

DOCKETED

Docket Number:	16-RPS-02
Project Title:	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
TN #:	212622
Document Title:	Transcript of the 07/27/2016 Committee Status Conference
Description:	N/A
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Committee
Submission Date:	8/4/2016 2:34:55 PM
Docketed Date:	8/4/2016

BEFORE THE

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

COMMITTEE STATUS CONFERENCE

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

WEDNESDAY, JULY 27, 2016
1:30 P.M.

Reported by:
Kent Odell

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

Applicant/Appellant LADWP

Louis Ting, LADWP Director of Power Planning &
Development
Pjoy T. Chua, LADWP NERC/WECC Compliance Officer
Felix Lebron, LA Deputy City Attorney

AGENDA

	<u>PAGE</u>
1. Call to Order	4
2. Hearing on any Pending Motions	6
3. Committee Conference	7
a. Case progress, issues identification, and schedule	
4. Public Comment	9
5. Closed Session	11
Adjournment	21
Certificate of Reporter	22
Certificate of Transcriber	23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

JULY 27, 2016 1:32 p.m.

CHAIR WEISENMILLER: Good afternoon.

Welcome to the Commission Status Conference on the LADWP RPS Appeal.

Again, this is one of our scheduled Status Conferences. I'm going to turn it over to Paul Kramer. I anticipate we'll have a short discussion, then go into closed session and come back afterwards.

HEARING OFFICER KRAMER: Okay. Thank you, Chair Weisenmiller. Just for the benefit of those on the phone, here on the dais today we have from the audience's right, Jana Romero, Chair Weisenmiller's Advisor, and Chair Weisenmiller, then myself, Paul Kramer, Commissioner Hochschild, and his Advisor, Emilio Camacho.

So as I said in a memo last week, the purpose of today's meeting is, for the most part, for the Committee to deliberate in closed session. But let's also for the record have the parties identify themselves, beginning with the staff this time.

MR. HERRERA: Yeah, good afternoon. Gabe

1 Herrera. I'm with the Energy Commission's Legal
2 Office.

3 MS. SMITH: Courtney Smith with the
4 Renewable Energy Division at the California
5 Energy Commission.

6 MR. BOHAN: Drew Bohan, Energy Commission
7 Chief Deputy Director.

8 MS. BADIE: Mona Badie with the Energy
9 Commission's Legal Staff.

10 HEARING OFFICER KRAMER: And from the
11 Applicant, Mr. Lebron. You're on the phone? Is
12 that correct?

13 MR. LEBRON: Yes. Can you hear me?

14 HEARING OFFICER KRAMER: Yes, we can.

15 MR. LEBRON: Okay. Yes, this is Deputy
16 City Attorney Felix Lebron, also attending remote
17 via WebEx.

18 MR. TING: Louis Ting, Power System
19 Planning Development Director.

20 MS. CHUA: Good afternoon. Pjoy Chua,
21 Regulatory Compliance Manager.

22 MR. TING: We're both from Los Angeles
23 Department of Water and Power.

24 HEARING OFFICER KRAMER: Okay, thank you.
25 And you're both in the room here with us?

1 MR. TING: Yes.

2 HEARING OFFICER KRAMER: Hopefully you
3 came up here for other business than this? Good.

4 Those of you on the telephone, so far
5 we're doing really well with WebEx, but we'd like
6 you to mute yourselves. And the way you do that
7 is you hit the star key on your phone and then
8 "6" and you do the same thing to unmute yourself.
9 So as long as you can control your own noise, we
10 won't have to mute you at our end. And that's
11 actually the best way to do it because then WebEx
12 cuts you off and, for instance, if you put your
13 phone on hold locally, there might still be some
14 kind of feedback loop that would give us problems
15 for the rest of the WebEx listeners. But again,
16 so far we're doing well. We'll get to public
17 comment in just a couple minutes.

18 Moving on in a way to Item 2 on the
19 Agenda, which is Hearing on any Pending Motions,
20 we're not talking about having any kind of
21 hearing today, but first we wanted to thank LADWP
22 for meeting their commitment to file their
23 request regarding their BC Hydro contracts by
24 last Friday. And we noted in reading that that
25 it was asserting that staff did not have any

1 objections to granting the motion and combining
2 those BC Hydro issues with the other biomethane
3 contracts that we've already been discussing. So
4 staff, you of course can take the full 15 days
5 that the rules allow to respond to this, but if
6 you are prepared today to tell us what your
7 position is, we'd appreciate that as well.

8 MR. HERRERA: Yeah, Mr. Kramer, Gabe
9 Herrera. Staff is preparing a written response
10 to LA's motion and we intend to file it by next
11 Friday, which would be August 5th, which complies
12 with the 14 days in Section 1211.5 of the
13 Commission's Regulations.

14 While I think it is accurate to say staff
15 doesn't oppose LA's motion with respect to the
16 Committee Hearing, the grandfathering argument
17 related to BC Hydro, I think we may disagree in
18 the proposal that LA has put forward in their
19 motion and want to speak to it in our response.

20 HEARING OFFICER KRAMER: Okay, thank you.

21 Okay, and then I have one comment under
22 the Committee Conference, line item 3. Mr.
23 Lebron, are you listening? Because I want to
24 clarify something for your benefit.

25 MR. LEBRON: Yes, Mr. Kramer.

1 HEARING OFFICER KRAMER: Okay. I was
2 reviewing the transcript of our last conference
3 to make some corrections and I noticed that my
4 answer to your question about filing confidential
5 documents could use a little clarification, so
6 I'm going to do that now.

7 I might have implied that confidential
8 status just happens when you file a document and
9 you declare it to be confidential, and if I did
10 so, that's not true. The Executive Director has
11 to review a request from you that a document that
12 you electronically file, or otherwise, be given
13 confidential status. Now, if he decides that
14 it's not appropriate to give it confidential
15 status, you're given the opportunity then to
16 withdraw the document so you're not risking
17 exposure of the document by asking, the mere
18 asking of the question. But I wanted to make
19 that clear for you.

20 And also, just pay careful attention to
21 the process of eFiling confidential documents.
22 You, in one uploading transaction, what you do is
23 you first upload your request that a document be
24 confidential and that's going to be a public
25 document; and then you would, again in the same

1 transaction after you file the first public
2 request, then you would upload all the documents
3 that that request relates to, and then you submit
4 them all at one time. And until the
5 confidentiality is decided, those documents are
6 not available to anybody but the people who are
7 reviewing the confidentiality request. So I
8 wanted to clarify those two points because, as I
9 was reading my words, I thought I didn't do a
10 very good job of it.

11 MR. LEBRON: Thank you for that
12 clarification.

13 HEARING OFFICER KRAMER: You're welcome.
14 So that brings us to the Public Comment portion
15 of the Agenda. Can we unmute everybody? That
16 worked so well the last time. And after we
17 unmute everyone, let me ask, does anybody on the
18 phone wish to make a comment?

19 CHAIR WEISENMILLER: We had exactly the
20 same problem on the Friday after our Wednesday -
21 we reached out to IT to try to --

22 HEARING OFFICER KRAMER: Well, I think
23 Ralph, it may be your cell phone that we were
24 trying to use. Can you make sure that's muted?
25 Mute the microphone on it. Let's try again. I

1 know this was not the problem the last time.

2 CHAIR WEISENMILLER: What we did at the
3 other hearing was we asked people to use the chat
4 function to send in questions, or to email
5 questions in, as opposed to unmuting.

6 HEARING OFFICER KRAMER: Some people,
7 though, wouldn't be able to use the chat like Mr.
8 Lebron, he's only on the telephone.

9 CHAIR WEISENMILLER: Yeah, but anyway the
10 email to him, or to you.

11 HEARING OFFICER KRAMER: Okay. Does
12 anyone on the phone wish to make a public
13 comment? One more time: does anyone on the phone
14 wish to make a public comment -- on WebEx, to be
15 more precise? Hearing none, does anyone in the
16 room wish to make a public comment? Seeing none,
17 we'll close the public comment and the Committee
18 will adjourn into a closed session consideration
19 in accordance with Government Code §11126(c)(3)
20 which allows a state body, including a delegated
21 committee such as this, to hold a closed session
22 to deliberate on a decision to be reached in a
23 proceeding the state body was required by law to
24 conduct.

25 Okay, we're not sure if we'll have

1 anything to announce at the conclusion of the
2 closed session, so we're going to ask everyone to
3 come back at 2:45 today, it's a little more than
4 an hour from now. And we'll announce anything we
5 have to. So with that, we will leave the WebEx
6 up, but it will be muted, and we'll see you back
7 at 2:45.

8 (Adjourn to closed session at 1:42 p.m.)

9 (Reconvene to open session at 3:02 p.m.)

10 HEARING OFFICER KRAMER: Okay. We're
11 back on the record. The Committee adjourned its
12 closed session at about 2:45 -- or finished it's
13 closed session, rather -- and we have given to
14 the parties, including Mr. Lebron via email and
15 the people in the room, copies of a Draft Order.
16 And we wanted to ask specifically of staff if the
17 provisions in that Order, including the provision
18 that grants the consolidation of the BC Hydro
19 appeal or issues with the biomethane issues, and
20 also the questions that were posed, would
21 conflict in any way with what you wanted to tell
22 us in your filing on August 5th.

23 MR. HERRERA: So this is Gabe Herrera and
24 I'll start, and maybe if other Energy Commission
25 staff want to chime in afterwards they're free to

1 do so.

2 As I mentioned earlier before the
3 adjournment for closed session, Commission staff
4 is not opposed to the Committee considering the
5 grandfathering arguments that were raised by LA
6 in their Motion.

7 We are, however -- we don't necessarily
8 agree with LA's proposed solution in terms of
9 resolution of the substantive issues on the
10 merits. For example, we feel if, for example,
11 the Committee determines that the Commission
12 applied the law incorrectly in adopting
13 Regulations or Guidelines for the RPS that what
14 would be called in order would be the need to go
15 back and amend the rules for the RPS, and rules
16 for POU Regulations, and those would trigger
17 rulemaking activities under the APA, or under
18 other processes.

19 And so we question whether in that case
20 the Committee would have the authority to make
21 revisions to the Regulations, make revisions to
22 the RPS Rules, and require staff to apply them to
23 LA's BC Hydro claims. So that's one of the
24 issues we want to bring to the Committee's
25 attention in our Draft Response.

1 HEARING OFFICER KRAMER: Great. Anything
2 else?

3 So tell me if I'm wrong, but I'm hearing
4 that the questions we posed don't affect that
5 response, it might just be something that you
6 would want to present to us as, for instance,
7 under Question 7, additional information, sorry,
8 additional argument, or to address to us at the
9 point in time where any remedies are discussed?

10 MR. HERRERA: Right.

11 HEARING OFFICER KRAMER: So it certainly
12 doesn't prevent getting started and going forward
13 with the process of resolving this. Is that
14 fair?

15 MR. HERRERA: I think that's fair.

16 HEARING OFFICER KRAMER: Okay, thank you.

17 CHAIR WEISENMILLER: Just to make sure
18 we're clear, too, in that basically by directing
19 you to respond to these specific questions, that
20 we will allow you to present your full case. I
21 mean, obviously one of the notions was by adding
22 "7" was any additional facts you wanted to bring,
23 or any additional arguments you wanted to make.
24 So it was a pretty conscious choice not to limit
25 your ability to make your case.

1 MR. HERRERA: Understood.

2 CHAIR WEISENMILLER: Okay. But obviously
3 this provides some efficiency, and by
4 consolidating the briefing schedule I suspect
5 some of the arguments you're going to make on
6 biomethane and BC Hydro, you know, are going to
7 be identical. Obviously there are differences
8 and so that allows some consolidation of the
9 argument, some efficiency on the briefing
10 schedule?

11 MR. HERRERA: That's correct, Chair.
12 Just a point of clarification. While some of the
13 grandfathering arguments may be made by LA for
14 both BC Hydro and for biomethane, just want to
15 recognize that the BC Hydro claim doesn't come to
16 the Committee or the Commission because of an
17 appeal from the Denial Certification.

18 I think staff mentioned in the status
19 report that the BC Hydro facilities were never
20 certified by the Energy Commission and neither LA
21 nor the operators for those facilities had filed
22 an Application for Certification. So staff did
23 not deny those applications because none were
24 filed.

25 HEARING OFFICER KRAMER: And that

1 actually inspired in a way Question 4, reading
2 that in the transcript of the last discussion,
3 caused me in part to write that.

4 Okay, so given this discussion, do you
5 even feel you have a need to file a Response to
6 the Motion at this point? Just wondering. Or
7 would it be more efficient to just start working
8 on the Responses? I think this is more just a
9 curiosity of mine, I'm not meaning to direct you
10 to do anything, but --

11 CHAIR WEISENMILLER: No, I think
12 certainly our hope was, by putting this out, that
13 you could turn attention to the September 1
14 document basically. And as long as, again, you
15 could get in your full case.

16 MR. HERRERA: Right, right. And I think
17 what we were trying to do, or at least what we
18 were thinking that we would do in the staff
19 response is to highlight some issues in terms of
20 a remedy that could trigger some additional
21 issues that the committee may want staff and
22 LADWP to address.

23 But as you noted, there's a catchall in
24 Clause 7 that would allow us to raise additional
25 arguments if they're not captured by some of the

1 other points.

2 CHAIR WEISENMILLER: Right. And in
3 addition, on page 2 we do say that following
4 receipt of the parties' Responses, we would
5 determine whether evidentiary hearings or
6 additional information are required.

7 MR. BOHAN: So I think the short answer
8 is yes, we can follow this schedule in lieu of
9 the one we had discussed before. And the
10 arguments we want to make that Mr. Herrera has
11 referred to, will make it in this document versus
12 the other.

13 HEARING OFFICER KRAMER: Okay. Thank
14 you. And then the dates and the schedule which
15 we did admittedly -- sorry? Mr. Lebron, did you
16 have any comments? Can you unmute him?

17 MR. LEBRON: Can you hear me, Mr. Kramer?

18 HEARING OFFICER KRAMER: Yes.

19 MR. LEBRON: Okay. I had an opportunity
20 to review the Proposed Order and I think the
21 questions make sense. I wanted to point out one
22 question, page 2 of the Proposed Order mentions
23 Responses on September 14, 2016, and the schedule
24 on the last page notes Replies on September 21,
25 2016, so I think there's a discrepancy on those

1 two dates and I wanted to clarify which date the
2 Responses would be due. My preference would be
3 to have the Responses due on September 21st if
4 possible, but I did want to note that issue.

5 HEARING OFFICER KRAMER: Yeah, thanks for
6 catching that. I think the 21st will be okay and
7 this is just a Draft Order, so the final one that
8 is docketed, and it will indicate that the
9 Commissioners signed it, will have that
10 corrected.

11 MR. HERRERA: Mr. Kramer, I was
12 conferring with Mr. Bohan, can you please repeat
13 what -- I didn't hear what LA had to say in terms
14 of the schedule.

15 HEARING OFFICER KRAMER: He just noted
16 that we said September 14 on page 2 for the
17 deadline for the Replies to the original
18 Responses, and then in the schedule we had
19 September 21, which is a mistake. They should be
20 one and the same, and we've chosen 21.

21 CHAIR WEISENMILLER: Unless the staff
22 insist on the 14th, at which point we'll discuss
23 it.

24 MR. HERRERA: No.

25 CHAIR WEISENMILLER: Okay.

1 MR. LEBRON: Mr. Kramer, this is Felix
2 Lebron again. A second question that I had was
3 on the Schedule, it's noted after the Replies
4 there would be a Committee Status Conference.
5 Does the Committee envision having a hearing
6 where the parties can address the arguments that
7 are raised in the opening, and the replies to the
8 questions in the Proposed Order that was
9 circulated?

10 HEARING OFFICER KRAMER: At this point,
11 we're not sure. We'll make that call when we
12 come to it. And we haven't picked a date for the
13 next Status Conference after your replies are due
14 yet, but one possibility will be that business
15 meeting that you had proposed in October for
16 hearings in your earlier proposal. But we'll
17 obviously have another Notice out to take care of
18 that at some future point.

19 CHAIR WEISENMILLER: Yeah, I would --
20 obviously after we get the Replies, we'll have
21 some sort of Status Conference to discuss whether
22 we have additional questions --

23 HEARING OFFICER KRAMER: Yes.

24 CHAIR WEISENMILLER: -- and then have
25 sort of oral arguments after that.

1 HEARING OFFICER KRAMER: Okay, and what I
2 was trying to say was that the next date that
3 seems to work on everyone's calendars was
4 basically that business meeting date.

5 So you would be wise to at least put a
6 hold on that in your calendars for the time
7 being.

8 MS. SMITH: Mr. Kramer, a question of
9 clarification. So September 1st is when both
10 parties' Response to the Committee questions are
11 due, and I see on this schedule on the last page
12 that there's a plan to have two Status
13 Conferences prior to that. Is that still the
14 case?

15 CHAIR WEISENMILLER: We do not think
16 we're going to need that Status Conference, but
17 we're holding it so that if, once we put the
18 Order out, if anyone finds any other glitches we
19 can respond to the glitches.

20 MS. SMITH: Okay, thank you.

21 CHAIR WEISENMILLER: We'll keep it, but
22 like I said, obviously the odds we have it are
23 pretty small.

24 HEARING OFFICER KRAMER: Okay, so watch
25 the docket because if we cancel one, for

1 instance, next week's is next Tuesday, so if we
2 decide to cancel that, I'll probably put out a
3 Notice either late this week or it might even be
4 Monday. So just, you know, keep watch. The
5 Notice of today's was going to be mostly for our
6 closed session, we kind of got buried in the
7 avalanche of the BC Hydro Motion, but this one
8 should kind of be there by itself.

9 So with that, is there anything else the
10 parties wish to raise for the Committee's
11 attention?

12 MR. LEBRON: This is Felix Lebron. I
13 don't have any further issues. I want to thank
14 Mr. Kramer and the Committee today.

15 HEARING OFFICER KRAMER: Okay, thank you.

16 MR. HERRERA: Yeah, Gabe Herrera. No
17 further questions or comments.

18 HEARING OFFICER KRAMER: Okay. Okay,
19 that's it then. We're adjourned. We will see
20 you at some point in the future and watch your
21 email for Notices of new meetings or existing
22 meetings that are cancelled.

23 CHAIR WEISENMILLER: And certainly, when
24 you have a chance for more careful review of the
25 Order, if there are any other comments, please

1 call Mr. Kramer promptly so we can make any other
2 adjustments we need to make.

3 HEARING OFFICER KRAMER: Okay. We're
4 adjourned.

5 (Whereupon, at 3:15 p.m., the conference was
6 adjourned.)

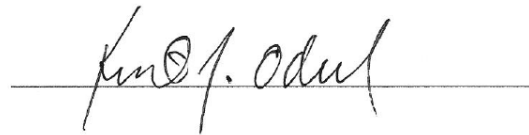
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

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 4th day of August, 2016.

A handwritten signature in cursive script, appearing to read "Kent Odell", is written over a horizontal line.

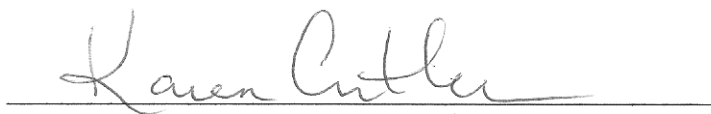
Kent Odell
CER**00548

TRANSCRIBER'S CERTIFICATE

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 4th day of August, 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