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Subcontracting Opportunities
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Service Contractor Worker Retention Ordinance
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Child Support Policy
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Living Wage Ordinance
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	Labor Relations Notification
Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>	Charter Section 1022 Findings



**CONTRACT ADMINISTRATION:**

The Agreement will be administered by the Power Contracts Group in the Resource Development, Procurement, and Regulatory Compliance Division. Some of the administrative duties will be to ensure that the contract terms are met, i.e. energy delivered is green (as verified through meters, if required), 50 Mw is delivered every hour, brown energy is returned to Powerex, and implementing audit rights as required.

**FORMAL OBJECTIONS TO AWARD OF CONTRACT:**

N/A

**JOB OPPORTUNITIES AND TRAINING POLICY:** ☐Applicable ☒Not Applicable

**INTERNAL AUDIT:** ☐Yes (If yes, please indicate the disposition of the findings below :)  
☒No

**Disposition of Findings:** Applicable or Not applicable.

**EXTERNAL AUDIT:** ☐Yes (If yes, please indicate the disposition of the findings below :)  
☒No

**Disposition of Findings:** Applicable or Not applicable.

**CHARTER SECTION 1022 FINDINGS AND BASIS THEREOF:**

N/A. This Agreement is for the purchase of renewable energy and does not involve any contracting work.

**METHOD OF SELECTION:**

☒ Competitive ☐ Cooperative Purchase ☐ Sole Source

**OUTREACH EFFORTS TAKEN:**

RFP was distributed to all of the electric power providers, developers and contractors as well as posting in many major trade publications.

**MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE) SUBCONTRACTING PARTICIPATION:**

- Under Power Purchase Agreements for existing facilities, MBE/WBE policy does not apply.

**VENDOR HISTORY:**

- There have not been any long term power purchases agreements with Powerex. There have been short term power purchases with terms of three months.

**VENDOR PERFORMANCE:**

- N/A. The purchase of energy does not involve any construction, construction schedules or completion times.

**ENVIRONMENTAL DETERMINATION:**

- In accordance with the California Environmental Quality Act (CEQA), it has been determined that the Powerex Power Purchase Agreement is exempt from further requirements under the Los Angeles City CEQA Guidelines, Article III, Section 1, No Significant Effect.

**RECOMMENDATION:**

- It is recommended that your Honorable Board approve the accompanying resolution, approved as to form and legality by the City Attorney, and that the Agreement, including a binding arbitration provision, be executed as authorized in the resolution.
- City Council approval of the Agreement by ordinance is required pursuant to §674(a) (2) of the City Charter, and because the term of the Agreement is greater than three years, City Council approval of the Agreement is required pursuant to §373 of the city Charter.

MTL:go

Attachment

c/att: Ronald F. Deaton

Barbara Garrett

Robert K. Rozanski

Richard M. Brown

AGM – Corporate Services

Lillian Y. Kawasaki

Hal D. Lindsey

Enrique Martinez

James B. McDaniel

Jeffery Peltola

Pamela T. Porter

Ronald O. Vazquez

Cecilia K. T. Weldon

Albert A. Stephens

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