

September 7, 2010

Ratepayers Advocate Term Sheet*

Role

The Office of the Ratepayers Advocate (the "Ratepayers Advocate") will review and analyze the operations, finances, and management, of the Department of Water and Power as well as other matters not explicitly excluded from its role.

Such review and analysis will be done on a timely and continuous basis.

In addition to all matters relating to rates and the reliability and quality of service, the Ratepayers Advocate would have the right to review and analyze, among other matters, DWP's credit rating; its long term strategy; the Integrated Resources Plan; the Urban Water Management Plan; the Recycled Water Master Plan; the state of its infrastructure and information technology systems; its Customer Relation Management systems; the implementation of the recommendations of the IEA Survey and Independent Fiscal Review; the efficiency of its operations; its procurement, contracting, and inventory policies; its relationship with the City and its departments; and all material contracts, including those with the Metropolitan Water District and its unions.

The Ratepayers Advocate will not set rates or policy, will not select the General Manager or any Commissioner, and will not determine the Transfer to the City, but may review, analyze, and comment on such matters. The Ratepayers Advocate will not make management decisions. The Ratepayers Advocate is not required to review individual customer complaints, but may so at its discretion.

The Ratepayers Advocate will not have the subpoena and prosecutor powers of an Inspector General; provided, however, that DWP provides the Ratepayers Advocate with all requested information on a timely basis.

The Ratepayers Advocate will have a "seat at the table" at any meeting of the Board of Commissioners or any of its committee and at any City Council meeting or any of its committees when the DWP is being discussed. The Ratepayers Advocate will be given equal time.

The DWP will cooperate fully with and assist as necessary the Ratepayers Advocate.

The Ratepayers Advocate will be a source of objective information for Ratepayers, the City Council, the Mayor, and other City officials and stakeholders.

Funding

The DWP will provide funding equal to 0.1% of annual revenues, payable quarterly in advance. Funds not used may be accumulated, but shall not exceed 0.3% of annual revenues.

Additional funds may be required based upon extraordinary requests by DWP or elected officials or their representatives. Such additional funds must be approved in advance by DWP.

Reporting

The Ratepayers Advocate will not report to any elected official or body consisting of elected officials or appointed by elected officials. The Controller, the City Council, the Mayor and the Mayor's office, the City Administrative Officer, the Chief Legislative Analyst, the DWP Board of Commissioners, and Neighborhood Councils are therefore not eligible.

The Ratepayers Advocate will report to the Ratepayers Advocate Board of Commissioners on a frequent basis.

The Ratepayers Advocate Board of Commissioners will consist of five independent members: two homeowners, two from the business community, and one from the rental community.

Commissioners may not be a city, county, or state employee, consultant, lobbyist, or contractor, or any of their employees or union members; any elected politician (or candidate) who has been in office during the last 10 years; and any officer, past or present, of any political party.

Commissioners will be residents of Los Angeles and DWP customers whose obligations are current.

Commissioners will be chosen by the Mayor from a pool of qualified candidates determined by the Neighborhood Councils, the business community, and the multifamily community, subject to the approval of the City Council. There will be three candidates for each position.

Qualified candidates must demonstrate a level of knowledge and/or experience of large organizations, finance, management, and/or engineering.

The Commissioners will serve five year staggered terms. However, the initial commissioners will serve terms of one, two, three, four and five year terms. Commissioners may not be removed unless the removal is approved by the mayor and at least 11 Council Members.

The Commissioners will approve the selection of the Executive Director of the Ratepayers Advocate.

Commissioners will be consulted on the hiring of staff and any consultants.

The Executive Director may be removed if approved by four of the Commissioners and confirmed by the Mayor and a majority of the City Council

Ratepayers Advocate

The Executive Director of the Ratepayers Advocate will have the necessary expertise and experience to lead an organization charged with fulfilling the role of the Ratepayers Advocate.

The City will retain a qualified executive recruiter to assist the City in finding a qualified candidate.

Outreach

The office of the Ratepayers Advocate will maintain a fully functional website where it will post its findings on a timely basis.

The Ratepayers Advocate will meet at least six times a year with the Neighborhood Councils and other ratepayers in an effort to keep them fully informed about past, current, and future policies of the DWP, especially as it relates to rates and quality and reliability of service.

Location

The location of the Ratepayers Advocate will be determined by the Executive Director in consultation with the Commissioners.

Budget

The Executive Director will prepare an annual budget to be approved by the Board of Commissioners.

The Executive Director will also prepare a multiyear budget.

The compensation of the Executive Director and her/his staff will need to be adequate to attract personnel from the private sector that have the requisite skills.

The Ratepayers Advocate will be required to fund only the normal costs related to pensions and medical benefits.

Charter

The Ratepayers Advocate will part of the City Charter if approved by a majority of the voters in the March 2011 election.

There will be no sunset provisions.

The Ratepayers Advocate will not be subject to the competitive bidding policies of the City.

*** Approved by DWP Committee and LA Neighborhood Council Coalition**

Transparency for the INDEPENDENT Ratepayers Advocate

The most important aspect to insuring the independence of the Office of the Ratepayers Advocate is that it has the trust and confidence of the Ratepayers, the Neighborhood Councils, the City Council, and other constituencies.

And the building of that trust and confidence starts NOW.

This will require that establishment of the Ratepayers Advocate be done in an open and transparent manner with the participation of the Neighborhood Councils and residential and commercial Ratepayers. This open process will be needed to protect the Ratepayers Advocate from undue political and bureaucratic pressures, to provide the proper level of funding, and to define its role to insure the proper oversight of the operations, business, finances and management of the Department of Water & Power on a timely and continuous basis.

Unfortunately, the DWP wants to hijack the process. It unilaterally established the Ratepayers Advocate Advisory Panel, consisting of two lobbyists from the business community, an environmentalist, and a member of the Neighborhood Council DWP Oversight Committee as well as Cecilia Weldon, the Chief Administrative Officer of DWP.

However, Stuart Waldman, the President of the Valley Industry & Commerce Association, has a blatant conflict of interest: Lee Kanon Alpert, the President of the politically appointed, serve at will DWP Board of Commissioners, is on the Board of Governors of VICA. But this did not deter the Sacramento trained Waldman, a man with multiple agendas, from pushing for a limited, underfunded Ratepayers Advocate that was outlined in the June 10, 2010 memorandum. However, this memo was rejected by the Board of Commissioners in July.

Furthermore, DWP's plan to co-opt the process and to limit the role and funding of the Ratepayers Advocate is also seen in the agenda that was concocted by DWP for the first meeting on August 12 and the subsequent, prearranged press release that was handed to the participants at the end of the meeting, leaving little time for adequate comments.

This DWP led panel even had the unmitigated gall to assume that it would select the Executive Director of the Office of the Ratepayers Advocate!

DWP's delaying strategy and utter disdain for the Ratepayers and City Council is also evidenced by the fact that the next meeting of the Advisory Panel is scheduled for September 23, six weeks after the first two hour meeting on August 12.

On the other hand, there is a DWP Reform Hearing on Tuesday, September 7 at 6 PM at the Mar Vista Recreational Center, hosted by Bill Rosendahl, where Council Members Perry, Garcetti, Smith, and Wesson will solicit input about the Ratepayers Advocate and other potential ballot measures to increase the transparency and accountability of the DWP.

However, it would be useful if the Council Members would provide the Ratepayers and the public with specific feedback on the Ratepayers Advocate Term Sheet that was approved unanimously by both the DWP Committee and the Los Angeles Neighborhood Council Coalition.

What are the Council Members views on the role and funding of the Ratepayers Advocate and their thoughts on an independent Board of Commissioners consisting of Ratepayers from the residential, commercial, and multifamily communities?

One prevalent and major concern that has been expressed in many Neighborhood Councils is that the drafting of the ballot measure will go into the bowels of City Hall where it will be influenced by the DWP, the IBEW, the City bureaucracy, and other special interest lobbyists without any input from the Neighborhood Councils and residential and commercial Ratepayers. This will put Ratepayers in a reactive situation which will have the potential to poison the potential success of the Ratepayers Advocate.

Rather, the Neighborhood Councils and the Ratepayer community need to be intimately involved in the entire process to insure an open and transparent process, including the drafting of the ballot measure to the selection of the Executive Director of the Office of the Ratepayers Advocate.

After all, DWP needs a win, not another public controversy that will further soil its reputation.

Questions to be addressed in regard to a DWP Ratepayers Advocate

- a. MISSION SCOPE OF THE OFFICE OF RATEPAYERS ADVOCATE
This will include where the Office will be placed, e.g. City Controller's Office, Chief Administrative Officer, etc., and what it can do.
- b. QUALIFICATIONS, DUTIES, RESPONSIBILITIES, SELECTION AND COMPENSATION OF THE RATEPAYERS ADVOCATE
Should there be a volunteer panel to assist in the selection of the Ratepayer Advocate? If so, how would that panel be established?
How are needs for additional staff determined? How is additional staff selected?
- c. REPORTING FUNCTIONS AND REQUIREMENTS OF THE OFFICE OF THE RATEPAYERS ADVOCATE
Shall the Office of the Ratepayer Advocate have the power to investigate and report any "significant matters" involving the DWP? To whom may the Ratepayer Advocate deliver reports? – the General Manager, the Board, the Mayor, the City Council, the public?
- d. INTERFACE WITH THE BOARD OF COMMISSIONERS
Should the Board of Commissioners adopt a rule that allows the Ratepayers Advocate to have as much time as the DWP staff to address the Board on "significant matters?"
- e. OUTREACH TO THE COMMUNITY AND RATEPAYERS
Should the Office of the Ratepayers Advocate provide information and accept comments from to the public?
- f. DWP RESPONSIBILITIES TO SUPPORT THE OFFICE OF THE RATEPAYERS ADVOCATE
Should the staff of the DWP be required to provide data, information and other support to the Office of the Ratepayer Advocate?
- g. FUNDING LEVEL AND INDEPENDENCE OF THE FUNDING
What should the level of funding be? How can the Office of Ratepayer Advocate be protected from arbitrary changes in this level of funding?

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