

## DOCKETED

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BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the matter of,	)	
	)	Docket No. 16-RPS-02
	)	
Appeal by Los Angeles	)	
Department of Water & Power re	)	
Renewables Portfolio Standard	)	
<u>Certification Eligibility</u>	)	

**COMMITTEE STATUS CONFERENCE  
AND HEARING ON EVIDENTIARY MOTION**

CALIFORNIA ENERGY COMMISSION  
CHARLES IMBRECHT HEARING ROOM (B)  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

THURSDAY, DECEMBER 15, 2016

9:37 A.M.

Reported By:  
Kent Odell

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## APPEARANCES

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Robert B. Weisenmiller, Chair and Presiding Member,  
LADWP Appeal Committee

Jana Romero, Advisor to Chair Weisenmiller

Emilio Camacho, Advisor to Commissioner Hochschild

Hearing Officer

Paul Kramer

CEC Staff Present

Drew Bohan, Chief Deputy Director

Courtney Smith, Deputy Director, Renewable Energy  
Division

Gabriel Herrera, Staff Counsel

Mona Badie, Staff Counsel

Present for LADWP

Jean-Claude Bertet, Deputy City Attorney

Pjoy T. Chua

Felix Lebron, Deputy City Attorney

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1 P R O C E E D I N G S

2 DECEMBER 15, 2016

9:37 A.M.

3 HEARING OFFICER KRAMER: Good morning, everyone.

4 This is Paul Kramer, the Hearing Officer for the LADWP

5 RPS Appeals. Welcome to our Committee Status

6 Conference, Thursday, December 15.

7 Again, we'll introduce everyone. Up here, at

8 the dais, we have Chair Robert Weisenmiller.

9 CHAIR WEISENMILLER: Good morning.

10 HEARING OFFICER KRAMER: And his Adviser, Jana

11 Romero.

12 And Commissioner Hochschild had a last-minute

13 emergency, so he's not able to be here today. But his

14 Advisor, Emilio Camacho, is.

15 MR. CAMACHO: Good morning.

16 HEARING OFFICER KRAMER: So, let's let the

17 parties identify themselves, beginning with LADWP, Mr.

18 Bertet.

19 MR. BERTET: Yes, Deputy City Attorney, Jean-

20 Claude Bertet.

21 HEARING OFFICER KRAMER: And then the staff.

22 MR. HERRERA: Yes, good morning. Gabriel

23 Herrera, Counsel, representing staff.

24 MS. BADIE: Mona Badie, Counsel for Staff.

25 MS. SMITH: Courtney Smith, Deputy Director of

1 the Renewable Energy Division.

2 MR. BOHAN: Drew Bohan, Chief Deputy.

3 HEARING OFFICER KRAMER: Okay, thank you.

4 On the phone we have Mr. Lebron.

5 MR. LEBRON: Yes.

6 HEARING OFFICER KRAMER: Go ahead.

7 MR. LEBRON: Oh, good morning. Felix Lebron, on  
8 behalf of LADWP.

9 MS. CHUA: Good morning, Pjoy Chua, LADWP.

10 HEARING OFFICER KRAMER: Okay, and that's the  
11 extent of everyone among the parties, and everyone on  
12 the telephone.

13 For those of you on the phone, if you want to  
14 mute yourselves to make sure that your background noise  
15 doesn't make it harder for people to hear others, you  
16 use star 6 on your telephone. Or, if you're on your  
17 computer, you right click on your name, in the  
18 participant's list, and you can mute and unmute  
19 yourself.

20 The purpose of today's conference is to conduct  
21 a hearing on LADWP's Evidentiary Motion, and to allow  
22 the Committee to deliberate in closed session.

23 And before adjourning into closed session, we  
24 will take public comment.

25 There are -- one person in the room that I don't

1 recognize. So, I'll just ask this, do you intend to  
2 make a public comment, ma'am?

3 (No audible answer)

4 HEARING OFFICER KRAMER: Nope. Okay, so we  
5 have -- the reason I'm identifying people up front, who  
6 intend to make a public comment, is I want to make sure  
7 that when we get to that item on the agenda, before we  
8 close it out we hear from them. But, apparently, we  
9 have nobody in that status today.

10 So, let's go to the hearing on LADWP's  
11 Evidentiary Motion. We've considered the motion or  
12 we've reviewed the motion, rather, and the response of  
13 staff. Want to give the parties an opportunity to make  
14 any oral arguments that they want to make, and then  
15 we'll take it under submission.

16 We may have a question or two after you make  
17 your initial statements. But given that LADWP made the  
18 motion, we'll let you go first.

19 MR. HERRERA: Mr. Kramer, I'm sorry for  
20 interrupting Jean-Claude. This is Gabe Herrera. If I  
21 can just make a couple of comments on the record.

22 When staff was preparing for the hearing today,  
23 they found several typos in their written response of  
24 November 14th, and we just wanted to clarify that for  
25 the Committee, on the record today, if we can do that.

1 I informed LA of those typos this morning.

2 MR. BERTET: I would just request that they  
3 submit the typos to the docket. I don't think they have  
4 to be identified in this proceeding to take up that  
5 time.

6 HEARING OFFICER KRAMER: Now, are they  
7 extensive?

8 MR. HERRERA: No, they're three minor typos.

9 HEARING OFFICER KRAMER: Okay.

10 MR. HERRERA: I can identify them by page and  
11 paragraph number, if that would be helpful.

12 HEARING OFFICER KRAMER: In the interest of  
13 time, because we -- one of us has a telephone call, at  
14 10:00, that will be a time out, if you will, in this  
15 proceeding, if we could hold that off for the moment and  
16 maybe do it either after we come back from closed  
17 session, or -- are any of these vital to the arguments?

18 MR. HERRERA: No.

19 HEARING OFFICER KRAMER: Okay. So, let's move  
20 on to the argument portion. And if we can finish that  
21 by five to 10:00, then we can get into the closed  
22 session, and talk about that after we come back.

23 Mr. Bertet.

24 MR. BERTET: Thank you.

25 HEARING OFFICER KRAMER: You need to get closer

1 to the mic, though. It's almost as if you're, yeah,  
2 like a fish, a big fish eating a little fish.

3 MR. BERTET: Okay, gotcha. Hi, good morning  
4 Commissioner and Hearing Officer. My name is Deputy  
5 City Attorney Jean-Claude Bertet, on behalf of the Los  
6 Angeles Department of Water and Power, the moving party  
7 to exclude documents and statements, as staff claims, as  
8 evidence. We're moving to exclude all documents and  
9 supplemental declarations that were submitted to the  
10 docket post September 21st, 2016, third-party contracts  
11 that staff is unable to authenticate, and statements  
12 that were provided in the Disputed Statement of Facts,  
13 that are legal arguments and should be excluded from the  
14 record as disputed statement of facts.

15 This body identified the process in the Scoping  
16 Order, back in July of 2016, and had a briefing schedule  
17 of September 1st, and September 21st. It identified the  
18 ground rules, with notice to the parties, and staff's  
19 actions to provide additional documents, post briefing  
20 schedule, and additional legal arguments post briefing  
21 schedule, is a reinterpretation of these proceedings.

22 It has not asked for clarification, to add  
23 additional documents, or added any requests to provide  
24 additional briefing to this body.

25 And, so, based on the actions of filing these

1 documents post briefing schedule, they should be  
2 excluded. It's, in essence, a reinterpretation of the  
3 proceedings, as it has reinterpreted the grandfathering  
4 provisions of SBX 1-2.

5           The third-party contracts, that we're requesting  
6 to be excluded, have absolutely no value. They are  
7 provided as part of an RPS program that was voluntary to  
8 the Department of Water and Power. And, so, the  
9 Department of Water and Power had no notice as to how  
10 the CEC staff was going to interpret any of its rules at  
11 the time, and that these rules didn't apply to the  
12 Department of Water and Power, in any case. So, they  
13 should be excluded.

14           And, in essence, the only thing that they would  
15 be used to show is a lack of notice to the Department of  
16 Water and Power as to how CEC staff could have  
17 interpreted these rules, had they applied to the  
18 Department of Water and Power, which they didn't. So,  
19 they should be excluded.

20           And then, staff's disputed facts and supporting  
21 documents, that were filed on October 12th, were not  
22 just disputed facts, and not just supporting documents.  
23 But they were legal arguments, or a number of them were  
24 legal arguments and, again, should be excluded. There's  
25 no identified process, by this body, to allow additional

1 legal arguments post briefing schedule.

2 At the Committee Status Conference, held back in  
3 July, of 2016, July 27th, 2016, Chair Weisenmiller  
4 expressly stated, "Just to make sure we're clear, too,  
5 that basically by directing you to respond to these  
6 specific questions, that we will allow you to present  
7 your full case."

8 This can be found at TN-212622, page 13, lines  
9 17 to 20. This is a transcript of the proceeding at  
10 that time, or the Status Conference at that time.

11 Again, this was reiterated on page 15, lines 11  
12 to 15, where Chair Weisenmiller specifically stated,  
13 "You will get your opportunity to present your full  
14 case."

15 And, again, on page 16, at lines 2 to 6, that  
16 "The Committee was going to determine whether  
17 evidentiary hearings would be required and that any  
18 additional information would be required."

19 There has been no statements by the Commission  
20 or by the Hearing Officer that additional documents  
21 would be needed, or that additional briefings would be  
22 needed, post September 21st, 2016.

23 That is our main basis of argument. We have  
24 provided a proposed order to go through each item of  
25 evidence that has already been presented before you, and

1 we can either go through that, now -- it sounds like you  
2 have some time limitations, at 10:00. We can do that  
3 afterwards. Or, if you have already decided that, then  
4 we can just go through how you propose to order on those  
5 specific evidentiary requests.

6 HEARING OFFICER KRAMER: Well, do you have  
7 anything to add to what you've said in your written  
8 filing and in the proposed order?

9 MR. BERTET: That is, essentially, the case. If  
10 you wanted to go through each item, we can go through  
11 that. I just didn't know how you wanted to proceed with  
12 this Evidentiary Hearing.

13 HEARING OFFICER KRAMER: Okay. Well, I don't  
14 know that we need to go through each item because I  
15 think we can -- you know, you're basically applying kind  
16 of the general principles you laid out --

17 MR. BERTET: Yes.

18 HEARING OFFICER KRAMER: -- to each item of the  
19 --

20 MR. BERTET: Yes. I would like to ask if Mr.  
21 Lebron has anything to add at this time, or if he would  
22 rather reserve afterwards, when the Commission comes  
23 back from its closed session?

24 HEARING OFFICER KRAMER: No, let's -- how much  
25 time do you need, Mr. Herrera?

1           MR. HERRERA: I just plan on giving an overview  
2 of the arguments we made --

3           HEARING OFFICER KRAMER: Okay.

4           MR. HERRERA: -- and presented in the staff's  
5 response.

6           HEARING OFFICER KRAMER: Well, Mr. Lebron, did  
7 you have anything to add?

8           MR. LEBRON: Basically, Hearing Officer Kramer,  
9 at this time I don't have anything to add to Mr.  
10 Bertet's argument. And I'll allow Mr. Herrera to  
11 present. And then, if there's something that comes up  
12 in rebuttal, I can address that issue at that time.  
13 Thank you.

14          HEARING OFFICER KRAMER: Okay, thank you.

15          Mr. Herrera.

16          MR. HERRERA: Thank you. Good morning, Chair,  
17 Mr. Kramer.

18          Staff strongly opposes LADWP's motion and feels  
19 that it was brought prematurely, especially since the  
20 Committee has not determined the full scope of the legal  
21 issues to be addressed in the proceeding.

22          We feel that the motion relies on LADWP's  
23 incorrect interpretation of the Committee's --

24          HEARING OFFICER KRAMER: Could you move the mic  
25 a little? You're kind of --

1           MR. HERRERA: Yeah. Staff believes that,  
2 strongly feels that LADWP is relying on its incorrect  
3 interpretation of the Committee's Scoping Order from  
4 July 27th.

5           Staff has not attempted to block any of the  
6 documents proffered by LADWP, even though staff [sic]  
7 considers many of these documents to be irrelevant to  
8 the issues staff considers critical.

9           In our view, it is premature for staff object to  
10 LA's documents at this point because, again, the  
11 Committee has not determined the full scope of the legal  
12 issues to be addressed at the proceeding.

13           Once the Committee has determined the legal  
14 issues, staff feels it's appropriate at that time for  
15 the parties to have an opportunity to, perhaps, proffer  
16 additional evidence, as necessary, including any  
17 documents or information that may be obtained through  
18 party discovery.

19           Responding to the points that Mr. Bertet raised,  
20 the briefing schedule, in the July 27th order, did not  
21 identify a "briefing schedule." It did not even ask for  
22 briefs. It asked for information and responses to a  
23 list of initial questions the Committee had. That order  
24 indicated that the Committee may have additional  
25 questions.

1           So, it was staff's understanding that at some  
2 point, after the Committee considers the information  
3 that was submitted, that the Committee may have  
4 additional information, and that the parties may have an  
5 opportunity, at that point, to respond to those  
6 questions and provide additional information.

7           We also feel that at some point, when the  
8 Committee issues a decision on the issues that there may  
9 be an opportunity for staff to brief those issues, to  
10 the extent they have it, in their responses to the July  
11 27th order.

12           Regarding the third-party contracts, we disagree  
13 with staff -- or, excuse me, with LADWP. We feel that  
14 those contracts are pertinent because they demonstrate  
15 how staff interpreted and applied the requirements under  
16 the Third Edition RPS Guidebook.

17           Regarding disputed facts, that LA claims are  
18 legal arguments, that staff provided in its Statement of  
19 Disputed Facts, regarding legal arguments are facts, and  
20 are factual statements, not unlike the statements that  
21 LA made in its Statement of Disputed Facts.

22           And I think, with respect to LA's reference to  
23 the July Status Conference, I agree that the Chairman  
24 had directed the parties to address all the issues. We  
25 attempted to do that in our response to the July 27th

1 Committee decision -- excuse me, the Committee order.

2 And with that, I'm willing to provide any  
3 additional comments we may have on Mr. Lebron's  
4 rebuttal. But I think our position, again, is that it's  
5 premature and that the Committee should reject LA's  
6 motion. Thank you.

7 HEARING OFFICER KRAMER: Okay, thank you. I had  
8 one question for Mr. Bertet. Am I pronouncing that  
9 right?

10 MR. BERTET: Yes.

11 HEARING OFFICER KRAMER: Okay. When you say  
12 you'd like these documents and statements of "fact" to  
13 be excluded from the record, do you mean, simply, that  
14 the Committee would not consider them at all as the  
15 basis -- part of the basis for the decision? Or, are  
16 you asking that they be de-published, you know, removed  
17 from the electronic filing system, or what?

18 MR. BERTET: So, these "disputed facts" are not  
19 facts. They're legal arguments. You could find parts  
20 of them in CEC staff's briefings, that they provided and  
21 loaded to the docket. They are, in essence, just legal  
22 arguments, combined with the facts that were -- and the  
23 documents that were loaded into the docket.

24 So, to the extent that there would be a record  
25 identifying these legal arguments as disputed facts, we

1 would request that they are excluded from the disputed  
2 facts, and they should be stricken. So, they are not  
3 "facts." They are, in essence, legal argument. And the  
4 place for legal argument is in the briefing, not as a  
5 Disputed Statement of Fact.

6 So, that's what we would request is that they  
7 are excluded from being considered as fact.

8 HEARING OFFICER KRAMER: Okay. So, we apply the  
9 mental discipline, if you will, to ignore them. But  
10 they have been electronically filed on our system and we  
11 do need some kind of record, for the world, of all the  
12 paper that has flown back and forth in this proceeding.  
13 So, they have to remain, you know, in the file somewhere  
14 as --

15 MR. BERTET: Well, they would remain as CEC  
16 staff's filing of a disputed fact, and then there would  
17 be a record indicating that specific items are excluded  
18 as disputed fact. And, so, then, this body would go  
19 through and say, okay, item -- I can't -- I don't have  
20 the exact number right in front of me. But for example,  
21 Item 22 is excluded as a disputed fact and that the  
22 Commission identifies that as legal argument.

23 HEARING OFFICER KRAMER: Okay. But if it's a  
24 disputed fact, that means the parties haven't agreed to  
25 it. So, it really has no real effect in any event, does

1 it?

2 MR. BERTET: We don't know how the Commission is  
3 going to ultimately rule. We wouldn't like the  
4 Commission -- we wouldn't want the Commission to  
5 consider them as fact. Simply, as legal argument. If  
6 that's a legal exercise for the Commission and yourself,  
7 as Hearing Officer, then that would be, in essence, a  
8 legal or a mental process.

9 But to characterize what is and is not fact I  
10 think is important to the extent that this continues  
11 beyond these proceedings.

12 HEARING OFFICER KRAMER: Okay.

13 MR. HERRERA: Mr. Kramer, can I respond to that  
14 point?

15 HEARING OFFICER KRAMER: Well, yes, go ahead.

16 MR. HERRERA: So, obviously, staff strongly  
17 disagrees with LA on that position. Again, we pointed  
18 out in our response to LA's motion that there are a  
19 number of, I'll call them, legal facts that LA included  
20 in their Statement of Disputed Facts.

21 So, to the extent the Committee entertains LA's  
22 request here, to strike what staff considers legal  
23 facts, from our Statement of Disputed Facts, then we  
24 would also request that the Committee do the same with  
25 respect to LA's legal facts that are included in there,

1 in the Statement of Disputed Facts.

2 And staff can provide a motion to that extent.

3 Again, we haven't, because we felt it was premature at

4 this point to raise any evidentiary objections

5 concerning the documents and statements LA has submitted

6 to the proceeding.

7 HEARING OFFICER KRAMER: Okay. Yeah, I think

8 it's fair to say that we recognize, that perhaps even in

9 your Joint Statement of Facts, that there were some

10 legal conclusions. But we -- you know, we saw them in

11 that other category and didn't consider it to be an

12 important distinction for purposes of, you know,

13 evidentiary objections.

14 But we -- you know, we would sort them into the

15 appropriate, if you will, bucket. That term we use in

16 this case. And treat them accordingly.

17 Okay, did -- Mr. Bertet, did you have anything

18 by way of closing comments?

19 MR. BERTET: I would, just to respond to Mr.

20 Herrera's request to file an additional motion, and if

21 we -- or if the January 10th date is not impacted then,

22 you know, we don't object to them filing whatever they

23 want to do, and if this body would consider it. But we

24 don't want the impact of the January 10th date to be had

25 by any filing of motions.

1           HEARING OFFICER KRAMER: Okay. Because of that  
2 time constraint I mentioned, let's end this, at least  
3 for the moment. And when we come back from closed  
4 session, we'll have a sense about whether we have more  
5 questions for you on the motion or, you know, want to  
6 hear anything additional.

7           Okay, first let me ask, again, for the record,  
8 knowing the answer, does anyone in the room or on the  
9 telephone wish to make a public comment?

10           Seeing none, we will close the public comment.  
11 And we're going to adjourn into a closed session, in  
12 accordance with Government Code 11126(c)(3), which  
13 allows a State body, including a delegated committee, to  
14 hold a closed session to deliberate on a decision to be  
15 reached in a proceeding the State body was required by  
16 law to conduct.

17           For your convenience, we will set a time at  
18 which we will return, and that time is 12:00 noon,  
19 today.

20           And we will leave the WebEx connection open, but  
21 the hearing room audio will be muted.

22           And we'll see you back at noon. Thank you.

23           (Convened Closed Session at 9:59 a.m.)

24           (Reconvened Public Session at 12:02 p.m.)

25           HEARING OFFICER KRAMER: The Committee -- this

1 is Paul Kramer. And the Committee has returned from its  
2 closed session, which occurred from about 10:35 this  
3 morning until 11:00. And we're back at the appointed  
4 time, of noon, to report back to the parties.

5 And the report is that the Committee is going to  
6 take the Evidentiary Motion of LADWP under submission.  
7 We're not expecting to rule before the current deadline  
8 under our regulations, so we're going to issue an order  
9 extending that deadline.

10 And we are, for the purpose of allowing the  
11 Committee to have, primarily a closed session, we are  
12 going to continue today's meeting until next Wednesday,  
13 the 21st, December 21st, at 1:00 p.m. I think it will  
14 be back in this room, but we'll post a notice to confirm  
15 that.

16 Again, it's primarily for the purpose of a  
17 closed session, so I would suggest that -- Mr. Bertet,  
18 that you consider not flying up here just for that. You  
19 know, you could attend via WebEx.

20 And the WebEx number, by the way, will be the  
21 same as that for today. We're just going to reuse it.  
22 But that will all be in a notice that will be docketed,  
23 filed today.

24 Any questions?

25 MR. BERTET: Yes. This is Jean-Claude Bertet,

1 from the City Attorney's Office. I'm just trying to  
2 find out if there is going to be a tentative issued  
3 prior to that date or just a decision will be issued on  
4 the 21st?

5 HEARING OFFICER KRAMER: It's unlikely that the  
6 tentative decision, we've been speaking of, will be out  
7 before that date, but it's likely to come out shortly  
8 thereafter. And we expect that the January 10th date  
9 will be usable for us, so please keep that open on your  
10 calendars.

11 Mr. Herrera?

12 MR. HERRERA: Mr. Kramer, Gabe Herrera,  
13 representing staff. A quick question. Do you  
14 anticipate any activity the week between Christmas and  
15 New Year's? I know myself, and a couple staff will  
16 likely be gone that week, so I just wanted to check and  
17 see if that would impact the Committee's schedule at  
18 all?

19 HEARING OFFICER KRAMER: No. There will be  
20 reading materials, of course. But the likely earliest  
21 deadline for any future filings from the parties would  
22 be January 6th.

23 MR. HERRERA: January 6th.

24 HEARING OFFICER KRAMER: Yeah. But, again,  
25 that's somewhat speculative at this point. I'm just

1     trying to help you plan your private life, I guess.

2                 MR. HERRERA:   Thank you.

3                 MR. BERTET:    I have a follow-up question.   So,  
4     the January 10th date will still be a merit-based  
5     hearing?

6                 HEARING OFFICER KRAMER:   It will be for the  
7     purpose of -- we'll define it in a notice that will  
8     issue, of it.   But one of the purposes will be to  
9     receive comments on the tentative decision, and discuss  
10    where we go from that point.

11                But I think it's unlikely that we would be  
12    expecting you, for instance, to have witnesses available  
13    or any testimony presented on that date.   It would be  
14    more of a status conference and a discussion among the  
15    parties, and the Committee, about where we go in light  
16    of what the tentative decision provides.

17                MR. BERTET:   And I guess --

18                CHAIR WEISENMILLER:   And just to be --

19                MR. BERTET:   Sorry.

20                CHAIR WEISENMILLER:   Just to be clear, then,  
21    assuming something comes out next week, then we would  
22    be -- again, you know, this is all sort of at this  
23    point, you know, we would be expecting to get written  
24    responses to it, the Friday before that.   And then, we  
25    would have that meeting on the 10th to discuss things.

1           MR. BERTET: Okay. So, to the extent that  
2 witnesses will be needed at any future hearing date,  
3 including the 10th, would that be identified in the  
4 notice? We're just trying to coordinate witnesses, to  
5 the extent they need to come up here.

6           HEARING OFFICER KRAMER: Yeah, I think it's fair  
7 to say we're not expecting to be hearing from witnesses  
8 on the 10th. It would be at some future time, if we --  
9 if it's determined that it's even necessary to do so.

10          MR. BERTET: Thank you.

11          MR. BOHAN: Mr. Kramer?

12          HEARING OFFICER KRAMER: Any other questions?

13          MR. BOHAN: Yeah.

14          HEARING OFFICER KRAMER: Go ahead.

15          MR. BOHAN: Drew Bohan, Energy Commission. Is  
16 the tentative confined to the issue of LA's motion?

17          HEARING OFFICER KRAMER: No, it's actually -- it  
18 actually doesn't really -- it's about the main matter,  
19 which is -- I mean, I'm uncomfortable telegraphing much  
20 about it. But it's going to address, certainly, the  
21 legal issues and the legal interpretations. And then,  
22 we're expecting the parties to look that over and then  
23 tell us, for one, do we have any factual issues that  
24 remain to be decided? If so, what they are.

25          And then, at that meeting we would talk about

1 going forward. So, it would be at some future hearing  
2 if we need to take testimony, and make further  
3 decisions, that that would happen.

4 MR. LEBRON: Mr. Kramer, this is Felix Lebron.  
5 Would now be a good time? I had two comments I wanted  
6 to make.

7 HEARING OFFICER KRAMER: Go ahead.

8 MR. LEBRON: The first comment is just dealing  
9 with the January 10th, and the notice. If at all  
10 possible, to the extent we could start the hearing at  
11 10:00 a.m., that would be helpful for the LA personnel  
12 traveling to Sacramento in the morning. So, we would  
13 ask that the Committee consider that.

14 The second issue is, to the extent the Committee  
15 wanted to impose time limits on oral argument, on each  
16 side, if they could identify that in the notice that  
17 goes out for the January 10th meeting, that would be  
18 helpful for our team in preparing to address the issues  
19 within the time allocations, to the extent there are  
20 any.

21 HEARING OFFICER KRAMER: Well, let me ask you,  
22 without seeing the tentative decision, what is the  
23 maximum amount of time you think you would want to argue  
24 for? Would it be more than half-an-hour?

25 MR. LEBRON: Per side? How about per side, so a

1 total of an hour or --

2 HEARING OFFICER KRAMER: Yes.

3 MR. LEBRON: I think it would be more than the  
4 total of 30 minutes. So, I think at least an hour for  
5 the hearing would probably be the minimum, not knowing  
6 what the scope of the opinion will be.

7 CHAIR WEISENMILLER: When we get to your  
8 responsive document on that Friday, certainly it would  
9 be useful, in that document, for you to spell out how  
10 much time you think you'll require.

11 But again, in terms of to reduce everyone's  
12 hypotheticals at this point.

13 HEARING OFFICER KRAMER: Yeah. And we're only  
14 talking about two parties. So, you know, this isn't a  
15 10-party case, where 30 minutes starts to add up like  
16 crazy.

17 So, I personally don't anticipate any difficulty  
18 with that. But, you know, if you do feel like that you  
19 have to speak for quite a long time, a heads up would be  
20 appreciated.

21 MR. LEBRON: Thank you. And LADWP will be sure  
22 to address that issue in any comments filed in response  
23 to the tentative, by the due date.

24 But the second issue that I wanted to raise was  
25 kind of a follow up to the question that you had, Mr.

1 Kramer, regarding the kind of requested relief, and the  
2 process for what needs to happen. And I just wanted to  
3 clarify that Section 1212, of Title 20, of the  
4 California Code of Regulations, outlines the process for  
5 the Committee's decision, the basis for the decision,  
6 and the hearing record. And Section 1212 defines the  
7 hearing record rather broadly. It's just that the  
8 evidence that the Commission may consider.

9           And then, similarly, in terms of the exclusion  
10 of evidence, when a party moves to exclude, that the  
11 Committee cannot consider evidence as part of a hearing  
12 record.

13           I think what's a little unclear is whether  
14 simply filing something on the docket makes it part of  
15 the hearing record, or whether the Committee, itself,  
16 determines what's the scope of the hearing record. And,  
17 again, some of the evidence that's been submitted may  
18 ultimately be immaterial, based on the Committee's  
19 tentative decision on the threshold legal issues.

20           And, so, it's not clear, necessarily, what would  
21 be required, whether to strike something from the  
22 hearing record or not. So, I wanted to raise that  
23 because, as I think you mentioned, something wouldn't be  
24 removed from the docket, but there would be discretion  
25 that would be used to not consider something in the

1 ultimate decision.

2 And, so, LADWP has tried, as best as it can,  
3 given the rules are not as stringent as they are in  
4 State Court, to provide a proposed order that's kind of  
5 in line with evidentiary objections you would make in a  
6 trial court proceeding. But, ultimately, that I think  
7 that the main concern is that the Committee's decision,  
8 to the extent they're making legal and factual findings,  
9 is based on evidence that's, you know, proper and  
10 admissible.

11 And, so, I just wanted to raise that to clarify  
12 because there is a Code of Regulation that deals with  
13 it, and that there is some ambiguity on what the hearing  
14 record consists of, the way that's drafted so --

15 HEARING OFFICER KRAMER: Okay, understood.

16 Anything else?

17 MR. LEBRON: That's all that I have, thank you.

18 HEARING OFFICER KRAMER: Okay, thank you.

19 Anything else from any of the parties?

20 MR. BERTET: No.

21 MR. HERRERA: No.

22 CHAIR WEISENMILLER: So, we're adjourned.

23 MR. BERTET: Thank you.

24 MR. LEBRON: Thank you.

25 HEARING OFFICER KRAMER: I think we can just

1 adjourn the meeting, then.

2 (Thereupon, the Hearing was adjourned at  
3 12:13 p.m.)

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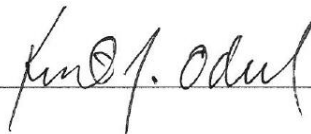
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**REPORTER'S CERTIFICATE**

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 30th day of December, 2016.

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

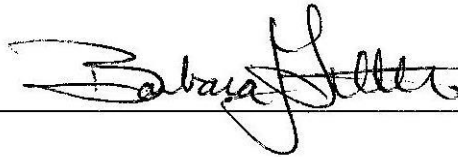
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**TRANSCRIBER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And 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 30 of December, 2016.



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Barbara Little  
Certified Transcriber  
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