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Interim General Manager

February 13, 2014

Robert P. Oglesby
California Energy Commission
Office of the Executive Director
1516 Ninth Street, MS-39
Sacramento, CA 95814

California Energy Commission

DOCKETED

11-RPS-01

TN 73366

JUL 11 2014

California Energy Commission

DOCKETED

02-REN-1038

TN 73367

JUL 11 2014

Re: Petition for Reconsideration of Applications for Renewables Portfolio Standard (RPS)
Certification for the Castaic Power Plant, Units 3 and 5, RPS ID 62561A

Dear Mr. Oglesby:

This Petition is provided to the Office of the Executive Director of the California Energy Commission (CEC or Energy Commission) to appeal the "Energy Commission staff [determination] that the Castaic Power Plant is not eligible for RPS certification" for the category of "Incremental Hydroelectric Generation from Efficiency Improvements Regardless of Facility Output" issued to the Los Angeles Department of Water and Power (LADWP) in a letter dated January 14, 2014. The LADWP bases its petition for reconsideration as follows.

1. The transition from the voluntary renewables program for local publicly owned electric utilities (POUs) under Public Utilities Code (PUC) Section 387 to the mandatory program in Senate Bill X1-2 (SBX1-2) is recognized in SBX1-2 under its grandfathering provision found in PUC 399.12(e)(1)(C), which requires the CEC to certify a POU's resources that it included in its RPS during its voluntary program;
2. The reasons provided by the Energy Commission's staff should be reconsidered based on (a) a per unit assessment, (b) the improvements were initiated within the times for the grandfathering provision in PUC Section 399.12 and eligibility of facilities in PRC Section 25741, and (c) the inapplicability of pump storage under the 6th Edition Guidebook;
3. Aligning the efficiency improvements section for eligibility under PUC Section 399.12.5 with PUC Section 399.12 and Public Resources Code (PRC) 25741 after SBX1-2 became effective, provides for eligibility for the certification of the efficiency upgrades of the Castaic Power Plant under the California Renewables Portfolio Standard Program;

4. The legislative policy goals expressed in PUC 399.11 are satisfied with the efficiency upgrades at the Castaic Power Plant; and
5. The energy commission staff's delayed action to respond to the certification application prevented LADWP from purchasing renewable energy credits during the first compliance period

I. The Transition from the Voluntary Program to the Mandatory Program under SBX1-2 requires the Grandfathering of RPS Resources, including Efficiency Upgrades to Units 3 and 5 at the Castaic Power Plant

The legislative transition from the voluntary renewables program for POU's for renewables under PUC Section 387 to the mandatory program in the California Renewable Energy Resources Act ("SBX1-2") is critical to understand. The Legislature recognized and facilitated this transition in SBX1-2 under its grandfathering provision found in PUC Section 399.12(e)(1)(C). This provision requires the CEC to certify POU's resources that it used to satisfy its voluntary Renewables Portfolio Standard ("RPS") program pursuant to PUC Section 387.

In 2002, California Senate Bill 1078 (SB 1078) added Sections 387, 390.1, 399.25, and Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part I of Division 1 of the PUC, establishing a 20% Renewable Portfolio Standard (RPS) for California investor-owned electric utilities (IOUs). Public Utilities Code Section 387, as enacted within SB 1078, primarily provided the voluntary nature of the law for POU's. Then "current law exempt[ed] local publicly owned utilities from the state RPS program."¹

The expressed legislative intent was that each "governing board of a local publicly owned electric utility would be responsible for implementing and enforcing a renewables portfolio standard" that recognized the goals of the Legislature, which included encouraging renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources.² The City of Los Angeles took that responsibility seriously. In the ensuing years, the City of Los Angeles adopted RPS Policies to encourage renewable energy resources.

On June 29, 2004, the Los Angeles City Council (City Council) passed Resolution 03-2064-S1 requesting that the Board of Water and Power Commissioners ("LADWP Board") adopt a Renewables Portfolio Standard Policy ("RPS Policy"). It set a goal to achieve 20 percent renewable energy by 2017. On May 23, 2005, the LADWP Board adopted an RPS Policy that established the goal of increasing the amount of energy LADWP generated from renewable energy resources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. On June 29, 2005, the City Council approved the LADWP RPS Policy.

¹ See Senate Energy, Utilities and Communications Committee Description in the Bill Analysis for SBX1-2, February 15, 2011.

² Id; and see Legislative Counsel's Digest to SB 1078, subsection (3).

On April 11, 2007, the LADWP Board amended the RPS Policy by accelerating the goal of requiring that 20 percent of energy sales to retail customers be generated from renewable resources by December 31, 2010.

In May of 2008, the LADWP Board approved the “City of Los Angeles Department of Water and Power Renewables Portfolio Standard Policy” (“2008 RPS Policy”), which included an additional RPS goal of requiring that 35 percent of energy sales to retail customers be generated from renewable resources by December 31, 2020.

This 2008 RPS Policy included, as an eligible renewable energy resource, “hydroelectric incremental generation from efficiency improvements.”³ This addition was intended to capture and support the efficiency improvements gained by the hydroelectric generation by the Castaic Power Plant units.

When the California Senate was considering SBX1-2, it identified the existing “grandfathered” renewable resources by stating, “[t]his bill [SBX1-2] grandfathers all contracts consummated by an IOU, ESP, or POU prior to June 1, 2010.” The Legislature knew that POUs were given “flexibility in developing utility-specific targets, timelines, and resource eligibility rules” per PUC Section 387 as part of SB 1078.⁴ This is one of the reasons why grandfathering language was included in SBX1-2.

Furthermore, the Legislature intended SBX1-2 to apply to POUs and to have their resources deemed certified by the CEC. POUs were under the voluntary program set forth in PUC Section 387, which was effective January 1, 2003, over eight years before SBX1-2 became effective on December 10, 2011. There was a substantial amount of public outreach and effort for LADWP to develop its RPS Policy, as amended over the years, to identify and procure additional renewable energy resources while minimizing impacts to its ratepayers. LADWP successfully met the goals it established under its voluntary program by achieving a 20% RPS in 2010.

Focusing on the efficiency improvements and the grandfathering provision, which combines the relevant portions of PUC Section 399.12(e)(1) and PRC Section 25741, reads as follows:

(e) “‘Eligible renewable energy resource’ means an electrical generating facility that meets the definition of a ‘renewable electrical generation facility’ in Section 25741 of the Public Resources Code, subject to the following:

³ See LADWP Board letter and Resolution, certified as adopted by the Board Secretary, May 20, 2008; ¶5. The inclusion of the additional RPS eligible technologies in this policy was initiated when the CEC issued its Third Edition RPS Eligibility Guidebook in January 2008.

⁴ Senate Energy, Utilities and Communications Committee, Background in the Bill Analysis for SB2 (1X), February 15, 2011.

(1) (C) A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted pursuant to former Section 387, shall be certified as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a "renewable electrical generation facility" as defined in Section 25741 of the Public Resources Code."

PRC Section 25741 defines "Renewable electrical generation facility" to include a list of technologies, which does not include efficiency improvements for hydroelectric generation larger than 30 megawatts. However, this eligibility issue is addressed by PUC Section 399.12.5(b), which includes efficiency improvements for hydroelectric generation regardless of the electrical output. Then going back to the definition of a "renewable electrical generation facility," in PRC Section 25741, the facility must satisfy one of three possible alternatives. One is subpart (2)(A), which is to have a facility essentially connected to a California balancing authority. The second is subpart (2)(B), which is for an out of state resource. The third alternative is subpart (2)(C), which includes a facility that started operations before January 1, 2005 and the electricity was either procured from energy as of January 1, 2010, or from incremental generation.

Here, the incremental generation from the efficiency improvements at the Castaic Power Plant was included in LADWP's 2008 RPS Policy. This meets the statutory framework found in SBX1-2 and its Legislative intent. The CEC should recognize LADWP's voluntary RPS Policy adopted per PUC Section 387, and certify Units 3 and 5 as applied for by LADWP.

II. The Reasons provided by the Energy Commission's Staff Should Be Reconsidered Based on a Per Unit Assessment, the Timing of the Initiation of the Improvements, and the Inapplicability of Pump Storage Under the 6th Edition Guidebook

The reasons provided by the Energy Commission's staff in its letter to LADWP dated January 14, 2014 should be reconsidered for three primary reasons:

- An assessment of incremental generation is, by definition, a per unit analysis and operation;
- The efficiency improvements were initiated at different times. Unit 5 was initiated on October, 2007, and Unit 3 was initiated in October, 2008, and both fall within the times for the grandfathering provision in PUC Section 399.12 and eligibility of facilities in PRC Section 25741; and
- The pump storage definition in the 6th Edition of the applicable Guidebook applies to "small hydroelectric facilities," which is inapplicable to the Castaic Power Plant.

1. Incremental Generation from Efficiency Improvements is by Definition a Per Unit Analysis

A basic understanding for the Castaic Power Plant is that it is operated by individual units. Each unit has a large penstock directed to it to generate hydroelectric energy; each unit has its own

turbine generator; and each unit has its own useful life. Each unit may be operated independently of one another and each unit can break down for different reasons independent of the other units.

The Commission Guidebook for Renewables Portfolio Standard Eligibility, 6th Edition adopted in August 2012 ("6th Edition Guidebook") recognizes the basic concept that efficiency improvements identify specific parts of a unit, including "replacing the existing turbine generator," or "replacing turbines."⁵ The calculations for the efficiency improvements were modeled on a per unit basis and the actual efficiencies achieved were calculated by analyzing each unit.⁶ Therefore, the Energy Commission staff should treat the application for certification per unit, not for the Castaic Power Plant as a whole.

2. The Improvements were initiated within the times for the grandfathering provision in PUC Section 399.12 and eligibility of facilities in PRC Section 25741

The Castaic Modernization Project is a storied development. The Castaic Power Plant itself was completed in the 1970's. As the units began breaking down, reaching the end of their useful life, there was thought to replace the units. This was contemplated as early as 2000; however, there was no budget authority to proceed. The plans by the engineers had to be reviewed, presented to, and approved by the governing authority of LADWP, which is primarily the LADWP Board; however, decisions by the LADWP Board are subject to further approval or re-consideration by the City Council.

LADWP staff makes recommendations to the LADWP Board in the form of "Board Letters." The Board Letters are prepared in advance of the Board meeting where the Board considers the matter. Therefore, the date on a Board Letter is typically a date before the Board action. The 2007 Integrated Resource Plan ("IRP"), identified by Energy Commission staff, was actually approved by the LADWP Board on January 8, 2008.

As provided for in the application for certification, the improvements for Unit 5, namely the mechanical upgrades were initiated in October 2007. Unit 5 was fully operational in July 2008. The mechanical upgrades for the improvements for Unit 3 were initiated in October, 2008. Unit 3 was fully operational in July, 2009.

The language of PUC Section 399.12.5(b)(3) that the Energy Commission staff is focused on is "efficiency improvements were not included in any resource plan sponsored by the facility owner prior to January 1, 2008." The storied past of the Castaic Power Plant lends itself to focus on the term "sponsored." There were "plans," so to speak, but only when budgets were authorized by the LADWP Board could the term "sponsored" have any true meaning because before then, LADWP had no authority to proceed with the improvements.

⁵ See Section II.B.5, subsection entitled "Eligible Efficiency Improvements," p. 24

⁶ See application for certification submitted to the CEC, Attachment G-5 and Appendix E.

Some of the previously sponsored units were then no longer sponsored. As budgets changed, the sponsorship of the units changed. Originally, there was an agreement with Voith Siemens (Voith) in October, 2001 to upgrade the units at the Castaic Power Plant. Unit 2 was completed in September, 2004. However, for a variety of reasons, the contract with Voith was mutually terminated in October 2005. As part of a compromise, Voith did agree to complete Unit 6, which was accomplished in December, 2005.

On December 21, 2005, LADWP awarded an agreement to Thomason Mechanical Corp. (TMC) to perform specialized field work on Unit 4. Unfortunately, in July 2006, the newly upgraded Unit 6 experienced a major failure. Voith was required to repair the unit.

The LADWP Board had to approve and authorize TMC to upgrade the other units. Hence, there was an unsponsored plan to upgrade additional units, which only became sponsored once the LADWP Board authorized LADWP to proceed. Upgrading Unit 5 may have been in earlier plans; yet, it was authorized with funds or "sponsored" in 2007 and the mechanical upgrades did not start until October of 2007. Similarly, Unit 3 may have been included in earlier plans; yet, its actual upgrade was authorized with funds later with the mechanical upgrades starting in October of 2008. Also, the economic justification to sponsor these projects was partially based on the ability to count them towards LADWP's RPS Program.

LADWP applied for certification of Units 3 and 5 based on the changing budgetary structure and the timing of the initiation of the improvements. LADWP does recognize that the mechanical upgrades for Unit 5 started in October, 2007; however, it relies on the arguments provided in this petition for reconsideration to have this unit certified regardless of the stranded, unsupported, and arbitrary date of January 1, 2008, found in PUC section 399.12.5(b)(3). Furthermore, Unit 3 should be certified for the same reasons.

3. *The 6th Edition Guidebook defines "pumped storage hydroelectric" as a small hydroelectric facility, which does not apply to the Castaic Power Plant.*

The 6th Edition Guidebook states that a "pumped storage facility may qualify for the RPS if:

- 1) the facility meets the eligibility requirements for small hydroelectric facilities."⁷

The application for the Castaic units were submitted for efficiency improvements regardless of facility output, not for small hydroelectric facilities.⁸ Moreover, the additional documentation itemized in the 6th Edition Guidebook for efficiency improvement regardless of size does not require a renewable energy input.⁹

⁷ See Section II.B.5, subsection entitled "Pumped Storage Hydroelectric," p. 24; Section II.F.4, subsection entitled "Incremental Hydroelectric Generation From Efficiency Improvements Regardless of Facility Output, p.30

⁸ See Section II.F.4, subsection entitled "Incremental Hydroelectric Generation From Efficiency Improvements Regardless of Facility Output, p.30

⁹ See Section II.B.5, subsection entitled "Additional Required Information for Hydroelectric Facilities," subsection 10, p.27

In addition, in the letter dated January 14, 2014, the Energy Commission staff claimed that the Castaic Power Plant falls within the definition of “pumped hydro” in the Overall Program Guidebook, Fifth Edition. The Energy Commission staff argued that the Castaic Power Plant could not be eligible for certification because the energy it uses to pump water to the upper reservoir is not from renewable energy. This position is unsupported because this is not a requirement found in any of the statutes for SBX1-2, and as mentioned above, the referenced Guidebook has a limitation to small hydroelectric facilities, for which LADWP did not seek certification for the Castaic Power Plant units.

III. Aligning the efficiency section for certification, under PUC Section 399.12.5, with PUC Section 399.12 and PRC Section 25741 after SBX1-2 became effective provides for certification of the efficiency upgrades of the Castaic Power Plant

PUC Section 399.12.5 needs to be harmonized with the SBX1-2. PUC Section 399.12.5 was not updated when SBX1-2 became effective on December 10, 2011.¹⁰ This is apparent because the first part of subsection (b) refers to the pre- SBX1-2 PUC Section 399.12 (c).

PUC Section 399.12.5(b)(3) currently states as follows:

“(b) Notwithstanding subdivision (c) of Section 399.12, the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility, is electricity from an eligible renewable energy resource, without regard to the electrical output of the facility, if all of the following conditions are met:
(3) “The hydroelectric generation facility is owned by a retail seller or a local publicly owned electric utility, was operational prior to January 1, 2007, the efficiency improvements are initiated on or after January 1, 2008, the efficiency improvements are not the result of routine maintenance activities, as determined by the Energy Commission, and the efficiency improvements were not included in any resource plan sponsored by the facility owner prior to January 1, 2008.”¹¹

The updated PUC Section 399.12 (c) under SBX1-2 does not discuss efficiency improvements, rather it defines the term “Balancing Authority Area.”

To harmonize the application of the PUC Section 399.12.5 one has to look to SBX1-2, including the grandfathering provisions in PUC Section 399.12 (e)(1)(C), the date reference of January 1, 2005 for incremental generation in PRC Section 25741(a)(2)(C), the old law under PUC Section 387, and the legislative intent. This harmonization leads to the conclusion that the Energy Commission staff should certify incremental generation from efficiency improvements, that occurred before January 1, 2005, by POUs.

¹⁰ According to the amendment notes for 399.12.5, in 2010 was the last time 399.12.5 was amended.

¹¹ Per the last amendment to PUC Section 399.12.5, which was in 2010.

Beginning with this harmonization, it makes sense to put the statutory scheme in context at the time it could have been applicable. The reference at the beginning of PUC Section 399.12.5 (b) was to the former 399.12 (c), which, in 2009, stated:

(c) "'Eligible renewable energy resource' means an electric generating facility that meets the definition of 'in-state renewable electricity generation facility' in Section 25741 of the Public Resources Code . . ."¹²

The reference to "eligible renewable energy resource" in former PUC Section 399.12(c) shows that other subdivisions of former PUC Section 399.12, PRC Section 25741, and PUC Section 387 have to be reviewed. To guide this process, reviewing the Legislature's intent found in the Legislative Counsel's Digest for Assembly Bill 3048 is instrumental. Assembly Bill 3048 states:

"This bill would revise the definitions of "eligible renewable energy resource," "procure," and "renewables portfolio standard," and would revise a provision related to the eligibility of certain hydroelectric generation, to include a local publicly owned electric utility, in addition to a retail seller. The bill would revise the definition of "in-state renewable electricity generation facility" that is applicable to renewable energy programs administered by the Energy Commission and is incorporated into the definition of "eligible renewable energy resource" for the purposes of the renewables portfolio standard program, to include the renewables portfolio standard implemented by the governing board of a local publicly owned electric utility, in addition to that adopted for a retail seller, and to delete certain requirements imposed on facilities that generate electricity from biomass energy."¹³

Assembly Bill 3048 broadened the definition of an "eligible renewable energy resource" to include the "incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements." With the Legislature also recognizing the need "to include the renewables portfolio standard implemented by the governing board of a local publicly owned electric utility"¹⁴ and that some renewable energy programs were not administered by the Energy Commission, there was a desire to include a POU's resources within the definition. This shows the inclusionary policy of the Legislature.

In addition, taking the statutory scheme in 2008 in context, it helps to look at PUC Section 399.12, including the definitions of "delivered," "procure," and "renewables portfolio standard," which provided as follows:

¹² Stats 2008 ch 558 Section 20 (Assembly Bill 3048), which became effective January 1, 2009. AB 3048 was the last major overhaul of the California Renewables Portfolio Standard Program before the passage of SBX1-2.

¹³ Section 5 of Legislative Counsel's Digest, Stats 2008 ch 558 (Assembly Bill 3048), which became effective January 1, 2009.

¹⁴ Id.

(b) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(d) "Procure" means that a retail seller or local publicly owned electric utility receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 387.

(e) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 387.¹⁵

The terms "Delivered" and "Procure" in former PUC Section 399.12 referred the reader to PRC Section 25741. Assembly Bill 3048, in PRC Section 25741, expanded the definition of "In-state renewable electricity generation facility" to include "incremental generation resulting from expansion or repowering of the facility."

In 2009, PRC Section 25741 provided as follows:

25741. As used in this chapter, the following terms have the following meaning:

- (a) "Delivered" and "delivery" mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered "delivered" regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.
- (b) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:
 - (1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or

¹⁵ Stats 2008 ch 558 Section 4 (Assembly Bill 3048), which became effective January 1, 2009. (Emphasis added.)

less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network within this state and electricity produced by the facility is delivered to an in-state location.

(B) The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:

- (i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.
- (ii) It commences initial commercial operation after January 1, 2005.
- (iii) Electricity produced by the facility is delivered to an in-state location.
- (iv) It will not cause or contribute to any violation of a California environmental quality standard or requirement.
- (v) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.
- (vi) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the Energy Commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) in subparagraph (B), but does not meet the requirements of clause (ii) because it commences initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

- (i) The electricity is from incremental generation resulting from expansion or repowering of the facility.
- (ii) The facility has been part of the existing baseline of eligible renewable energy resources of a retail seller established pursuant to paragraph (2) of subdivision (b) of Section 399.15 of the Public Utilities Code or has been part of the existing baseline of eligible renewable energy resources of a local publicly owned electric utility established pursuant to Section 387 of the Public Utilities Code.

(3) For the purposes of this subdivision, "solid waste conversion" means
[. . . provisions omitted . . .]

However, there is a date conflict. In PUC Section 399.12.5(b) the time reference is January 1, 2008 while in PRC Section 25741(b)(2)(C), the date is January 1, 2005. Because the Legislature expressed its intent to include incremental generation and include a POU's RPS program, the less restrictive date should apply.

This is supported by reviewing the legislative history for PUC Section 399.12.5. In 2006, Assembly Bill 2189 allowed for efficiency improvements undertaken after January 1, 2003 to count as an eligible renewable energy resource, even if the improvements were greater than the 30 megawatt limit in PUC Section 399.12(c).¹⁶ This law, which became effective in 2007, did not apply to POUs. In 2007, Assembly Bill 809 allowed for efficiency improvements undertaken after January 1, 2008 to count as an eligible renewable energy resource, even if the improvements were greater than the 30 megawatt limit in 399.12(c).¹⁷ This law, which became effective in 2008, did not apply to POUs.

In 2008, Assembly Bill 3048, in the chaptered version, there is mention of the section of the bill being applicable to POUs, found in PUC Section 399.12.5 (b)(4), but this was only for defining what a “long-term financial commitment” means, not for the “efficiency improvements” themselves.¹⁸ This law was the last major overhaul of the California Renewables Portfolio Standard before SBX1-2 was enacted. The other provisions of this Assembly Bill, as discussed above, added, modified, or repealed approximately 32 various provisions including PUC Sections 399.12, 399.12.5, and PRC Section 25741. This Assembly Bill expressly stated, as mentioned above, that the Legislature was still respecting and including the voluntary program for POUs found in of PUC Section 387.

In 2009, Assembly Bill 1351 only amended PUC Section 399.12.5. Based on the Legislative Counsel’s Digest, one of the purposes of the bill was to add a provision for a “hydroelectric facility that is not located in California” and add a “requirement that the facility be owned by a retail seller or local publicly owned electric utility.”¹⁹ This reference to a POU is the only reference in the Legislative Counsel’s Digest. No explanation of this POU requirement is provided. The language of the statute itself has not been modified since it was effective on January 1, 2010. SBX1-2 did not modify it and PUC Section 399.12.5 remains as a stranded, inconclusive reference to an older PUC Section 399.12(c).

Moreover, the definition of “Renewables portfolio standard” in the older PUC Section 399.12 refers to the RPS that a POU implemented pursuant to the voluntary program of PUC section 387. This voluntary program should take precedence over a one-time reference in an out-of-date reference to PUC Section 399.12.5(b) with no explanation for a date reference or applicability to a POU, especially if one looks to the updated SBX1-2 and inclusionary policy of the Legislature.

As updated by SBX1-2, PRC Section 25741 defines “Renewable electrical generation facility” to include a list of technologies, and as Legislative intent expresses, modified by PUC Section 399.12.5 to include efficiency improvements for hydroelectric generation regardless of the output. Then going back to the definition of a “renewable electrical generation facility,” in PRC Section

¹⁶ Stats 2006 Chapter 747 (Assembly Bill 2189), which became effective on January 1, 2007.

¹⁷ Stats 2007 Chapter 684 (Assembly Bill 809), which became effective on January 1, 2008.

¹⁸ Stats 2008 Chapter 558 (Assembly Bill 3048), which became effective on January 1, 2009.

¹⁹ Stats 2009 Chapter 525 (Assembly Bill 1351), which became effective on January 1, 2010.

25741, the facility must satisfy one of three possible alternatives. One is subpart (2)(A), which is to have a facility essentially connected to a California balancing authority. The second is subpart (2)(B), which is for an out of state resource. The third alternative is subpart (2)(C), which includes a facility that started operations before January 1, 2005 and the electricity was from either incremental generation or it was procured energy as of January 1, 2010.

Read together PUC Section 399.12 and PRC Section 25741 combines to provide a grandfathering of resources for POUs, as the Legislature intended, and includes incremental generation of hydroelectric energy prior to January 1, 2005. Including facilities with efficiency improvements to include incremental generation that commenced operation prior to January 1, 2005, is consistent with SBX1-2, PUC Section 399.12, former PUC Section 387, PRC Section 25741, and Legislative intent. This makes sense, since such large undertakings, as upgrading a unit at the Castaic Power Plant furthers the Legislature's policy goals.

IV. Legislative Policy Goals in PUC Section 399.11 are satisfied with the Efficiency Upgrades at the Castaic Power Plant

The Legislature's goals for the Renewables Portfolio Standard Program are identified in Public Utilities Code Section 399.11. This section provides that:

(b) Achieving the renewables portfolio standard through the procurement of various electricity products from eligible renewable energy resources is intended to provide unique benefits to California, including all of the following, each of which independently justifies the program:

- (1) Displacing fossil fuel consumption within the state.
- (2) Adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area.
- (3) Reducing air pollution in the state.
- (4) Meeting the state's climate change goals by reducing emissions of greenhouse gases associated with electrical generation.
- (5) Promoting stable retail rates for electric service.
- (6) Meeting the state's need for a diversified and balanced energy generation portfolio.
- (7) Assistance with meeting the state's resource adequacy requirements.

- (8) Contributing to the safe and reliable operation of the electrical grid, including providing predictable electrical supply, voltage support, lower line losses, and congestion relief.
- (9) Implementing the state's transmission and land use planning activities related to development of eligible renewable energy resources.²⁰

The Legislature specifically stated that each of the identified goals “independently justifies the program.” These Legislative policy goals are provided to California with the efficiency improvements to each of the units at the Castaic Power Plant. The efficiency improvements have increased the megawatt capacity of each of the units and that additional hydroelectric energy displaces the consumption of energy generated from coal and/or natural gas - fossil fuels, to meet LADWP’s generation needs. With a reduction in energy generated from coal and/or natural gas, there is a consummate reduction in air pollution and greenhouse gas emissions. Also, hydroelectric energy produced at the Castaic Power Plant promotes a stable and predictable electric service, and contributes to the safe and reliable operation of the electric grid.

Furthermore, the efficiency improvements use the existing transmission lines based on existing land uses. This avoids stranded assets, assists the state with meeting its resource adequacy requirements and helps meet the state’s needs for a diversified and balanced energy generation portfolio.

V. The Energy Commission Staff’s Delayed Action to Respond to the Certification Application Prevented LADWP from Purchasing Renewable Energy Credits During the First Compliance Period

Under SBX1-2, LADWP was required to meet a 20 target of its RPS during the first compliance period, which just ended on December 31, 2013. LADWP originally submitted the application for certification for Castaic Units 3 and 5 in September, 2012. LADWP received the letter, dated January 14, 2014, from the Energy Commission staff with its determination, which is almost 1 ½ years later and after the end of the first compliance. The CEC’s regulations, however, prohibit LADWP from purchasing any renewable energy credits now to comply with targets for the first compliance period. Section 3202 (d) of the CEC’s regulations states:

- (d) A POU may not use a REC to meet its RPS procurement requirements for a compliance period that precedes the date of generation of the electricity associated with that REC. For example, a POU may not retire a REC associate with electricity in April 2014 to meet its RPS procurement requirements for the 2011-2013 compliance period.²¹

²⁰ Public Utilities Code Section 399.11 (emphasis added)

²¹ Enforcement Procedures For the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities. California Energy Commission. Publication Number CEC-300-2013-002-CMF. Effective October 1, 2013.

The timing of the response from the Energy Commission's staff makes it impossible for LADWP to purchase renewable energy credits to make-up the difference for the generation lost during the first compliance period, if the CEC rejects the Castaic certification applications.

In addition, SBX1-2 required the CEC to have adopted its regulations before July 1, 2011.²² However, the regulations were not effective until October 1, 2013, more than two years late and only two months before the end of the first compliance period. These delayed actions along with the Energy Commission staff's interpretations that seek ways to exclude rather than include grandfathered resources severely prejudices LADWP. The decisions appear to be arbitrary and capricious, impacting LADWP's interests in its resources approved in its RPS Policy pursuant to PUC Section 387.

Moreover, under SBX1-2, POUs and IOUs are to be similarly situated. Both are to generate electricity from renewable energy resources, and both are to meet the same RPS targets. However, POUs renewable energy resources that existed prior to SBX1-2, which should be grandfathered resources under the law, are now being treated differently from IOUs. It is a discriminatory practice that severely impacts LADWP. It needs to end. The Energy Commission staff needs to treat LADWP fairly under the law.

VI. Conclusion

The benefits to the state of California with the efficiency improvements to the units of the Castaic Power Plant are unique, satisfy the Legislature's goals with a renewable energy resource, and help improve California's air quality and public health. These important goals are achieved all the while meeting the intent, and letter of the California Renewable Energy Resources Act. The CEC should certify the incremental hydroelectric generation from the efficiency improvements achieved with Units 3 and 5 at the Castaic Power Plant.

Sincerely,




Randy S. Howard
Chief Compliance Officer – Power System
111 N. Hope St., Suite 921
Los Angeles, CA, 90012
Telephone Number: (213) 367 – 0381
Email: Randy.Howard@ladwp.com
mailto:Randy.Howard@ladwp.com

RSH:JCB:sf

²² PUC Section 399.30 (l).

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LADWP BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: April 30, 2008
SUBMITTED BY:		SUBJECT:
 ARAM BENYAMIN Acting Senior Assistant General Manager Power System		The City of Los Angeles Department of Water and Power Renewables Portfolio Standard Policy as Amended April 2008
 H. DAVID NAHAI Chief Executive Officer and General Manager		
 BOARD COMMITTEE APPROVAL:		FOR COMMISSION OFFICE USE:
Board of Water & Power Com'rs. CITY OF LOS ANGELES		RES. No. 008 247 MAY 20 2008 3-COPY RESO TO <i>Acting Sr. 5/30/08</i> <i>Admin - Power System</i>
CITY COUNCIL APPROVAL REQUIRED: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		IF YES, BY WHICH CITY CHARTER SECTION:

PURPOSE:

The Board of Water and Power Commissioners (Board) is requested to consider the attached City of Los Angeles Department of Water and Power (LADWP) Renewables Portfolio Standard (RPS) Policy as amended April 2008, which comprehensively updates the existing policy to:

- Include the goal requiring the LADWP to increase its supply of electricity from "eligible" renewable resources until a target portfolio level of 35 percent is reached by December 31, 2020.
- Add additional "eligible" renewable technologies, including conduit hydroelectric, hydroelectric incremental generation from efficiency improvements, renewable facilities using multiple fuels, and the use of biogas injected into natural gas pipelines.
- Allow the delivery of "eligible" RPS energy to be firmed or shaped within the calendar year. This will provide the ability to use transmission resources most efficiently and will increase system reliability.
- Provide methodology to calculate RPS Goals during periods of temporarily lower energy production, such as low hydro snow pack or low wind performance.

BACKGROUND:

In 2002, the California Legislature passed Senate Bill (SB) 1078 that established the California RPS, with a goal for all investor-owned utilities to increase their use of renewable resources by at least one percent per year, until 20 percent of their retail sales are procured from renewables by 2017. SB 1078 provides that each government body of a local publicly owned electric utility shall be responsible for implementing and enforcing a RPS 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.

On June 29, 2004, the Los Angeles City Council passed Resolution 03-2064-S1 requesting that the Board adopt a LADWP RPS Policy of 20 percent renewable energy by 2017.

On May 23, 2005, the Board adopted a LADWP RPS Policy that established the goal of increasing the amount of energy the LADWP generates from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. On June 29, 2005, the Los Angeles City Council approved the LADWP RPS Policy in order to further promote stable electricity prices, protect public health, improve environmental quality, provide sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

In December 2005, the Board accelerated the LADWP RPS goal to a mandated 20 percent renewables by 2010. During the fiscal year 2006/2007 budget process, consistent with the "System Rate Impact" provision of the RPS policy, the Board acted to implement a "Renewable Resource Surcharge" to assist in funding the procurement of renewable power resources. This surcharge eliminated the need for subsidies from the Public Benefit Program. On April 11, 2007, the LADWP's Board amended the LADWP RPS policy by accelerating the goal of requiring 20 percent of energy sales to retail customers to be generated from renewable resources by December 31, 2010, established the "Renewable Resource Surcharge," and also established renewable energy procurement ownership targets.

In January, 2008, the California Energy Commission (CEC) updated its Renewables Portfolio Standard Eligibility Guidebook. In this revision, the CEC expanded its list of "eligible" renewable resources to include "conduit hydroelectric" and "hydroelectric incremental generation from efficiency improvements." Additionally, it allows "eligible" energy from renewable facilities using multiple fuels, and the use of biogas injected into natural gas pipelines. A conduit hydroelectric facility must use, for its generation only, the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use. The hydroelectric incremental increase in generation that results from efficiency improvements to hydroelectric facilities are RPS eligible if such improvements were initiated on or after January 1, 2008.

This CEC revision also includes Section II (D) "Delivery Requirements", which states: "Electricity may be delivered into California at a different time than when the RPS-certified facility generated electricity, pursuant to Public Resources Code Section 25741, Subdivision (a). Further, the electricity delivered into California may be generated at a different location than that of the RPS-certified facility. In practical terms, out-of-state energy may be "firmed" or "shaped" within the calendar year. FIRMING and

shaping refers to the process by which resources with variable delivery schedules may be backed up or supplemented with delivery from another source to meet customer load."

The LADWP recommends that the LADWP RPS Policy be updated to include these limited revisions. Because 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.

COST AND DURATION:

N/A

FUNDING SOURCE:

Power Revenue Fund

FISCAL IMPACT STATEMENT:

N/A

TYPE OF INSURANCE COVERAGE(S):

N/A

PRE-AWARD CHECKLIST:

N/A

CONTRACT ADMINISTRATION:

N/A

FORMAL OBJECTIONS TO AWARD OF CONTRACT:

N/A

JOB OPPORTUNITIES AND TRAINING POLICY:

☐ Applicable

☒ Not Applicable

INTERNAL AUDIT:

☐ Yes

☒ No

EXTERNAL AUDIT: ☐ Yes
 ☒ No

CHARTER SECTION 1022 FINDINGS AND BASIS THEREOF:

N/A

**MEMORANDUM OF UNDERSTANDING PROPOSED CONTRACT REVIEW
PROCESS:**

N/A

METHOD OF SELECTION:

N/A

OUTREACH METHODS TAKEN:

N/A

**MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE) SUBCONTRACTING
PARTICIPATION:**

N/A

Vendor History:

N/A

VENDOR PERFORMANCE:

N/A

ENVIRONMENTAL DETERMINATION:

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the proposed LADWP RPS Policy as amended April 2008, is exempt pursuant to the General Exemption described in CEQA Guidelines Sections 15061 (b) (3). General Exemptions apply in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Board of Water and Power Commissioners
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New renewable energy generation facilities will be individually assessed pursuant to CEQA.

RECOMMENDATION:

It is recommended that your Honorable Board approve the accompanying resolution, approved as to form and legality by the City Attorney, amending the Los Angeles Department of Water and Power Renewables Portfolio Standard Policy.

BLP:ms

Attachment

c/att: H. David Nahai

Raman Raj

Joseph S. Avila

Richard M. Brown

Stanton J. Snyder

Aram Benyamin

James B. McDaniel

Robert K. Rozanski

Ronald O. Vazquez

James H. Caldwell Jr.

Hal D. Lindsey

Pamela T. Porter

Cecilia K.T. Weldon

Jeffery Peltola

Albert A. Stephens

Randy S. Howard

Brian C. Koch

Bradford L. Packer

**City of Los Angeles Department of Water and Power
Renewables Portfolio Standard Policy
As Amended April 2008**

1. Purpose:

In 2002, California Senate Bill 1078 (SB 1078), an act to add Sections 387, 390.1 and 399.25, and to add Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part I of Division 1 of the Public Utilities Code, was passed establishing a 20 percent Renewables Portfolio Standard (RPS) for California investor-owned utilities. SB 1078 provides that each government body of a local publicly owned electric utility shall be responsible for implementing and enforcing a RPS 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.

On June 29, 2004, the Los Angeles City Council passed Resolution 03-2064-S1 requesting that the Board of Water and Power Commissioners (Board) adopt an RPS Policy of 20 percent renewable energy by 2017 setting applicable milestones to achieve this goal, and incorporate this RPS into a future Integrated Resource Plan (IRP).

On May 23, 2005, the Los Angeles Department of Water and Power (LADWP) Board adopted a LADWP RPS Policy that established the goal of increasing the amount of energy LADWP generates from renewable power sources to 20% of its energy sales to retail customers by 2017, with an interim goal of 13% by 2010. On June 29, 2005, the Los Angeles City Council approved the LADWP RPS Policy.

On April 11, 2007, LADWP's Board amended the LADWP RPS policy by accelerating the goal of requiring 20% of energy sales to retail customers be generated from renewable resources by December 31, 2010. In addition, the amended policy established a "Renewable Resource Surcharge", and also established renewable energy procurement ownership targets.

This RPS Policy, as amended April 2008, represents LADWP's continued commitment to renewable resource supply as requested by the City Council Resolution 03-2064-S1 and is consistent with the provisions of SB 1078 (2002). It also includes an additional RPS goal of requiring 35% of energy sales to retail customers be generated from renewable resources by December 31, 2020, expands list of eligible renewable resources, and provides a new definition of when RPS energy can be delivered to LADWP.

2. Goal:

To promote stable electricity prices, protect public health, improve environmental quality, provide sustainable economic development, create new employment

opportunities, and reduce reliance on imported fuels, LADWP will increase its supply of electricity from "eligible" renewable resources until a target portfolio level of 20 percent is reached by December 31, 2010, measured by the amount of electric energy sales to retail customers. An additional goal is that 35% renewables will be met by December 31, 2020.

Also, LADWP will continue to encourage voluntary contributions from customers to fund renewable resources above the stated RPS goal.

3. Eligible Resources:

Electricity produced from the following technologies constitute "eligible" 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 a 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 renewable facility; multi-fuel facilities using renewable fuels (only the generation resulting from 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.

4. Long-Term Resource Plan:

LADWP will integrate the RPS into its long-term resource planning process, and the RPS will not compromise LADWP's Integrated Resource Plan (IRP) objectives of service reliability, competitive electric rates, and environmental leadership.

5. Renewable Resource Acquisition:

LADWP's renewable acquisitions will be based on a competitive bid process, and least-cost, best-fit project selection criteria will be utilized. Furthermore, preference will be given to projects that are located within the City of Los Angeles and are to be owned and operated by LADWP to further support LADWP's economic development and system reliability objectives.

For acquisitions before December 31, 2010, LADWP will pursue its twenty percent (20%) RPS goal in a manner which will result in a minimum of forty percent (40%) renewable energy generation ownership that LADWP develops or that LADWP acquires through contracts with providers of renewable energy. Further, with respect to the foregoing contracts with providers, such contracts will provide for LADWP ownership or an option to own, either directly or indirectly (including through joint power authorities).

On or after January 1, 2011, a minimum of seventy five percent (75%) of all new renewable energy generation acquired by LADWP will either be owned or acquired by LADWP through an option-to-own, either directly or indirectly (including through joint powers authorities) until at least half of the total amount of the renewable resources are supplied by renewable resources owned or optioned either directly or indirectly (including through joint power authorities) by LADWP.

The first priority for LADWP will be to pursue outright ownership opportunities, and the second priority will be consideration of option-to-own cost-based renewable resource acquisitions. In comparing outright ownership to "option-to-own," option-to-own projects must show clear economic benefits, such as pass-through of Federal or State tax credits or incentives, which could not otherwise be obtained, or the need to evaluate new technology. The option-to-own will be exercisable with the minimum terms necessary to obtain and pass those tax credits and/or incentives to LADWP and/or upon a reasonable amount of time to evaluate the operation of the new technology.

6. System Rate Impact:

The Board established a "Renewable Resources Surcharge", to cover the additional costs of renewable resources to meet the RPS goals beginning on July 1, 2006. LADWP may not make any major financial commitment to procure/acquire renewable resources prior to evaluating the rate impact and any potential adverse financial impact on the City transfer.

7. Solar Set Aside:

Following further assessment by LADWP, and adopted legislation, the Board may establish a solar set aside. The Board may also establish the appropriate prices to be paid for solar resources and a "Solar Surcharge" to cover the additional cost of a solar set aside.

8. Reporting Requirement:

LADWP will 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 Public Benefits Charge funds for renewable energy resources development, (2) the resource mix used to serve its retail customers by fuel type, and (3) status in implementing an RPS and progress toward attaining the standard. LADWP will continue to provide a quarterly Power Content Label Report to its customers as required by SB 1305 (1997), and an annual report of the total expenditure for renewable resources funded by voluntary customer contributions. For purposes of attaining RPS goals, given that there may be significant fluctuations from year to year in the amount of energy generated, particularly from hydroelectric, wind and solar resources due to weather conditions, LADWP RPS goals may report energy that would have been generated in an average year from individual projects utilizing these technologies.

9. Flexible Compliance:

Renewable resource procurements will be limited to development and acquisition of physical generation assets and energy purchase contracts, and therefore, LADWP will not purchase the "renewable energy credit" from a renewable resource, without purchasing the associated energy. In the event that RPS goals cannot be achieved due to limitations in the Renewable Resources Surcharge, or the availability of renewables that meet the IRP requirements, the Board shall consider adjusting this RPS Policy as needed.

10. RPS Energy Delivery:

Renewable energy may be delivered to LADWP's Power System at a different time than when the renewable facility generated the energy. Further, the energy delivered to LADWP may be generated at a different location than that of the renewable facility. In practical terms, renewable energy may be "firmed" or "shaped" within the calendar year. Firing and shaping will allow renewable energy that is generated in a variable manner to be delivered to LADWP in a consistent manner. This will allow transmission capacity to be utilized more efficiently, and will also increase system reliability.

Supplemental Information

City of Los Angeles Department of Water and Power (LADWP) Renewables Portfolio Standard Policy as Amended April 2008

Background:

- In August 2000, the LADWP adopted an Integrated Resource Plan (IRP) that established a goal of meeting 50 percent of projected load growth through a combination of Demand-Side-Management, Distributed Generation, and Renewable Resources. Under this IRP, the LADWP established a goal of developing 30 megawatts (MW) of renewables by 2001, 100 MW by 2005, and 150 MW by 2010.
- In 2002, the California Legislature passed California Senate Bill 1078 that established the California Renewables Portfolio Standard (RPS), with a goal for all investor-owned utilities to increase their use of renewable resources by at least 1 percent per year, until 20 percent of their retail sales are procured from renewables by 2017. Although publicly owned utilities like the LADWP are exempt from the California Senate Bill 1078, they are encouraged to establish renewable resource goals consistent with the intent of the Legislature.
- In late 2003, the Mayor of Los Angeles and the City Council took several steps toward developing a new RPS for the LADWP. This included the creation of the Green Ribbon Commission by the Mayor, and convening a Renewable Energy Summit by the Commerce, Energy, and Natural Resources Committee.
- On June 29, 2004, the Los Angeles City Council adopted a LADWP RPS Framework that was used as the basis for establishing a RPS Policy. While adopting LADWP's RPS Framework, the City Council requested that the LADWP establish a RPS Policy. Specifically, the City Council requested the Board of Water and Power Commissioners "to adopt a RPS of 20 percent renewable energy by 2017 setting applicable milestones to achieve this goal," and "incorporate this RPS into all future energy system planning. It should also be reflected in the IRP now being prepared, to identify actions to be taken in the next year toward increased renewable energy procurement and/or development."
- On October 15, 2004, the Los Angeles City Council adopted a resolution approving the inclusion of existing LADWP hydroelectric generation units greater than 30 MW in size, excluding Hoover hydroelectric plant, as part of the City's RPS list of eligible resources.
- In mid 2004, the LADWP initiated a competitive Request for Proposals (RFP) process to acquire renewable resources to meet an interim RPS goal of 13 percent by 2010.

- On June 29, 2005, the City Council approved the LADWP RPS policy, which has many similarities to the State mandate for the investor owned utilities. The RPS is designed to increase the amount of energy the LADWP generates from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. The policy will provide a long-term framework to achieve the 20 percent goal without compromising power reliability or the financial stability of the LADWP and its customers.
- In August 2005, the Southern California Public Power Authority (SCPPA) issued a RFP to acquire renewable resources. The LADWP is a member of SCPPA.
- In December of 2005, the Board of Water and Power Commissioners recommended that the LADWP accelerate the RPS goal to obtain 20 percent renewables by 2010. This recommendation included updating the LADWP's IRP to include this goal, proceeding with the negotiation and contract development for renewable resources proposed and selected in the LADWP's 2004 RFP and SCPPA's 2005 RFP, and to prepare and submit for consideration a mechanism to support the cost of accelerating the RPS and to maintain the financial integrity of the LADWP's Power System during times of natural gas price volatility.
- In January 2007, the LADWP issued an additional RFP to acquire renewable resources to meet the RPS goal of 20 percent by 2010.
- On April 11, 2007, the LADWP's Board amended the LADWP RPS policy by accelerating the goal of requiring 20 percent of energy sales to retail customers to be generated from renewable resources by December 31, 2010. In addition, the amended policy established a "Renewable Resource Surcharge," and also established renewable energy procurement ownership targets.

Attachments:

- 1) The City of Los Angeles Department of Water and Power Renewables Portfolio Standard Policy, as approved by the City Council on June 29, 2005.
- 2) Amendment No. 1 of the City of Los Angeles Department of Water and Power Renewables Portfolio Standard Policy.

City of Los Angeles Department of Water and Power Renewables Portfolio Standard Policy

Purpose:

On June 29, 2004, the Los Angeles City Council passed Resolution 03-2064-S1 requesting that the Board of Water and Power Commissioners adopt a Renewables Portfolio Standard (RPS) Policy.

In 2002 California Senate Bill 1078 (SB1078), an act to add Sections 387, 390.1 and 399.25, and to add Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, was passed establishing a 20% RPS for California investor-owned utilities.

This RPS Policy represents Los Angeles Department of Water and Power's (LADWP) commitment to renewable resource supply as requested by the City Council Resolution 03-2064-S1 and consistent with the provisions of SB1078 (2002). SB1078 provides that each government body of a local publicly-owned electric utility shall be responsible for implementing and enforcing a RPS that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard of rates, reliability, and financial resources and the goal of environmental improvement.

Goal:

Los Angeles City Council Resolution 03-2064-S1 requires that the Board of Water and Power Commissioners adopt a RPS of 20% renewable energy by 2017 setting applicable milestones to achieve this goal, and incorporate this RPS into all future energy system planning. Furthermore, the Council instructed LADWP to include in its report on RPS the impact on the local economy and jobs.

The public policy goals stated in SB1078 include increasing California's reliance on renewable energy resources up to 20% by 2017 to promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

In furtherance of the above expressed goals, LADWP will increase its supply of electricity from "eligible" renewable resources until a target portfolio level of 20% is reached by December 31, 2017, measured by the amount of electric energy sales to retail customers. LADWP will increase the RPS level by approximately 1% per year with an interim goal of 13% by 2010. Also, LADWP will continue to encourage voluntary contributions from customers to fund renewable resources above the stated RPS goal.

Eligible Resources:

Electricity produced from the following technologies constitute "eligible" resources: biomass; biodiesel; digester gas; fuel cells using renewable fuels; geothermal; landfill gas; municipal solid waste only if the energy conversion process does not employ direct combustion of solid fuel; ocean wave, ocean thermal, and tidal current technologies; solar photovoltaic; small hydro 30 MW or less, and the Los Angeles Aqueduct hydro power plants; solar thermal; wind; and other renewables that may be defined later.

Long-Term Resource Plan:

LADWP will integrate the RPS into its long-term resource planning process, and the RPS will not compromise LADWP's Integrated Resource Plan (IRP) objectives of service reliability, competitive electric rates, and environmental leadership. LADWP will not terminate any existing long-term contract, or otherwise create stranded generation assets in order to meet the RPS goals.

Renewable Resource Acquisition:

LADWP's renewable acquisitions will be based on a competitive bid process, and least-cost, best-fit project selection criteria will be utilized. Furthermore, preference will be given to projects that are located within the City of Los Angeles and are to be owned and operated by LADWP to further support LADWP's economic development and system reliability objectives. This will not preclude LADWP from developing its own renewable resources, provided that they are in support of the RPS goals and meet criteria established in the IRP.

Price Benchmarking:

The appropriate prices to be paid or expended for renewable resources ("Renewable Resources Price Cap") will be established by the Water and Power Board of Commissioners (Board), on an as needed basis, and shall include the cost of associated interconnection, transmission, and energy losses to deliver the energy to LADWP's load center.

System Rate Impact:

The Board will establish a "Renewable Resources Surcharge" if deemed required covering the additional costs of renewable resources to meet the RPS goals beginning on July 1, 2007. LADWP will not make any major financial commitment to procure/acquire renewable resources prior to the establishment of any such required surcharge to mitigate any potential adverse financial impact on the City transfer.

Solar Set Aside:

Following further assessment by LADWP, and pending legislation, the Board may establish a solar set aside. The Board may also establish the appropriate prices to be paid for solar resources and a "Solar Surcharge" to cover the additional cost of the solar set aside.

Above Market Subsidies:

LADWP may utilize "Public Benefits Charge" (PBC) funds to subsidize the above-market costs of renewable energy, as may be directed by the Board.

Reporting Requirement:

LADWP will provide an annual report of the following information to its customers as required by SB1078: (1) expenditure of PBC funds for renewable energy resources development, and (2) the resource mix used to serve its retail customers by fuel type. LADWP will continue to provide a quarterly Power Content Label Report to its customers as required by SB1305 (1997), and an annual report of the total expenditure for renewable resources funded by voluntary customer contributions.

Flexible Compliance:

Renewable resource procurements will be limited to development and acquisition of physical generation assets and energy purchase contracts, and therefore, LADWP will not purchase the "renewable energy credit" from a renewable resource, without purchasing the associated energy. In the event that RPS goals cannot be achieved due to limitations in the "Above Market Subsidies," "Surcharge," or the availability of renewables that meet the IRP requirements, the Board shall adjust this RPS Policy as needed.

**City of Los Angeles Department of Water and Power
Renewables Portfolio Standard Policy
As Amended April 2007**

1. Purpose:

In 2002 California Senate Bill 1078 (SB 1078), an act to add Sections 387, 390.1 and 399.25, and to add Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part I of Division 1 of the Public Utilities Code, was passed establishing a 20 percent Renewables Portfolio Standard (RPS) for California investor-owned utilities. SB 1078 provides that each government body of a local publicly owned electric utility shall be responsible for implementing and enforcing a RPS 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.

On June 29, 2004, the Los Angeles City Council passed Resolution 03-2064-S1 requesting that the Board of Water and Power Commissioners adopt a RPS Policy of 20 percent renewable energy by 2017 setting applicable milestones to achieve this goal, and incorporate this RPS into a future Integrated Resource Plan (IRP).

On May 23, 2005, the Los Angeles Department of Water and Power (LADWP) Board of Commissioners (Board) adopted a LADWP RPS Policy that established the goal of increasing the amount of energy that the LADWP generates from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. On June 29, 2005, the Los Angeles City Council approved the LADWP RPS Policy.

In order to further promote stable electricity prices, protect public health, improve environmental quality, provide sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels, in December 2005, the Board accelerated the LADWP RPS goal to a mandated 20 percent renewable energy by 2010.

This RPS Policy, as amended April 2007, represents the LADWP's continued commitment to renewable resource supply as requested by the City Council Resolution 03-2064-S1 and is consistent with the provisions of SB 1078 (2002).

2. Goal:

To promote stable electricity prices, protect public health, improve environmental quality, provide sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels, LADWP will increase its supply of electricity from "eligible" renewable resources until a target portfolio level of 20 percent is reached by December 31, 2010, measured by the amount of electric energy sales to retail customers.

Also, the LADWP will continue to encourage voluntary contributions from customers to fund renewable resources above the stated RPS goal.

3. Eligible Resources:

Electricity produced from the following technologies constitute "eligible" resources: biomass; biodiesel; digester gas; fuel cells using renewable fuels; geothermal; landfill gas; municipal solid waste, only if the energy conversion process does not employ direct combustion of solid fuel; ocean wave, ocean thermal, and tidal current technologies; solar photovoltaic; small hydro 30 megawatts (MW) or less, and the Los Angeles Aqueduct hydro power plants; solar thermal; wind; and other renewables that may be defined later.

4. Long-Term Resource Plan:

The LADWP will integrate the RPS into its long-term resource planning process, and the RPS will not compromise the LADWP's IRP objectives of service reliability, competitive electric rates, and environmental leadership.

5. Renewable Resource Acquisition:

The LADWP's renewable acquisitions will be based on a competitive bid process, and least-cost, best-fit project selection criteria will be utilized. Furthermore, preference will be given to projects that are located within the City of Los Angeles and are to be owned and operated by the LADWP to further support the LADWP's economic development and system reliability objectives.

For acquisitions before December 31, 2010, the LADWP will pursue its twenty percent (20%) RPS goal in a manner which will result in a minimum of forty percent (40%) renewable energy generation ownership that the LADWP develops or that the LADWP acquires through contracts with providers of renewable energy. Furthermore, with respect to the foregoing contracts with providers such contracts will provide for LADWP ownership or an option to own, either directly or indirectly (including through joint power authorities).

On or after January 1, 2011, a minimum of seventy-five percent (75%) of all new renewable energy generation acquired by the LADWP will either be owned or acquired by the LADWP through an option-to-own, either directly or indirectly (including through joint powers authorities), until at least half of the total amount of the renewable resources are supplied by renewable resources owned or optioned either directly or indirectly (including through joint power authorities) by the LADWP.

The first priority for the LADWP will be to pursue outright ownership opportunities; the second priority will be consideration of option-to-own cost-based renewable resource acquisitions. In comparing outright ownership to "option-to-own," option-to-own projects must show clear economic benefits, such as pass-through of Federal or State tax credits or incentives, which could not otherwise be obtained, or the need to evaluate new technology. The option-to-own will be exercisable with the minimum terms necessary to obtain and pass

those tax credits and/or incentives to the LADWP and/or upon a reasonable amount of time to evaluate the operation of the new technology.

6. System Rate Impact:

The Board established a "Renewable Resources Surcharge," to cover the additional costs of renewable resources to meet the RPS goals beginning on July 1, 2006. The LADWP may not make any major financial commitment to procure/acquire renewable resources prior to evaluating the rate impact and any potential adverse financial impact on the City transfer.

7. Solar Set Aside:

Following further assessment by the LADWP, and adopted legislation, the Board may establish a solar set aside. The Board may also establish the appropriate prices to be paid for solar resources and a "Solar Surcharge" to cover the additional cost of a solar set aside.

8. Reporting Requirement:

The LADWP will provide an annual report of the following information to its customers and the California Energy Commission as required by SB 1078 and SB 107: (1) expenditure of PBC funds for renewable energy resources development, (2) the resource mix used to serve its retail customers by fuel type, and (3) status in implementing an RPS and progress toward attaining the standard. The LADWP will continue to provide a quarterly Power Content Label Report to its customers as required by SB 1305 (1997), and an annual report of the total expenditure for renewable resources funded by voluntary customer contributions.

9. Flexible Compliance:

Renewable resource procurements will be limited to development and acquisition of physical generation assets and energy purchase contracts, and therefore, the LADWP will not purchase the "renewable energy credit" from a renewable resource, without purchasing the associated energy. In the event that RPS goals cannot be achieved due to limitations in the "Above Market Subsidies," "Surcharge", or the availability of renewables that meet the IRP requirements, the Board shall consider adjusting this RPS Policy as needed.

WHEREAS in August 2000, the Water and Power Board of Commissioners approved a resolution that authorized the Los Angeles Department of Water and Power (LADWP) to adopt an Integrated Resource Plan that established a goal of meeting 50 percent of projected load growth through a combination of Demand-Side-Management, Distributed Generation, and Renewable Resources; and

WHEREAS in 2002, the California Legislature passed the California Senate Bill 1078 that established the California Renewables Portfolio Standard (RPS), and a goal for all investor-owned utilities to increase their use of renewable resources by at least 1 percent per year, until 20 percent of their retail sales are procured from renewables by 2017; and

WHEREAS publicly-owned utilities like the LADWP are exempt from the California Senate Bill 1078, however they are encouraged to establish renewable resource goals consistent with the intent of the California Legislature; and

WHEREAS on June 29, 2004 the Los Angeles City Council adopted a LADWP RPS Framework that was used as the basis for the establishment of the RPS Policy. While adopting the LADWP's RPS Framework, the City Council had requested the LADWP to establish a RPS Policy. Specifically, the City Council had requested the Board of Water and Power Commissioners, "to adopt a RPS of 20 percent renewable energy by 2017 setting applicable milestones to achieve this goal," and "incorporate this RPS into all future energy system planning. It should also be reflected in the Integrated Resource Plan now being prepared to identify actions to be taken in the next year toward increased renewable energy procurement and/or development"; and

WHEREAS on October 15, 2004, the Los Angeles City Council adopted a resolution approving the inclusion of existing LADWP hydroelectric generation units greater than 30 megawatts in size, excluding Hoover hydroelectric plant, as part of the City's RPS list of eligible resources.

WHEREAS on June 29, 2005, the City Council approved the City of Los Angeles Department of Water and Power Renewables Portfolio Standard Policy, which has many similarities to the state mandate for the investor owned utilities. The RPS is designed to increase the amount of energy the LADWP generates from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. The policy will provide a long-term framework to achieve the 20 percent goal without compromising power reliability or the financial stability of the LADWP and its customers.

WHEREAS in December of 2005, the Board of Water and Power Commissioners recommended that the LADWP accelerate the RPS goal to obtain 20 percent

renewables by 2010. This recommendation included updating LADWP's Integrated Resource Plan to include this goal, proceeding with the negotiation and contract development for renewable resources proposed and selected in LADWP's 2004 RPS and Southern California Public Power Authority 2005 RPS, and to prepare and submit for consideration a mechanism to support the cost of accelerating the RPS and to maintain the financial integrity of LADWP's Power System during times of natural gas price volatility.

WHEREAS on April 11, 2007, LADWP's Board of Water and Power Commissioners amended the LADWP RPS policy by accelerating the goal of requiring 20 percent of energy sales to retail customers be generated from renewable resources by December 31, 2010. In addition, the amended policy established a "Renewable Resource Surcharge," and also established renewable energy procurement ownership targets.

NOW, THEREFORE BE IT RESOLVED that the City of Los Angeles Department of Water and Power RPS Policy as amended April 2008, approved as to form and legality by the City Attorney and on file with the Secretary of the Board, be and the same is hereby approved.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held MAY 20 2008

Barbara E. Moscheros

Secretary

APPROVED AS TO FORM AND LEGALITY
RICHARD J. DELSADILLO, CITY ATTORNEY

APR 29 2008
[Signature]
BY STANTON J. SHIFFER
Assistant City Attorney

VERIFICATION


I, Randy Howard, am a Director of the Power System Planning and Development Division and Chief Compliance Officer working at the Los Angeles Department of Water and Power (LADWP). I have been working as an Electrical Engineer at LADWP since 1987. I received my Bachelor of Science in Electrical Engineering from California State University, Sacramento and I am a California licensed Professional Electrical Engineer.

I declare the following:

1. I am authorized to make this verification on behalf of LADWP;
2. I am intimately familiar with the Castaic Power Plant, which is located at 37700 Templin Hwy, Castaic, California.
3. The factual matters stated within LADWP's petition for reconsideration Applications for Renewables Portfolio Standard (RPS) Certification for the Castaic Power Plant, Units 3 and 5, RPS ID 62561A, are true and accurate to the best of my knowledge and belief.
4. Attached to petition for reconsideration is a true and correct copy of the approval by the LADWP Board, which is seen from a document entitled "LADWP Board Approval Letter," which includes a resolution certified by the LADWP Board secretary and a copy of the LADWP 2008 RPS Policy.

I declare under penalty and perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 13th day of February 2014 at Los Angeles, California.

By: 

Randy S. Howard, Director

CALIFORNIA ENERGY COMMISSION1516 Ninth Street
Sacramento, California 95814Main website: www.energy.ca.gov**Form CEC-108: SERVICE ON THE CHIEF COUNSEL****PURPOSE OF THIS FORM:**

Energy Commission regulations found in Title 20 of the California Code of Regulations set forth three instances in which petitions or requests must be filed with or served on the Chief Counsel. The Chief Counsel has designated the Dockets Office as his agent for accepting service or filing of the following documents. The documents identified in this form will be deemed filed with or served on the Chief Counsel on the date they are docketed, provided this completed form is docketed with them. This form is your instruction to the Docket Office staff to serve your document on the Chief Counsel. You may **use this form** to initiate a proceeding under any of the three sections (Section 1231, Section 1720, and Section 2506), **cut and paste** the information below into an email, or **type the information below** into an email that accompanies your document to the Docket Office. The email address for the Dockets Office is docket@energy.ca.gov. The mail address is 1516 9th Street, MS-4, Sacramento, CA 95814.

Filer's Name: LOS ANGELES DEPARTMENT OF WATER & POWER**Title of document to be served:** PETITION FOR RECONSIDERATION FOR RENEWABLES PORTFOLIO
STANDARDS (RPS) CERTIFICATION FOR THE CASTAIC POWER PLANTS UNIT 3 & 5, RPS ID 62561A**This document relates to docket #:** _____**Please check only one of the following boxes:**☐**Section 1231:** I am filing a complaint or request for investigation. Please file my document with the Chief Counsel.☒**Section 1720:** I am filing a petition for reconsideration of a decision or order within 30 days after the decision or order is final. Please file my document with the Chief Counsel.☐**Section 2506:** I am serving a petition to inspect or copy confidential records. Please serve my document on the Chief Counsel.

This form is available at the Docket Unit counter and on the Energy Commission website at www.energy.ca.gov/commission/chief_counsel/docket.html. Please see the instructions that accompany this form for more information.

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