

## 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>	212813
<b>Document Title:</b>	LADWP's Request for Clarification on Redacted Documents
<b>Description:</b>	N/A
<b>Filer:</b>	Pjoy Chua
<b>Organization:</b>	LADWP
<b>Submitter Role:</b>	Applicant
<b>Submission Date:</b>	8/17/2016 9:02:05 AM
<b>Docketed Date:</b>	8/17/2016

**STATE OF CALIFORNIA**  
**ENERGY RESOURCES CONSERVATION**  
**AND DEVELOPMENT COMMISSION**

<b>In the Matter of:</b>	)	<b>Docket No. 16-RPS-02</b>
	)	
<b>Appeal by LADWP re</b>	)	<b>RE: LADWP's Response to the</b>
<b>RPS Certification or Eligibility</b>	)	<b>Committee's August 12, 2016 Request for</b>
	)	<b>Comments and Request for Clarification</b>
	)	<b>on Certain Issues Either Before or During</b>
	)	<b>the August 23, 2016 Committee Status</b>
	)	<b>Conference</b>
	)	

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**THE LOS ANGELES DEPARTMENT OF WATER AND POWER'S RESPONSE TO**  
**THE COMMITTEE'S AUGUST 12, 2016 REQUEST FOR COMMENTS AND REQUEST**  
**FOR CLARIFICATION ON CERTAIN ISSUES EITHER BEFORE OR DURING THE**  
**AUGUST 23, 2016 COMMITTEE STATUS CONFERENCE**

August 17, 2016

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**THE LOS ANGELES DEPARTMENT OF WATER AND POWER'S RESPONSE TO**  
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**AUGUST 23, 2016 COMMITTEE STATUS CONFERENCE**

On August 12, 2016, the Committee issued a Request for Comments on Need for the August 23, 2016 Committee Status Conference ("CSC"). The Los Angeles Department of Water and Power ("LADWP") has two requests for clarification based on statements made during the July 27, 2016 CSC hearing. The Committee or Hearing Officer may address these requests via a response posted to the docket or, alternatively, if the Committee believes that discussion on LADWP's requests for clarification is warranted, LADWP respectfully requests that the Committee address these issues during the August 23, 2016 CSC hearing.

1. Request for Clarification Regarding the Filing of Redacted Exhibits in 16-RPS-02.

During the July 27, 2016 CSC hearing, the Committee clarified that the parties must comply with California Code of Regulations ("C.C.R."), Title 20, Section 2501 *et seq.* for the designation of documents as confidential in this administrative proceeding. These regulations

apply to confidential records submitted to the California Energy Commission (“CEC”) by an applicant that is required to submit the information to the CEC and requests that the CEC designate the records as confidential and not subject to disclosure under the California Public Records Act (Gov’t Code §§ 6250 *et seq.*) pursuant to 20 C.C.R. sections 2505 or 2506.

Sections 2505 and 2506 do not address, however, the process for the filing of redacted documents in administrative proceedings where the submission of an unredacted version of the document does not need to be submitted to the CEC for the resolution of the dispute.

LADWP has a large number of documents that require redaction of corporate financial records, bank account numbers, transportation of gas volumes by third parties unrelated to these proceedings, and other proprietary information unrelated to this administrative proceeding. The redacted information is immaterial to the issues in dispute. Under 20 C.C.R. Section 2505 (b): When another federal, state, regional, or local agency or state-created private entity, such as the California Independent System Operator, *possesses information pertinent to the responsibilities of the Commission* that has been designated by that agency as confidential under the Public Records Act, or the Freedom of Information Act, the Commission, the Executive Director, or the Chief Counsel may request, and the agency shall submit the information to the Commission without an application for confidential designation. The Commission shall designate this information confidential. (emphasis added). The redacted information, such as bank accounts, is not information pertinent to the responsibilities of the Commission, since they are not germane to the issues disputed as outlined by the Hearing Officer in the Scoping Order. Therefore, the filing of unredacted versions of these documents as confidential records under 20 C.C.R. sections 2505 and 2506 would not weigh on the issues and create unneeded document versions for the Commission to consider. The submission of an application for confidential designation of

*hundreds* of documents where the redacted information is *not pertinent* to the pending dispute creates an unnecessary administrative burden, which the Committee may appropriately address under the authority granted the Committee and Hearing Officer pursuant to 20 C.C.R. section 1203(c).

LADWP requests clarification and proposes that the filing of such redacted documents in support of its briefing and available to the public via the docket in 16-RPS-02 is acceptable to the Committee and Hearing Officer. To the extent the Committee, the Hearing Officer, or the CEC Staff contends that a review of an unredacted version of any of these documents during the proceeding is relevant and necessary for this administrative proceeding, LADWP could present them for review. If the Hearing Officer determines that they would be required by the Committee, then LADWP would file unredacted copies of these documents pursuant to an application for confidentiality under 20 C.C .R. Section 2505.

LADWP notes that it will file documents that the CEC has already designated as confidential, and anticipates the confidentiality determination will be respected for this proceeding, such as documents relating to LADWP's heat rate, which are necessary for the Committee's review to resolve the currently pending issues. LADWP has previously sought and received confidential designation by the CEC for documents related to its heat rate range for its generating facilities (TN#212337, docketed on July 18, 2016), electric power plant specific hourly generation data, price and energy sales data, customer information, energy transmission pathway and generation data found on NERC e-tags, (applied for in 2014 – see decision TN#76106, docketed Aug 3, 2015; and applied for in 2015 and 2016 –awaiting for decisions). These applications were submitted for the LADWP's annual Renewable Portfolio Standards (RPS) reports submitted to the CEC and for the CEC's verification process for the first

compliance period of the RPS. For confidential documents pertinent for this proceeding, LADWP *would* file an application for confidential designation pursuant to Section 2505 and submit unredacted copies of these documents since the Committee must review the unredacted versions of these documents to help resolve the disputed issues in this administrative proceeding.

If the Committee requires LADWP to submit applications for confidential designations of any redacted document – even redacted documents that are immaterial and irrelevant to this dispute – LADWP would incur a significant administrative burden. Moreover, the timing for approval on an application for *hundreds* of documents would go well beyond the September 1, 2016 filing deadline for opening briefs, and cause unnecessary delay to the Committee’s resolution of the disputed issues in this administrative proceeding. Accordingly, LADWP requests that the Committee or Hearing Officer provide clarification under 20 CCR Section 1203(c) that the proposed approach is acceptable.

2. Conflict on October 12, 2016, Request for Other Tentative Hearing Date.

During the July 27, 2016 CSC hearing, the Hearing Officer requested that the parties hold October 12, 2016 as a *tentative* date for a hearing on the requested briefing under the Committee’s Scoping and Scheduling Order dated July 27, 2016 (“Scoping Order”). LADWP originally proposed October 12, 2016 as a potential hearing date because it coincided with a CEC’s October Business Meeting. During the July 27, 2016 CSC hearing, LADWP’s representatives agreed to tentatively hold October 12, 2016 as a potential hearing date. However, LADWP subsequently learned that October 12, 2016 is a Jewish Holiday – Yom Kippur – and members of LADWP’s team would be unavailable to attend a hearing on that date. LADWP, therefore, requests that the Committee consider an alternative date for any hearing on the issues briefed under the Scoping Order.

For both these issues, LADWP's counsel, Jean-Claude Bertet, has conferred with Gabriel Herrera, the CEC's RPS Staff counsel, and he is not opposed to the requests and he is not opposed to having the Hearing Officer clarify these procedural issues by posting a response on the docket, thereby obviating the need for a CSC on August 23, 2016.

Dated: August 17, 2016

Respectfully submitted,

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