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Project Title:	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
TN #:	221381
Document Title:	Letter from Mel Levine, President of LADWP to CEC-Chair Weisenmiller and Commissioners
Description:	Regarding RPS Certification or Eligibility and to Reemphasize Points
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Los Angeles LA DWP Department of Water & Power

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October 4, 2017

VIA OVERNIGHT DELIVERY AND ELECTRONIC MAIL

Chair Robert B. Weisenmiller, Ph.D.
Commissioner Karen Douglas, J.D.
Commissioner David Hochschild
Commissioner Andrew McAllister, Ph.D.
Commissioner Janea A. Scott, J.D.

California Energy Commission
1516 Ninth Street, MS-33
Sacramento, CA 95814

Re: In the Matter of Appeal by LADWP re RPS Certification or Eligibility
Docket No. 16-RPS-02

Dear Chair Weisenmiller and Commissioners:

Given the significance of the above referenced matter to DWP and its customers, we wanted to make sure you had the benefit of our legal and policy positions with respect to the Committee's September 25, 2017 proposed decision prior to the October 11, 2017 hearing. Thank you for your consideration.

I take this opportunity to reemphasize points I shared with the Chair last May following the noticed meeting with the Chair and Commissioner Hochschild. The purpose of my visit was to communicate directly on policy matters which could form what I believe were sound principles on which DWP and the CEC could amicably resolve this dispute and in a manner that avoids an otherwise "lose-lose" situation between the parties. The points remain these:

1. We believe it is clear the Legislature intended to grandfather past RPS contracts which had been appropriately executed by local publicly owned electric utilities (POUs), including DWP's Powerex contracts from 2007 in which DWP committed $186 million of ratepayer funds to satisfy renewable energy policies adopted by DWP and the City of Los Angeles. At least six different legislative committees underscored the Legislature's intent to grandfather these types of

contracts entered into under the prior RPS regime when POUs were not subject to CEC certification rules, and it was not the Legislature's intent to put these types of contracts at risk. We stress that to interpret the legislation otherwise would be illogical. More importantly, it would be enormously unfair to DWP's ratepayers, who would be required to fill the expected $22 million RPS shortfall if the CEC follows the Committee's proposed decision. I respectfully ask that you re-examine the proposed decision on this point.

2. DWP and the CEC share common interests on renewable energy. Both agencies are working hard to maximize the use of renewables in order to aggressively meet California's greenhouse gas targets and be leaders to the rest of the country. As you know, DWP has been a pioneer in approving and implementing such policies, having begun our efforts well before California adopted targets and other requirements for POUs or investor owned electric utilities, and has now invested more than $1 billion on such efforts. DWP is currently studying how to get to 100% renewables. If followed, the proposed decision with respect to DWP's small hydro Powerex contracts would undermine, not promote, our common renewable energy objectives.

3. It is especially disappointing that DWP and the CEC are at loggerheads regarding contracts that expired six years ago given the symbiosis on renewables between DWP and the CEC. Rather than expending scarce public resources on this dispute, the CEC and the City of Los Angeles should focus our resources on the real and high-stake conflicts with the current administration in Washington, D.C. Especially when California and Los Angeles are both engaged in efforts to resist the current administration's anti-environmental agenda, it would be ironic and counter-productive for the CEC to essentially penalize DWP on the basis of contracts DWP entered into in good faith and four years prior to enactment of the 2011 SBX1-2 legislation. Given the amount of ratepayer money at stake, DWP would appear to have no choice but to appeal a decision like that set forth in the Committee's proposed decision. Unfortunately, such loggerheads will only provide the administration in Washington and other detractors with the perception that California and its largest city are at odds on these critically important issues, and at a time when unity and common purpose are especially important.

4. There are many ways the parties could resolve this matter. For instance, the Committee's September 25, 2017 proposed decision specifically recognizes that SBX1-2 and its constituent statutes "were prospective in operation and effect" and that DWP's previous obligations "ended on December 10, 2011" (i.e., SBX1-2's effective date) and began anew thereafter. Thus, one possible and reasonable outcome would be for the CEC, consistent with the Committee's interpretation of SBX1-2, to allow DWP to count the applicable RECs under its Powerex contracts for 2011, but only up to December 9, 2011--the date on which DWP's obligations under section 387 ended. We continue to stress that the CEC has more than sufficient authority under the Warren-Alquist Act to achieve such a result should it desire. And we submit this is exactly the type of resolution which calls for use of the CEC's discretion, especially where the policy goals between DWP and the CEC are so closely aligned.

In closing, as I emphasized at the May meeting with Chair Weisenmiller, DWP is committed to working closely with the CEC to insure that California remains a leader in combating climate change and investing in clean energy and sustainability. I respectfully ask again that we work towards finding a mutually acceptable resolution of this matter.

Very truly yours,

Mel Levine
President
Board of Water and Power Commissioners

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