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BEFORE THE CALIFORNIA ENERGY COMMISSION
COMMITTEE STATUS CONFERENCE

In the Matter of:)
) Docket No. 16-RPS-02
Los Angeles Department of Water)
and Power RPS Appeals)
_____)

CALIFORNIA ENERGY COMMISSION
CHARLES IMBRECHT ROOM - FIRST FLOOR
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 22, 2016

9:30 A.M.

Reported by:
Kent Odell

APPEARANCES

COMMITTEE MEMBERS

Robert Weisenmiller, Chair, Presiding Member

David Hochschild, Commissioner, Associate Member

ADVISERS

Jana Romero, Adviser to Chair Weisenmiller

Ken Rider, Adviser to Commissioner Hochschild

HEARING OFFICER

Paul Kramer

ENERGY COMMISSION STAFF

Courtney Smith, Renewable Energy Division Deputy Director

Drew Bohan, chief Deputy Directors

Gabe Herrera, Staff Counsel

Mona Badie, Staff Counsel

APPLICANT

Felix Lebron, Deputy City Attorney

Pjoy Chua, Regulatory Compliance Manager

P R O C E E D I N G S

9:30 A.M.

SACRAMENTO, CALIFORNIA, TUESDAY, NOVEMBER 22, 2016

HEARING OFFICER KRAMER: And those of here in the room, let's get really close to the mikes to provide our court reporter with the most audio that he can have, since he's having a little bit of difficulties recording our voices.

So let's begin the meeting. This is the Committee status conference for the LADWP RPS appeals. The Docket Number is 16-RPS-02.

Here in the room, on the dais we have Chair Robert Weisenmiller, who's our presiding member, Commission David Hochschild, who is the Associate Member. I'm Hearing Officer Paul Kramer. Chair Weisenmiller's Adviser Jana Romero is here. And Commissioner Hochschild's Adviser, Ken Rider, is also here.

Let's have the parties introduce themselves, beginning with the Appellant and Applicant, LADWP.

MR. LEBRON: Hi. This is Deputy City Attorney Felix Lebron, appearing on behalf of LADWP.

MS. CHUA: Good morning. Pjoy Chua, Regulatory Compliance Manager for LADWP.

HEARING OFFICER KRAMER: Okay. Thank you.

1 And Staff?

2 MS. SMITH: Courtney Smith, Deputy Director of the
3 Renewable Energy Division.

4 MR. BOHAN: Good morning. Drew Bohan, Chief
5 Deputy Director.

6 MR. HERRERA: Good morning. Gabe Herrera with the
7 Energy Commission's Legal Office, representing Staff.

8 MS. BADIE: Mona Badie with Energy Commission's
9 Legal Office, representing Staff, as well.

10 HEARING OFFICER KRAMER: Thank you.

11 I don't see anyone else in the room. And we're
12 not -- I don't think we're expecting a Public Adviser, given
13 that there is expected to be relatively little public
14 interest in this case.

15 So let me remind you on the phone, we're going to
16 try to keep you un-muted, at least Mr. Lebron. But if
17 you've got background noise in your vicinity, if you use
18 Star 6 on your telephone or right click your name on your
19 computer if you're accessing us via computer, that will mute
20 and unmute you alternatively.

21 The primary purpose of today's Committee
22 conference is to allow the Committee to deliberate in closed
23 session. But before we adjourn into closed session, we
24 will, of course, take public comment, and check in the with
25 parties to see if there any updates about the status of the

1 case.

2 Item 2 on our agenda was hearings on any pending
3 motions. There is actually one pending motion, and that was
4 LADWP's evidentiary motion regarding Staff's filing of their
5 list of disputed issues. But as we indicated in the notice
6 for this meeting, that's going to be heard in December. And
7 we'll get back to you, either at the end of today's meeting,
8 or perhaps earlier, with the date that we've chosen in
9 December for that. And a notice will probably go out by the
10 middle of next week with that, as well.

11 So for the Committee conference portion, do we
12 have more reports from the parties? I know that the last
13 time you mentioned that you were discussing whether you
14 could narrow the issues somewhat, and I wonder what came of
15 that?

16 MR. HERRERA: Yeah, Mr. Kramer, Gabe Herrera. I
17 think that's still a work in progress. Our intent is still
18 to follow up with L.A. and perhaps identify the list of
19 issues that we think are outstanding and that need to be
20 addressed. And if that's something that L.A. can --

21 HEARING OFFICER KRAMER: Get closer to your mike.

22 MR. HERRERA: Okay. Let me start over again.
23 Gabe Herrera.

24 HEARING OFFICER KRAMER: Even closer.

25 MR. HERRERA: Gabe Herrera, Energy Commission's

1 Legal Office.

2 Efforts with L.A., I think, is still a work in
3 progress. It's still our intent to try to come to agreement
4 with L.A. on a list of issues that we see as outstanding in
5 order to narrow the issues for the Committee's
6 consideration, and I think that's where we are.

7 Next steps would be for Staff to perhaps reach out
8 to L.A. and identify those issues and see if we can come to
9 agreement with L.A. on those issues and narrow the scope.

10 I think the fact that I think there are still a
11 number of outstanding issues, or perhaps issues have not yet
12 been identified, I think was the source of some confusion.
13 And Staff addressed that in response to L.A.'s motion to
14 exclude evidence. So again, I think where we are is
15 reaching out to L.A. and identifying those issues, and
16 perhaps getting the Committee's agreement or disagreement
17 that those issues are outstanding and need to be resolved.

18 HEARING OFFICER KRAMER: Okay. So if prior to our
19 next meeting you were able to file something, if you have
20 something to say, that would be appreciated, so we're a
21 little bit more prepared to discuss it at that next meeting,
22 if it's necessary.

23 MR. HERRERA: Understood.

24 MR. LEBRON: Hearing Officer Kramer, this is Felix
25 Lebron. I haven't had a chance to add onto that comment.

1 HEARING OFFICER KRAMER: Yes, please do.

2 MR. LEBRON: LADWP is more than happy to work
3 with Staff to see if it's possible to narrow and refine some
4 of those issues. So we'll be in contact with them to see if
5 we can narrow the number of disputed fact issues for the
6 Committee.

7 One additional question, or actually two
8 additional questions that I had was whether the Committee
9 anticipates having oral argument on more than just the
10 evidentiary motion in December? And I ask because if
11 they're thinking that that's a possibility, that will impact
12 the personnel that we have traveling to Sacramento for the
13 hearing.

14 And the second issue that I wanted to raise
15 process-wise is now that the Committee has had some time to
16 digest the briefing and evidence that the parties submitted
17 in September, we wanted to see if the Committee could offer
18 any guidance on the anticipated structure for the hearing on
19 the actual merits, specifically whether the Committee would
20 anticipate issuing a tentative ruling before the hearing
21 that the parties could address during oral argument, or
22 potentially list the specific questions that the Committee
23 Members have that the parties could address during oral
24 argument, or whether the Committee is inclined to just
25 provide an allocation of time to each side to present its

1 oral argument and address any questions during the hearing?

2 So to the extent the Committee has thought about
3 that and could offer any guidance, either when you return
4 from closed session or later on, that would be appreciated
5 on our part. Thank you.

6 HEARING OFFICER KRAMER: Sure. The soonest we
7 might be able to answer some of those questions would be
8 after today's closed session. No guarantees, but I think
9 we'll talk about it.

10 MR. LEBRON: Thank you. That's all that I had.

11 HEARING OFFICER KRAMER: Okay. Thank you. Then
12 that brings us to the public comment of this hearing.

13 MR. BOHAN: Mr. Kramer, can I add one point?

14 HEARING OFFICER KRAMER: Mr. Bohan?

15 MR. BOHAN: Drew Bohan, Energy Commission.

16 We will be reaching out again to L.A. as
17 described. And you're going to propose that we -- as the
18 Committee had entertained some weeks ago, that we try to
19 narrow the issues to a couple very discreet legal issues,
20 the disposition of which will greatly inform the outcome of
21 this matter. So that's going to be how we're going to
22 propose that, and we'll be getting back to the Committee
23 with that. We think there's just a couple of legal issues
24 that you've got to decide one way or the other, and that
25 we've spent a lot of time and energy on actual inquiries,

1 most of which bear no relationship to those issues.

2 HEARING OFFICER KRAMER: Okay. Thank you.

3 So then on to public comment. Members of the
4 public and other interested persons or entities may speak up
5 to three minutes on the matter appearing on this agenda.

6 We have no members of the public in the room here.

7 Do we have anyone on the telephone? Can you un-
8 mute everyone?

9 Okay, everyone is un-muted. So if anyone wants to
10 make a public comment, please state your name. Okay.

11 Hearing none, we'll close the public comment
12 portion, and we will adjourn into a closed session pursuant
13 to Government Code section 11126(c)(3) which allows a state
14 body, including a delegated committee, to hold a closed
15 session to deliberate on a decision to be reached in a
16 preceding the state body was required by law to conduct.

17 Hold on a second.

18 (Colloquy)

19 HEARING OFFICER KRAMER: Okay, we're going to
20 report back at noon, so people don't have to hang around.
21 But in the meantime, and I don't know if it's possible, but
22 if the parties can begin those discussions, that would be
23 very much appreciated. I would suggest you not use this
24 WebEx.

25 Mr. Bohan?

1 MR. BOHAN: Mr. Kramer, I agree on not using the
2 WebEx, but I would ask if Mr. Lebron would be able to
3 entertain a conversation at this close of this portion of
4 the hearing? We will reach out to him.

5 HEARING OFFICER KRAMER: Mr. Lebron, can you -- do
6 you have the time to talk with him this morning, between now
7 and --

8 MR. LEBRON: Yes. I'll be available after the
9 call, and Mr. Herrera can call. He has my office direct. He
10 can give me a call and we can start a conversation.

11 HEARING OFFICER KRAMER: Okay. Well, you've got
12 from now until noon when we come back here, and we will see
13 you then.

14 For now, we are adjourned to our closed session.
15 Thank you.

16 (Off the record at 9:52 a.m.)

17 (On the record at 12:02 p.m.)

18 CHAIR WEISENMILLER: Okay, we're back in session.

19 Mr. Kramer?

20 HEARING OFFICER KRAMER: Okay. We are here to
21 report out from our closed session. And the report is as
22 follows.

23 We will consider the LADWP motion to exclude
24 documents and supplemental declarations submitted by CEC
25 Staff at a Committee conference on December 15, 2016.

1 Formal notice will follow.

2 No Committee events will occur on December 7,
3 2016. You can release your calendar holds on that date.

4 We encourage Staff and LADWP to continue
5 discussions to see if they have any additional points of
6 agreement. We ask that they file a joint statement, a joint
7 written summary of any agreements, or a statement that none
8 have been reached by no later than December 6th.

9 The Committee is working to prepare a tentative
10 decision, and following its release the parties will be
11 given to review and comment both in writing, and orally at a
12 future Committee conference. We expect to release the
13 tentative decision after our December Committee conference.

14
15 We've identified the following potential date for
16 a January Committee conference to include consideration of
17 those written and oral comments on the tentative decision.
18 That date is Tuesday, January 10th, 2017 from morning into
19 the midafternoon, if necessary. Please file your comments
20 on any schedule conflicts by November 30th, 2016.

21 The parts that you didn't get written down, I
22 should have told you ahead of time that I'm going to docket,
23 as I did the last time, a memo that summarizes all this. So
24 you can put your pencils down, if you'd like.

25 With that, we have no further business today.

1 CHAIR WEISENMILLER: Let's see if either the Staff
2 or the Applicant have any comments on your statement --

3 HEARING OFFICER KRAMER: Oh, do you have any
4 comments or questions?

5 CHAIR WEISENMILLER: -- or questions?
6 Please, go ahead.

7 MR. HERRERA: Yeah. This is Gabe Herrera for
8 Energy Commission Staff.

9 So after the Committee convened, we did contact
10 LADWP, had a conversation with Felix Lebron, discussed about
11 following up and perhaps putting together, as the Committee
12 has now ordered, the statement on issues where there's
13 agreement and disagreement. So I think that was productive,
14 and the plan is to move forward in that direction.

15 HEARING OFFICER KRAMER: Okay. Thank you.

16 Mr. Lebron, anything? You should be un-muted.

17 MR. LEBRON: Yes. This is Felix Lebron. I agree
18 with Mr. Herrera's statements.

19 An additional issue that we discussed was trying
20 to propose a narrowing of legal issues. And part of our
21 thought process was earlier on, during the status
22 conferences in July, we had proposed a two-phase approach to
23 address the threshold legal issues regarding statutory
24 interpretation, the resolution of which could narrow some of
25 the disputed fact issues.

1 Because if the Committee were to agree with
2 LADWP's arguments that the BC Hydro and biomethane resources
3 are grandfathered and count in full, that could moot and
4 render unnecessary the Committee's resolution of some of the
5 other factual issues dealing with the biomethane delivery
6 requirement and some of the guidebook provisions.

7 I think that's something we can still talk about.
8 Although, I think with the Committee's report that they
9 anticipate having a tentative decision for hearing sometime
10 in early January, I'm not sure that trying to narrow the
11 legal issues is necessary, although I'd be interested to
12 hear any thoughts from the Committee on that issue.

13 CHAIR WEISENMILLER: Yeah. This is Chair
14 Weisenmiller again.

15 I mean, obviously, we are now in the process of
16 starting to draft things. Obviously, if you guys could
17 resolve issues sooner, as opposed to later, that will affect
18 what we're drafting. So, I mean, that's the basic message,
19 is we were trying to encourage you to move more quickly to
20 see what sort of narrowing of issues you could achieve. And
21 that narrowing could then, you know, simplify or speed up
22 our draft. Conversely, if you don't, you know, we're moving
23 forward.

24 MR. LEBRON: Understood. Thank you, Chairman
25 Weisenmiller. And we will work with LADWP. We'll work with

1 Commissioner Staff to try and narrow both factual and legal
2 issues, and have a report to you by the December 6th
3 deadline.

4 HEARING OFFICER KRAMER: Okay. Thank you.

5 With that, then we are adjourned.

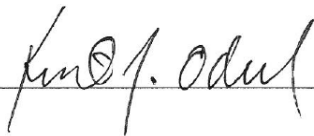
6 (The meeting adjourned at 12:08 p.m.)
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REPORTER'S CERTIFICATE

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 9th day of December, 2016.

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

Kent Odell
CER**00548

CERTIFICATE OF TRANSCRIBER

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.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

December 9, 2016