

## 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>	213985
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**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 Statement of Disputed</b>
<b>RPS Certification or Eligibility</b>	)	<b>Facts and Supporting Evidence</b>
	)	
	)	
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**LADWP'S STATEMENT OF DISPUTED FACTS AND SUPPORTING EVIDENCE**

October 12, 2016

FELIX LEBRON  
Deputy City Attorney  
Los Angeles Dept. of Water and Power  
111 N. Hope Street, Suite 340  
Los Angeles, CA 90012  
Telephone Number: (213) 367-4500  
Email: [Felix.Lebon@ladwp.com](mailto:Felix.Lebon@ladwp.com)

JEAN-CLAUDE BERTET  
Deputy City Attorney  
Los Angeles Dept. of Water and Power  
111 N. Hope Street, Suite 340  
Los Angeles, CA 90012  
Telephone Number: (213) 367-4500  
Email: [Jean-Claude.Bertet@ladwp.com](mailto:Jean-Claude.Bertet@ladwp.com)

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<b>In the Matter of:</b>	)	<b>Docket No. 16-RPS-02</b>
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<b>Appeal by LADWP re</b>	)	<b>RE: LADWP's Statement of Disputed</b>
<b>RPS Certification or Eligibility</b>	)	<b>Facts and Supporting Evidence</b>
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**LADWP'S STATEMENT OF DISPUTED FACTS AND SUPPORTING EVIDENCE**

The City of Los Angeles, acting by and through the Department of Water and Power, a municipal corporation ("LADWP"), hereby submits its Statement of Disputed Facts and Supporting Evidence in CEC Docket No. 16-RPS-02.

**Summary of LADWP's RPS Programs and Policies**

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>1.</b>	The City and LADWP established RPS and clean-energy targets years before the State enacted SB 1078.	Original Declaration of Louis C. Ting in 16-RPS-02 ("Ting Decl.") at ¶5, Ex. 2. Bates Number LA000003
<b>2.</b>	In May 1999, LADWP implemented the Green Power for Green LA Program to promote renewable resource development and procurement through voluntary contributions by its customers.	Ting Decl. at ¶5, Ex. 2. Bates Number LA000003
<b>3.</b>	In August 2000, the City and LADWP's Board adopted an Integrated Resource Plan, which included a local goal of	Supplemental Declaration of Louis C. Ting in 16-RPS-02 ("Supp. Ting Decl.") at ¶48, Ex.

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	meeting 50 percent of LADWP's projected load growth through a combination of demand-side management, distributed generation, and renewable resources.	332 Bates Number LA001602
<b>4.</b>	The 2000 IRP also included LADWP's then-existing RPS goal of developing 30 MWs of renewable energy by 2001, 100 MWs of renewable energy by 2005, and 150 MWs of renewable energy by 2010.	Supp. Ting Decl. at ¶48, Ex. 332 Bates Number LA001603
<b>5.</b>	SB 1078 added PUC Section 387(a) which provided that "[e]ach governing body of a local publicly owned electric utility ["POU"], as defined in Section 9604, shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement." A voluntary program for POUs.	PUC. §§ 387(a), as enacted by SB 1078. PUC § 9604
<b>6.</b>	In late 2003, the City of Los Angeles took several steps toward developing a new RPS program for LADWP.	Ting Decl. ¶9, Ex. 6. Bates No. LA000018 (July 22, 2016, TN# 212407)
<b>7.</b>	On June 29, 2004, the Los Angeles City Council (City Council) passed a resolution, Council File No. 03-2064-S1 requesting that LADWP's Board adopt an official RPS Policy.	Ting Decl. at ¶4-8, Exs. 1-5, Bates Nos. LA000001-LA000008
<b>8.</b>	The City and LADWP held several public meetings to discuss the RPS-eligibility criteria for LADWP's RPS program.	Ting Decl. at ¶4-8, Exs. 1-5, Bates Nos. LA000001-LA000008
<b>9.</b>	The City's list of eligible renewable technologies was consistent with the technologies listed in the Public Utilities Code, and the City requested additional information from LADWP regarding the treatment and eligibility of certain hydroelectric facilities owned by LADWP.	Ting Decl. at ¶4-8, Exs. 1-5, Bates Nos. LA000001-LA000008

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>10.</b>	On July 13, 2004, the City Council considered a report prepared by LADWP regarding the inclusion of hydroelectric facilities greater than 30 MWs in the City's list of RPS-eligible facilities.	Supp. Ting Decl. at ¶ 45, Ex. 331 Bates Numbers LA001574-LA001587 ("2004 Hydro Report")
<b>11.</b>	The 2004 Hydro Report addressed policy considerations regarding whether LADWP should include hydroelectric generating facilities greater than 30 MWs as eligible resources under LADWP's voluntary RPS policy.	Supp. Ting Decl. at ¶ 45, Ex. 331 Bates Numbers LA001574-LA001587
<b>12.</b>	The 2004 Hydro Report discussed LADWP's Aqueduct hydroelectric units and the Hoover Dam's hydroelectric facility.	Supp. Ting Decl. at ¶ 45, Ex. 329 Bates Numbers LA001574-LA001587
<b>13.</b>	In 2004 LADWP's Aqueduct hydroelectric facilities included 15 hydroelectric generating units with a maximum capacity of 18 MWs, four hydroelectric generating units with a maximum capacity of 26 MWs, and three hydroelectric generating units with a maximum capacity of 38 MWs each.	Supp. Ting Decl. at ¶ 45, Ex. 329 Bates Numbers LA001574-LA001587
<b>14.</b>	LADWP also owned a total of 491 MWs of hydroelectric output from Hoover Dam.	Supp. Ting Decl. at ¶ 45, Ex. 329 Bates Numbers LA001574-LA001587
<b>15.</b>	In the 2004 Hydro Report, LADWP recommended that the City include LADWP's Aqueduct-hydroelectric units as eligible resources under the LADWP's RPS Policy.	Supp. Ting Decl. at ¶ 45, Ex. 329 Bates Numbers LA001574-LA001587
<b>16.</b>	In the 2004 Hydro Report, LADWP recommended that the City exclude Hoover as an eligible resource.	Supp. Ting Decl. at ¶ 45, Ex. 329 Bates Numbers LA001574-LA001587
<b>17.</b>	LADWP estimated that the exclusion of Hoover would require LADWP to procure an additional 2.8% of renewable energy at an estimated aggregate cost of \$20 million.	Supp. Ting Decl. at ¶ 45, Ex. 329 Bates Numbers LA001574-LA001587
<b>18.</b>	The City Council continued the matter to August 10, 2004 to consider additional information regarding the treatment of Hoover.	Supp. Ting Decl. at ¶ 46, Ex. 330 Bates Numbers LA001588-LA001592

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>19.</b>	On August 10, 2004, the City Council considered LADWP's supplemental hydroelectric report regarding Hoover.	Supp. Ting Decl. at ¶ 46, Ex. 330 Bates Numbers LA001588-LA001592 ("Supplemental 2004 Hydro Report")
<b>20.</b>	The Supplemental 2004 Hydro Report considered how other POU's classified Hoover under their respective RPS policies.	Supp. Ting Decl. at ¶ 46, Ex. 330 Bates Numbers LA001588-LA001592
<b>21.</b>	The Supplemental 2004 Hydro Report noted that 80% of the POU's that adopted local RPS program defined all hydroelectric facilities as eligible resources regardless of the size or capacity of the facility.	Supp. Ting Decl. at ¶ 47, Ex. 331 Bates Number LA001595
<b>22.</b>	The Supplemental 2004 Hydro Report also noted that Hoover was considered an eligible renewable resource by <i>all</i> of the other POU's that owned interests in, or received electricity from Hoover Dam.	Supp. Ting Decl. at ¶ 47, Ex. 331 Bates Number LA001595
<b>23.</b>	The Supplemental Hydro Report also discussed the inconsistent standards for hydroelectric facilities among the states that had definitions for the RPS-eligibility of hydro facilities (noting that 10 out of 21 states had no size limitation for hydro; four states had limits less than 100 MWs, less than 60 MWs, less than 30 MWs, and low head; four states did not recognize hydro as renewable, and three states used criteria other than facility size for hydro eligibility).	Supp. Ting Decl. at ¶ 47; Ex. 331 Bates No. LA001595
<b>24.</b>	The City also excluded Hoover as an eligible resource, notwithstanding the cost impact and other POU's' treatment of Hoover as an eligible resource.	Supp. Ting Decl. at ¶ 47, Ex. 331 Bates No. LA001596
<b>25.</b>	On May 23, 2005, LADWP's Board adopted a LADWP RPS Policy that established the goal of increasing the amount of energy that LADWP generates from renewable resources to 20 percent of its retail sales by 2017, with an interim goal of 13 percent by 2010.	Ting Decl. ¶ 9, Ex. 6 Bates Nos. LA000011-LA000021 ("2005 RPS Policy")

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>26.</b>	The 2005 RPS Policy represented LADWP's "commitment to renewable resource supply as requested by the City Council Resolution 03-2064-S1 and consistent with the provisions of SB 1078 (2002)."	Ting Decl. ¶ 9, Ex. 6 Bates No. LA000020
<b>27.</b>	The City's list of eligible-renewable technologies was consistent with the State's then-existing definitions of eligible renewable technologies under the Public Utilities Code, with the exception of the inclusion of the Aqueduct facilities.	Ting Decl. ¶ 9, Ex. 6 Bates Nos. LA000011-LA000021
<b>28.</b>	The 2005 RPS Policy included a competitive bid process and least-cost, best-fit procurement criteria.	Ting Decl. ¶ 9, Ex. 6 Bates No. LA000021
<b>29.</b>	The 2005 RPS Policy included the following reporting requirements based on Public Utilities Code Section 387(b): "Reporting Requirements: LADWP will provide an annual report of the following information to its customers as required by SB 1078: (1) expenditure of PBC funds for renewable energy resources development, and (2) the resource used to serve its retail customers by fuel type."	Ting Decl. ¶ 9, Ex. 6 Bates No. LA000021
<b>30.</b>	The 2005 RPS Policy also included a flexible compliance provision, which allowed LADWP's Board to adjust the RPS Policy as needed due to price expenditure limitations or the unavailability of renewable resources.	Ting Decl. ¶ 9, Ex. 6 Bates No. LA000021
<b>31.</b>	In December 2005, LADWP's Board recommended that LADWP accelerate its RPS goal to achieve a 20-percent RPS by 2010 instead of 2017.	Ting Decl. ¶ 10, Ex. 7 Bates No. LA000023
<b>32.</b>	California passed Senate Bill 107 ("SB 107"), which became effective on January 1, 2007.	SB107
<b>33.</b>	SB 107 amended PUC Public Utilities Code Section 387(b) provided that LADWP would submit a copy of its annual report to the CEC in addition to LADWP's customers.	SB107; PUC § 387(b)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>34.</b>	Consistent with SB 107, Section 8 of the 2007 RPS Policy provided that “LADWP [would] provide an annual report of the following information to its customers and the California Energy Commission (CEC) as required by SB 1078 and SB 107: (1) expenditure of PBC funds for renewable energy resource development, (2) the resource mix used to serve its retail customers by fuel type, and (3) status in implementing a RPS and progress toward attaining the standard.”	Ting Decl. ¶ 10, Ex. 7 Bates No. LA000032 (“2007 RPS Policy”)
<b>35.</b>	Other notable changes in LADWP’s 2007 RPS Policy included a new requirement that LADWP satisfy certain targets for owning renewable resources procured pursuant to the 2007 RPS Policy.	Ting Decl. ¶ 10, Ex. 7 Bates Nos. LA000031-LA000032 (“2007 RPS Policy”)
<b>36.</b>	Specifically, Section 5 required that LADWP pursue renewable acquisitions that would result in LADWP owning the renewable generating facility, or providing LADWP with a direct or indirect option to purchase the renewable generating facility.	Ting Decl. ¶ 10, Ex. 7 Bates Nos. LA000031-LA000032 (“2007 RPS Policy”)
<b>37.</b>	The 2008 RPS Policy included an additional RPS goal requiring that 35 percent of LADWP’s retail sales to customers be generated from eligible renewable resources by December 31, 2020.	Ting Decl. ¶ 11, Ex. 8 Bates Nos. LA000044-LA000054 (“2008 RPS Policy”)
<b>38.</b>	The 2008 RPS Policy set a higher RPS goal for LADWP in comparison to the IOUs, which, at that time, still had a goal of 20 percent RPS by December 31, 2010.	Ting Decl. ¶ 11, Ex. 8 Bates Nos. LA000044-LA00000045 (“2008 RPS Policy”)
<b>39.</b>	The 2008 RPS Policy also amended the list of “Eligible Resources” to include recent updates reflected in the CEC’s Third Edition RPS Eligibility Guidebook released in January 2008 (“Third Edition”).	Ting Decl. ¶ 11, Ex. 8 Bates No. LA000045 (“2008 RPS Policy”)
<b>40.</b>	LADWP’s Board Letter dated April 30, 2008, noted that the Third Edition included an expanded list of eligible	Ting Decl. ¶ 11, Ex. 8 Bates No. LA000040 (“2008 RPS Policy”)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	renewable resources that included “conduit hydroelectric,” “hydroelectric incremental generation from efficiency improvements,” “energy from renewable facilities using multiple fuels,” and “the use of biogas injected into natural gas pipelines.”	
<b>41.</b>	LADWP also identified the changes in the Third Edition that permitted the delivery of out-of-state energy as “firmed” or “shaped” electricity.	Ting Decl. ¶ 11, Ex. 8 Bates No. LA000047 (“2008 RPS Policy”)
<b>42.</b>	LADWP’s Board Letter stated that “[b]ecause the LADWP desires to own and/or operate its generation facilities and is interested in the physical delivery of renewables, it is not recommending adoption of all CEC provisions.”	Ting Decl. ¶ 11, Ex. 8 Bates No. LA000041 (“2008 RPS Policy”)
<b>43.</b>	Section 1 of the 2011 RPS Policy stated that the Board adopted the amendments in accordance with Public Utilities Code Section 399.30(e).	Ting Decl. ¶ 12, Ex. 9 Bates No. LA000063 (“2011 RPS Policy”)
<b>44.</b>	Section 3 of the 2011 RPS Policy included LADWP’s amended RPS Compliance Targets.	Ting Decl. ¶ 12, Ex. 9 Bates No. LA000065 (“2011 RPS Policy”)
<b>45.</b>	For the period of January 1, 2011 to December 31, 2013 (CP1), LADWP was required to “procure sufficient electricity products from eligible renewable energy resources to achieve an average of 20 percent of retail sales during such period.”	Ting Decl. ¶ 12, Ex. 9 Bates No. LA000065 (“2011 RPS Policy”)
<b>46.</b>	LADWP also adjusted its RPS Target for the third compliance period (January 1, 2017 to December 31, 2020) to conform to SBX1-2 by reducing the RPS target from 35% to 33% by December 31, 2020.	Ting Decl. ¶ 12, Ex. 9 Bates No. LA000065 (“2011 RPS Policy”)
<b>47.</b>	Section 4 of the 2011 RPS Policy included an amendment to address the standard for determining the criteria for “Eligible Renewable Energy Resources” under the law in effect before SBX1-2 and after SBX1-2’s effective date of December 10, 2011.	Ting Decl. ¶ 12, Ex. 9 Bates Nos. LA000065-LA000066 (“2011 RPS Policy”)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>48.</b>	Section 4 stated: Prior to the enactment of SBX1-2, the LADWP RPS Policy defined the following technologies as ‘eligible renewable resources’: ‘biodiesel; biomass; conduit hydroelectric (hydroelectric facilities such as an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for beneficial use); digester gas; fuel cells using renewable fuels; geothermal; hydroelectric incremental generation from efficiency improvements; landfill gas; municipal solid waste; ocean thermal, ocean wave, and tidal current technologies; renewable derived biogas (meeting the heat content and quality requirements to qualify as pipeline-grade gas) injected into a natural gas pipeline for use in a renewable facility; multi-fuel facilities using renewable fuels (only the generation resulting from the renewable fuels will be eligible), small hydro 30 MW or less, and the Los Angeles Aqueduct hydro power plants; solar photovoltaic; solar thermal electric, wind, and other renewables that may be defined later.’	Ting Decl. ¶12, Ex. 9 Bates Nos. LA000065-LA000066 (“2011 RPS Policy”)
<b>49.</b>	All renewable energy resources approved by the Board as part of its renewables portfolio in accordance with applicable law and previous versions of the 2011 RPS Policy, including without limitation those on Appendix A, will continue to be eligible renewable energy resources.	Ting Decl. ¶12, Ex. 9 Bates No. LA000066 (“2011 RPS Policy”)
<b>50.</b>	These renewable energy resources will count in full towards LADWP’s RPS targets adopted under the 2011 RPS Policy.	Ting Decl. ¶12, Ex. 9 Bates No. LA000066 (“2011 RPS Policy”)
<b>51.</b>	For RPS resources procured after the effective date of SBX1-2, ‘eligible renewable energy resource’ meant a generation facility that met the eligibility	Ting Decl. ¶12, Ex. 9 Bates No. LA000066 (“2011 RPS Policy”)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	criteria under the applicable law, including a ‘Renewable Electrical Generation Facility’ as defined in Section 25741(a) of the Public Resources Code and ‘Eligible Renewable Energy Resource’ as defined in PUC Section 399.12(e) and 399.12.5.	
<b>52.</b>	Appendix A of the 2011 RPS Policy identified the renewable resources procured and approved under LADWP’s voluntary RPS program adopted consistent with PUC Section 387 and before SBX1-2’s effective date.	Ting Decl. ¶12, Ex. 9 Bates Nos. LA000071-LA000072 (“2011 RPS Policy”)
<b>53.</b>	Appendix A listed, among other renewable resources, the renewable resources at issue in this administrative proceeding, including the Powerex BC Hydro PPAs and the 2009 Shell Energy North America (Shell) and Atmos Energy Marketing LLC (Atmos or Atmos Energy) biomethane procurement contracts.	Ting Decl. ¶12, Ex. 9 Bates Nos. LA000071-LA000072 (“2011 RPS Policy”)
<b>54.</b>	LADWP’s Board included a new Section 7 in the 2011 RPS Policy to address the Portfolio Content Categories.	Ting Decl. ¶12, Ex. 9 Bates Nos. LA000067-LA000068 (“2011 RPS Policy”)
<b>55.</b>	PUC Section 399.16 (d)(1) provides that “any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full toward the procurement requirements” where the “renewable energy resource was eligible under the rules in place as of the date when the contract was executed.”	PUC § 399.16(d)(1)
<b>56.</b>	Sections 3 and 7 of the 2011 RPS Policy adopted procurement requirements consistent with Sections 399.30(c)(3) and 399.16(d).	Ting Decl. ¶12, Ex. 9 Bates Nos. LA000067-LA000068 (“2011 RPS Policy”)
<b>57.</b>	Specifically, Section 7 provided, in relevant part, that: As required by SBX1-2, eligible renewable energy resources, procured on or after June 1, 2010, will be in accordance with PUC Sections 399.16(b) and (c). Section 399.16(b) defines	Ting Decl. ¶12, Ex. 9 Bates No. LA000067 (“2011 RPS Policy”)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	eligible renewable energy resources in three distinct portfolio content categories, commonly known as ‘buckets.’ LADWP will ensure that the procurement of its eligible renewable energy resources on or after June 1, 2010, will meet the specific percentage requirements set out in Section 399.16(c) for each compliance period.	
<b>58.</b>	LADWP’s 2011 RPS Policy stated that subject to the provisions of PUC Section 399.16(d), renewable electricity products procured prior to June 1, 2010, were exempt from the portfolio content categories and would continue to count in full toward LADWP’s RPS compliance targets.	Ting Decl. ¶12, Ex. 9 Bates No. LA000068 (“2011 RPS Policy”)
<b>59.</b>	Section 9 of the 2011 RPS Policy adopted optional compliance measures consistent with Section 399.30(d)	Ting Decl. ¶12, Ex. 9 Bates No. LA000069 (“2011 RPS Policy”)
<b>60.</b>	These optional compliance measures included the Board’s adoption of conditions for delaying timely compliance with the RPS targets under Section 399.30(d)(2) and consistent with Section 399.15(b).	Ting Decl. ¶12, Ex. 9 Bates No. LA000069 (“2011 RPS Policy”)
<b>61.</b>	The Board’s adoption of cost limitations for procurement expenditures were consistent with Sections 399.30(d)(3) and Sections 399.15(c)-(d) and excess procurement rules were consistent with Section 399.30(d)(1) and Section 399.13.	Ting Decl. ¶12, Ex. 9 Bates No. LA000069 (“2011 RPS Policy”)
<b>62.</b>	The 2011 RPS Policy also amended LADWP’s Reporting and Notice Requirements under Section 10 to conform to the new requirements under Sections 399.30(e)-(g) and Section 399.30(l).	Ting Decl. ¶12, Ex. 9 Bates Nos. LA000069-LA000070 (“2011 RPS Policy”)
<b>63.</b>	The CEC adopted the prescribed regulations, entitled “Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities” (“RPS Enforcement Regulations for POUs”) well over two	20 C.C.R §§ 3200-3208, 1240, (filed 8-28-2013 and became operative on 10-1-2013)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	years after the statutory deadline.	
<b>64.</b>	On December 3, 2013, LADWP's Board adopted Resolution No. 014-119, which amended the 2011 RPS Policy to incorporate changes made by the CEC's RPS Enforcement Regulations for POU's.	Ting Decl. ¶13, Ex. 10 Bates Nos. LA000076-LA000098 ("2013 RPS Policy")
<b>65.</b>	Section 8 of the 2013 RPS Policy was amended to address the portfolio content category and portfolio balance requirements addressed in 20 C.C.R. Section 3203.	Ting Decl. ¶13, Ex. 10 Bates Nos. LA000089-LA000090 ("2013 RPS Policy")
<b>66.</b>	The 2013 RPS Policy also included substantive revisions regarding the optional compliance measures.	Ting Decl. ¶13, Ex. 10 Bates Nos. LA000090-LA000093 ("2013 RPS Policy")
<b>67.</b>	Section 9 of the 2013 RPS Policy made conforming changes to address Excess Procurement (Section 9.1), Delay in Timely Compliance (Section 9.2), Portfolio Balance Requirement Reductions (Section 9.3), Change in Law or Regulations (Section 9.4), and Cost Limitations (Section 9.5).	Ting Decl. ¶13, Ex. 10 Bates Nos. LA000090-LA000093 ("2013 RPS Policy")
<b>68.</b>	LADWP's Board included a new Section 13 to include LADWP's Board Enforcement Process (Section 13.1) for LADWP's failure to meet its RPS requirements, LADWP's Reporting Requirements (Section 13.2) for providing progress reports to the CEC as required under 20 C.C.R. section 3207; and LADWP's Notice Requirements (Section 13.3) for providing notice of changes in LADWP's RPS Policy as required under 20 C.C.R. Section 3205.	Ting Decl. ¶13, Ex. 10 Bates Nos. LA000095-LA000096 ("2013 RPS Policy")

#### **LADWP's B.C. Hydro Power Purchase Agreements with Powerex**

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>69.</b>	On June 30, 2004, LADWP initiated a competitive-bid process seeking contracts	Ting Decl. ¶¶ 14-15, Ex. 11 (LADWP Board Letter dated

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	for the long-term purchase of energy from renewable energy resources.	Mar. 23, 2007); Ex 12 (LADWP Board Resolution No. 007-166) Bates Nos. LA000099-LA000106
<b>70.</b>	On September 18, 2004, LADWP received proposals from firms having the capability to provide the requested renewable energy, including proposals from Powerex Corp. (“Powerex”).	Ting Decl. ¶¶ 14-15, Exs. 11 (LADWP Board Letter dated Mar. 23, 2007); Ex 12 (LADWP Board Resolution No. 007-166) Bates Nos. LA000099-LA000106
<b>71.</b>	As a result of the competitive-bid process, LADWP selected Powerex based on the competitive-bid criteria.	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000105
<b>72.</b>	LADWP and Powerex negotiated two power purchase agreements for the purchase of renewable energy from small hydroelectric generating facilities with a nameplate ratings of 30 MWs or less located in the British Columbia, Alberta, Washington or Oregon control areas (“Powerex BC-Hydro PPAs”).	Ting Decl. ¶¶ 21-22, Exs. 18-19 Bates Nos. LA000118-LA000273 (Powerex BC-Hydro PPAs - Agreement Nos. BP 05-020-A and BP 05-020-B)
<b>73.</b>	On May 5, 2006, the Office of the City Administrative Officer (CAO) issued a report and recommendation regarding LADWP’s proposed Powerex BC-Hydro PPAs.	Ting Decl. ¶ 17, Ex. 14 Bates Nos. LA000109-LA000112 (“CAO Report”)
<b>74.</b>	The CAO Report recommended that LADWP and the City Council approve the proposed Powerex BC-Hydro PPAs.	Ting Decl. ¶ 17, Ex. 14 Bates No. LA000112 (“CAO Report”)
<b>75.</b>	In support of its recommendation, the CAO noted the City’s 2005 RPS Policy required LADWP to procure 20 percent of the City’s energy from renewable resources.	Ting Decl. ¶ 17, Ex. 14 Bates No. LA000111 (“CAO Report”)
<b>76.</b>	The CAO report also acknowledged that the 2005 RPS Policy defined small hydroelectric generating facilities less than 30 MWs as eligible renewable resources.	Ting Decl. ¶ 17, Ex. 14 Bates No. LA000111 (“CAO Report”)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>77.</b>	LADWP submitted its Board Letter seeking approval of the Powerex BC-Hydro PPAs on March 2, 2007.	Ting Decl. ¶ 14, Ex. 11 Bates Nos. LA000099-LA000104
<b>78.</b>	LADWP's 2007 Board Letter expressed the purpose for entering the Power BC-Hydro PPAs as: (11-15 below)	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099
<b>79.</b>	(a) 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.	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099
<b>80.</b>	(b) The Agreement is the result of a competitive bid Request for Proposal (RFP) process, and is an important component of LADWP's commitment to meeting the goals of its RPS.	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099
<b>81.</b>	(c) 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.	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099
<b>82.</b>	(d) The purchase of 438,000 MWh of renewable energy per year will enable the LADWP to meet 1.9% of its RPS goal.	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099
<b>83.</b>	(e) 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.	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099
<b>84.</b>	The 2007 Board Letter explained that LADWP initiated a competitive-bid process on June 30, 2004 and received responsive proposals on September 18, 2004.	Ting Decl. ¶ 14, Ex. 11 Bates Nos. LA000099-LA0000100
<b>85.</b>	LADWP selected Powerex's proposal	Ting Decl. ¶ 14, Ex. 11 Bates

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	based on “a detailed evaluation and due diligence review of [Powerex’s] ability to deliver, and a comparison of costs and benefits offered.”	Nos. LA000099-LA0000100
<b>86.</b>	LADWP’s estimated cost of the renewable energy under the Power BC-Hydro PPAs was “\$151,876,500 and [was] not to exceed \$186,204,000...based on the price cap of \$89.50/MWh.”	Ting Decl. ¶ 14, Ex. 11 Bates No. LA0000100
<b>87.</b>	The Resolution stated that the Powerex BC-Hydro PPAs were the result of the competitive-bid process initiated on June 30, 2004, and the responsive proposals received on September 18, 2004.	Ting Decl. ¶ 15, Ex. 12 Bates No. LA000105
<b>88.</b>	The Resolution acknowledged that the Powerex BC-Hydro PPAs would provide renewable energy to LADWP from small hydroelectric generating facilities.	Ting Decl. ¶ 15, Ex. 12 Bates No. LA000105
<b>89.</b>	The City Council’s Energy and Environment Committee (“E&E Committee”) issued a report regarding the proposed Powerex BC-Hydro PPAs.	Ting Decl. ¶18, Ex 15 Bates Nos. LA000113-LA000114 (E&E Committee Report)
<b>90.</b>	The E&E Committee Report recommended that the full City Council approve the Powerex BC-Hydro PPAs for “expenditures not to exceed \$186,204,000 based on a price cap of \$89.50 per [MWh].”	Ting Decl. ¶18, Ex 15 Bates No. LA000113 (E&E Committee Report)
<b>91.</b>	In support of its recommendation, the E&E Committee Report stated:  The LADWP Board reported that, in accordance with the Council approved Renewable Portfolio Standard (RPS), it set the goal of supplying 20% of the LADWP’s retail energy from renewable energy sources by 2010. The proposed Agreements, which would allow LADWP to meet 1.9% of the RPS goal, were the result of a Request for Proposal, a competitive bid process, that LADWP	Ting Decl. ¶18, Ex 15 Bates No. LA000113 (E&E Committee Report)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	initiated on June 30, 2004, in order to acquire renewable energy resources.	
<b>92.</b>	The E&E Committee Report included a “Fiscal Impact Statement.”	Ting Decl. ¶18, Ex 15 Bates No. LA000113 (E&E Committee Report)
<b>93.</b>	The E& E Committee reported that “the total expenditures may total \$186,204,000 for the four years, nine months duration of the Agreement[s]. The funds would be used to purchase renewable energy as part of DWP’s Renewable Portfolio Standard. This would benefit the ratepayers of Los Angeles by supplying them with green energy.”	Ting Decl. ¶18, Ex 15 Bates No. LA000113 (E&E Committee Report)
<b>94.</b>	The City Council’s Action approving Powerex BC-Hydro PPAs expressly adopted the recommendations contained in the E&E Committee Report.	Ting Decl. ¶ 19, Ex. 16 Bates No. LA000113 (City Council Action dated Mar. 23, 2007); see also id. at ¶ 18, Ex. 15.
<b>95.</b>	The Powerex BC Hydro PPA’s Recitals expressly acknowledged LADWP’s 2005 RPS Policy and that LADWP entered into the agreement to purchase renewable energy attributed to small hydroelectric generation.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at Recitals Bates Nos. LA000122, Ex. 18, ¶21, Bates No. LA000201, Ex. 19, ¶22
<b>96.</b>	LADWP agreed to purchase and receive 25 MWh of Energy each hour (the “Contract Quantity”) during the Term at the Point of Delivery.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at §§ 4.1 (Sale and Purchase Obligations) Bates No. LA000134; § 5.1 (Price for Delivered Energy) Bates No. LA00138
<b>97.</b>	The “Point of Delivery” was the Nevada-Oregon Border (NOB), at the point where LADWP’s and Bonneville Power Authority’s electric system meet on LADWP’s Pacific Intertie DC Transmission Line.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at §1.1 (definitions of Point of Delivery and NOB), Bates Nos. LA000126-LA000127
<b>98.</b>	The Point of Delivery (NOB) was located within the Western Electricity Coordinating Council (“WECC”).	Ting Decl. ¶¶ 21-22, Exs. 18-19 at §1.1 (definitions of Point of Delivery and NOB); PUC §399.16 (a)

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>99.</b>	The Powerex BC-Hydro PPAs required Powerex to provide Renewable Energy from hydroelectric generating facilities less than 30 MWs.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at § 1.1 (definition of “Facilities”) Bates No. LA000125
<b>100.</b>	Powerex represented that the Delivered Energy in any hour would be Renewable Energy as defined under the Powerex BC-Hydro PPAs.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at §4.8 (Guaranteed Percentage of Renewable Energy), Bates No. LA00137
<b>101.</b>	If the Delivered Energy in any hour was not Renewable Energy, LADWP had the right to return an equivalent amount of energy to Powerex, which Powerex would purchase at the Energy Price for Returned Energy.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at § 4.7 Bates No. LA000136
<b>102.</b>	LADWP received one of Renewable Energy Credit (“REC”) for each MWh of Delivered Renewable Energy purchased by LADWP under the Powerex BC-Hydro PPAs.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at § 5.3 (Renewable Energy Credits) Bates No. LA000139
<b>103.</b>	LADWP received all rights and title to the RECs, and Powerex represented that it would not “use, sell or otherwise transfer” LADWP’s RECs to any third parties.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at § 5.3 (Renewable Energy Credits) Bates No. LA000139
<b>104.</b>	Powerex confirmed the total quantities of Renewable Energy delivered in each hour of every month in Powerex’s monthly billing invoices to LADWP.	Ting Decl. ¶¶ 21-22, Exs. 18-19 at § 5.4 (Quantity of Energy Delivered) Bates No. LA000139
<b>105.</b>	Powerex’s monthly billing invoices to LADWP were “deemed to be an attestation by Powerex as to the quantity of Renewable Energy delivered.”	Ting Decl. ¶¶ 21-22, Exs. 18-19 at § 5.4 (Quantity of Energy Delivered) Bates No. LA000139 and at § 8.1 (Billing and Payment). Bates No. LA000145
<b>106.</b>	LADWP submitted the following additional evidence in support of its BC-Hydro REC claims for CP1: Powerex Monthly Invoices, Agreement No. BP-020-A (January 2011 to December 2011).	Declaration of Sharat Batra in 16-RPS-02 (“Batra Decl.”) at ¶ 5-16, Exs. 291-302 Bates Nos. LA001508-LA001519
<b>107.</b>	LADWP submitted the following additional evidence in support of its BC-Hydro REC claims for CP1: Powerex	Batra Decl. at ¶¶ 18-29, Exs. 303-314 Bates Nos. LA001520-

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	Monthly Invoices, Agreement No. BP-020-B (January 2011 to December 2011).	LA001531
<b>108.</b>	LADWP submitted the following additional evidence in support of its BC-Hydro REC claims for CP1: Powerex Monthly Attestation Letters regarding Renewable Energy Credits for Agreement Nos. BP-020-A and BP-020-B (January 2011 to December 2011).	Batra Decl. at ¶¶ 30-41, Exs. 315-326; Declaration of Robert Campbell (TN213750) (Campbell Decl.) at ¶8, Exs. 315-326. Bates No. LA001532-LA001567
<b>109.</b>	LADWP submitted the following additional evidence in support of its BC-Hydro REC claims for CP1: Powerex Letters Designating Facilities under Agreement Nos. BP-020-A and BP-020-B dated November 29, 2010.	Supp. Ting Decl. at ¶ 44, Ex. 328; Campbell Decl. at ¶5. Bates Nos. LA001570-LA001573
<b>110.</b>	LADWP submitted the following additional evidence in support of its BC-Hydro REC claims for CP1: Powerex Letters Designating Facilities under Agreement Nos. BP-020-A and BP-020-B dated December 7, 2009.	Third Supplemental Declaration of Louis C. Ting in 16-RPS-02 (“Third Supp. Ting Decl.”) at ¶5; Campbell Decl. at ¶6; Ex. 395 Bates Nos. LA002910-LA002913
<b>111.</b>	LADWP submitted the following additional evidence in support of its BC-Hydro REC claims for CP1: LADWP Confirmation of Payment to Powerex for 2011 Monthly Invoices for Agreement Nos. BP-020-A and BP-020-B.	Declaration of Sherry Grueter in 16-RPS-02 (“Grueter Decl.”) at ¶ 8, Ex. 327 Bates Nos. LA001568-LA001569
<b>112.</b>	The Powerex Monthly Invoices (Agreement Nos. BP-020-A and BP-020-B) confirm the total amount of delivered energy measured in MWh received by LADWP for each month in 2011 for the Powerex BC-Hydro PPAs.	Batra Decl. at ¶¶ 5-29, Exs. 291-314; Bates Nos. LA001508-LA001531
<b>113.</b>	LADWP paid a total of \$46,722,920.44 for the renewable energy purchased and received under the Powerex BC-Hydro PPAs.	Grueter Decl. at ¶ 8, Ex. 327 Bates Nos. LA001568-LA001569
<b>114.</b>	The Powerex REC Attestation Letters confirm the total amount of renewable energy delivered each hour for each day	Batra Decl. at ¶¶ 30-41, Exs. 315-326; Campbell Decl. at ¶8 Bates Nos. LA001532-

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	of the specified month, and the total number of RECs measured on a per/MWh basis that LADWP purchased each month in 2011 under Agreements No. BP-020-A and BP-020-B.	LA001567
<b>115.</b>	LADWP reported 437,379 renewable energy credits (“RECs”) for renewable energy procured from the generation of electricity from the Powerex BC-Hydro PPAs for 2011	Batra Decl. ¶¶30-41 Exs. 315-326; Campbell Decl. at ¶8 Bates Nos. LA001532-LA001567
<b>116.</b>	SBX1-2 added a new Section 25741.5 to the Public Resources Code, which required the CEC to study and provide a report to the Legislature, by June 30, 2011, analyzing British Columbia hydroelectric generating facilities and whether those facilities should be included as renewable electrical generating facilities.	SBX1-2; Public Resources Code (“PRC”) Section 25741.5
<b>117.</b>	SBX1-2 did not deem British Columbia hydroelectric generating facilities ineligible for the RPS when the legislation became effective.	SBX1-2; PRC §25641.5
<b>118.</b>	The CEC staff did not provide a report to the Legislature analyzing run-of-river hydroelectric generating facilities in British Columbia on June 30, 2011	Ting Decl. ¶ 27, Ex. 24 Bates Nos. LA000381-LA000384
<b>119.</b>	On February 24, 2012, the CEC first conducted a staff “workshop to discuss a study to analyze British Columbia Run-of-River Hydroelectric projects and consider whether these projects are, or should be, eligible renewable electrical generation facilities for California’s [RPS].”	Ting Decl. ¶ 24, Ex. 21 Bates Nos. LA000322-LA000326
<b>120.</b>	On March 22, 2013, the CEC conducted a staff “workshop to discuss the draft study to analyze British Columbia Run-of River Hydroelectric projects and whether these projects are, or should be, eligible renewable electrical generation facilities	Ting Decl. ¶ 25, Ex. 22 Bates Nos. LA000327-LA000330

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	for California's [RPS]."	
<b>121.</b>	On January 15, 2014 – after the close of CP1 – the CEC adopted the report <i>Analyzing British Columbia Run-Of-River Facilities for the California Renewables Portfolio Standard Commission Final Report</i> ("CEC BC Hydro Report").	Ting Decl. ¶ 28, Ex. 25 Bates Nos. LA000322-LA000330
<b>122.</b>	The Commission did not adopt the CEC BC Hydro Report until after the close of CP1 on January 15, 2014.	Ting Decl. ¶ 28, Ex. 25 Bates Nos. LA000322-LA000330

### **LADWP's 2009 Shell and Atmos Biomethane Agreements**

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>123.</b>	LADWP's Board was required to establish a natural gas risk management policy and form an executive risk policy committee.	Supp. Ting Decl. ¶ 54, Ex. 338 (Ordinance No. 174755 at § 10.5.3(1)(g)) Bates No. LA001620
<b>124.</b>	On January 21, 2003, LADWP adopted Resolution No. 003-166, which approved LADWP's Retail Natural Gas Risk Management Policy and established LADWP's Energy Services Executive Risk Policy Committee.	Second Supplemental Declaration of Louis C. Ting in 16-RPS-02 ("Second Supp. Ting Decl.") ¶9, Ex. 384 Bates Nos. LA002826-LA002839 (Resolution No. 003-166)
<b>125.</b>	The Natural Gas Risk Management Policy established a program to mitigate LADWP's exposure to unexpected spikes in the price of natural gas used in the production of electricity to serve retail customers.	Second Supp. Ting Decl. ¶9 Ex. 384, Bates No. LA002831 (Resolution No. 033-166)
<b>126.</b>	The Board confirmed that the approved NAESB Base Contract satisfied the requirements under Los Angeles Administrative Code Section 10.5.3 and LADWP's Natural Gas Risk Management Policy.	Supp. Ting Decl. ¶ 42, Ex. 66 Bates No. LA000767 (Resolution No. 003-285)
<b>127.</b>	On July 27, 2009, LADWP issued an	Supp. Ting Decl. ¶ 56, Ex. 343

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	Intradepartmental Correspondence regarding the “Use of Biogas in Multi-Fuel Facilities – Renewable Energy Eligibility.”	Bates Nos. LA001653-LA001661 (LADWP Biogas Memo dated July 27, 2009)
<b>128.</b>	LADWP’s Biogas Memo established a “methodology for calculating the amount of eligible Renewable Portfolio Standard (RPS) energy resulting from the use of RPS-eligible biogas in [LADWP’s] gas-fired generating units.”	Supp. Ting Decl. ¶ 56, Ex. 343 Bates No. LA001653 (LADWP Biogas Memo dated July 27, 2009)
<b>129.</b>	The Biogas Memo discussed the CEC’s inclusion of renewable biogas in the Third Edition Guidebook.	Supp. Ting Decl. ¶ 56, Ex. 343 Bates Nos. LA001653-LA001654 (LADWP Biogas Memo dated July 27, 2009)
<b>130.</b>	Appendix A of the Biogas Memo attached for reference the CEC’s biogas requirement included in the Third Edition Guidebook (pages 20-21).	Supp. Ting Decl. ¶ 56, Ex. 343 Bates Nos. LA001656-LA001658 (LADWP Biogas Memo dated July 27, 2009)
<b>131.</b>	The Third Edition Guidebook contained only one standard regarding the delivery of the pipeline biomethane: “The gas must be injected into a natural gas pipeline system that is either within the WECC region or interconnected to a natural gas pipeline system in the WECC region that delivers gas into California.”	Ex. 383 Bates Nos. LA002743-LA002744 (CEC Third Edition RPS Eligibility Guidebook)
<b>132.</b>	On September 4, 2009, LADWP submitted its August 2009 RPS Update to the Board for discussion during the Board’s regularly scheduling meeting on September 15, 2009.	Supp. Ting Decl. ¶ 43, Ex. 67 Bates Nos. LA000769-LA000778 (LADWP August 2009 RPS Update)
<b>133.</b>	LADWP’s August 2009 RPS Update identified the renewable landfill gas procured under the Shell Agreement on LADWP’s RPS Master Projects List presented to the Board on September 15, 2009.	Supp. Ting Decl. ¶ 43, Ex. 67 Bates Nos. LA000776-LA000778 (LADWP August 2009 RPS Update)
<b>134.</b>	On August 20, 2009, LADWP and Atmos entered into a Transaction Confirmation under the NAESB Base Contract for the	Supp. Ting Decl. ¶ 4, Ex. 28 Bates Nos. LA000551-LA000554

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	purchase of renewable biogas, specifically pipeline-quality landfill gas.	
<b>135.</b>	On or about August 26, 2009, LADWP and Atmos entered in a second Transaction Confirmation for the purchase of renewable biogas from additional landfill facilities.	Supp. Ting Decl. ¶ 4, Ex. 28 Bates Nos. LA000555-LA000557
<b>136.</b>	LADWP's August 2009 RPS Update identified the renewable landfill gas procured under the Atmos Agreement on LADWP's RPS Master Projects List presented to the Board on September 15, 2009.	Supp. Ting Decl. ¶43, Ex. 67 Bates Nos. LA000776-LA000778
<b>137.</b>	LADWP has also submitted evidence of its KRT Firm Transportation Agreements before the execution of the 2013 Restatements.	Supp. Ting Decl. ¶¶ 5-12, Exs. 29-36 Bates Nos. LA000558-LA000589
<b>138.</b>	LADWP's KRT Firm Transportation Agreement Nos. 1006 and 1706 provided firm transportation delivery service for the renewable biogas received at Opal Wyoming under the Shell and Atmos Agreements and delivered to SoCal Gas' delivery points at Kramer Junction and Wheeler Ridge in Southern California during the entire contract term of both agreements.	Supp. Ting Decl. ¶17, 22 Ex. 41, 46 Bates Nos. LA000601-LA000605 and Bates Nos. LA000617-LA000621.
<b>139.</b>	LADWP's KRT Monthly Invoices for the period of January 2011 to December 2013 supports the receipt of the renewable biogas procured under the Shell and Atmos Agreement at Opal and transportation and delivery of the renewable biogas to SoCal Gas's receipt points at Kramer Junction and Wheeler Ridge.	Declaration of Scott Masuda in 16-RPS-02 ("Masuda Decl.") at ¶¶ 153-188, Exs. 215-250 Bates Nos. LA001279-LA001350
<b>140.</b>	LADWP's payment of KRT for Monthly Invoices from January 2011 to December 2013 supports the receipt of the renewable	Grueter Decl. at ¶ 6, Ex. 289 Bates Nos. LA001502-LA001504

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	biogas procured under the Shell and Atmos Agreement at Opal and transportation and delivery of the renewable biogas to SoCal Gas's receipt points at Kramer Junction and Wheeler Ridge.	
<b>141.</b>	KRT Attestation for Gas Delivery under LADWP's Firm Transportation Service Agreements which included firm delivery for renewable biogas under Shell and Atmos Agreements to SoCal Gas' receipt points at Kramer Junction and Wheeler Ridge. .	Masuda Decl. ¶6, Ex. 70 Bates No. LA000816
<b>142.</b>	On April 20, 2004, LADWP's Board adopted Resolution No. 004-260, approving LADWP's Master Services Agreement ("MSA") No. 47349-4 with SoCal Gas for intrastate gas transportation services authorized by California Public Utilities Commission.	Supp. Ting Decl. ¶24, Ex. 48 Bates No. LA000624 (Resolution No. 004-260)
<b>143.</b>	On June 16, 2004, the City Council approved SoCal Gas MSA No. 47439-4.	Supp. Ting Decl. ¶26, Ex. 50 Bates Nos. LA000628-LA000629 (City Council Action approving SoCal Gas MSA No. 47439-4.)
<b>144.</b>	SoCal Gas MSA No. 47439-4 had a term commencing on July 1, 2004 and ending on July 1, 2006.	Supp. Ting Decl. ¶ 27, Ex. 51 Bates No. LA000630-LA000703 (SoCal Gas MSA No. 47349-4).
<b>145.</b>	Schedule A of MSA No. 47439-4 provided the terms for the transportation of gas on SoCal Gas's intrastate pipeline system to LADWP's four in-basin generating facilities, including the Scattergood Generating Station, Haynes Generating Station, Valley Generating Station, and Harbor Generating Station.	Supp. Ting Decl. ¶ 27, Ex. 51 Bates Nos. LA000630-LA000703 (SoCal Gas MSA No. 47349-4).
<b>146.</b>	On June 20, 2006, LADWP's Board adopted Resolution No. 006-232, approving SoCal MSA No. 47498-6 extending the term of the SoCal Gas MSA for an additional two-year term followed	Supp. Ting Decl. ¶ 28-29, Ex. 52-53 Bates Nos. LA000704-LA000708

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	by unlimited month-to-month interruptible service thereafter.	
<b>147.</b>	On July 26, 2006, the City Council approved SoCal Gas MSA No. 47498-6.	Supp. Ting Decl. ¶¶ 30-32, Exs. 54-56 Bates Nos. LA000709-LA000714
<b>148.</b>	SoCal Gas MSA No. 47498-6 provided the terms for the transportation of gas on SoCal Gas's intrastate pipeline system to LADWP's four in-basin generating facilities, including the Scattergood Generating Station, Haynes Generating Station, Valley Generating Station, and Harbor Generating Station.	Supp. Ting Decl. ¶ 33, Ex. 57 Bates Nos. LA000715-LA000731(SoCal Gas MSA No. 47498-6)
<b>149.</b>	On May 20, 2008, LADWP's Board adopted Resolution No. 008-242, approving the extension and amendment of SoCal Gas MSA No. 47498-6 to provide LADWP with additional firm transportation and gas-storage services.	Supp. Ting Decl. ¶ 34-35, Ex. 58-59 Bates Nos. LA000732-LA000738 (Resolution No. 008-242)
<b>150.</b>	On July 8, 2008, the City Council approved the extension and amendment of SoCal Gas MSA No. 47498-6.	Supp. Ting Decl. ¶ 37, Ex. 61 (City Council Action Approving Extension and Amendment of SoCal Gas MSA No. 47498-6); ¶¶36-37 Ex. 60-61 Bates Nos. LA000739-LA000746.
<b>151.</b>	On July 17, 2008, the City approved Ordinance No. 180044 delegating authority to LADWP's Board to extend and amend SoCal Gas MSA No. 47498-6 without further approval of the City Council.	Supp. Ting Decl. ¶ 38; Ex. 62 Bates Nos. LA000747-LA000748 (Ordinance No. 180044).
<b>152.</b>	The terms of LADWP's Storage Service Agreement was attached as Schedule 1 to SoCal Gas MSA No. 47498-6.	Supp. Ting. Decl. ¶39; Ex. 63, Bates Nos. LA000749-LA000752
<b>153.</b>	SoCal Gas MSA No. 47498-6 governed the transportation and delivery of gas received at Kramer Junction and Wheeler Ridge during the term of the Shell and Atmos Agreements.	Supp. Ting. Decl. ¶¶ 23-39; Exs. 47-63 Bates Nos. LA000622-LA000752

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>154.</b>	SoCal Gas Monthly Invoices for the period of January 2011 to December 2013 establishes the delivery of gas on SoCal Gas's interstate transportation system to LADWP's in-basin generating facilities, including the Scattergood Generating Station, Haynes Generating Station, Valley Generating Station, and Harbor Generating Station from January 1, 2011 to December 31, 2013.	Masuda Decl. at ¶¶ 189-224, Exs. 251-286 Bates Nos. LA001351-LA001495
<b>155.</b>	LADWP Confirmation of Payment to SoCal Gas for Monthly Invoices from January 2011 to December 2013 establishes the delivery of gas on SoCal Gas's interstate transportation system to LADWP's in-basin generating facilities, including the Scattergood Generating Station, Haynes Generating Station, Valley Generating Station, and Harbor Generating Station from January 1, 2011 to December 31, 2013.	Grueter Decl. at ¶ 7, Ex. 290 Bates Nos. LA001505-LA001507
<b>156.</b>	LADWP submitted attestations from Shell and Atmos, including using the CEC's Attestation form 55, confirming that LADWP received the exclusive ownership of the green attributes or RECs generated from LADWP's procurement and use of the biomethane for each landfill under the Shell and Atmos Agreements.	Masuda Decl. ¶ 4, 5 Exs. 68, 69 Bates Nos. LA000779-LA000815
<b>157.</b>	The attestations confirm that the green attributes and RECs procured by LADWP were not transferred, sold, conveyed, or otherwise disposed of by Shell or Atmos.	Masuda Decl. ¶ 4, 5 Exs. 68, 69 Bates Nos. LA000779-LA000815
<b>158.</b>	LADWP submitted metered data measuring the amount of landfill gas injected from each landfill into the interstate pipeline each month under both the Shell Agreement and Atmos Agreement.	Masuda Decl. ¶¶ 80-151, Exs. 143-214 Bates Nos. LA001207-LA001278
<b>159.</b>	LADWP supports the biomethane	Masuda Decl. ¶¶ 8-43, Exs. 71-

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	purchased and received under the Shell Agreement with monthly Shell invoices for each month for the period of January 1, 2011 to December 31, 2013.	106 Bates Nos. LA000817-LA000996
<b>160.</b>	LADWP supports the biomethane purchased and received under the Atmos Agreement with monthly Atmos invoices and attestations for each month for the period of January 1, 2011 to December 31, 2013.	Masuda Decl. ¶¶ 44-79, Exs. 107-142 Bates Nos. LA000997-LA001206
<b>161.</b>	LADWP confirmed Payment of the Shell Monthly Invoices from January 2011 to December 2013.	Grueter Decl. at ¶ 4, Ex. 287 Bates Nos. LA001496-LA001498
<b>162.</b>	LADWP paid Shell a total of \$87,748,947.05 for the biomethane purchased under the Shell Agreement for use during CP1.	Grueter Decl. at ¶ 4, Ex. 287 Bates No. LA001498
<b>163.</b>	LADWP confirmed payment of the Atmos Monthly Invoices from January 2011 to December 2013.	Grueter Decl. at ¶ 5, Ex. 288 Bates Nos. LA001499-LA001501
<b>164.</b>	LADWP paid Atmos a total of \$45,737,168.40 for the biomethane purchased under the Atmos Agreement for use during CP1.	Grueter Decl. at ¶ 5, Ex. 288 Bates No. LA001501
<b>165.</b>	LADWP paid a total of over \$133 million for the renewable biomethane purchased and used during CP1.	Grueter Decl. at ¶ 4-5, Exs. 287, 288 Bates Nos. LA001496-LA001501
<b>166.</b>	LADWP confirmed the use of the Shell and Atmos biomethane at LADWP's Scattergood, Valley, and Haynes Generating Stations.	Second Supp. Decl. Ting at ¶4-7, Exs. 348-350, 355 Bates Nos. LA001717-LA001721 and Bates No. LA001734
<b>167.</b>	LADWP submitted evidence filed under seal pursuant to LADWP's Application for Confidentiality dated August 31, 2016 providing LADWP's fuel use, heat rates, and generation data for LADWP's Scattergood, Valley and Haynes combined-cycle generating units.	Second Supp. Ting Decl. ¶ 4-6, Exs. 348-350; id. ¶ 7 Ex. 355 Bates Nos. LA001717-LA001721 and Bates No. LA001734
<b>168.</b>	LADWP generated a total of 1,226,490	Second Supp. Ting Decl. ¶ 4-6,

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	RECs during CP1 from the biomethane procured under the Shell Agreement and Atmos Agreement for use at LADWP's Scattergood, Valley, and Haynes Generating Stations.	Exs. 348-350; Bates Nos. LA001717-LA001721
<b>169.</b>	LADWP's provided to the CEC Staff two un rebutted expert reports from Benjamin Schlesinger, Ph.D. a gas-pipeline expert.	Expert Declaration of Benjamin Schlesinger, Ph.D., in 16-RPS-02 ("Schlesinger Decl.") at ¶¶ 3-5, Ex.344 (Schlesinger Expert C.V.); Ex. 345 (Schlesinger Expert Report dated March 26, 2014); Ex. 346 (Supplemental Schlesinger Expert Report dated January 21, 2016) Bates Nos. LA001662-LA001715

**LADWP's Grandfathered Resources to Count in Full under SBX1-2 and AB 2196**

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>170.</b>	As amended, PUC Section 399.16(d)(1) provides that "any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full toward the procurement requirements established pursuant to this article, if all of the following conditions are met: (1) [t]he renewable energy resource was eligible under the rules in place as of the date when the contract was executed."	PUC § 399.16(d)(1), as added by SBX1-2
<b>171.</b>	LADWP acknowledged that other POU's included hydroelectric facilities, regardless of size, in their voluntary RPS programs.	Supp. Ting Decl. at ¶ 45-47, Ex. 329-331.
<b>172.</b>	Moreover, LADWP's reports also acknowledged that Hoover was considered an eligible renewable resource by all of the other POU's that owned interests in, or received electricity	Supp. Ting Decl. at ¶ 46, Ex. 330 Bates No. LA001592.

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	from, Hoover.	
<b>173.</b>	The City and LADWP, however, made a policy determination not to include large hydroelectric facilities, including Hoover, in the City's 2005 RPS Policy, despite the cost impact to the City.	Supp. Ting Decl. at ¶ 47, Ex. 331 Bates Nos. LA001593-LA001601 (City Council Resolution dated October 15, 2004 excluding Hoover as an eligible resource under the 2005 RPS Policy).
<b>174.</b>	AB 2196 expressly grandfathered pipeline biomethane procured under contracts executed before March 29, 2012 under the rules in place as of the date when the contract was executed.	PUC § 399.12.6 (a), as added by AB 2196
<b>175.</b>	The Senate Energy, Utilities and Communications Committee included the following statements in the SBX1-2 Bill Analysis dated February 15, 2011:  "Current law exempts local publicly owned utilities (POUs) from the state RPS program and instead directs these utilities to implement and enforce their own renewable energy purchase programs that recognize the intent of the Legislature to encourage increasing use of renewable resources.  "This bill grandfathers all contracts consummated by an IOU, ESP or POU prior to June 1, 2010."	Exhibit 390, Bates Nos. LA002874-LA002882
<b>176.</b>	The Senate Appropriations Committee's Fiscal Summary Staff Comments dated February 23, 2011 included the following statement:  "Existing law also requires publicly owned utilities to adopt their own Renewables Portfolio Standard.  Under the bill, all existing renewable energy contracts signed by June 1, 2010 would be 'grandfathered' into the program. "	Exhibit 391, Bates Nos. LA002883-LA002887
<b>177.</b>	The Senate Rules Committee, Bill	Exhibit 392, Bates Nos.

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	<p>Analysis, Third Reading of SBX1-2 dated February 23, 2011 included the following statements:</p> <p>“Current law exempts local publicly owned utilities (POUs) from the state RPS program...This bill grandfathers all contracts consummated by an IOU, ESP, or POU prior to June 1, 2010.”</p>	LA002888-LA002897
<b>178.</b>	<p>The Senate Energy, Utilities and Communications Committee Fiscal Hearing dated June 25, 2012 stated that:</p> <p>“Current law permits procurement from contracts for renewable generation executed prior to June 1, 2010 to ‘count in full’ toward a retail seller’s or POU’s RPS requirements and further exempts those contracts from the three product categories or ‘bucket’ requirements.”</p>	Exhibit 369, Bates No. LA002517-LA002523
<b>179.</b>	<p>The Senate Floor Analysis of AB 2196, Third Reading, dated August 31, 2012, stated:</p> <p>“To finesse the transition from the 20% by 2010 RPS program to the 33% by 2020 program, SBx1 2 grandfathered all RPS contracts entered into prior to June 1, 2010 and provided that those contracts will ‘count in full’ under the new program requirements.</p>	Exhibit 394, Bates Nos. LA002901-LA002909
<b>180.</b>	<p>The Assembly Legislative Analysis for AB 2196 dated September 1, 2012 stated that:</p> <p>“Several major electric utilities, including the Los Angeles Department of Water and Power and the Sacramento Municipal Utilities District, among others, have signed contracts with pipeline biomethane suppliers.”</p>	Exhibit 370, Bates No. LA002524-LA002525
<b>181.</b>	<p>The Assembly Legislative Analysis for AB 2196 dated September 1, 2012 stated that: “The Senate amendments clarify</p>	Exhibit 370, Bates Nos. LA002524-LA002525

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	that electric generation that relies on procurement of biomethane from a contract executed, by a retail seller or local publicly owned utility and reported to PUC or Energy Commission, prior to March 29, 2012, counts in full, as eligible generation for purpose of complying with the RPS.”	
<b>182.</b>	The Senate Energy, Utilities and Communications Committee Legislative Analysis for AB 2196 dated June 25, 2012 included the following analysis:  “[T]he contracts being signed by some California retail sellers and POUs were with landfills from as far away as Pennsylvania, Ohio, and Tennessee – locales which make it physically impossible to verify delivery of the fuel to California particularly because the flow of those pipelines passes through pipelines flowing in the opposite direction of California.”	Exhibit 369, Bates No. LA002517-LA002523
<b>183.</b>	The Senate Energy, Utilities and Communications Committee Legislative Analysis for AB 2196 dated June 25, 2012 included the following analysis: “This bill will override the suspension of pipeline biomethane and the associated generation facilities as eligible renewable resources by the CEC and count as eligible under the RPS program any procurement of pipeline biomethane under a contract executed prior to January 1, 2012.”	Exhibit 369, Bates No. LA002517-LA002523
<b>184.</b>	The Senate Energy, Utilities and Communications Committee Legislative Analysis for AB 2196 dated June 25, 2012 included the following analysis:  “It is important to distinguish this bill from the CEC’s suspension because the CEC determined eligibility based on the	Exhibit 369, Bates No. LA002517-LA002523

Fact No.	Material Fact	Supporting Evidence
	<p>certification status of a facility and not on contracts for the fuel supply. Consequently, this bill will grandfather an unknown number of contracts that never filed for certification or pre-certification of, the facility with the CEC.”</p>	
185.	<p>A letter from the California Legislature to CEC Chairman Weisenmiller dated May 18, 2016 stated, in relevant part, that:</p> <p>“The passage of the California Renewable Energy Resources Act (SB X1-2) in 2011, for the first time, brought POU’s, like LADWP, under state jurisdiction through the CEC. The CEC, after evolving its rulemaking over a number of years, is now considering applying those rules retroactively to investments made years ago. If allowed to enforce retroactive rulemaking and LADWP’s contracts are not counted in full by the CEC. LADWP ratepayers may face a potential liability of \$130 million.</p> <p>“Grandfathering provisions in SB X1-2 were intended by the Legislature to seamlessly transition from a voluntary program of renewable energy for POU’s to a mandatory program. SBX1-2 also stipulated that the CEC ‘shall’ certify procured renewable energy resources under the rules in place at the time of contract execution. The Legislature provided grandfathering language in SB X1-2 and later in Assembly Bill (AB) 2196, to expressly account for the investments made on behalf of the public by POUS to ensure those investments would be fully counted by the CEC.</p> <p>AB 2196 expressly grandfathered pipeline biomethane procured under</p>	16-RPS-02 TN# 211968

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	contracts executed before March 29, 2012.”	
<b>186.</b>	Competitive-Bid Process: Renewable procurement contracts were subject to the City’s Competitive Bid Process and Procedures	L.A. Admin. Code §§ 10.15 et seq.
<b>187.</b>	On June 30, 2004, LADWP initiated a competitive-bid process seeking contracts for the long-term purchase of energy from renewable energy resources.	Ting Decl. ¶¶ 14-15, Exs. 11-12 Bates Nos. LA000099-LA000106
<b>188.</b>	As a result of the competitive-bid process, LADWP selected Powerex based on the competitive-bid criteria.	Ting Decl. ¶ 14, Ex. 11 Bates No. 000100
<b>189.</b>	<p>LADWP’s Board Letter identified the express purpose for entering the Power BC-Hydro PPAs: “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.</p> <p>“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.”</p>	Ting Decl. ¶ 14, Ex. 11 Bates No. LA000099

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>190.</b>	On March 23, 2007, the full City Council approved the Powerex BC-Hydro PPAs and adopted the E&E Committee Report.	Ting Decl. ¶ 19, Ex. 16 Bates Nos. LA000113-LA000115

### **Established Federal and State Law for Interstate Pipelines**

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>191.</b>	Interstate natural gas pipelines are subject to FERC jurisdiction to transport natural gas in accordance with their FERC-approved gas tariffs.	18 C.F.R. § 154.1
<b>192.</b>	The Natural Gas Act (“NGA”) “confers upon FERC exclusive jurisdiction over the transportation and sale of natural gas in interstate commerce for resale.”	15 U.S.C. § 717(b); <i>Schneidewind v. ANR Pipeline Co.</i> , 485 U.S. 293, 300-01 (1985) (emphasis added); see also, <i>Cascade Natural Gas Corp. v. FERC</i> , 955 F.2d 1412, 1421 (10th Cir. 1992).
<b>193.</b>	Sections 4 and 5 of the NGA confer upon FERC exclusive authority over an interstate pipeline’s rates and practices.	15 U.S.C. §§ 717c and 717d; <i>Schneidewind v. ANR Pipeline Co.</i> , 485 U.S. 293, 300-01 (1985) (emphasis added); <i>Cascade Natural Gas Corp. v. FERC</i> , 955 F.2d 1412, 1416-1421 (10th Cir. 1992); <i>Arkansas Louisiana Gas Co. v. Hall</i> , 453 U.S. 571, 577-581 (1981)
<b>194.</b>	FERC regulations define transportation to “include[] storage, exchange, backhaul, displacement, or other methods of transportation.”	18 C.F.R. § 284.1(a)
<b>195.</b>	North American gas pipelines function as an interconnected grid, under ‘open access’ rules” operating, “essentially, as a unified grid.	Schlesinger Decl. ¶¶ 1-4 and at ¶ 9
<b>196.</b>	Gas “transportation” does not require delivery of the same molecules of gas that were received at a shipper’s receipt point;	Schlesinger Decl. ¶¶ 7, 12-13.

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	the gas can be exchanged with other, thermally equivalent volumes.	
<b>197.</b>	“Firm transportation service” is defined as transportation that “is not subject to a prior claim by another customer or another class of service and receives the same priority as any other class of firm service.”	18 C.F.R. § 284.7(a)(3)
<b>198.</b>	KRT tariff and KRT’s FERC-approved transportation service agreements with LADWP govern the delivery of LADWP’s procured biogas into California.	Supp. Ting Decl. ¶17, 22 Ex. 41, 46 Bates Nos. LA000601-LA000605 and Bates Nos. LA000617-LA000621.
<b>199.</b>	In conjunction with the 2009 Shell and Atmos Agreements, LADWP had FERC approved transportation service contracts with KRT.	<i>Kern River Gas Transmission Co.</i> , Letter Order Approving Non-Conforming Contract, Docket No. RP13-948-000 (published in the Federal Register on June 7, 2013)
<b>200.</b>	Under the contract, KRT was obligated “to transport and deliver Thermally Equivalent Quantities to [LADWP] at the [California] Delivery Point(s).”	Kern River Transportation Agreement No. 1706 Restated. Supp. Ting Decl. at ¶ 22, Ex. 46, LA000618).
<b>201.</b>	<i>Natural Gas Pipeline Co. of Am.</i> explains that “it is not possible to trace molecules of gas transported under any specific [pipeline] rate schedule in order to determine their end-use after they enter the [pipeline’s] and the [local distribution company’s] systems and are commingled.”	<i>Natural Gas Pipeline Co. of Am.</i> , <a href="#">92 FERC ¶ 61,221, at p. 61,740</a> (2000); Schlesinger Decl. at ¶¶ 13-14.
<b>202.</b>	The Aliso Canyon Action Plan recognizes that SoCal Gas, like the interstate pipelines that are regulated by FERC, operates under the concept that gas in the pipeline system is entirely fungible in the pipeline system: “[S]hippers are not required to, and often do not, bring in each day exactly the amount of gas they will use. Noncore customers [such as LADWP] are not required to balance their	“Aliso Canyon Action Plan to Preserve Gas and Electric Reliability for the Los Angeles Basin,” p.12, coauthored by the CEC, LADWP, CAISO, and the CPUC. Ex. 381, Bates No. LA002637.

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	demand and delivery of gas each day; instead, SoCal Gas requires that noncore customers total demand for the month must match up with the gas they deliver in that month within a tolerance band of plus or minus 10 percent.”	
<b>203.</b>	Under SoCal Gas Rule No. 30, the amount of gas that redelivered is thermally equivalent to the amount that was delivered into the system.	Supp. Ting Decl. at ¶ 27, Ex. 51, Bates Nos. LA000671-LA000673
<b>204.</b>	The Aliso Canyon Action Plan states that “Some of the gas delivered via the backbone transmission system flows directly to customers. The remainder, however, is injected into one of SoCal Gas’ underground gas storage fields (Aliso Canyon, Honor Rancho, La Goleta or Playa del Rey) for later use.”	“Aliso Canyon Action Plan to Preserve Gas and Electric Reliability for the Los Angeles Basin,” p.12, coauthored by the CEC, LADWP, CAISO, and the CPUC. Ex. 381, Bates No. LA002632
<b>205.</b>	Section 4.2 of the Biomass-Derived Fuels Reporting and Verification Guidance states: “Biomethane nominated to a pipeline is identical to fossil-fuel derived natural gas; therefore the actual molecules of biomethane may not be combusted by the operator with a purchase contract.”	Exhibit 376, Bates No. LA002537
<b>206.</b>	Section 4.2 of the Biomass-Derived Fuels Reporting and Verification Guidance explains that the “second method is for the operator, or reporting entity, to provide evidence that the owner or marketer of the biomethane engaged in a ‘swap’ of the biomethane at the source with the natural gas delivered to the operator or reported entity.	Exhibit 376, Bates No. LA002537
<b>207.</b>	The Shell and Atmos Agreements meet the requirements of the Third Edition Guidebook’s plain language.	Supp. Ting Decl. at ¶¶ 3-4, Exs. 27-28 Bates Nos. LA000508-LA000557
<b>208.</b>	The Shell and Atmos Agreements allowed LADWP to procure biogas from specific	Supp. Ting Decl. at ¶¶ 3-4, Exs. 27-28 Bates Nos. LA000508-

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	landfill sources outside of California to meet its RPS obligations.	LA000557
<b>209.</b>	The gas procured under the Shell and Atmos Agreements was injected into the interstate pipeline system at specific landfills where the gas was sourced, and measured by its energy content in Btus at the time of injection. An equal volume of gas, as measured in Btus, was then delivered to LADWP through a gas exchange at Opal, Wyoming. At Opal, the gas was injected into KRT's interstate natural gas pipeline system, which is located within the WECC region.	Masuda Decl. at ¶¶ 4-224, Exs. 68-286, Bates Nos. LA000779-LA001495; see also Schlesinger Decl. ¶12.
<b>210.</b>	During the relevant service period of the Shell and Atmos Agreements, LADWP had firm transportation agreements with KRT to deliver gas from Opal to SoCal Gas California delivery points at Kramer Junction and Wheeler Ridge.	Supp. Ting Decl. at ¶¶ 5-39, Exs. 29-63, Bates Nos. LA000558-LA000752
<b>211.</b>	The 2016 Schlesinger Letter further adds that: "Shippers of gas on U.S. pipelines are required to enter into transportation agreements (contracts) under the provisions of the pipeline's FERC Gas Tariff. Contracts with gas pipelines – be they for firm service, interruptible service, backhaul services, etc. – obligate the pipeline to deliver gas physically from the point of receipt to the point of delivery. "	Schlesinger Decl. ¶ 5, Ex. 346 at LA001710
<b>212.</b>	Staff Statement on August 16, 2011: "The law does not define the terms 'biomass,' 'digester gas,' or 'landfill gas,' and is likewise silent as to whether these fuels must be used on the site of the fuel's production to generate electricity for purposes of the RPS. Nor does the law specify how these fuels, if produced offsite, should be delivered to a power plant for purposes of generating electricity."	Exhibit 356, Bates Nos. LA001736-LA001737

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>213.</b>	Staff Statement on August 16, 2011: “The Energy Commission currently allows backhaul and forward haul transportation agreements that are either firm or interruptible to be considered eligible delivery methods . . .”	Exhibit 356, Bates No. LA001740
<b>214.</b>	“Back in 2010 LADWP was under no obligation, obviously, to follow the Energy Commission’s rules. It had its own rules it adopted pursuant to Public Utility Code Section 387.”	Ex. 357 at Bates No. LA001777

**LADWP Reported Its CP1 REC Claims in the CEC’s Interim Tracking System (ITS) for Generation Procured under the Powerex BC-Hydro PPAs and from the Use of Biomethane Procured under the Shell and Atmos Agreements**

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>215.</b>	ITS and WREGIS are accounting and tracking systems that use an accounting construct where one megawatt hour (MWh) of renewable generation results in the creation of one REC.	Ex. 363 Bates No. LA002195
<b>216.</b>	The CEC can verify the ITS data in the same manner that CEC verified ITS data for over 10 years, since 2004.	Ex. 363 Bates No. LA002184
<b>217.</b>	Section 387 of the Public Utilities Code did not require that POUs report their procurement data through ITS, much less require that POUs register with and exclusively use WREGIS.	Ex. 362 (CEC Consultant Report: Publicly-Owned Electric Utilities and the California Renewables Portfolio Standard: A Summary of Data Collection Activities, CEC-300-2005-023 (Nov. 2005)) at Bates Nos. LA002151-LA002152 (acknowledging the POUs were not required to verify or report RPS procurement in WREGIS or the CEC’s Interim Tracking System).

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
<b>218.</b>	The CEC issued its Seventh Edition RPS Eligibility Guidebook in April 2013, which applied a retroactive requirement that stated “for POUs, procurement data must be tracked and reported to the Energy Commission using WREGIS beginning October 2012.”	16-RPS-02, TN #213251 (Seventh Edition Guidebook) p.87
<b>219.</b>	LADWP and Staff have established a methodology for verifying the REC claims from LADWP’s 2011 Shell Biomethane Agreement, which the CEC did certify as an eligible renewable resource, based on well-established industry standards for use of economic dispatch.	Batra Decl. ¶¶43-44, 42 U.S.C. § 16432(b) (“Economic dispatch” means “the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.”); Ex. 378 Bates Nos. LA002557-LA002561. (see also U.S. Environmental Protection Agency Final Report: Economic Impact Analysis of the Stationary Combustion Turbines NSPS (Feb. 2006) at 2-3)
<b>220.</b>	Staff’s methodology for verifying the RECs from the 2011 Shell Biomethane Contract can be applied in the same manner and using the same types of data for Staff to verify the REC claims for the 2009 Shell and Atmos Agreements.	Second Supp. Ting Decl. ¶ 4-7 Ex. 348-350, 355, Bates Nos. LA 001717-LA001721 and LA001734
<b>221.</b>	The Legislature added Section 399.16(d) to confirm that “any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full toward the procurement requirements” if the “renewable energy resource was eligible under the rules in place as of the date when the contract was executed.”	PUC Section 399.16(d)
<b>222.</b>	“To finesse the transition from the 20% by 2010 RPS program to the 33% by 2020 program, SBX1-2 grandfathered all RPS contracts entered into prior to June 1, 2010 and provided that those contracts	Senate Energy Utilities Committee (6.25.2012), Ex. 369, Bates No. LA002519

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	will ‘count in full’ under the new program requirements.”	
<b>223.</b>	Section 4 of the 2011 RPS Policy states: “All renewable energy resources approved by the Board as part of its renewables portfolio in accordance with applicable law and the previous versions of this RPS Policy, including without limitation those on Appendix A, will continue to be eligible renewable energy resources. These renewable energy resources will count in full towards LADWP’s RPS targets adopted in section 3 of this updated RPS Policy.”	Ting Decl. ¶ 12, Ex. 9, LA000066 at § 4 (“2011 RPS Policy”)
<b>224.</b>	Section 399.16 does not require that the CEC certify Powerex’s BC Hydro generating facilities as a condition necessary for the CEC to count in full the BC Hydro RECs for 2011.	PUC Section 399.16
<b>225.</b>	LADWP had not statutory obligation to seek the CEC’s certification under Section 387 or before SBX1-2’s effective date.	PUC Section 399.16
<b>226.</b>	LADWP submitted designation letters under the Powerex BC-Hydro PPAs for the 2011 contract year.	Supp. Ting Decl. ¶ 44 and Declaration of Robert Campbell in 16-RPS-02 (“Campbell Decl.”) at ¶ 6, Ex. 328 Bates Nos. LA001570-LA001573 (Powerex Designation Letter dated 11-29-10); see also Third Supp. Ting Decl. at ¶ 5, and Campbell Decl.”) at ¶ 6 Ex. 395 (Powerex Designation Letter dated 12-07-09)
<b>227.</b>	LADWP submitted monthly REC attestations from Powerex confirming that all of the RECs generated in 2011 came from 100% blend of renewable energy from the designated small-hydro generating facilities.	Batra Decl. ¶¶ 30-41 and Campbell Decl. ¶ 8, Exs. 315-326 Bates Nos. LA001532-LA001567 (Powerex Monthly REC Attestations for Jan. 2011 to Dec. 2011).
<b>228.</b>	Powerex provided a map identifying the locations of the designated BC Hydro	Campbell Decl. ¶ 9, Ex. 396 Bates No. LA002914; see also

<b>Fact No.</b>	<b>Material Fact</b>	<b>Supporting Evidence</b>
	generating facilities under the Powerex BC-Hydro PPAs for the 2011 contract year.	Supp. Ting Decl. ¶ 44 and Campbell Decl. at ¶ 6, Ex. 328 Bates Nos. LA001570-LA001573 (Powerex Designation Letter dated 11-29-10); see also Third Supp. Ting Decl. at ¶ 5, and Campbell Decl.”) at ¶ 6 Ex. 395 (Powerex Designation Letter dated 12-07-09)
<b>229.</b>	The Third Edition Guidebook contains one delivery standard - the biogas “must be injected into a natural gas pipeline system that is either within the WECC region or interconnected to a natural gas pipeline system in the WECC region that delivers gas into California.”	Ex. 383 Bates Nos. LA002743-LA002744 (CEC Third Edition RPS Eligibility Guidebook)

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Respectfully submitted,

/s/ Jean-Claude Bertet  
JEAN-CLAUDE BERTET  
Deputy City Attorney  
Los Angeles Dept. of Water and Power  
111 N. Hope Street, Suite 340  
Los Angeles, CA 90012  
Telephone Number: (213) 367-4500  
Email: [Jean-Claude.Bertet@ladwp.com](mailto:Jean-Claude.Bertet@ladwp.com)