


ITEM 9 - RECOMMENDATIONS 2 AND 3

CLA Memorandum

Date: November 2, 2010

To: Honorable Members
Los Angeles City Council

From: Gerry F. Miller, Chief Legislative Analyst 

Subject: **LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP)
OVERSIGHT REFORM**

Pursuant to the instructions of your Rules and Elections and Energy and Environment Committees, attached is proposed language for your consideration in two areas:

Recommendation 9(2):

Board Member Qualifications. The Committees recommended increasing the size of the Board of Water and Power Commissioners to seven members. The attached provides that four of the seven members must have experience in one or more of the listed areas. This language attempts to strike a balance between the concept of a Citizens' Commission and the Committees' desire to identify Board member expertise important for effective LADWP oversight. Should the Council wish to retain the size of the Board at five members, the language could be amended to specify that three of the five members must have expertise in the listed areas. It should be noted that some concern was expressed relative to having elected Neighborhood Council Board Members serve on the LADWP Board. Resolution of this issue will be necessary for purposes of drafting the ballot measure.

Recommendation 9(3):

Office of Public Accountability (OPA): The attached language creates the office under the Board of Water and Power Commissioners and includes provisions for how the head of the office is appointed, expresses the broad authority to be included in the Charter, and establishes the budgeting process for the OPA. It also makes it clear that the powers and duties of the City Controller under the Charter are in no way impacted by the establishment of the OPA. Many of the details of the operations of the OPA would be established by ordinance rather than included in the Charter to provide sufficient flexibility to adjust details over time without having to amend the Charter.

Finally, as indicated in the joint CLA/CAO report of October 26, the Council will need to determine the effective date of the changes. An effective date of July 1, 2011 should be achievable.

GFM:djc/gfmwp01.wpd

Attachments

ITEM 9 RECOMMENDATION 2

Board of Water and Power Commissioner Qualifications/Areas of expertise

Four of the seven Commissioner appointments shall have expertise in one or more of the following areas:

- *Utility - experience in water and/or energy policy and operations;*
- *Labor - experience in labor management and/or labor law;*
- *Business/Commerce - experience in operating a business (corporate/small), finance/real estate;*
- *Environment - experience in water and/or energy environmental policy; and*
- *Community Organization - experience in community organization, including but not limited to Neighborhood Councils/homeowner associations [Concern was expressed regarding the appointment of elected Neighborhood Council representatives on the Board of Water and Power Commissioners - this issue needs to be resolved]*

ITEM 9 RECOMMENDATION 3

LADWP - OFFICE OF PUBLIC ACCOUNTABILITY Proposed Charter Language

- A. There is hereby established the Office of Public Accountability (OPA). The role of the OPA shall be to promote efficiency and effectiveness at the LADWP, provide a centralized focus on ratepayer protection and consumer complaints, and provide independent analysis of LADWP actions, particularly as they relate to water and electricity rate actions. The role of the OPA shall not solely be to ensure lower rates, but shall be to provide expert advice on rate actions and strategies which most economically accomplish the City's policy goals and protect the LADWP's long-term interests.
- B. The Office of Public Accountability (OPA) shall:
- (i) Report directly to the Board of Water and Power Commissioners;
 - (ii) Be headed by an Executive Director, who shall be appointed by a committee of City stakeholders and be confirmed by the Council and Mayor;
 - (iii) Include an Inspector General and Ratepayer Advocate;
 - (iv) Have access to all LADWP Board Members, officers, employees and contractors as necessary and unrestricted access to all records, reports, audits, files, correspondence and data necessary to fulfill its responsibilities;
 - (v) Make regular periodic public reports on LADWP operations.
- C. The Executive Director of the OPA shall be exempt from Civil Service. The Executive Director of the OPA shall be the appointing authority for all positions within the OPA.
- D. The City Council shall, by ordinance, establish the operating provisions of the OPA which shall include, at a minimum: the make-up of the City stakeholder committee which shall appoint the Executive Director subject to confirmation by the Council and Mayor; the duties and responsibilities and restrictions on the duties and responsibilities of the OPA; reporting requirements and schedules; and, consumer protection and complaint procedures;
- E. By December 31 of each year, the CAO, in consultation with the LADWP and other departments and offices as necessary, shall prepare the budget for the OPA for the fiscal year beginning on July 1 of the following calendar year, and submit it to the City Council

for approval.

(I) The budget shall, at a minimum, equal one-tenth-of-one-percent (.1%) of annual LADWP revenues from sale of water and sale of electric energy.

(ii) Upon approval by a majority of the Council with the concurrence of the Mayor, or in the event of a Mayoral veto, two-thirds of the Council, the LADWP shall include the approved OPA budget in the departmental budget for the coming fiscal year.

(iii) Should the City Council fail to act on the OPA budget, or in the event of a Mayoral veto which is not overridden by a two-thirds vote of the City Council, the LADWP shall include in the departmental budget for the coming fiscal year a budget for the OPA which shall equal one-tenth-of-one-percent (.1%) of annual LADWP revenues from sale of water and sale of electric energy.

F. Nothing herein shall supercede any other sections of the City Charter granting the City Controller the powers and duties to conduct fiscal and performance audits of the LADWP.