

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Council File No.

Council District:

To: The Mayor and Council

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Department of Water and Power dated December 7, 2011; referred for report

Subject: **PROPOSED ADDITION OF SECTION 10.5.2 TO THE LOS ANGELES ADMINISTRATIVE CODE FOR THE PURCHASE OF LOCAL RENEWABLE ENERGY AND ASSOCIATED INTERCONNECTION AGREEMENTS BY THE DEPARTMENT OF WATER AND POWER**

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### SUMMARY

The Department of Water and Power (DWP; Department) requests approval of a proposed resolution to add Section 10.5 .22, Article 1 of Chapter 1 of Division, 10 to the Los Angeles Administrative Code (LAAC)\* to allow the Board of Water and Power Commissioners (Board) to enter into long-term, standard offer renewable power purchase agreements and interconnection agreements for a term of up to 25 years for the purchase of locally distributed renewable energy without further review by the Council. The proposed Resolution would also permit the Board to delegate this authority to the General Manager. Currently, the LAAC allows for the General Manager of the DWP to enter into contracts for energy efficiency projects, utility infrastructure projects, water conservation, solar energy projects and grid interconnection and operational reliability contracts. However, there is no authority currently available to enter into a small long-term, standard renewable power purchase contracts, for a term of up to 25 years.

The addition of these changes in the LAAC will ease the implementation of the Feed-In-Tariff (FIT) Program under Senate Bill 32 (SB 32), as well as any demonstration program adopted to facilitate the development of such a program. Without such an ordinance, DWP states that it would not be practical to individually bring potentially hundreds of agreements for approval to Council within the timeframe that will be required, based on their observation of other existing programs. Under Senate Bill 32, signed into law by the Governor of California on October 11, 2009, DWP is mandated to make a tariff (schedule of utility rates) available for eligible renewable electric generation facilities meeting certain size deliverability and interconnection requirements within its service territory until DWP meets the 75 MegaWatts (MW) share of the statewide mandate. Through this program, owners or operators of renewable energy generating systems, up to 3 MW in size, may sell their energy directly to DWP. The purchase of energy will include all environmental attributes, capacity rights, and renewable energy credits of which all will apply towards DWP's 33 percent 2020 Renewable Portfolio Standards (RPS) requirement.

\*Revised by the City Attorney

Council approval of this request is needed pursuant to Charter Sections 604(c), "General Managers Powers and Duties," and Section 373, "Long Term Contracts Approved by Council," since the proposal provides the DWP General Manager additional authority to enter long term contracts or financial transactions that may exceed three years. The City Attorney has approved the proposed resolution as to form and legality.

## BACKGROUND

The FIT stems from state legislation mandating an offering of a feed-in-tariff by state utilities. The original legislation (A.B. 1969 and SB 380, passed in 2006 and 2008, respectively) limited FIT programs to specific types of generators or utilities. In 2009, SB 32 expanded the requirement to publicly owned utilities, including DWP. SB 32 requires California utilities to offer a share of a 750 MW target based on each utility's contribution to the overall the state electrical demand. For DWP, this is approximately 75 MW.

The key provisions of SB 32 are:

- Electrical generation from eligible renewable energy resources must be within the utility service territory.
- A utility may make the terms of the tariff available to owners and operators of an electrical generation facility in the form of the standard contract.
- Energy payments for electricity generated by renewable technologies should recognize the environmental attributes of the renewable technology, the characteristics that contribute to peak electrical demand reduction will reduce transmission congestion, avoid additional transmission lines, and provide relief to the local distribution system in the manner that accelerates the deployment of renewable energy sources.
- All renewable energy purchases shall be delivered directly to the electrical grid and shall count towards the utility's renewable portfolio standard.
- A project shall be strategically located and interconnected to the electrical transmission and distribution grids in a manner that optimizes the delivery of electricity generated at the facility to load centers.
- A project may be denied access to the transmission or distribution grid that would serve as the point of interconnection if it is inadequate.

The DWP has developed a series of principles regarding implementation of the program. These principles are: 1) **reliability** to maintain the LA DWP electric grid; 2) **cost effectiveness** to control costs for the customers overall; 3) **dependability** to ensure the project will be built and contribute to the RPS target; 4) **sustainability** for steady program growth over time; and 5) **transparency** to develop a streamlined and clear participation process. These provisions will ensure the DWP's guiding principles for the program are obtained.

The FIT program provides for a renewable resource plan, which can be implemented in the DWP area on a small scale basis and provide job opportunities as well as using the available rooftop space on large buildings. DWP reports that the Council approval constitutes approval of the use of various renewable resources to comply with SB 32 program and for the purposes of DWP; the solar FIT program is the only one that applies. In addition, the resolution does state that the purchase price of a

FIT project shall not exceed a maximum of \$300 per megawatt hour or maximum of \$.30 per kilowatt hour.

## DEMONSTRATION PILOT PROGRAM

Under FIT, DWP seeks to purchase energy from small and medium scale solar electric projects within the service territory under a long-term Standard Offer Power Purchase Agreements (SOPPA). These SOPPA terms are for all participants, will have 20 year terms, and participants will be paid the price of energy which is valued at the time of delivery (day time is more expensive). FIT is a generation program designed to have customer-owned load centers, which provide DWP customers the opportunity to sell energy to DWP by using their property as a generation site. The purpose of the demonstration program is to test and fine-tune the program structure and elements to ensure a successful future feed-in-tariff program.

DWP has conducted a study to compute the cost of a 10 MW demonstration pilot program for the first year and determined that the purchase price (for DWP) set forth in every contract should not exceed a projected average cost of \$.18 per kilowatt hour (kWh). The average annual cost for the 10 MW demonstration project will be \$3 million and the net revenue requirement will be \$1.7 million. The rate adjustment required for the 10 MW demonstration project will be minimal and in fact would be .00007, which means that the Department can absorb the cost in the current 2011–12 Budget.

The DWP annual costs are composed of 95% energy payment to participants and 5% administrative costs. DWP will enter into fixed-price power purchase agreements for up to 20 years, pricing will be equal to the successful, competitively, priced applicant's offer. Due to the competitive market of solar energy, the price cannot be predicted; consequently, the cost is not projected to exceed \$.18 per kilowatt hour. The City Attorney has determined that a competitive pricing element is not inconsistent with SB 32. There is a DWP fee schedule as part of the application process, which consists of administrative fees, including an interconnection study as well as a development deposit. The fees range from \$2,000 to \$3,000 depending on the size of the project.

The application process includes an 18 month construction timeline as well as six months for the application interconnection study and agreement execution for a total of 24 months at a minimum, from the time of application to commercial operation date. DWP estimates that the 10 MW energy deliveries could begin by the end of 2013 at the earliest. However, any unforeseen issues or problems would delay the operational date. Therefore, DWP's proposed request includes a 25 year power purchase agreement term instead of 20 years from the effective date, which will be included in the actual FIT Agreement term. The extra five years will allow DWP to go through the application process and construction process before the actual twenty-year power purchase agreement goes into effect.

## THE REMAINING 75 MW FIT PROGRAM

DWP states that the full FIT implementation plan, of 75 MW, will take another 18 months to implement and will consist of entering into contractual agreements for an additional 15 MW by 2014, 25 MW by 2015 and 25 MW by 2016. This proposed FIT program schedule will allow DWP to comply with SB 32 and will allow enough time to complete the application and construction process as required by the program implementation steps. The 10 MW demonstration program will be the model for the remaining 75 MW program offering, especially the competitive pricing aspect of the program.

## DELEGATION OF AUTHORITY TO THE BOARD OF WATER AND POWER COMMISSIONERS

DWP also requests that the Board be authorized to approve the program guidelines, the individual standard power purchase agreements, and interconnection agreements. Furthermore, DWP requests that the Board delegate this authority to the general manager to enter into the power purchase agreements because of the uncertainty of the number of application submissions that are anticipated on an ongoing continuous basis, and streamlining the process would benefit the applicants and expedite the timeline required to complete the FIT program. In addition, the ordinance will specify that this approval is only for small projects from 1 to 3 MW in size and they must be owners or operators that sell directly to DWP.

An enabling ordinance submitted by the City Attorney includes specific provisions that must be abided by in order for the Board and the General Manager of DWP to be able to enter into the purchased power agreements. The following key provisions include:

- The size of the local renewable energy purchase program shall not exceed 150 MW cumulative rated generation capacity.
- The purchase price set forth in every contract shall not exceed an average of \$300 per megawatt hour (or a maximum of \$.30 per kilowatt hour).
- The generation facility must be located within the electric service territory of the DWP,
  - have an effective capacity of not more than 3 MW,
  - be interconnected and operate in parallel with the electrical distribution grid of DWP, comply with all applicable laws and building standards and utility Internet connection requirements,
  - all energy generated by such renewable electric generation facility and associated environmental attributes, including renewable energy certificates (RDC), shall be eligible to be credited against the renewable portfolio standard implemented by DWP pursuant to Section 399.30 of the California Public utilities code, and;
  - the renewable electric generation facility must demonstrate site control for the term of the contract.

DWP states that the provisions within the ordinance approved by the City Council will provide the Department with enough direction and control to outline the process and ensure that the City program will be implemented as intended by the City Council and SB 32. Therefore, this Office recommends the DWP report back on a biannual basis to the City Council on the status of the program, the number of applicants, the number of installations, and the installed megawatts; as well as the status of complying with the SB 32 requirements.

The above mentioned aspects of the proposed resolution, and this report, include revised information received from the Department subsequent to the initial request submittal. This Section and Division of the LAAC that was included in the original Board report has been changed to Section 10.5.22, Article 1 of Chapter 1 of Division 10 as directed by the City Attorney per his letter dated February 21, 2012 (attached).

## **RECOMMENDATION**

That the Mayor and the Council:

1. Approve the Department of Water and Power proposed resolution to add Section 10.5 .22, Article 1 of Chapter 1 of Division, 10, by ordinance, to the Los Angeles Administrative Code providing to the Board of Water and Power Commissioners authority to enter into long-term, standard offer renewable energy purchase agreements and interconnection agreements for a term of up to 25 years for the purchase of local distributed renewable energy, without further review by Council; and permit the Board to delegate this authority to the General Manager;
2. Instruct the Department of Water and Power to report back to the City Council on a biannual basis as to the status of the FIT Program, including the number of applicants the number of installations, the number of installed megawatts and the progress on complying with the requirements of SB 32.

## **FISCAL IMPACT STATEMENT**

DWP's request for an ordinance for the purchase of long-term offers of renewable energy purchase contracts and interconnection agreements will result in an expenditure from the Power Revenue Fund and funded in each subsequent budget; however, it is not possible to determine the fiscal impact at this time due to fluctuations in the solar market. The FIT program will be funded in each subsequent budget. The proposed ordinance meets the requirements of the Department of Water and Power Debt Management Policies. Approval of the proposed resolution will have no impact on the City General Fund.

## **TIME LIMIT FOR COUNCIL ACTION**

The Charter does not specify a time limit for adoption of the Ordinance for this action by the Mayor and Council.