BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of: AB 32 Implementation: Greenhouse Gases	Docket 07-OIIP-01

OPENING COMMENTS OF THE LOS ANGELES DEPARTMENT OF WATER AND POWER ON THE JOINT CPUC/CEC STAFF PROPOSAL FOR A GHG REPORTING PROTOCOL

July 2, 2007

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COMMENTS OF THE
LOS ANGELES DEPARTMENT OF WATER AND POWER ON THE
JOINT CPUC/CEC STAFF PROPOSAL FOR A GHG REPORTING PROTOCOL

In accordance with Rule 14 of the Rules of Practice and Procedure of the Public Utilities Commission ("CPUC" or "Commission") of the State of California, the Los Angeles Department of Water and Power ("LADWP") hereby files these Comments on the *Joint California Public Utilities Commission and California Energy Commission Staff Proposal for an Electricity Retail Provider GHG Reporting Protocol* ("Staff Proposal") filed June 12, 2007, in Rulemaking R.06-04-009 ("Rulemaking") and Docket D.07-OIIP-01.

I. INTRODUCTION

The LADWP serves over 4 million people, and is the nation's largest municipal utility. The LADWP is a "vertically integrated" company, both owning and operating its generation, transmission and distribution systems. The LADWP has an installed generation capacity of 7,336 MW and has a service territory that covers 469 square miles including Los Angeles and Owens Valley, with annual sales exceeding 26 million MW-hours (MWh).

The LADWP transmission system consists of High Voltage alternating current and direct current transmission corridors with a network totaling more than 3,600 miles. Of those, over 2,900 miles of transmission lines provide over 10,000 MW of import capability. The City utilizes these lines to transport power from the Pacific Northwest, Utah, Arizona, Nevada, and within California.

The LADWP is submitting these comments as an Intervenor in the CPUC Rulemaking R.06-04-009 and CEC Docket 07-OIIP-01, and as an electric retail provider

that is subject to the requirements of Assembly Bill 32, the California Global Warming Solutions Act of 2006. As requested in the Administrative Law Judge's Ruling regarding Comments on Staff Reporting Proposal, these Comments are organized along the same outline used in the Staff Proposal. The LADWP is unable at this time to comment regarding whether modifications to the Staff Proposal would be needed to support implementation of the recommendations in the Market Advisory Committee's report, in particular, the "first seller" structure. We will provide comments on that approach after the CPUC/CEC workshop on this topic that is scheduled for August 2007.

II. CHAPTER 2 – KEY ISSUES, DEFINITIONS, AND CRITERIA FOR THE PROTOCOL

A. Subsection 2.3 - Criteria

The LADWP supports the criteria set forth by the CPUC/CEC of 1) accuracy, 2) consistency, 3) simplicity, 4) transparency, 5) minimization of unintended consequences, 6) setting appropriate policy signals, and 7) expandability.

1. Section 2.3.1 Accuracy – Better and More Accurate Data Should Be Relied Upon Where Available

The LADWP supports the first criterion of accuracy set forth in Section 2.3.1 that "reporting protocol should be designed to produce an accurate estimate of the GHG emissions that result from the consumption of electricity in California, at the retail provider level and the statewide total...The protocol should not yield emission totals that deviate substantially from the result of in-depth analysis." The LADWP recommends that the basis for calculating emissions and emission factors for coal resources use the most accurate methodology available that also provides consistency between the 1990 emissions inventory baseline, current emissions, and future mandatory emissions

reporting. This recommendation is described in greater detail in the following Section 2.3.2.

Additionally, the LADWP recommends that the methodology for calculating emissions from jointly-owned resources be clarified in the Staff Proposal to reflect emissions based on actual generation (MWh) received by a retail provider and not based on ownership share. (Page 29). This approach would provide greater accuracy in calculating emissions and would allow co-owners to manage their individual carbon footprint more effectively by assigning emissions, or emission reductions, directly. More detailed discussion is provided below under Item IV. Chapter 7 – Recommendations for Electricity Sector Reporting Protocol.

2. **Section 2.3.2 Consistency – Reporting Methodologies for Calculating 1990 Emissions Inventory Baseline, Current Emissions Levels and Future Mandatory Reporting Must Be Consistent**

The Staff Proposal recommends that all reporting entities should use the same emission factors for the same sources of purchased electricity. The LADWP recommends that the consistency criterion extend beyond development of emission factors and include the methodology for calculating plant-specific emissions. The LADWP also supports using a consistent methodology for calculating emissions for three key emissions levels including 1) the electricity-sector 1990 emissions inventory baseline, 2) current emissions levels, and 3) future mandatory compliance reporting.

Use of inconsistent methodologies between these critical emissions levels could lead to either over-reporting or under-reporting emissions by retail providers. Such inconsistencies could lead to, on one hand, an entity being substantially penalized with additional emission reductions unreasonably required of them, or on the other hand, the

State's efforts to reduce GHG emissions being undermined by requiring too few emission reductions in relation to actual 1990 emissions levels.

For instance, the Air Resources Board is evaluating the potential for using continuous emissions monitoring systems (CEMS) in-stack data for developing the power/utility reporting protocols. CEMS has been observed to vary from fuel-based C02 calculations over the same time period for the Intermountain Generating Station (+11.6%) and Navajo Generating Station (+12.2%). LADWP suspects this variation would be observed at other coal plants as well. The LADWP is currently investigating and analyzing these differences to determine the source of this variation.

Second, for the 1990 emissions inventory baseline, emissions were calculated using a fuel-based methodology based upon fuel data from either the U.S. Department of Energy's Energy Information Administration (EIA) or the CEC. CEMS was not in existence in 1990. CEMS is being considered by the ARB as a reporting protocol methodology for mandatory reporting. This combination of fuel-based methodology for the 1990 baseline and CEMS for current and future emissions reporting sets up an immediate consistency issue, particularly in light of the observed variation described above. It is critical that the source of the variation between CEMS and fuel-based methodologies be identified and corrected.

The State must address this variation observed in coal emissions by selecting a single methodology to measure emissions limits for the 1990 baseline, current emissions, and future emissions. This would ensure a more accurate and consistent "apples-to-apples" comparison and measurement of emission reductions over time. The LADWP looks forward to working with the State to examine this issue carefully and

determine the best means to ensure consistent and accurate emissions measurements under AB 32.

3. Section 2.3.3 Simplicity – Reporting Protocols Must Be Clearly Defined Up Front For Purposes of Demonstrating Compliance

The LADWP supports the criterion of simplicity in that "the final reporting protocol should not impose an overly burdensome procedure on either reporting entities or the state agencies overseeing the program." (Page 7). To this end, the LADWP recommends that reporting protocols be clear and concise, and identify up front the emissions data necessary to demonstrate compliance that would then be subject to third-party verification and certification.

The LADWP conducts up to 100 wholesale transactions per day on busy days between real-time, day-ahead, and forward transactions with an average of 24,000 transactions annually. The LADWP does not support a reporting protocol that requires submittal of supplemental information, such as contract terms or transaction-specific settlement data, for ex post evaluation purposes that extend beyond the scope of demonstrating compliance with GHG emissions caps. The use of regional emission factors would help to streamline the reporting requirements and provide clarity to staff in advance of making transactions, and minimize the administrative burden to both the retail provider and regulatory agencies.

4. Section 2.3.4 Transparency – Use Publicly Available Data to Calculate Emission Factors

The LADWP supports the criterion of transparency in that "any derived emission factors used for reporting should use publicly available data." (Page 7). The LADWP does not support the reporting of any proprietary information that would put retail providers at a competitive disadvantage or create an opportunity for gaming in the

wholesale market. Power purchase and emissions data should be reported at an aggregated level, not by individual transaction. The LADWP recommends that this be clarified in Section 7.3 of the Staff Proposal.

III. CHAPTER 4 – CATEGORIES OF SOURCES

A. Subsection 4.1.4 – Facility-Specific Contracts Should Be Treated The Same Whether In-State or Out-Of-State

The Staff Proposal states that "Staff believes that new claims to existing low- or zero-GHG plants should be treated with some skepticism since there is little reason to believe that an agreement between a retail provider and an existing plant will induce generation that would not have occurred anyway...Staff proposes that claims on existing sources meet certain conditions in order to mitigate the potential for contract shuffling by California retail providers." (Page 11). During the June 21, 2007 ARB Power/Utility Technical Discussion meeting, CPUC staff reiterated the concern during the discussion on the Staff Proposal and suggested that contracting with "existing" low- or zero-GHG plants would constitute contract shuffling and would not be allowed, because it would not result in any beneficial impact to overall GHG emissions.

The Staff Proposal suggests that "One way to limit the pool of available clean resources might be to allow claims to facilities *within* the State of California, provided that the generating facility agrees to these claims. [emphasis added]" (Page 11). With 10,000 MW's of import capacity, the LADWP recommends clean generation resources be treated the same regardless of whether they are in-state or out-of-state. The in-state and out-of-state contracts are written to require the transference of all environmental attributes and attestations are provided. For the purchase of clean resources, both

parties agree that emission attributes are assigned to the buyer and GHG emission benefits are not claimed elsewhere.

IV. CHAPTER 7 – RECOMMENDATIONS FOR ELECTRICITY SECTOR REPORTING PROTOCOL

A. Subsection 7.3.2 – Emissions Should Be Reported Based On Actual MWh Received Rather Than Ownership Share

Consistent with the criterion of accuracy as described in Section 2.3.1 of the Staff Proposal, the LADWP recommends that for jointly owned generating stations, the Staff Proposal be clarified to reflect that emissions be reported based on actual MWhs received rather that "retail provider's share of net generation taken," which is open to interpretation. It is more accurate to report each participant's share of emissions based on actual MWh received/total facility net generation rather than based on ownership/entitlement share. Actual MWh received by each participant is different from the value obtained by multiplying each participant's entitlement percentage by the total monthly or annual output of the plant for the following reasons:

1) Energy for each participant is scheduled 1 hour ahead based on expected plant output. Each participant can request up to their maximum entitlement share of the expected plant output for each hour. Any difference (surplus or deficit) between what the participants schedule and the actual plant output is absorbed by the operating agent.

2) Each participant's account is rounded to the nearest MWh on an hourly basis. This is the primary reason for the difference between the actual MWh received compared to multiplying each participant's entitlement percentage by the total plant monthly or annual output.

Differences in actual MWh received versus entitlement share can be more pronounced for the utility serving as operating agent, because the operating agent

absorbs any differences between actual plant output and what is scheduled by the other participants.

Therefore, it is more accurate to report each participant's share of emissions from jointly owned generating stations by calculating their percent share from actual MWh received/total facility net generation. Reporting based on straight ownership/entitlement percentage results in either under-reporting or over-reporting each participant's share of emissions compared to the energy they actually received. In addition, reporting based on actual MWh received is consistent with the methodology for reporting emissions from purchased power.

V. CHAPTER 9 – TECHNIQUES FOR ADDRESSING THE POTENTIAL FOR CONTRACT SHUFFLING AND LEAKAGE

The Staff Proposal states that "Contract shuffling is the practice of claiming that one resource is sent to California, while leaving the high carbon intensive power to be sold in states which do not have a tracking system or a cap that requires allowances. Contract shuffling reduces the environmental integrity of AB 32 implementation, because no actual changes in generation occur." (Page 34). The Staff Proposal attempts to address contract shuffling through specific mechanisms that are based on an overly narrow view of the GHG policies that would be applicable outside of California and eligibility requirements that conflict with other programs designed to enhance the State's overall renewable resource mix.

The LADWP requests that this issue be more appropriately evaluated beyond the confines of a Staff Proposal for electricity retail provider GHG reporting protocols, and that additional workshop(s) be scheduled to specifically address contract shuffling and

leakage at a higher policy level as opposed to a technical reporting level. This issue is critical to the effective and successful implementation of AB 32. It is also important that unintended consequences be minimized, particularly for renewables policies and impacts on low-income and minority communities.

1. The Reporting Protocols Should Be Adopted In a Manner that Recognizes Broader Regional and National GHG Emission Reduction Policy and Long-Term 2050 Emission Reduction Horizon

The LADWP believes that the Staff Proposal takes too narrow of an approach on GHG emission reduction policy by assuming that a GHG program will remain a California-only effort into the future. An effective GHG emission reduction policy is one that includes broad coverage and effectuates emission reductions over the long-term without penalizing any particular sector or region unnecessarily.

The criterion of "expandability" as noted in Section 2.3.7 recognizes the need to track emissions to avoid double-counting. Under a broader effort such as the Western Regional Climate Action Initiative (WRCAI), the potential for double-counting clean generation resources would be minimized. The WRCAI now includes Arizona, California, Oregon, Washington, New Mexico, Utah, British Columbia, and Manitoba. The WRCAI Memorandum of Understanding includes the following commitments:

> 1) Setting an overall regional goal, within six months of the effective date of this initiative, to reduce emissions from our states collectively, consistent with state-by-state goals;
> 2) Developing, within eighteen months of the effective date of this agreement, a design for a regional market-based multi-sector mechanism, such as a load-based cap and trade program, to achieve the regional GHG reduction goal; and
> 3) Participating in a multi-state GHG registry to enable tracking, management, and crediting for entities that

reduce GHG emissions, consistent with state GHG reporting mechanisms and requirements.

In the U.S. Congress, there are several legislative proposals introduced and/or being developed to address GHG emissions at the national level. It is possible that a multi-sector program will be established at the national level in the near future. Given this possibility, the LADWP recommends that the mandatory reporting requirements proposed here to address contract shuffling take into account a broader coordinated effort that extends beyond California's borders and that extends beyond 2020 and recognizes that emission reductions through 2050 are necessary to reduce the impacts of global warming.

The LADWP supports the State's efforts to add additional western states to the WRCAI, such that GHG emission reductions are accounted for throughout the region and the potential for leakage and contract shuffling in the WECC is minimized. The LADWP does not support the Staff Proposal's approach to contract shuffling that would result in additional concerns as noted below.

2. **The Reporting Protocols Should Be Adopted In a Manner That Complements and Does Not Conflict with Efforts to Increase Renewable Resources Under a Renewable Portfolio Standard Program**

California has recognized the benefits and importance of providing more of its energy needs from renewable, sustainable resources, and in 2002 passed Senate Bill 1078 which implemented a Renewable Portfolio Standard (RPS) program for California Investor Owned Utilities (IOUs). In 2005, the LADWP approved its RPS framework that set a goal of increasing its supply of electricity from "eligible" renewable resources until a target portfolio level of 20 percent is reached by December 31, 2017, measured by the amount of electricity energy sales to retail customers.

The LADWP has made it a priority to shift our energy resource mix to cleaner resources and thereby reduce our carbon footprint. The LADWP accelerated its Renewable Portfolio Standard goal to 20% by 2010. On May 15, 2007, Mayor Antonio Villaraigosa released the "Green LA – An Action Plan to Lead the Nation in Fighting Global Warming" (GREEN LA Plan) that has an overall goal of reducing the City of Los Angeles' greenhouse gas emissions by 35% below 1990 levels by 2030. The cornerstone of the GREEN LA Plan is increasing the City's use of renewable energy to 35% by 2020.

The LADWP does not support a policy that would restrict our ability to shift our resource mix to cleaner and more sustainable low- and zero-GHG resources, regardless of whether they are 1) new or existing, or 2) in-state or out-of-state. Such restrictions would severely hinder our ability to meet both RPS and GHG goals due to the long-term financial commitments and planning required years in advance of new renewable projects coming on-line. The LADWP is investing aggressively in new renewable generation resources, and is also investing in existing renewable generation to meet near-term RPS goals. It is imperative that we continue to invest in both if we are to effectively shift our generation mix to more sustainable resources.

It does not appear that AB 32 gives the State the authority to approve or disapprove such contracts, as suggested by the Staff Proposal, "The proposed protocol attempts to deal with this possibility [contract shuffling] by imposing conditions on new claims to the generation of existing facilities." (Page 36). However, AB 32 is intended to regulate only statewide greenhouse gas emissions, which is defined as the "...total annual emissions of greenhouse gases in the state, including all emissions of

greenhouse gases from the generation of electricity delivered to and *consumed* in California [emphasis added]." Instead, the LADWP supports the State's efforts to work with other states to develop a WECC-wide generation information system that would allow regulators to identify power that has been sold for another purpose, and thereby minimize leakage and contract shuffling.

3. **The Reporting Protocols Should Not Arbitrarily Delineate Between New and Existing Renewable and/or Low-/Zero-GHG Generation Resources**

It is unclear how to appropriately delineate between what is considered a new resource and an existing resource, and when a new resource becomes an existing resource over time. The Staff Proposal states, "For example, claims to a specific new facility might be permitted if a long-term PPA [Power Purchase Agreement] is signed between a retail provider and a developer prior to a plant's construction. The imposition of a pre-construction condition is to demonstrate a causal link between the retail provider and the addition of specified new capacity." (Page 12).

This arbitrary delineation would conflict with the criterion of minimizing unintended consequences as set forth in Section 2.3.5. Under this scenario, existing low- or zero-GHG resources would be characterized as "AB 32 non-compliant resources." Parties that already invested in renewable or low- or zero-GHG resources (i.e. "existing" resources) would not be able to take advantage of the growing demand by California for cleaner generation, because retail providers like LADWP would be disincentivized from entering into contracts for that existing clean generation, only because it would be classified as "existing" and therefore non-compliant.

4. The Reporting Protocols Should Avoid Creating a Two-Tiered Renewables Standard

The Staff Proposal's approach has the potential to create a two-tiered renewables standard in which one type of renewables (i.e. existing) would be acceptable for meeting compliance with RPS goals and a second type of renewables (i.e. new) would be acceptable for meeting compliance with GHG goals. Such an approach is unnecessary and impractical, and would place certain renewable energy projects at a disadvantage in the marketplace.

5. The Reporting Protocols Should Avoid Placing California Ratepayers At An Economic Disadvantage and Impact Grid Reliability

The approach to contract shuffling outlined in the Staff Proposal would place California at a significant economic disadvantage and impact the power grid reliability by placing restrictions on resources planning and portfolio management. Under SB 1368, the CEC and CPUC recently adopted the GHG Emissions Performance Standards for POUs and LSEs respectively. The EPS established the emissions criteria at 1,100 lbs/MWh for all new financial investments in baseload generation. The EPS effectively restricts long-term financial investments to cleaner generation resources. Placing additional restrictions on limited available clean generation in the WECC would result in California ratepayers paying significantly higher prices for limited clean generation or eliminating the limited options that are available. This is of particular concern to the LADWP that serves a large portion of low-income and minority communities that would shoulder the burden of these additional costs for compliance. Such environmental justice impacts on these communities would result in unintended consequences that must be minimized.

As more utilities accelerate the development of renewable resources, the resistance to development of the resources and the transmission lines required to transport these resources continues to increase. Without the additional renewable resources, the utility sector will not have the alternative resources available to replace the higher GHG resources and will find difficulty meeting the grid reliability requirements. LADWP does not support placing arbitrary restrictions on clean generation.

VI. CONCLUSION

The LADWP appreciates the opportunity to provide these opening comments to the CPUC and CEC for your consideration.

Dated: July 2, 2007

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the attached:

COMMENTS OF THE
LOS ANGELES DEPARTMENT OF WATER AND POWER ON THE
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on all known parties to R.06-04-009 by transmitting an e-mail message with the document attached to each party named in the official service list. I served a copy of the document on those without e-mail addresses by mailing the document by first-class mail addressed as follows:

See attached service list

Executed this 2nd day of July 2007, at Los Angeles, California.

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