

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: May 9, 2012

CAO File No.: 0150-09759-0000

Council File No.:

Council District: NA

To: The Mayor and the City Council

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Department of Water and Power dated April 12, 2012; referred by the Mayor for report on April 24, 2012

Subject: **PROPOSED SETTLEMENT AGREEMENT WITH BP 11-028 BETWEEN THE LOS ANGELES DEPARTMENT OF WATER POWER AND SOUTHERN CALIFORNIA EDISON COMPANY FOR RESOLVING DISPUTES TO BILLINGS RELATED TO AGREEMENT NUMBERS 10078 AND 10306**

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### SUMMARY

The Department of Water and Power (DWP; Department) requests approval of a proposed resolution, which authorizes the Department to enter into Settlement Agreement BP 11-028 between DWP and Southern California Edison Company (SCE) regarding two Transmission Agreements (Nos. 10078 and 10306). The Settlement Agreement proposed by DWP will resolve all disputes and claims arising out of billing disputes related to the following two transmission service agreements:

- Edison Pacific Intertie D-C Transmission Facilities Agreement No. 10078.  
The D-C transmission facilities include the 500 kilovolts (kV) transmission line extending from the Nevada-Oregon border to the terminal facilities at the Sylmar converter station in Sylmar, California. Pursuant to the terms of the agreement, DWP charges SCE for their share of the operation and maintenance expenses equal to their percent share of the ownership of the transmission line (50 percent).
- Owens Valley Transmission Service Agreement (TSA) No. 10306.  
Under the Owens Valley Agreement DWP provided SCE 50 Megawatts (MW) of two-way transmission service between the Sylmar Switching Station in Sylmar, California and the Inyo Tie near Bishop, California. The reason for the dispute results from a rate increase effective January 1, 2001.

Pursuant to Charter Sections 373 and 674 (a) (1), for any power contract obligating the City or any department to receive payments of money for the transmission of electric energy, as provided by ordinance, shall first be approved by Council. The City Attorney has approved the proposed resolution and ordinance as to form and legality.

## Discussion

### Agreement No. 10078

On March 31, 1996 DWP and SCE entered into a Transmission Facilities Agreement extending transmission from the Nevada–Oregon Border to the terminal facilities at the Sylmar converter station in Sylmar, California. The transmission line included a 500 kV D–C line which is owned by a partnership of cities and SCE at various percentages and maintenance costs responsibilities. The percentage for SCE is 50 percent of all operation and maintenance expenses of the transmission facilities. In 2008, after SCE performed an audit of the billings by DWP, SCE filed a claim for damages in the amount of \$4.96 million stating that the DWP over-billed the operation and maintenance costs for the Energy Control Center (ECC). These alleged over-billings included the computation of usage costs, software amortization, switch yard usage, and the addition of helicopter depreciation expenses.

After negotiations, an agreement was reached for SCE to pay DWP approximately \$2.5 million (which includes the Owens Valley TSA payment) and DWP will not pay any funds to SCE. The resolution of the settlement included the following terms:

- All charges and claims related to the disputes prior to January 1, 2009 are waived and released but will not include any claims raised afterward;
- Going forward from January 1, 2009, the ECC allocated operation and maintenance costs will consist of 5.9 percent on a monthly basis for the DC facilities at the Nevada-Oregon Border and SCE agrees to pay 50 percent of those costs;
- New billing percentages were established for the switching station costs and percentages assigned to SCE;
- Helicopter depreciation expenses shall not be included because these are not used on a regular basis;
- There shall be no penalty or interest applied to any payment made by SCE to DWP pursuant to the agreement; and
- No later than 30 days following the acceptance of the amended Agreement by FERC, the DWP shall submit an invoice to SCE pursuant to the term of the Settlement Agreement.

### Agreement No. 10306

On October 5, 1989, DWP and SCE entered into the Edison–Los Angeles Owens Valley transmission service agreement between Sylmar switching station in Sylmar, California and Inyo Tie near Bishop, California at a rate of \$0.623 per kW per month. On October 11, 2000, DWP provided notice to SCE that the rate the transmission service would increase to \$3.74 per kW per month effective January 1, 2001. SCE subsequently terminated the Owens Valley Agreement effective March 26, 2001; however, SCE paid the lower transmission service rate of \$0.623 from January 1, 2001 to March 26, 2001 instead of their increased rate. The claim against SCE is for payment of the value of the increased increment of the rate for the three months of service.

The resolution of the Owens Valley TSA dispute over the proper transmission service to be charged to SCE by the DWP provides that SCE shall pay \$233,775 for the transmission service from January 1, 2001 through March 26, 2001. SCE agrees to submit such payment no later 30 days following acceptance of the amended Agreement by FERC. There shall be no interest or penalty applied any imminent made by DWP.

This Settlement Agreement constitutes the entire contract between the City and SCE with respect to this matter and supersedes all prior oral and written agreements and discussions, subject to the approval of the Board of Water and Power Commissioners and the City Council. In the event such approvals are not obtained by July 1, 2012, Southern California Edison reserves the right to withdraw from this Agreement.

## **RECOMMENDATION**

That the Mayor and Council:

Approve the proposed resolution and ordinance, which authorize, in accordance with Charter Sections 373 and 674 (a) (1), the Department to enter into the Settlement Agreement BP 11-028 between DWP and Southern California Edison Company (SCE) regarding two Transmission Agreements (Nos. 10078 and 10306). The settlement agreement proposed by the DWP will resolve all disputes and claims arising out of billing disputes related to the above-mentioned two transmission agreements.

## **FISCAL IMPACT STATEMENT**

Approval of the proposed resolution and ordinance will not have a negative fiscal impact; however, SCE will pay DWP approximately \$2.5 million for disputes related to both agreements. DWP will amend Agreement No. 100782 to incorporate the settlement terms related to it as a result of the negotiations. The Department's Debt Management Policy does not apply. Approval of the proposed resolution and ordinance will have no impact on the City's General Fund.

## **TIME LIMIT FOR COUNCIL ACTION**

The City Attorney has advised that there is no time limitation on this action due to the ordinance approval requirement; however, SCE reserves the right to withdraw from this Agreement if the approvals are not obtained by July 1, 2012.