

## DOCKETED

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In the Matter of ) Docket No. 16-RPS-02  
 )  
Appeal by Los Angeles )  
Department of Water & Power re )  
Renewables Portfolio Standard )  
Certification Eligibility ) Status Conference

CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Art Rosenfeld Hearing Room (Hearing Room A)  
Sacramento, California 95814

Reported by:  
Peter Petty

## APPEARANCES

### **California Energy Commission**

#### Committee Members (and their Advisors) Present

Robert Weisenmiller, Chair, Presiding Member  
Jana Romero, his Advisor

David Hochschild, Associate Member  
Emilio Camacho, his Advisor

#### Hearing Officer

Paul Kramer

#### Staff Present

Courtney Smith, Deputy Director, Renewable Energy Division  
Gabe Herrera, Chief Counsel's Office  
Mona Badie, Chief Counsel's Office  
Drew Bohan, Chief Deputy Director  
Ralph Lee, Technical Staff

### **Petitioner LADWP**

Felix Lebron, Deputy City Attorney, City of Los Angeles  
Pjoy T. Chua, LADWP NERC/WECC Compliance Officer

## AGENDA

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P R O C E E D I N G S

JULY 13, 2016 1:19 p.m.

CHAIR WEISENMILLER: Again, please mute your line if you're on the phone.

So the purpose of today's Committee Conference is to assess the parties' readiness to proceed to hearings and to determine an appropriate schedule for review and decision on the Appeal.

We will hear from the parties on these topics, take public comment, and then deliberate in closed session.

Today is not the day for advocacy; that comes later in your briefs and oral arguments. We're trying to catalogue the legal and factual issues and set a schedule.

I want to really make sure everyone is fairly clear that, in terms of issues, if you have issues to raise them now. We really don't want to get, you know, six months into the process and have new issues appearing.

Commissioner Hochschild?

COMMISSIONER HOCHSCHILD: No comments to add to that.

1                   HEARING OFFICER KRAMER:   Okay, this is  
2   Paul Kramer.   I'm the Hearing Officer for this  
3   case.   Again, the L.A. Department of Water &  
4   Power RPS Appeals.

5                   And just for everyone on the phone and  
6   everyone in the room, I'll introduce the people  
7   who are up here on the dais.   Starting at my left  
8   is Jana Romero, she is Chair Weisenmiller's  
9   Advisor; then Chair Weisenmiller; myself, Paul  
10   Kramer; Commissioner Hochschild, and Commissioner  
11   Hochschild's Advisor, Emilio Camacho.

12                  And we'll now ask the parties to  
13   introduce themselves, beginning with the  
14   Applicant.

15                  MR. LEBRON:   Good afternoon.   Felix  
16   Lebron, Deputy City Attorney for the City of Los  
17   Angeles, appearing on behalf of the Los Angeles  
18   Department of Water & Power.

19                  MS. CHUA:   Good afternoon.   Pjoy Chua,  
20   Regulatory Compliance Manager for LADWP.

21                  HEARING OFFICER KRAMER:   Thank you.   Then  
22   staff?

23                  MS. SMITH:   Good afternoon.   This is  
24   Courtney Smith, the Deputy Director of the  
25   Renewable Energy Division, and I'm joined by Gabe

1 Herrera and Mona Badie from the Commission's  
2 Chief Counsel's Office, as well as Drew Bohan,  
3 our Chief Deputy Director.

4 HEARING OFFICER KRAMER: Okay, thank you.  
5 For the benefit of the parties, I want to go over  
6 some of the procedural rules and practices that  
7 will apply in this proceeding.

8 We have an ex parte rule; this proceeding  
9 is subject to the provisions or portions of the  
10 California Administrative Procedure Act, and that  
11 Act generally prohibits ex parte communications  
12 between a party or interested person and the  
13 committee or a single member of the committee,  
14 which includes the Commissioners, their advisors,  
15 and myself.

16 It's best that you communicate with the  
17 Committee orally at a notice meeting such as  
18 this, or via a letter or memo that is filed in  
19 the Docket of this proceeding for everyone to  
20 see.

21 The Committee is also subject to the  
22 Bagley-Keene Open Meetings Act. Committee  
23 Meetings such as this Conference must therefore  
24 be publicly noticed, as this one was. And you  
25 may find as we go forward that we notice a series

1 of Committee Conferences between now and the  
2 eventual hearings as placeholders in case there  
3 is Committee business to conduct. Obviously,  
4 because we have to give advanced notice, we just  
5 can't decide today, for instance, to have a  
6 Committee Meeting on Friday, unless some very  
7 narrow exceptions were to apply.

8           Some of those meetings that we may set as  
9 placeholders may be canceled and others may be  
10 convened for the primary purpose of the Committee  
11 deliberating in closed session. Agendas, of  
12 course, will be filed in the Docket in advance of  
13 those meetings. And if you see that the meeting  
14 is primarily for the purpose of conducting a  
15 closed session, we recommend that those of you  
16 folks from Los Angeles not bother to travel up  
17 here because it will be a very short public  
18 portion, but you can still monitor what goes on  
19 during the public portion via our WebEx telephone  
20 conferencing system.

21           The Evidentiary Rules we use in these  
22 proceedings are broader than those you might find  
23 in civil litigation; I won't go into the details,  
24 but I'll just refer you to Section 1212 of our  
25 Regulations for further information.



1           Exhibits we'll talk more about as the  
2 proceeding progresses, but one fundamental point  
3 is that for a document to be an exhibit in this  
4 proceeding, it needs to be filed in our eFiling  
5 system so that we can later tag it with an  
6 exhibit number. So as you're planning your  
7 exhibits, just keep that in mind that you're  
8 going to have to file them in advance of the time  
9 that we ask you to identify them.

10           I forgot to bring the Proof of Service  
11 list with me, but I'll pass it out during the  
12 break, or you can look at it on the website. I  
13 believe that we have all of the appropriate  
14 people on that list at this point in time, but  
15 I'd ask the parties to just check and make sure  
16 your information is the way you would like it to  
17 be and, if not, let me know and we can adjust it.

18           The purpose of the Proof of Service List,  
19 among other things, is to allow you to serve-in  
20 the sense that you're used to in legal  
21 proceedings—the other parties. And you do that  
22 simply by electronically filing a document, and  
23 then our electronic filing system takes care of  
24 doing the rest. Once it is approved for filing,  
25 then the system sends an email to everyone else

1 on the Proof of Service list and a couple of  
2 other lists, letting them know that the document  
3 is available to download. So you don't have to  
4 mail the document to the other parties, or email  
5 it to them and, in fact, we encourage you to just  
6 rely on the system. So, for instance, if  
7 something goes wrong with your document and it's  
8 rejected, that nobody is relying upon that as an  
9 official document and being misled by its status.

10 Finally, a word or two about public  
11 participation. A portion of each public meeting  
12 will be set aside for public comments; you see  
13 that on today's agenda. Public comments can also  
14 be filed via our electronic commenting system or  
15 by email to our Docket Unit, or even by U.S. Mail  
16 on good old paper.

17 All of the documents filed in this  
18 proceeding are available via our website. We  
19 have a link on there to something called a  
20 "Docket Log" and that's a clickable link to lists  
21 of all the documents that have been filed in this  
22 particular proceeding. And if you're not a party  
23 or member of staff and you want to get the same  
24 emails letting you know when documents are filed,  
25 you can sign up to our listserv, and we have a

1 specific listserv for this particular proceeding.  
2 Those options are all explained in the Notice of  
3 this meeting, which is available on our website.  
4 And although they don't have a representative  
5 with us right now, our Public Advisor's Office is  
6 available to assist any member of the public who  
7 needs help in understanding how to participate in  
8 the proceeding and get documents and make  
9 comments on all the things I just discussed.

10           So with that, we'll get into the meat or  
11 the heart of the matter, the item on our agenda  
12 where we're going to talk about the schedule and  
13 matters affecting the schedule. We have several  
14 questions and then we'll open it up for comments  
15 from the parties.

16           Our first is to staff and that is about  
17 the effect of this proceeding on the timing of  
18 the Verification Report for Publicly Owned  
19 Utilities. Can that report go forward prior to  
20 resolving this appeal? What is the effect, if  
21 any?

22           MS. SMITH: Yeah, the POU Verification  
23 Report is being currently prepared by staff. It  
24 is foreseeable that this proceeding will last  
25 longer than the staff timeline for the

1 Verification Report and, as such, staff will plan  
2 to bifurcate L.A.'s issue and the rest of the  
3 Verification Report. So in summary, the  
4 Verification Report can proceed without the  
5 outcome of this proceeding.

6 HEARING OFFICER KRAMER: Great, thank  
7 you.

8 Then our next question is again for you.  
9 The LADWP is proposing a two-phase process, first  
10 to decide the applicable legal standard, and then  
11 second to apply the standard to the facts. Does  
12 staff agree with that approach?

13 MR. HERRERA: Yeah, this is Gabe Herrera  
14 with the Commission's Legal Office. Yeah, we  
15 agree with that approach, we think it makes sense  
16 for the Committee to identify the legal issues it  
17 wants briefed, to ask the parties to address  
18 those issues, and then, once the issues have been  
19 briefed for the Committee, to decide to what  
20 extent evidentiary hearings would be necessary.  
21 But we agree it makes sense to deal with those  
22 issues upfront.

23 HEARING OFFICER KRAMER: Okay, thank you.

24 We're also wondering, are there any other  
25 similarly affected entities where there are

1 issues with regard to their certifications or  
2 similar to those that we're talking about in this  
3 proceeding?

4 MS. SMITH: Uh, to my knowledge, L.A. is  
5 the only publicly owned electric utility in this  
6 particular situation.

7 HEARING OFFICER KRAMER: Okay. And a  
8 point of clarification on page two of your  
9 statement for this Conference. You said all  
10 other Applicants who applied for certification of  
11 facilities using biomethane injected into a  
12 common carrier pipeline were unable to meet this  
13 delivery pathway requirement. Based on what we  
14 were reading in the rest of the statement, we  
15 thought or were wondering if you meant to say  
16 "able" as opposed to "unable?"

17 MS. SMITH: Yes, that's a typo.

18 HEARING OFFICER KRAMER: Okay.

19 MS. SMITH: All Applicants have been able  
20 to meet the biomethane delivery requirement.

21 HEARING OFFICER KRAMER: Roughly how many  
22 were there?

23 MS. SMITH: How many publicly owned  
24 utilities? Or --?

25 CHAIR WEISENMILLER: How many publicly

1 owned utilities were able to meet the standard?

2 MS. SMITH: At this time, I'm not  
3 prepared to give you an exact number, but I can  
4 tell you that, under the Third Edition, one other  
5 publicly owned utility was able to meet the  
6 standard and that's SMUD.

7 CHAIR WEISENMILLER: Okay. Well,  
8 certainly if you want to file anything additional  
9 for the record on that, that would be good.

10 MS. SMITH: Happy to.

11 HEARING OFFICER KRAMER: Okay, and then  
12 two other questions we had, well, one is more of  
13 basically a statement, and that's we encourage  
14 LADWP to file their, whatever form it takes,  
15 their request regarding the British Columbia  
16 Hydro facilities by July 22nd, which is something  
17 you said you could do in your filing. So will  
18 there be any problem doing that?

19 MR. LEBRON: No, that won't be a problem  
20 on the filing. I did want to note that at the  
21 time we submitted our papers, it was unclear as  
22 to whether or not there was a dispute between  
23 LADWP and staff as to whether the Committee  
24 should take up the issue of resolving are the BC  
25 Hydro RECs eligible. I think there is an

1 agreement that the issue in terms of the  
2 statutory interpretation and whether or not that  
3 BC Hydro Rec should count, both sides agree that  
4 would be something that would be appropriate for  
5 the Committee to consider, so that means that I  
6 don't think it's a disputed issue as to whether  
7 or not the Committee can look at just adding that  
8 resource into this proceeding, understanding that  
9 the merits of the issue would be briefed at a  
10 later point.

11 CHAIR WEISENMILLER: I think the issue  
12 we're trying to just get to is whether the issue  
13 is ripe for the Committee, which would mean  
14 basically you file your appeal and at that point  
15 staff responds. At least I'm assuming both sides  
16 at this point aren't saying it's before the  
17 Committee as much as if, indeed, you file the  
18 appeal, the staff responds, and then it would  
19 basically come in this direction?

20 MR. HERRERA: Uh, Chairman, this is Gabe  
21 Herrera again, I think that could be a little bit  
22 problematic in the sense that L.A. in their  
23 statement has indicated that they did not file an  
24 Application for Certification for the BC Hydro  
25 resources. That would be the trigger point for

1 staff, Energy Commission staff, to evaluate that  
2 application and decide whether it satisfied the  
3 requirements or not. So I think that would  
4 require quite a bit of work and it's my  
5 understanding that L.A. feels that it doesn't  
6 need to file an application for various reasons  
7 identified in their Status Report.

8 Mr. Lebron, do you want to comment on  
9 that point?

10 MR. LEBRON: Yes. In terms of the  
11 certification, this is a point -- and we can  
12 address this in a motion if it helps clarify for  
13 the Committee and the Hearing Officer -- the BC  
14 hydro procurement had a contract that was  
15 executed in 2007 that expired in December 2011 a  
16 few weeks after (SB) X1 2 became effective. The  
17 law prior to (SB) X1 2 becoming effective did not  
18 require publicly owned utilities to have to  
19 certify their eligible renewable resources with  
20 the Commission. So, because for this particular  
21 resource there is no obligation before the  
22 statute took effect, LADWP did not own these  
23 particular resources, they were procurement  
24 contracts and they expired shortly thereafter for  
25 purposes of compliance period 1, LADWP claimed



1 RECs for the period from January 1st, 2011 up and  
2 to the point where (SB) X1 2 took effect in  
3 December 2011, and these facilities were small  
4 hydro facilities less than 30 Megawatts, which at  
5 the time was an eligible resource under LADWP's  
6 then local RPS policy. And so the question that  
7 we were asking the Committee to consider is, when  
8 we're looking at the interpretation of (SB) X1 2,  
9 specifically how the provisions dealing with the  
10 grandfathering of resources should be interpreted  
11 and applied. The Committee will look at that  
12 issue for biomethane; this is an additional  
13 resource that is in dispute as between staff and  
14 LADWP as to whether or not the RECs from BC Hydro  
15 should count for a Compliance Period 1. So we'd  
16 like to have that issue be considered by the  
17 Committee, which is already going to be looking  
18 at the questions of statutory construction under  
19 (SB) X1 2, and what the Legislature meant when  
20 they included a provision to grandfather  
21 resources that were adopted under publicly owned  
22 utilities' voluntary RPS Programs. This would be  
23 one of those resources that we would ask the  
24 Committee to consider.

25 So in terms of the motion that we were

1 going to file when we appeared before you last  
2 month, I think there was a question as to whether  
3 or not staff had an objection to the Committee  
4 considering in resolving that issue in this  
5 proceeding based on the Committee, the Status  
6 Conference Reports filed by both sides, having an  
7 opportunity to now look at those reports. Both  
8 sides agree that this is an issue the Committee  
9 can and should decide.

10 So I'm happy to provide a motion to the  
11 Committee to include this specific resource in  
12 this proceeding, although I don't think it's an  
13 issue that is disputed between the parties at  
14 this point.

15 HEARING OFFICER KRAMER: Let me ask,  
16 though, it sounds as if you've not formally  
17 applied to get those credits, right?

18 MR. LEBRON: When you say "applied," Mr.  
19 Kramer, LADWP has included those RECs within its  
20 Compliance Period 1.

21 [Conference Operator Speaks]

22 MR. LEBRON: Sorry about that. LADWP has  
23 included those RECs within its Verification and  
24 Compliance Reports for Compliance Period 1.

25 HEARING OFFICER KRAMER: Okay, and that's

1 all you needed to do. And staff has -- well,  
2 staff, is there more to be done?

3 MR. HERRERA: So I raised the issue  
4 initially, Mr. Kramer, because the basis for  
5 considering an appeal for L.A. would be based  
6 upon staff's denial of certification. L.A.  
7 doesn't feel like it needs to apply for  
8 certification for BC Hydro. But that would be  
9 the trigger point for an appeal, similar to the  
10 bill that's being heard concerning the  
11 biomethane, right? It would be that staff denied  
12 L.A.'s Applications for Certification of the BC  
13 Hydro facility, and L.A. has maintained that it  
14 doesn't feel like it needs to file an appeal.

15 HEARING OFFICER KRAMER: And staff is  
16 still saying that it does need to file an appeal?

17 MR. HERRERA: No. Staff's position is  
18 that it feels the Energy Commission does need to  
19 certify these resources for L.A. to count them  
20 for its RPS, right? And before we can do that,  
21 we would want L.A. to first file an Application  
22 for Certification, which they haven't done and  
23 feel they don't need to do

24 HEARING OFFICER KRAMER: So, Mr. Lebron,  
25 are you asking us to rule on whether or not you

1 need to file a formal Application for  
2 Certification? Or --?

3 MR. LEBRON: No, that's not the specific  
4 question. So for this resource, we're asking for  
5 an interpretation of (SB) X1 2, and that statute  
6 took effect in December of 2011, it was a  
7 prospective statute. Prior to that statute taken  
8 into effect, publicly owned utilities had local  
9 control over their renewable resources. L.A.'s  
10 policy at that time included as an eligible  
11 resource hydro facilities less than 30 megawatts  
12 in Nameplate capacity; these contracts were  
13 procured in 2007 pursuant to that policy, the  
14 contract expired in 2011. L.A., looking at its  
15 procurement of renewable resources for the period  
16 of January 1st, 2011, to the end of 2013,  
17 included the RECs generated from the small hydro  
18 renewable facilities.

19 So the question that is before this  
20 Committee is, when looking at those RECs for that  
21 period, and in light of the fact that the statute  
22 is perspective and not retroactive, should LADWP  
23 receive credit for the energy generated for the  
24 period from January 1, 2011 up and to when the  
25 statute took effect? And there was no

1 obligation, and this might be briefing, but there  
2 were no obligations for publicly owned utilities  
3 to have to certify their resources with the  
4 Commission before that statute took effect. So  
5 to require otherwise is in effect to make it  
6 retroactive, which we believe is inconsistent  
7 with what the Legislature declared when they  
8 passed the statute; it was not to undo contracts  
9 that were entered into in good faith under the  
10 law then in effect.

11 HEARING OFFICER KRAMER: Okay, well, it  
12 sounds like we're hearing a preview of a  
13 discussion that we will have later if and when --  
14 and we hope by July 22nd -- you file your motion.

15 Okay, and then finally there was some  
16 mention in the filings of stipulated facts. So I  
17 want to hear from both sides: at what point do  
18 you think it would be most effective for you to  
19 file any stipulations that you can agree to? In  
20 other words, before the first briefs? Clearly  
21 before the hearings, but --

22 MR. HERRERA: So this is Gabe Herrera. I  
23 think it would be beneficial to do that after the  
24 Committee decides which issues it will take up,  
25 so once we have identified all the issues of

1   dispute, the legal issues between L.A. and Energy  
2   Commission staff, at that point then I think it  
3   would be an opportunity -- opportunistic for us  
4   to meet with LADWP to figure out if at the next  
5   level of the evidentiary hearing there are facts  
6   that can be stipulated that would reduce a need  
7   for some portion of the hearings.

8               HEARING OFFICER KRAMER:   So you don't see  
9   any of the facts as being necessary to the  
10   resolution of the legal interpretations?

11              MR. HERRERA:   Well, I guess it all  
12   depends on what the issues are, and what the  
13   issues are depends on which issues the Committee  
14   chooses to take up.   So part of that I think  
15   depends on, for example, if the Committee  
16   entertains and accepts LADWP's motion to expand  
17   the scope to consider the eligibility of BC  
18   Hydro, then that --

19              (Conference Operator Speaks)

20              HEARING OFFICER KRAMER: We apologize for  
21   that.   The reason it's happening is new people  
22   are joining the phone call and we cannot mute  
23   them, well, they're not automatically muted when  
24   they come in, so we have to sort of catch them as  
25   -- we're playing Whack-A-Mole, basically.   So go

1 ahead and continue.

2 MR. HERRERA: So as I was saying, I think  
3 once the Committee decides to what extent it's  
4 going to take up the additional issues that L.A.  
5 raises, including the BC Hydro issue, then at  
6 that point we'll be in a better position to know  
7 which facts can be stipulated to address those  
8 particular issues.

9 HEARING OFFICER KRAMER: Okay, Mr.  
10 Lebron, any thoughts?

11 MR. LEBRON: I'm in agreement with Mr.  
12 Herrera. I think that the proposed two-phase  
13 schedule that is included in LADWP's statement  
14 wants to consider the legal interpretation issues  
15 regarding the statutory construction. Those are  
16 not fact intensive in terms of a dispute. I  
17 think both sides are in relative agreement that  
18 the Committee can consider the legal  
19 interpretation issues.

20 Where we get into fact disputes is we  
21 disagree on what rule should apply for  
22 determining the eligibility of biomethane. Once  
23 the Committee issues a ruling on the  
24 interpretation of the statutes and identifies  
25 what should be the applicable rules for

1 determining eligibility, then I think we'll have  
2 an opportunity at that point to sit down together  
3 with staff and go through which facts are in  
4 dispute and which aren't.

5 HEARING OFFICER KRAMER: Okay, thank you.

6 One thing we also want to make clear, I  
7 was going to mention it towards the end of the  
8 proceeding, but it seems like a good time, is  
9 that when we get to briefing we're going to  
10 expect that the parties describe all of their  
11 legal arguments and support for their positions  
12 in their briefs. Arguments made in a filing, you  
13 know, prior to that, say prior to today, but not  
14 carried forward into those briefs will not be  
15 considered. We're kind of setting up -- we're  
16 trying to draw a line because there has been some  
17 divergence in what the parties have said over  
18 time and when we go to decide the case, we want  
19 to know all the arguments that the parties are  
20 currently offering and we don't want to worry  
21 about some ancient thought coming back to rear  
22 its head, you know, at some later point in the  
23 proceeding.

24 CHAIR WEISENMILLER: Again, just so it's  
25 clear, you filed briefs in this proceeding, we're



1 looking at the evidence in this proceeding; to  
2 the extent there's lots of paper that went back  
3 and forth in the discussions prior to the appeal,  
4 those papers are not in this record unless you,  
5 you know, proceed to try to move those into this  
6 record. So fresh, delayed, whatever you're  
7 filing here is what we're going to base our  
8 decision on.

9 MR. LEBRON: Understood. Thank you.

10 HEARING OFFICER KRAMER: Okay. So at  
11 this point we haven't let the parties tell us  
12 what they want to tell us yet, so let's begin  
13 with the Applicant. If you have anything to add  
14 to what has already been said.

15 MR. LEBRON: One thing I would add that  
16 the Committee -- I don't know if this is still a  
17 question or not -- but had a threshold question  
18 about its authority to consider arguments we  
19 provided within our statement, some authority on  
20 that issue, and believe that the Committee does  
21 have the full authority and discretion under  
22 Public Resources Code to consider all arguments  
23 in this proceeding that are raised in both the  
24 Letter of Appeal or that may be raised in terms  
25 of interpreting or construing the statutes.

1           In terms of the motion, we've confirmed  
2 we'll have it by July 22nd.

3           I had one question for the Committee in  
4 terms of the evidence you mentioned that needed  
5 to be filed on exhibits; would it be acceptable  
6 to the Committee if LADWP proposed a compendium  
7 of exhibits that were labeled and Bates labeled,  
8 but filed as a compendium? So it would be one  
9 filing of documents, or maybe two compendia as  
10 opposed to a filing of each individual exhibit.

11           HEARING OFFICER KRAMER: How many are you  
12 talking about? Hundreds?

13           MR. LEBRON: Yes.

14           HEARING OFFICER KRAMER: Well, we really  
15 prefer that each individual exhibit be a separate  
16 document in our system because we can only give  
17 it one exhibit number per individually filed  
18 document, it's just the way the system is set up.  
19 But we have -- I don't know what the limit is on  
20 the number of exhibits we can have, but would 500  
21 be enough? When we go to start to work towards  
22 the hearings I normally give a range of exhibit  
23 numbers to each party, so maybe I'll be safe and  
24 give you a thousand. Would that --?

25           MR. LEBRON: I think that would be --

1           HEARING OFFICER KRAMER: More than  
2 enough, I hope?

3           MR. LEBRON: -- more than enough, yes.

4           HEARING OFFICER KRAMER: Okay, good.  
5 Anything else?

6           MR. LEBRON: Oh, a second question on the  
7 openness of the public proceedings. This might  
8 not be an issue that we get into until the  
9 Committee determines rules when we get into fact  
10 issues, but to the extent that the factual  
11 disputes deal with information that would be  
12 considered proprietary and/or trade secret  
13 business information in terms of the gas being  
14 consumed by the facility, I guess the question  
15 is, procedurally, is there a way to be able to  
16 address that under seal or in a confidential  
17 manner for those portions that would be not  
18 subject to disclosure under the California Public  
19 Records Act?

20          HEARING OFFICER KRAMER: Yes. There's a  
21 process in our rules for filing documents. The  
22 system allows you to file confidential documents,  
23 you file basically a request for confidential  
24 status as the first document uploaded, and then  
25 you upload all the confidential documents and

1 then they will be treated as confidential, they  
2 will not be available to the public via the  
3 website.

4           We like to, as much as we can, make the  
5 portions that are not confidential available,  
6 though. So if you can make your point by filing  
7 a redacted copy of a document, if we don't need  
8 to see the redacted information, that's another  
9 alternative. But we'll leave it to your  
10 judgment. And the hearings get a little more  
11 complicated when we start talking about  
12 confidential facts, you know, we have to clear  
13 the room. And so to the extent it's not  
14 necessary to get into those details, it's just  
15 more convenient for everyone.

16           CHAIR WEISENMILLER: Yeah. Now, again, I  
17 was going to say certainly we're prepared to have  
18 redacted testimony, we're prepared to close --  
19 anyway, there's a whole series of things we're  
20 prepared to do, but certainly if it's possible  
21 for the parties to reach out and conclude on what  
22 elements of the facts could be public, you know,  
23 and not put us through the closed hearings, that  
24 would be better.

25           HEARING OFFICER KRAMER: Anything else?

1           MR. LEBRON: Could I just have one moment  
2 to confer with my colleague?

3           HEARING OFFICER KRAMER: Certainly.

4           MR. LEBRON: One last issue we'd like to  
5 raise that we had mentioned in our Status  
6 Conference Report, it dealt with the briefing  
7 schedule, and there is a period where LADWP  
8 Management, who are involved in working on these  
9 matters, had pre-planned vacations, will be gone  
10 for parts of July and August, so we made a  
11 request in terms of the briefing schedule that  
12 any brief that would be due on what we framed as  
13 Phase 1 Statutory Interpretation Issues not be  
14 set until the proposed date that is at the end of  
15 August to accommodate those pre-scheduled and  
16 planned vacations of our Executives.

17           HEARING OFFICER KRAMER: Okay, thank you.  
18           Staff, any other comments?

19           MS. SMITH: Yes. Since we've been  
20 discussing the scope of this proceeding, I just  
21 wanted to elevate one point that we made in our  
22 Status Report. And that is that the staff has  
23 found no prohibition with the Committee  
24 considering the arguments that L.A. raises in  
25 their Letter of Appeal with one exception. In

1 the Letter of Appeal, L.A. argues that the RPS  
2 Guidebook Fourth Edition requirement for a  
3 contract delivery pathway is arbitrary and  
4 incorrect and conflicts with both State and  
5 Federal policies.

6           These arguments raised by L.A.  
7 fundamentally deal with the merit of the  
8 requirement as stated in the RPS Eligibility  
9 Guidebook. Staff feels that L.A. is asking the  
10 Committee to disregard its adopted RPS  
11 requirements and establish new requirements that  
12 L.A. can meet. Staff believes that if the  
13 Committee decides to reconsider the merits of the  
14 requirements that were arrived at during a robust  
15 public process, it will create an unfair  
16 situation to those stakeholders who participated  
17 as part of that process, and also to those  
18 Applicants who have already followed the  
19 requirements. That robust public process is  
20 detailed in the Status Report. As part of it,  
21 L.A. did not submit comments to the Commission  
22 during that process to adopt the RPS Eligibility  
23 Guidebook Fourth Edition. If they had, it would  
24 have given staff an opportunity to address any  
25 concerns that they may have.

1           And so, in summary, I think staff  
2 believes that this argument is not appropriate  
3 for Committee consideration as it brings up  
4 potential violations of principles of equity.

5           HEARING OFFICER KRAMER:   Okay, thank you.  
6 Anything else?

7           MR. HERRERA:   Yeah, if I can add in, Mr.  
8 Kramer, on that point, I mean, some of the issues  
9 L.A. has raised touch on the validity of some of  
10 the Regulations or Guidelines the Energy  
11 Commission has adopted, either the Enforcement  
12 Regulations in Title 20, California Code of  
13 Regulations Sections 3200, et seq., or in the  
14 Energy Commission's Guidelines. And to the  
15 extent that those rules were developed pursuant  
16 to Rulemakings under the Energy Commission's  
17 Regulations, it just seems like any revisions  
18 that might be considered by the Committee would  
19 likewise be subject to those same rules. So  
20 that's just a point we want to make sure that the  
21 Committee is aware of and considers.

22           HEARING OFFICER KRAMER:   Okay, thank you.

23           MR. HERRERA:   Mr. Kramer, if I can add  
24 just one more point?

25           HEARING OFFICER KRAMER:   Who was --?

1               MR. HERRERA:   That was me.

2               HEARING OFFICER KRAMER:   Mr. Herrera, go  
3 ahead.

4               MR. HERRERA:   Just concerning the  
5 schedule, L.A. has indicated that they've got a  
6 number of key team members that may be out during  
7 August, and if there is a requirement to do some  
8 briefing that it be done by the end of August.  
9 Likewise, I know myself, I've got a vacation  
10 planned and there may be others on the team that  
11 have vacation plans starting the last week of  
12 August, so we would support L.A.'s request that  
13 the schedule take that into consideration.

14              HEARING OFFICER KRAMER:   Does that mean  
15 you like the dates that they have proposed?

16              MR. HERRERA:   I would propose an earlier  
17 date, you know, like September -- excuse me,  
18 August 26th, which might be a Friday before the  
19 August 31st date.   But that may be too early for  
20 L.A.

21              HEARING OFFICER KRAMER:   And keep the  
22 other deadlines as they are?

23              MR. HERRERA:   Yeah.   I think the other  
24 deadlines are fine.

25              HEARING OFFICER KRAMER:   Mr. Lebron?   You



1 are correct that August 26th would be the Friday  
2 preceding the 31st, which is on Wednesday.

3 MR. HERRERA: Right, or even August 29th,  
4 which is that Monday, that would work as well if  
5 that is better suited for L.A.

6 HEARING OFFICER KRAMER: Folks on the  
7 phone, we're going to get to public comment in  
8 just a minute if that's what you're wondering  
9 about, so stand by. Mr. Lebron?

10 MR. LEBRON: The proposed August 29th  
11 date, I think, could work for LADWP if that's  
12 acceptable to staff and works for the Committee  
13 and the Hearing Officer.

14 HEARING OFFICER KRAMER: Okay, thank you.  
15 One more question occurred to us. No mention has  
16 been made of discovery. Are the parties  
17 anticipating any kind of discovery in this  
18 proceeding? Or do you know everything already?

19 MR. HERRERA: We don't know everything  
20 already, but we'd like to know what the issues  
21 are to figure out what additional information we  
22 may need, and so I think we would be better  
23 prepared to talk about whether discovery is  
24 necessary after the issues have been identified  
25 by the Committee.

1           MR. LEBRON: I agree with Mr. Herrera. I  
2 think that once we have an opportunity to address  
3 the legal interpretation issues and understand  
4 which rules apply, at that point there may be a  
5 need for discovery because there are some  
6 contentions that are disputed as between the  
7 party, but I think the appropriate time to  
8 determine those are once we know what rules are  
9 we looking at, what standards does LADWP need to  
10 establish at hearing.

11           HEARING OFFICER KRAMER: So when you both  
12 say "issues identified," you mean the Committee's  
13 decision on the interpretation of the law as  
14 opposed to, say, a Scoping Order we might issue  
15 in a few weeks?

16           MR. HERRERA: Well, I think both, Mr.  
17 Kramer. I think, you know, a Scoping Order that  
18 you issue in a couple weeks might identify all  
19 the issues of dispute, and that would also  
20 identify which issues, for example, any  
21 additional new issues that L.A. raises, that the  
22 Committee has chosen to undertake, right? So  
23 once that Scoping Order is issued, that  
24 identifies the issues, then I think at that point  
25 we would be better versed, yeah.

1           HEARING OFFICER KRAMER:   Okay, so then  
2   we'll ask that you please inform us as soon as  
3   you realize that you may need to do something by  
4   way of discovery so that we are aware of that and  
5   can factor it into our monitoring of the  
6   schedule.

7           So with that, we will go to public  
8   comment.   First, I'll ask if anybody in the room  
9   wishes to make public comments.   I see no hands.  
10   So Mr. Lee, if you can open up the phone lines?

11           That is obviously going to be difficult.  
12   Okay, so does anybody on the telephone want to  
13   make a public comment?   Please do say your name  
14   at this point.

15           Let me make a noise, Mr. Lee, and scroll  
16   down and try to find out who seems to be  
17   triggered by my voice and let's just mute them so  
18   we can hear the others.   Think you got them?   You  
19   can also see who is speaking at the top, it lists  
20   the names.   Okay, well, we seem to have silence  
21   at this point, so is there anybody on the phone  
22   who wishes to make a public comment?

23           CHAIR WEISENMILLER:   Is there something  
24   where they can send you an email right now?

25           HEARING OFFICER KRAMER:   Well, people on

1 the computer can, if they know how, they can  
2 raise their hand. But people on the telephone  
3 don't have that ability.

4 One more time, is there anybody on the  
5 telephone who is trying to make a public comment?  
6 And as an alternative, you could send me an email.  
7 My email address is [Paul.Kramer@Energy.CA.Gov](mailto:Paul.Kramer@Energy.CA.Gov).

8 One of our problems is we have so many  
9 people on here, we can only see part of the list  
10 at any one time.

11 Okay, just for the record, we're trying  
12 various approaches to communicate with the people  
13 on WebEx, including sending them chat messages,  
14 which we realize will not get to people who have  
15 just called in, but it's the best we can do  
16 because somebody's phone line is causing  
17 interference. So let's try unmuting everyone one  
18 more time. Is Julie Messian, or --?

19 Okay, for those who can hear me -- okay,  
20 well, we apologize if somebody has not been able  
21 to get through. But if you look at the Notice of  
22 the Meeting, it tells you how you can make either  
23 electronic or written comments and, of course, we  
24 welcome those. And it also has my contact  
25 information and the contact information for our

1 Public Advisor who would be your first choice for  
2 advice about how to participate in our  
3 proceedings, including making public comments.

4 With that, we will close the public  
5 comment. And of course there will be future  
6 events where people can also make public  
7 comments.

8 And our next order of business is to go  
9 into a closed session. And --

10 MR. LEBRON: Mr. Kramer, I'm sorry, but  
11 before you close and go into closed session, I  
12 had one question regarding the motion to add BC  
13 Hydro.

14 We indicated the motion be filed on or  
15 before July 22nd, 2016, but it was unclear if the  
16 Committee was going to establish a briefing  
17 schedule for any responses, or if that would just  
18 be done, I think, pursuant to the Regulations;  
19 it's 15 days unless the Committee sets something  
20 otherwise.

21 HEARING OFFICER KRAMER: Do you see any  
22 reason why the normal 15-day requirement could  
23 not apply to that?

24 MR. LEBRON: I don't, but I just raise  
25 the issue for clarity while we have the Committee

1 here.

2 HEARING OFFICER KRAMER: No, that's a  
3 good assumption on your part, that, like any  
4 other motion, staff would have 15 days to  
5 respond.

6 Okay, so we're going to go into a closed  
7 session. We're going to adjourn to closed  
8 session in accordance with Government Code  
9 §11126(c)(3), which allows a State body,  
10 including a delegated committee such as this, to  
11 hold a closed session to deliberate on a decision  
12 to be reached in a proceeding the State body was  
13 required by law to conduct. We may have  
14 additional questions or announcements at the  
15 conclusion of the closed session, and we  
16 therefore ask that the parties return -- let me  
17 go off the record for a second -

18 (Off the record at 2:05 p.m.)

19 (Back on the record at 2:06 p.m.)

20 HEARING OFFICER KRAMER: Okay, we're back  
21 on the record. We're going to return here; even  
22 if we finish early, just for your convenience  
23 we'll come back here at 3:00 to report any  
24 actions or perhaps ask you some additional  
25 questions that are raised during our

1 deliberations. And in the meantime, we will  
2 leave the WebEx connection -- I'm going to use  
3 the word "open," but obviously we're not going to  
4 listen to all that, but it will be active so that  
5 people can either call back in, or just stay on  
6 the line for when we come back at 3:00. You  
7 won't hear any noise from the room because we'll  
8 be muting our audio out to the phone lines, but  
9 again we'll keep the WebEx open.

10               So with that, we're going into a closed  
11 session and we'll see you at 3:00. Thank you.

12                       (Closed Session.)

13               (Return from Closed Session 3:03 p.m.)

14               HEARING OFFICER KRAMER: Okay, we're back  
15 on the record. It's about 3:03.

16               The Committee met in closed session, it  
17 ended a few minutes ago, and we have no questions  
18 to report for the parties, or to ask of them, no  
19 additional questions.

20               But a couple announcements: just a  
21 general reminder and refresher that our  
22 Commission Regulations, Title 20 of the  
23 California Code of Regulations, have all of our  
24 procedural rules including a description of what  
25 is in the record for an adjudicatory proceeding,

1    how our eFiling System is used, and the Rules of  
2    Evidence that I referred to earlier.

3               We can tell the parties that we plan to  
4    adopt the schedule as proposed by LADWP, with the  
5    one modification we talked about. So that would  
6    mean that LADWP's Opening Brief would be due  
7    August 29, staff's Reply Brief, September 21, and  
8    LADWP's Reply Brief on September 30. It will  
9    take us, because we are going to work on a  
10   Scoping Order, it will take us a little while to  
11   get that out. We also are, as we discussed  
12   earlier, expecting LADWP to file their BC Hydro  
13   Request for Motions by July 22nd.

14              And I would just note again that the  
15   decision is going to be based on the legal  
16   arguments that are made in the forthcoming  
17   briefs, not what's been said to this point on the  
18   record. And for anything to be in the record of  
19   this proceeding, that it's a document that is  
20   going to have to be filed in the Docket. There  
21   will be a subset of the docketed documents that  
22   will be the exhibits in this case. And so if you  
23   have something that you know is going to be an  
24   exhibit ultimately and it's convenient for you to  
25   just get it filed, you might as well just get



1 that off your to-do list whenever it's convenient  
2 for you; you don't need to wait until the last  
3 minute. And in fact, the way we work is we ask  
4 you for an exhibit list where you give us the  
5 transaction numbers which are assigned by the  
6 system after they're filed to the docket, and  
7 then you give us your exhibit number and we go  
8 in, in my office, and we put the exhibit number  
9 in the metadata for that document in the system,  
10 and then what happens is you can pull up an  
11 exhibit list from the website and it has  
12 clickable links so that you can download each of  
13 the documents there on your own. So that's just  
14 a preview of how the process is going to work so  
15 you understand that, again, everything has to be  
16 filed in this Docket. If you had a document that  
17 for some reason was from another Commission  
18 Docket, you would have to refile it in this  
19 Docket because we don't have the ability to  
20 assign exhibit numbers across Dockets, so we need  
21 a copy of it in this particular proceeding.

22 And that is all we have to report. Oh,  
23 one more thing will be you'll see a notice  
24 probably towards the end of this week of that  
25 series of Committee Conferences that I spoke of

1 earlier, some of them will be primarily for  
2 closed session deliberations, others might be to  
3 take status. But we'll notice them all at once.  
4 But as we get closer to them, we'll probably  
5 issue at least an agenda, maybe a memo from me or  
6 something to be more clear about what is going to  
7 happen at the individual meetings so that you  
8 know, for instance, whether you should get on an  
9 airplane or just call in, and that sort of thing.

10           The Proof of Service list, if you could  
11 just go onto the website and print that for  
12 yourself, and make sure that that's in good  
13 shape, I think it is because I got all the data  
14 from each of you and everybody seems to be  
15 receiving the emails when somebody else files  
16 something, right? Okay, so I think you're in  
17 good shape, but please check just to make sure.  
18 And if you wanted to add some other people to the  
19 list within reasonable limits, that's okay. You  
20 know, if we were mailing documents via the mail,  
21 then we'd be more stringent about the number of  
22 people, but it's just email, so it's pretty easy  
23 to add people and it's not a real significant  
24 cost to anyone.

25           I'm looking at my emails to see if

1 anybody has emailed me asking to make a public  
2 comment and I do not see any.

3 MS. SMITH: Mr. Kramer, I wanted to use  
4 this opportunity before we take public comment  
5 and adjourn to follow up on a question that Chair  
6 Weisenmiller had presented earlier in the hearing  
7 where he asked what entities have been able to  
8 meet the biomethane eligibility requirements of  
9 the RPS Program. So to date seven load serving  
10 entities, which includes five publicly owned  
11 electric utilities, have all met the biomethane  
12 eligibility requirements as stated under the  
13 Third, Fourth, and Seventh Edition Guidebooks.

14 You know, just to add to that, no  
15 Applicant to date who has applied, L.A. being the  
16 exception, was found ineligible because they were  
17 unable to meet these requirements. And if you  
18 have any further questions about that, we're  
19 happy to submit comment.

20 CHAIR WEISENMILLER: That's good.  
21 Thanks.

22 HEARING OFFICER KRAMER: Okay, Mr. Lee,  
23 if you want to -- it looks like you're trying to  
24 reopen the phone lines one more time. We will  
25 ask again if anybody on the phone wants to make a

1 public comment.

2 Hello? Does anyone on the phone want to  
3 make a public comment?

4 CHAIR WEISENMILLER: Can you unmute it so  
5 -- if you don't want to make a comment, please  
6 mute yourself.

7 HEARING OFFICER KRAMER: My fear is that  
8 somebody just walked away from their phone or,  
9 God forbid, put us on hold. Okay, well, we're  
10 still not hearing any public comments. Again,  
11 this isn't the only time for -- it's not the only  
12 Committee event where you could make a comment.  
13 And we always have our online eCommenting system,  
14 as well as the ability to email or mail in  
15 comments to our Docket Unit.

16 Okay, with that we are adjourned. Thank  
17 you, everyone.

18 (Whereupon, at 3:10 p.m., the conference was  
19 adjourned.)

20

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22

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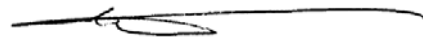
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of July, 2016.

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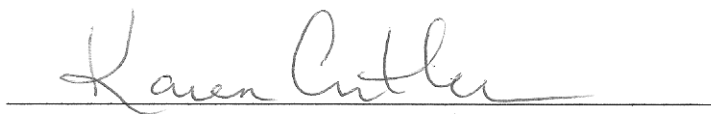
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of July, 2016.

A handwritten signature in cursive script, reading "Karen Cutler", is written over a horizontal line.

Karen Cutler  
Certified Transcriber  
AAERT No. CET\*\*D-723