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CITY ATTORNEY

REPORT NO. R 1 4 - 0 2 8 4

JUN 19 2014

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTION 23.133 OF ARTICLE 3 OF
CHAPTER 7 OF DIVISION 23 OF THE LOS ANGELES ADMINISTRATIVE CODE
APPROVING THE LOS ANGELES DEPARTMENT OF WATER AND POWER'S
OPEN ACCESS TRANSMISSION TARIFF AND PROVIDING THE BOARD
OF WATER AND POWER COMMISSIONERS THE AUTHORITY TO ENTER
INTO AGREEMENTS FOR INTERCONNECTING LARGE ELECTRIC GENERATING
FACILITIES TO THE LOS ANGELES DEPARTMENT OF WATER AND POWER'S
TRANSMISSION SYSTEM**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance: (1) amends Section 23.133 of Article 3 of Chapter 7 of Division 23 of the Los Angeles Administrative Code to allow the General Manager to execute transmission service agreements that do not exceed three years; (2) approves an amendment to the Los Angeles Department of Water and Power's (LADWP's) Open Access Transmission Tariff, DWP No. BP 01-017 (OATT); and (3) provides the Board of Water and Power Commissioners (Board) the authority to enter into agreements for interconnecting large electric generating facilities to LADWP's transmission system, subject to the limitations set forth in the ordinance.

Background

LADWP owns and operates its transmission system, dispatches its generation resources, and makes long-term power supply arrangements to meet its native load

service obligations. To the extent there is transmission capacity available in excess of native load needs, the amount of available capacity may be made available to eligible transmission customers through its OATT. The OATT allows LADWP to generate revenue from the use of available transmission capacity on its system.

On March 13, 2002, the City Council approved the existing OATT. Los Angeles Administrative Code (LAAC) Section 23.133 currently allows the General Manager to execute transmission service agreements that do not exceed one year pursuant to the OATT.

The ordinance amends LAAC Section 23.133 to allow the General Manager to execute transmission service agreements up to three years and updates the standard rates, terms and conditions for open access transmission service to conform to the City Charter and operational requirements, as well as obligations pursuant to the North American Reliability Corporation and Western Electric Coordinating Council. The amended OATT includes standard procedures and a standard agreement for interconnecting new electric generating facilities with capacity greater than 20 megawatts to the transmission grid owned, controlled and operated by LADWP.

Although LADWP is a municipal utility that is not generally subject to Federal Energy Regulatory Commission jurisdiction over LADWP rates for wholesale sales or over rates for transmission service in interstate commerce, LADWP voluntarily provides open access transmission and interconnection services on a comparable and non-discriminatory basis to all qualified transmission and interconnection service customers. LADWP has revised the rates for transmission and ancillary services based on a current cost of service study through a stakeholder process.

Charter Requirements

Charter Section 674(a)(1) provides that, subject to approval by ordinance, the Board has the power to contract with the United States, or any of its agencies, any state or state agency, and any corporation, public or private, located inside or outside of the City or State of California for the construction, ownership, operation and maintenance of facilities for the generation, transformation and transmission of electric energy. Charter Section 604(c) provides that the Board may delegate to the General Manager authority to contract on behalf of LADWP where the contract does not involve payment or receipt of money or consideration reasonably valued in excess of a monetary limit provided by ordinance.

Pursuant to LAAC Section 23.134, the Board has the authority to establish and set tariffs, terms, conditions and charges which relate to transmission services, subject to approval by a simple majority vote of the City Council.

CEQA Findings

In accordance with the California Environmental Quality Act (CEQA), it has been determined that LADWP's Amendment to the OATT is exempt from further requirements under the Los Angeles City CEQA Guidelines, Article III, Section 1. General Exemptions apply in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Council Rule 38 Referral

This draft ordinance has been presented to the Board of Water and Power Commissioners pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Deputy City Attorney Syndi Driscoll at (213) 367-4363. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM/SD:me
Transmittal

ORDINANCE NO. _____

An ordinance amending Section 23.133 of Article 3 of Chapter 7 of Division 23 of the Los Angeles Administrative Code, approving the Los Angeles Department of Water and Power's Open Access Transmission Tariff, and providing the Board of Water and Power Commissioners the authority to enter into agreements for interconnecting large electric generating facilities to the Los Angeles Department of Water and Power's Transmission System

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (a) of Section 23.133 of Article 3 of Chapter 7 of Division 23 of the Los Angeles Administrative Code is amended to read as follows:

(a) Notwithstanding any other ordinance, rule or law of the City of Los Angeles to the contrary, the Board of Water and Power Commissioners (Board) under the authority of Charter Section 604(c) is authorized to delegate to the General Manager, the authority to enter into any transmission service agreement which does not exceed three years in duration where the terms, conditions, and charges are pursuant to a transmission service tariff approved by the City Council.

Sec. 2. Notwithstanding any other ordinance, rule, law or procedure and pursuant to Section 23.134 of the Los Angeles Administrative Code, the Open Access Transmission Tariff (OATT), DWP No. BP 01-017, as amended to update the tariffs, terms, conditions and charges for transmission and ancillary services and include the standard Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA) and appendices thereto for the interconnection of large electric generating facilities having a capacity greater than twenty megawatts (20 MW) to the transmission grid owned, controlled and operated by the Los Angeles Department of Water and Power, approved by the Board of Water and Power Commissioners (Board) by the adoption of Resolution No. 014-226, a copy of which is on file with the City Clerk, is hereby approved, and the execution of any agreement pursuant to such OATT is authorized subject to the limitations set forth in Section 23.133 of the Los Angeles Administrative Code and this ordinance.

Sec. 3. Notwithstanding any other ordinance, rule, law or procedure to the contrary, the Board shall have independent authority to enter into Large Generator Interconnection Agreements for the interconnection of large electric generating facilities having a capacity greater than 20 MW to the transmission grid owned, controlled and operated by the Los Angeles Department of Water and Power substantially in the form of the standard LGIA that is included in the OATT, without further City Council approval. Each such Large Generator Interconnection Agreement shall have a minimum term of ten years and automatically renew for successive one-year periods unless it is terminated earlier pursuant to the terms of the LGIA, or the generating facility

permanently ceases commercial operation, subject to the applicable procedures, terms, conditions, and charges of the OATT.

Sec. 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or the OATT is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance and the OATT. The City Council hereby declares that it would have adopted this ordinance and the OATT and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions is declared invalid or unconstitutional.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with City Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, Interim City Clerk


By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
SYNDI DRISCOLL
Deputy City Attorney

Date JUN 19 2014

File No. _____