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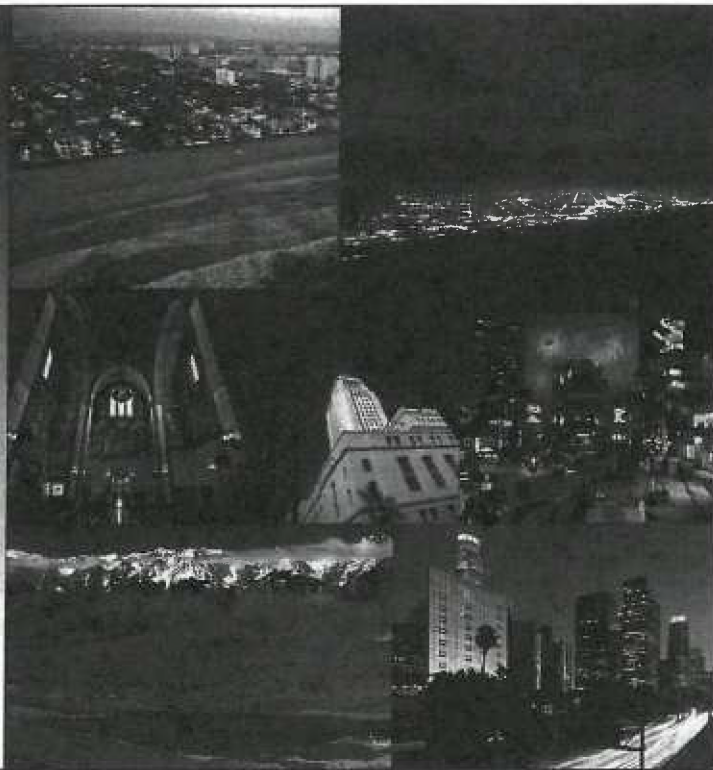
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Review of the 2015 LADWP Power & Water Rate Proposals

Office of Public
Accountability /
Ratepayer Advocate,
City of Los Angeles
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opa.lacity.org

March 2, 2016



R	E C E I V E
	MAR - 2 2016
By _____	

Summary of OPA's Rate Opinion

- ☐ Power & Water Rates Review
 - OPA's Review and Opinion
 - Continuing Challenge to Perform
 - Projected Rates
 - Performance Targets and Rate Adjustments:
"Use 'em or lose 'em"
- ☐ Increasing Transparency:
 - Public Trust
 - Labor and Productivity
- ☐ Findings & Recommendations
- ☐ Reference:
 - commercial and industrial rates,
 - multi-family water rate



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Timeline on Water & Power Rates & Reviews

- ❑ Last Increase to Base Rate: 2013 Power, 2009 Water
- ❑ Last rate review: 2012 for both Water & Power, Water withdrawn
- ❑ OPA/DWP regular meetings: Mid-2013 to present
- ❑ Rate proposal put on hold: Early 2014
- ❑ Discussion on 3 vs 5 year rate proposal: Late 2014
- ❑ Rate proposal re-initiated: July 2015
- ❑ DWP draft rates report: August 2015
- ❑ DWP draft ordinance: September 2015
- ❑ Updated financial plan, rates & ordinance: Published late Nov 2015
- ❑ Modified financial plan, rates & ordinance: Dec 6 Water, Dec 29 Power
- ❑ OPA Review with Navigant report: Dec 11 Water, Jan 15 Power
- ❑ DWP Board approved power rates: Dec 15 Water, Jan 19 Power



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OPA's Review and Opinion

- ❑ What is "Reasonableness?"
 - Are rates equitable to the many competing interests?
 - Are customer costs connected to the provision of reliable service?
 - Are the allocation of the costs non-discriminatory?
- ❑ OPA's Review
 - Assisted by specialized national expert, Navigant
 - Coordinated with many LADWP staff & management meetings
 - Included rate report, ordinance and financial plans
 - Improving transparency: labor, other issues, assisted by Oliver Wyman
- ❑ **Opinion: LADWP's power and water rate proposals, as modified in December 2015, are just and reasonable.**



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Power Rates -- Less Than is Needed, but a Challenge to Perform

- ☐ 3.86% annual rate increases
- ☐ Annual revenue growth: \$3.45 to \$4.22 billion over five years (Fiscal Years 2014/15 to 2019/20)
 - Slight 1.6% growth in demands
 - Capital project spending for aging infrastructure, upgrade LA coastal plants, energy efficiency, and renewables
 - Operating & maintenance costs including labor
 - Reductions to unfunded employee pension liability
- ☐ More infrastructure replacements and energy efficiency planned every year
 - But less than is needed to keep up with aging system
 - Key staffing and processes may continue to be inadequate for increased project spending



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Projected Power Billing Increases are Just and Reasonable

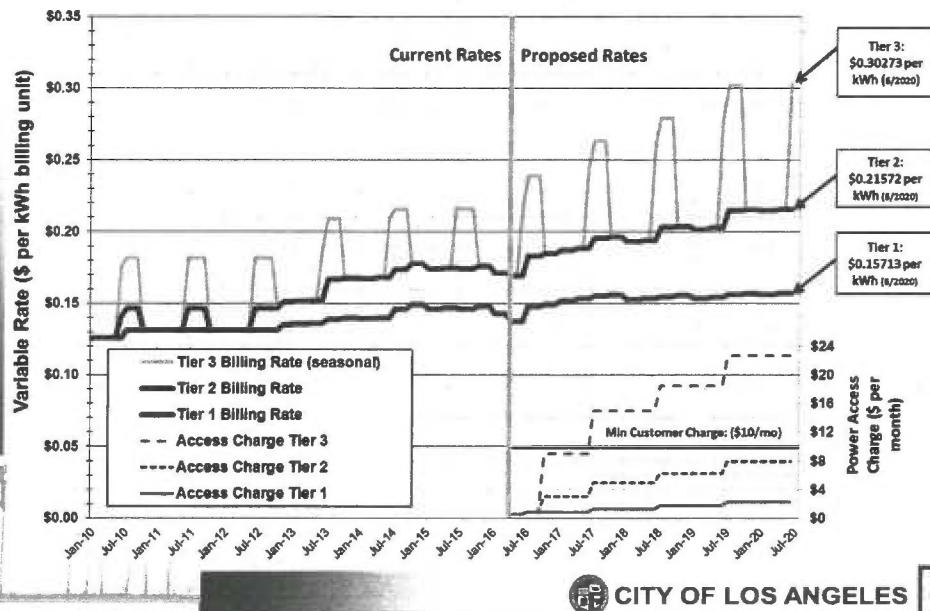
- ☐ OPA supports DWP's continued three rate tiers and the re-start of de-coupling
- ☐ Increases over five years:
 - \$6 per month cumulative increase for low use 350 kWh/ month single family residence (SFR) in cooler Zone 1 over 5 years
 - \$8 per month cumulative increase for 500 kWh/ month single family residence (SFR) in hotter Zone 2 over 5 years
 - \$12 per month cumulative increase for higher use 500 kWh/ month single family residence (SFR) in cooler Zone 1 over 5 years



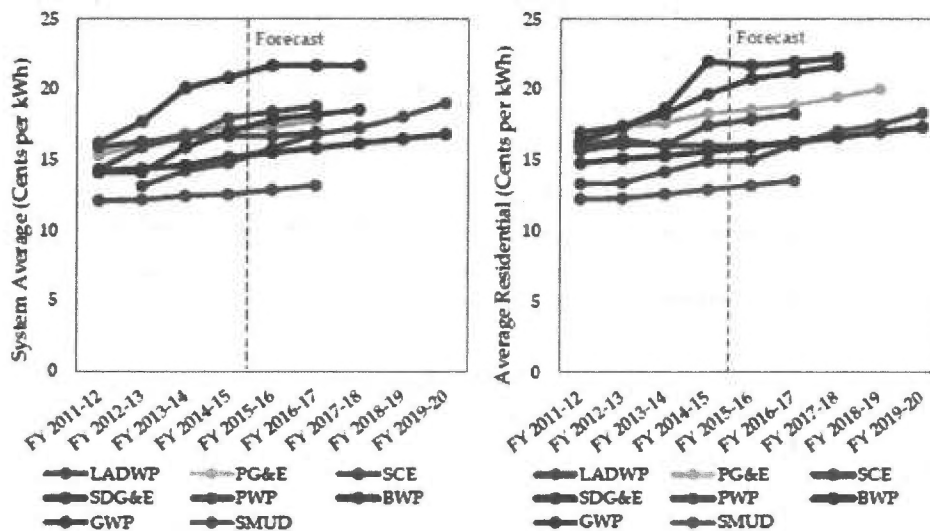
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Power – Historical & 2015 Proposed Schedule R-1 Residential Rates (as of Feb 5)



Power Rate Comparison by Navigant



Water Rates -- Less Than is Needed, but a Challenge to Perform

- ☐ 4.7% annual rate increases
- ☐ 5.3% annual revenue growth: \$1.08 to \$1.41 billion over five years (Fiscal Years 2014/15 to 2019/20)
 - Slight growth in demands from current drought conditions
 - Capital project spending for aging infrastructure, local water supply and regulatory projects
 - Operating & maintenance costs including labor
 - Reductions to unfunded employee pension liability
- ☐ More pipeline replacements planned every year
 - But less than is needed to keep up with aging system
 - Key staffing may be inadequate for increased project spending



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Projected Water Billing Increases are Just and Reasonable

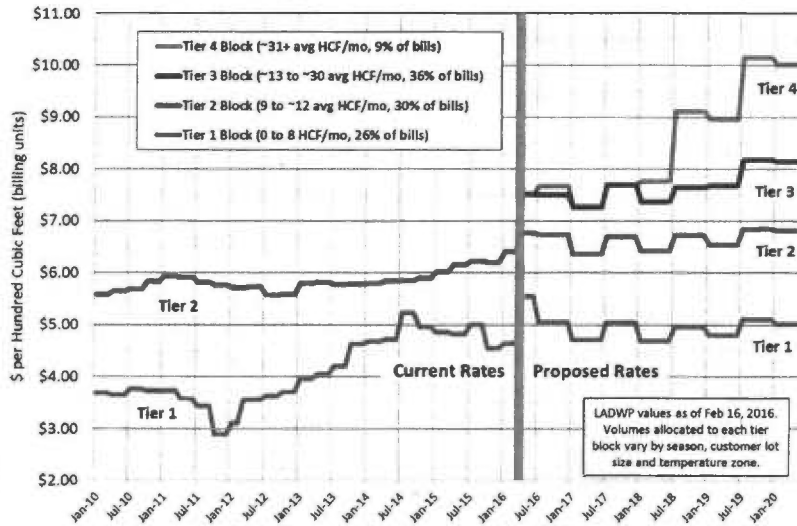
- ☐ OPA supports DWP's four rate tiers consistent with recent judicial findings
- ☐ Annual average increases over 5 years (as of Feb 16):
 - 2% per year for low use single family residence (SFR)
 - 2% per year for budgeted multi-family bills
 - 6% per year for higher water SFR (not in Tier 4)
 - Large but necessary increase for public irrigation
- ☐ Projection based on a return to normal water supply condition with LAA flowing full



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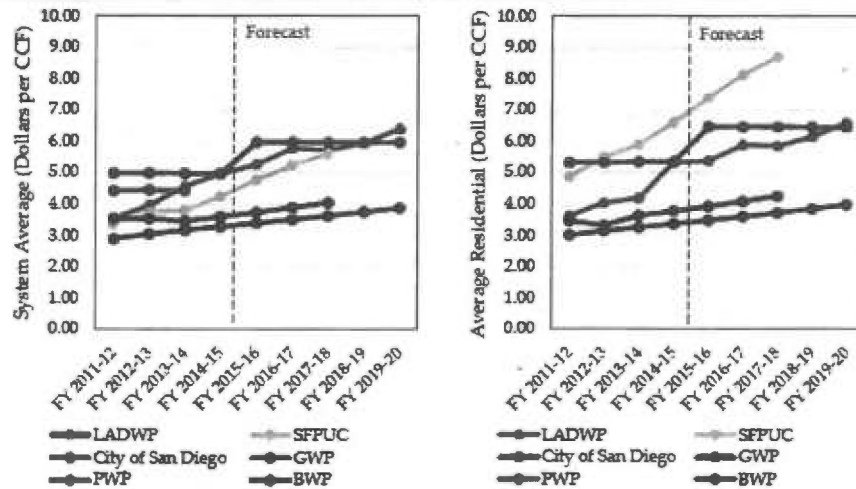


Water Charges – Historical and Future Single-Dwelling Unit Residential Rates (as of Feb 16)



Water Rate Comparison by Navigant

Figure 3-35. System Average and Average Residential Retail Rates Comparison (FY 2011/12-FY 2019/20)



Revenues from Power (& Water) Rate Adjustments: "Use 'em or lose 'em"

- ❑ Reductions to planned rate increases for unattained or unattainable spending levels
- ❑ Mechanisms for rate revisions when capital, operating costs, or demands vary from forecast
 - Metrics can be refined in 6 month review process
- ❑ Key performance targets and metrics reported to OPA, DWP Board, Council and Public to:
 - Better aligns forecasts and activities for more transparency
 - Hold DWP accountable



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But where does the money go? Increasing transparency: public trust, labor, & productivity

- ❑ Improving transparency, regular reporting
 - External relationships: \$10 million
 - City services: \$54-\$65 million
 - City Departments bill payments to DWP
 - Labor relations and outsourcing: Appendix B reports
 - Solar: Utility Built Solar and Community Solar
 - Training: \$130 million/year, nearly all inside
 - Labor costs, total compensation: stabilization, improvement, overtime: 75th percentile overall
 - Productivity: 75th percentile, counter industry trend



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What Are OPA's Labor & Productivity Recommendations?

- ☐ **DWP's plan will be very difficult to execute with these labor costs, absent changes.**
 - Participate in annual salary surveys and report regularly on results.
 - Immediately proceed with the next stage of benchmarking and include productivity analysis.
 - Goal: labor metrics before Board by June 1.
- ☐ **Address drivers for overtime costs.**



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Key Findings and Recommendations

- ☐ **Findings**
 - DWP's power and water rate proposals, as modified in December 2015, are just and reasonable.
- ☐ **Recommendations**
 - OPA encourages approval of the proposed rates and ordinances.
 - OPA plans to propose specific labor metrics, in conjunction with DWP, to the Board by June 1, 2016.
 - The Board should request the Department propose methods to provide the Joint Division budget control over its funded activities.
 - DWP should immediately proceed with its planned second stage of benchmarking, and include to the extent practical the recommendations in Oliver Wyman's preliminary labor findings report and the Navigant report.
 - DWP should at the earliest practicable time seek to increment its credit for low income, Lifeline, and physician-certified customers with an inflation adjustment.



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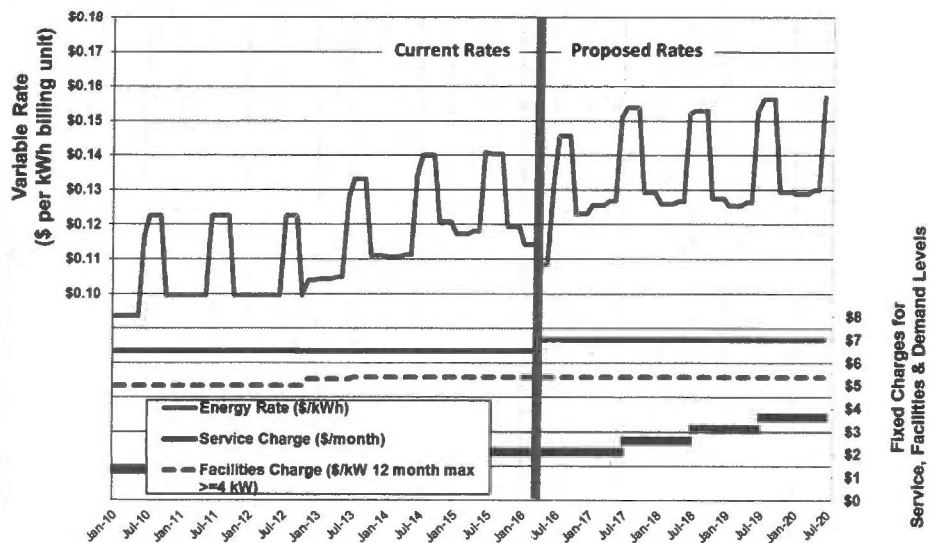
REFERENCE MATERIALS



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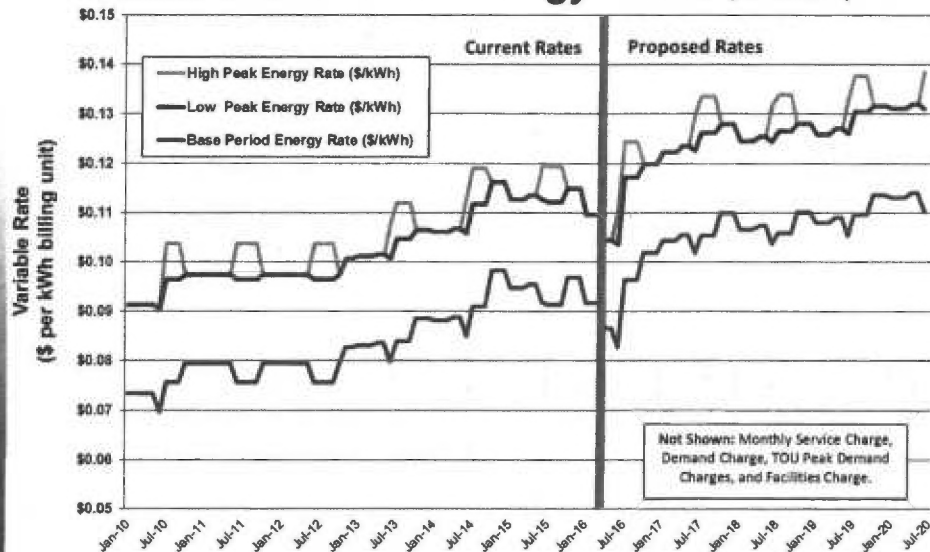
Power – Historical & 2015 Proposed Schedule A1-A Small Commercial Rates (as of Feb 5)



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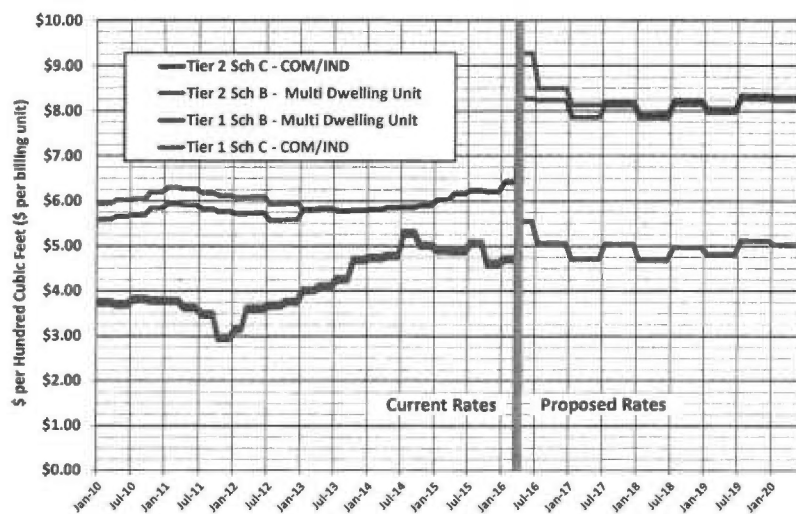
Power – Historical & 2015 Proposed Sch. A-2B Medium Commercial Energy Rates (as of Feb 5)



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Water Charges – Historical and Future Multi-Dwelling and Commercial/Industrial Rates (as of Feb 16)



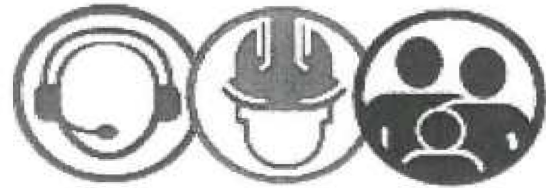
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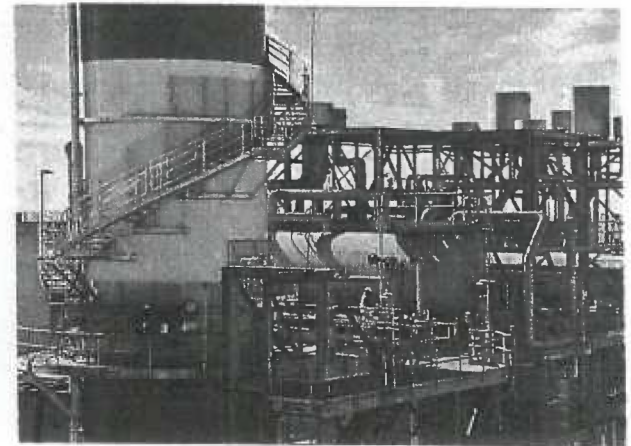
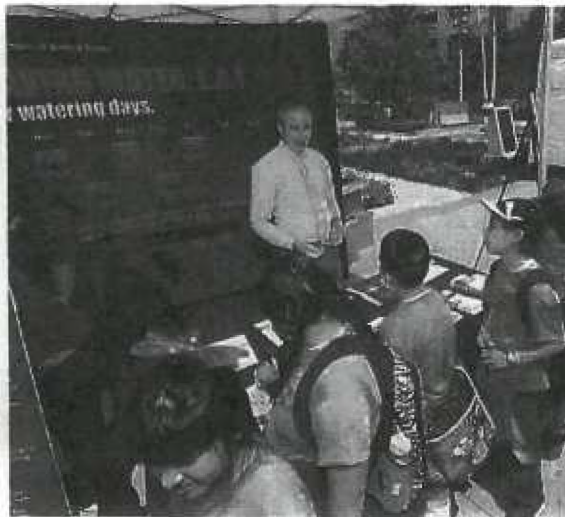


Los Angeles  Department of Water & Power



Putting Our Customers First

WATER & POWER RATES REQUEST, 2016-2020
Presentation to the Los Angeles City Council
March 2, 2016



Priorities for Rates Request

Replace aging infrastructure



Protect from drought, transform supplies & meet mandates

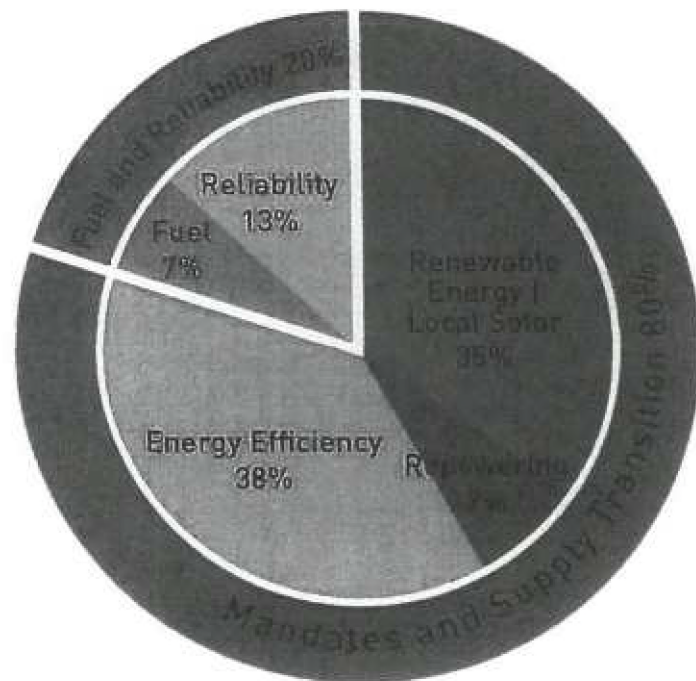


Improve customer service & keep rates competitive

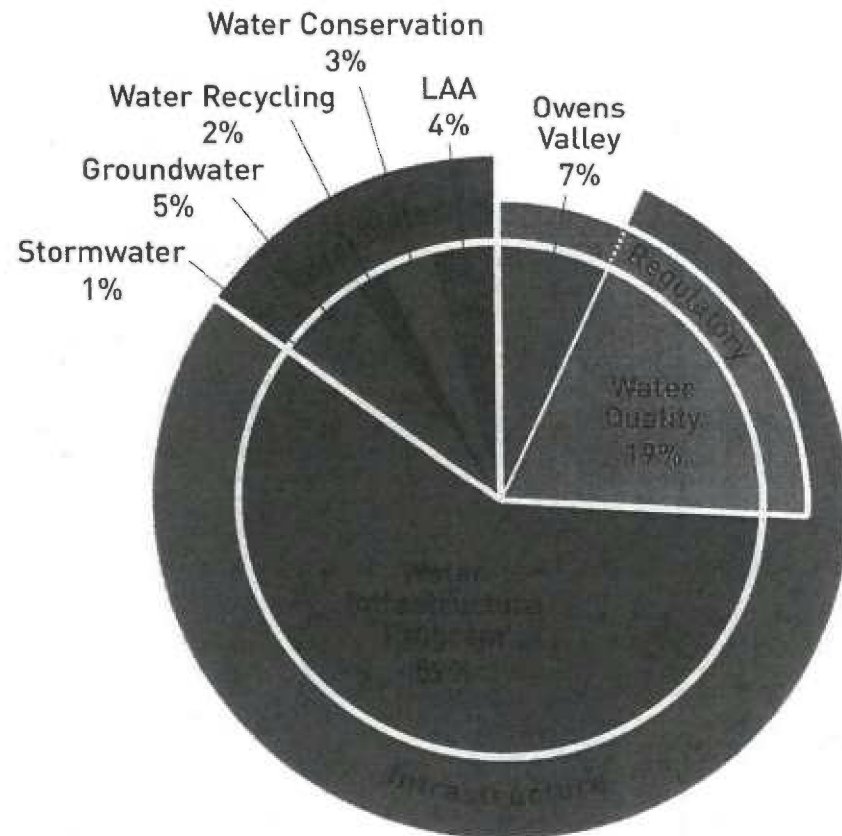


How Does This Break Down?

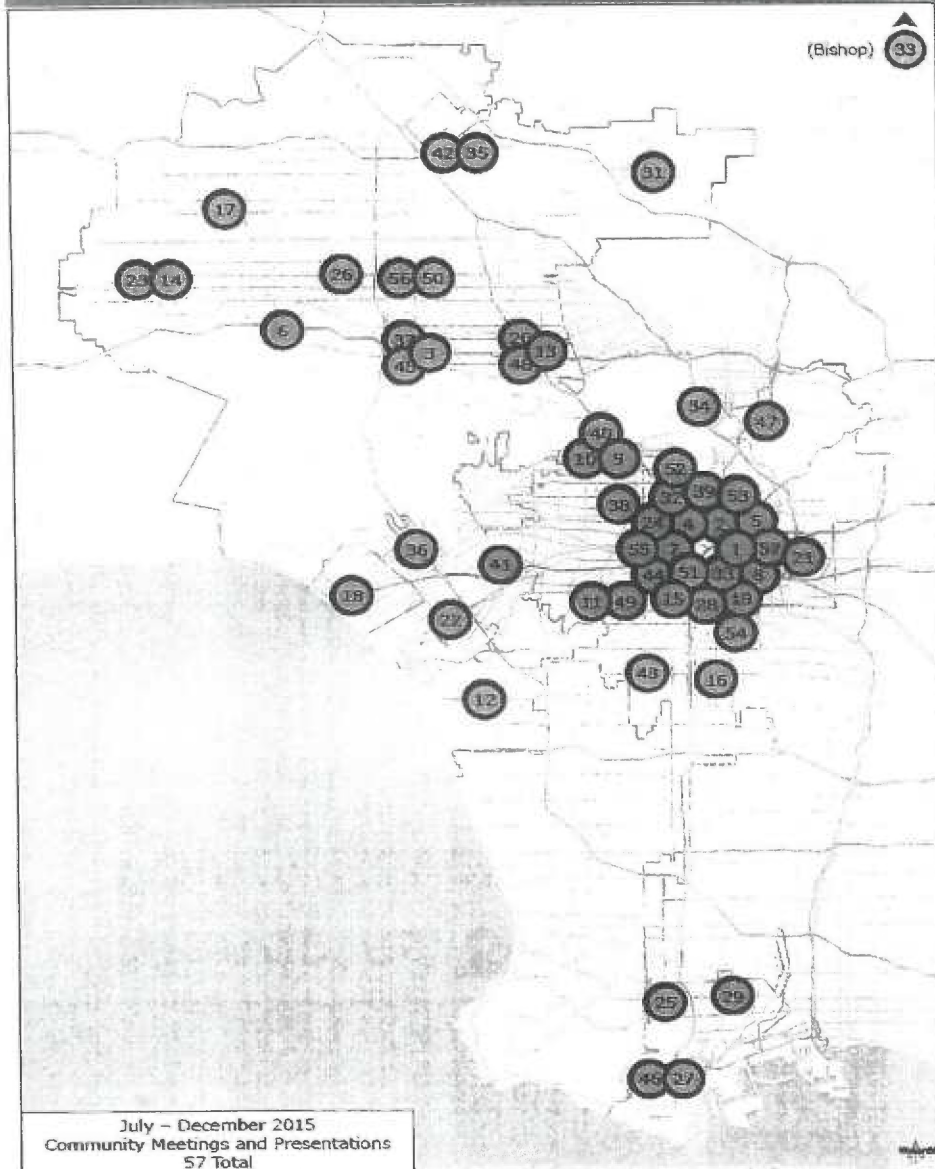
Mandates: 80% of Power Revenues



Infrastructure: 78% of Water Revenues



Outreach Summary - Meetings



**80+ rates presentations
across Los Angeles since July**

- 19 Regional Meetings
- 16 Business & Commercial Customer Briefings
- 18 NC, Community & HOA Briefings
- 8 Environmental, Legislative Briefings
- 2 Webinars
- 1.8 million emails to stakeholders
- **384,386 video views**
- **236,886 website views**

Recommended 5-Year Rate Changes with Residential Bill Impacts

**Half of residential customers will realize a combined Water and Power
Average Annual Increase of 3% or less.**

	Low-Use Residential (250 kWh/Month 8 HCF/Month)	Typical Residential (500 kWh/Month 12 HCF/Month)	High-Use Residential (900 kWh/Month 27 HCF/Month)
Current Monthly Bill	\$74.97	\$130.67	\$276.03
5-Year Avg. Annual Power Rate Change	\$.84 (2.2%)	\$1.17 (1.56%)	\$5.26 (3.45%)
5-Year Avg. Annual Water Rate Change	\$1.07 (2.6%)	\$3.02 (4.3%)	\$11.05 (7.2%)
5-Year Avg. Monthly Bill Annual Change	\$1.91 (2.4%)	\$4.20 (3.0%)	\$16.31 (5.3%)
Average New Monthly Bill At the End of 5 Years	\$84.49	\$151.65	\$357.56

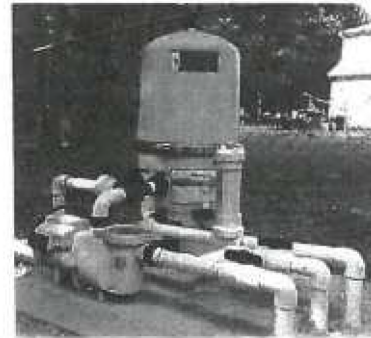
Ways to Save

We continue to expand Customer Programs that help manage bills and benefit the environment



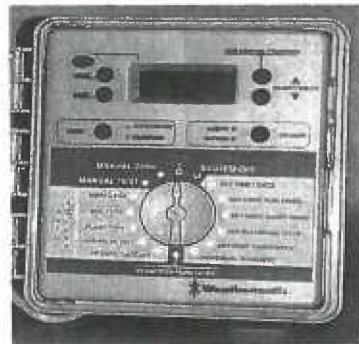
AIR CONDITIONING TUNE UP PROGRAM

- Can reduce cooling costs 20% - 30%
- Extends life of the AC Unit



POOL PUMP REBATES

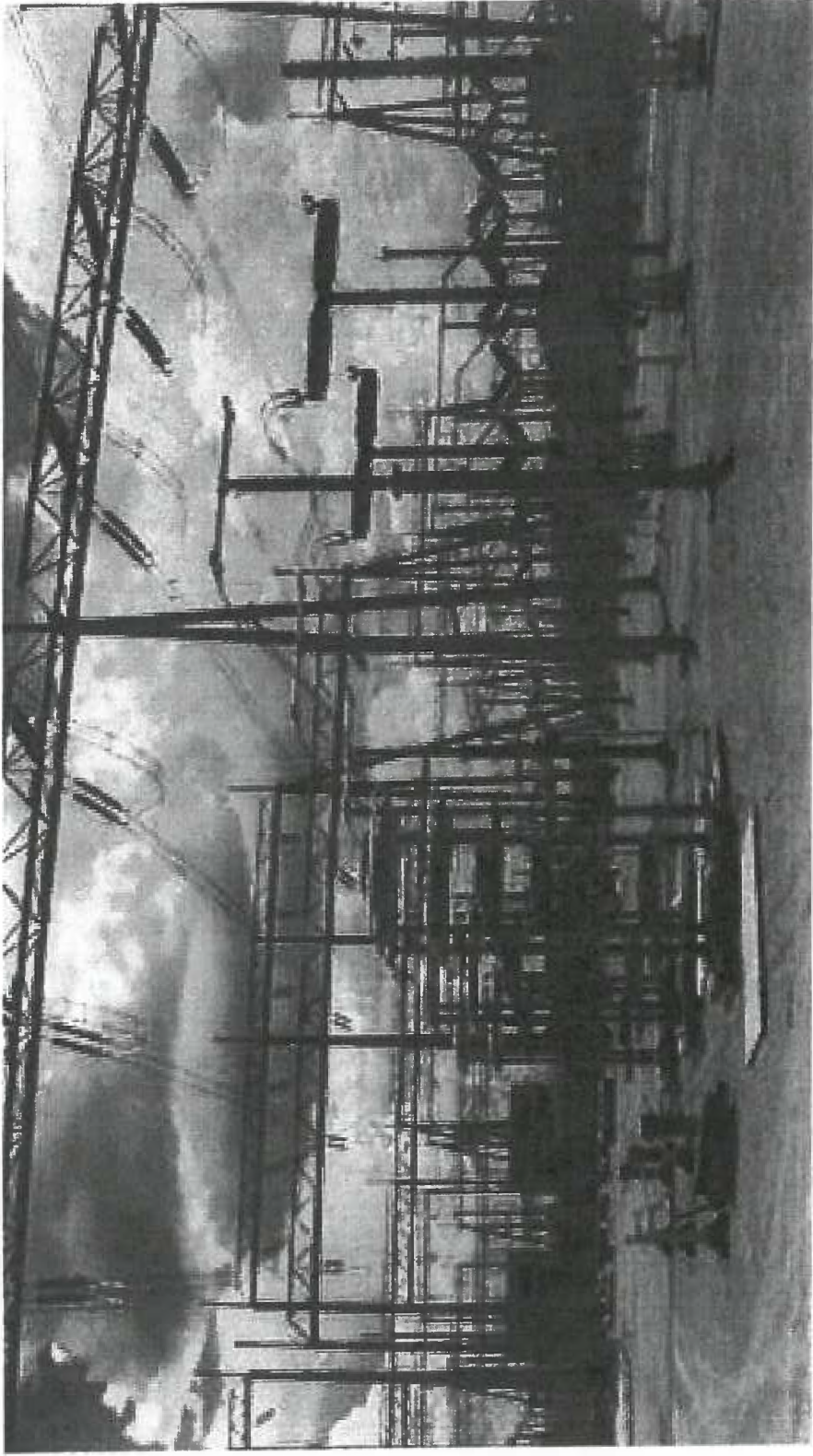
- Variable Speed: \$1000 incentive and \$33 average monthly bill savings



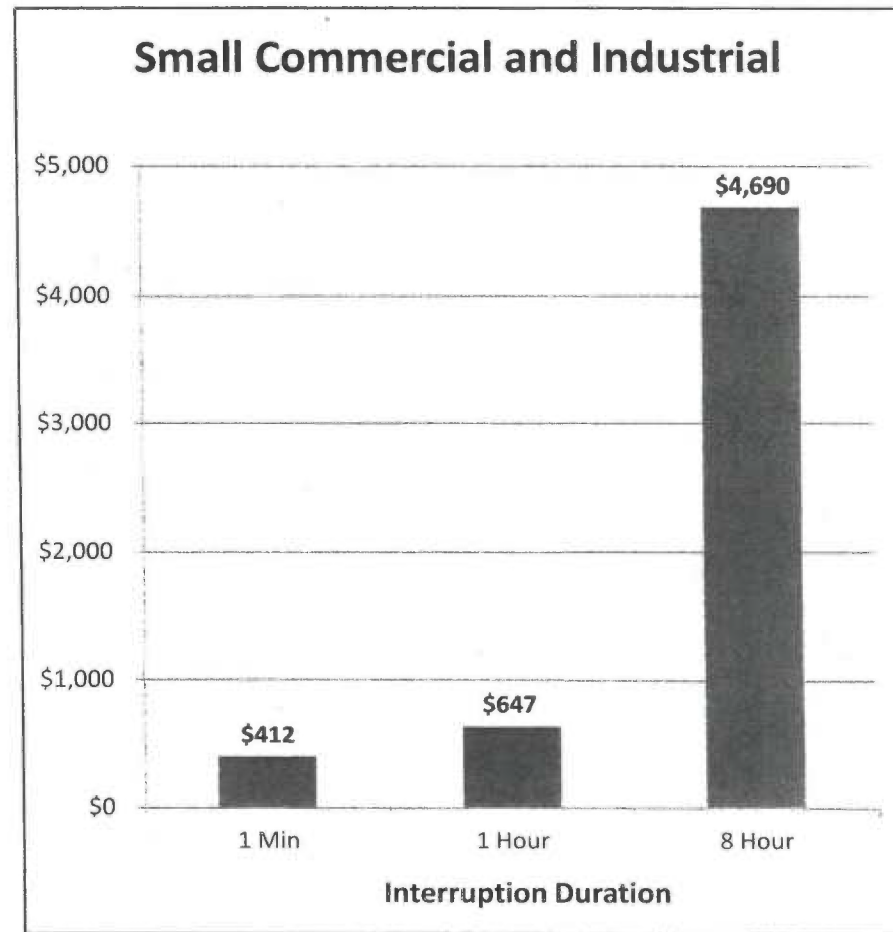
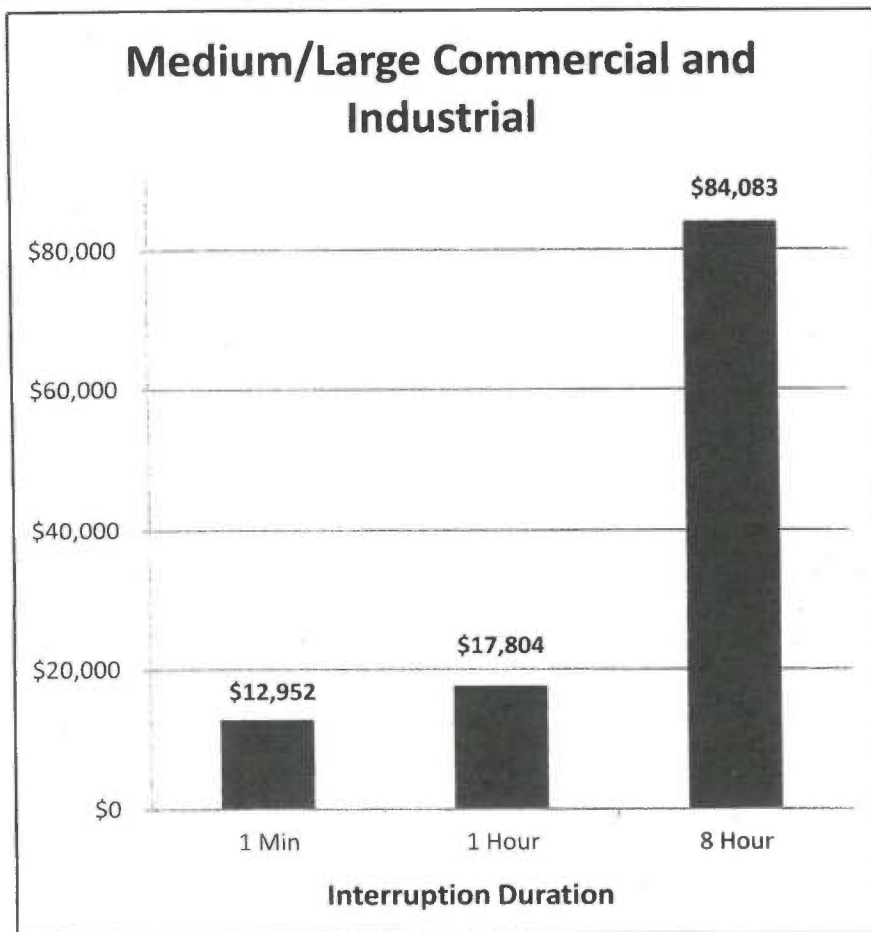
Water Conservation

- Commercial Rebates
- for Water-Saving Measures
- Technical Assistance
- Education & Outreach

POWER RATE ACTION



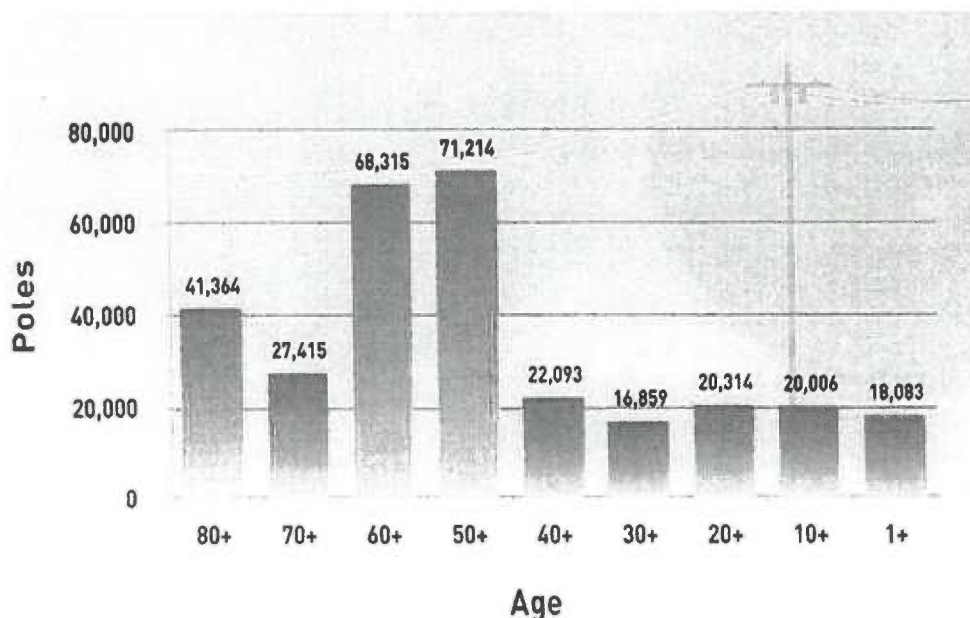
Customer Costs of Power Interruptions



"Updated Value of Service Reliability Estimates for Electric Utility Customers in the United States." Ernest Orlando Lawrence Berkeley National Laboratory, January 2015
(<https://gig.lbl.gov/sites/all/files/lbnl-6941e.pdf>)

Proactive Investment in Power Infrastructure: Increasing Reliability, Creating Jobs and Saving Money

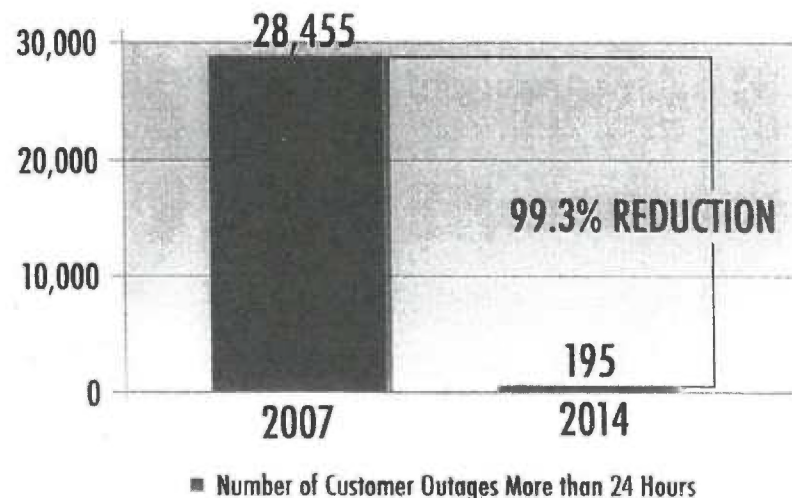
Power poles: Critical infrastructure that's aging rapidly



Aging & Vulnerable Power Infrastructure

Roughly 43% of power poles are 60 years or older; nearly 65% are over 50 yrs. old.

2007 vs. 2014 Heat Storms

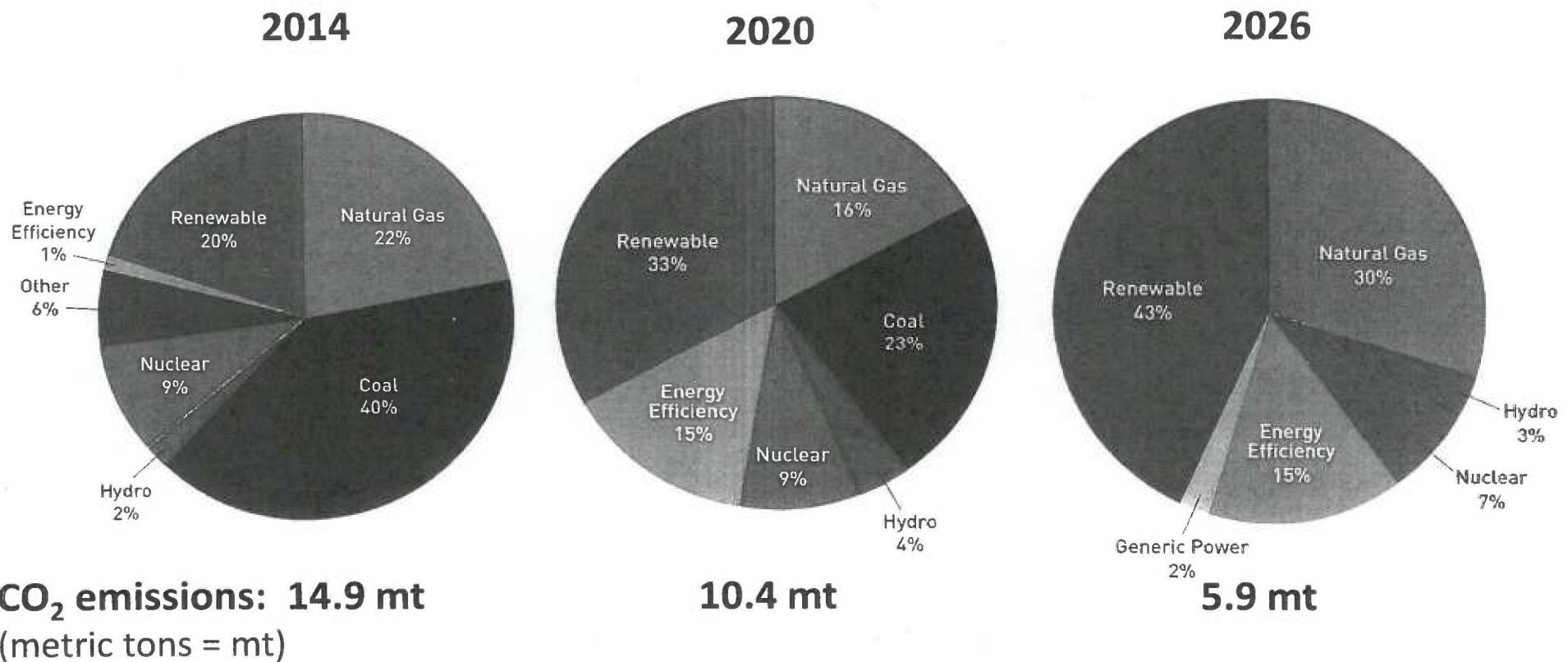


Heat Storms

- Replacement of distribution transformers after 2007 heat storm
- Reduced customer outages over 24 hours by 99% during 2014 heat storm

Power Supply Transition & Mandates

Meeting mandates and reducing CO₂ emissions 60% by 2026 to create clean energy for our customers.



CO₂ emissions in 1990 (reference point): 17.9 mt

Power : 5-Year Spending Plan for Core Initiatives

Historical Average * (in millions)	Core Initiative	5-Yr Average (in millions)	5-Yr Total (in millions)
\$525	Power System Reliability Program (PSRP)	\$850	\$4,249
\$800	Supply Transition and Mandates **	\$1,057	\$5,286
\$120	Customer Opportunities Programs	\$261	\$1,307
\$1,445	Total	\$2,168	\$10,841

*Historical Average based on last completed fiscal years 2012-13 and 2013-14.

**Supply transition and mandates includes coal transition, renewables and repowering.



WATER RATE ACTION



Water Infrastructure Investment

Increases Reliability, Resiliency and Boosts Economy

Aging & Vulnerable Water Infrastructure

~15 million feet (nearly half) of pipe installed over 60 yrs. ago;

Costs:

- Sudden water pipe breaks cost **3x** more than planned repairs
- True costs to society much higher

Other benefits:

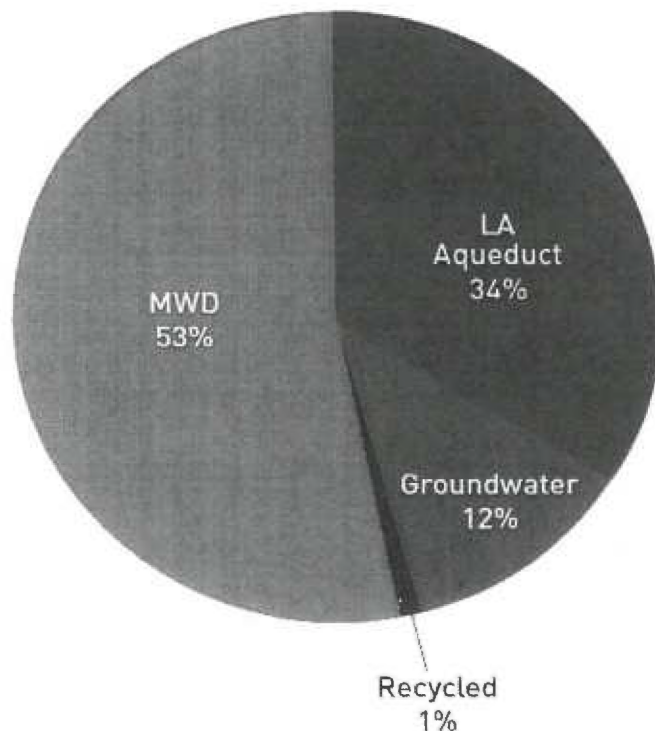
- Protects public safety & property
- Increases resiliency & reliability
- Reduces loss of water resources
- Supports local water supply
- Less impact on traffic



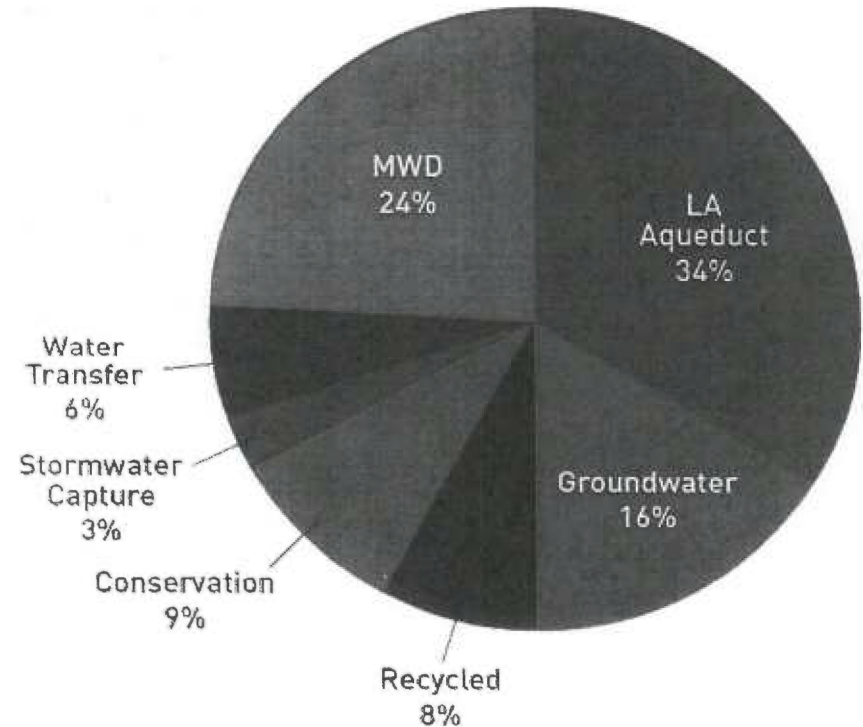
Water Conservation & Expanding Local Supply

Cut purchased water in half while increasing local water supply

FY 2010-2014 Average



FY 2024-2025 Target

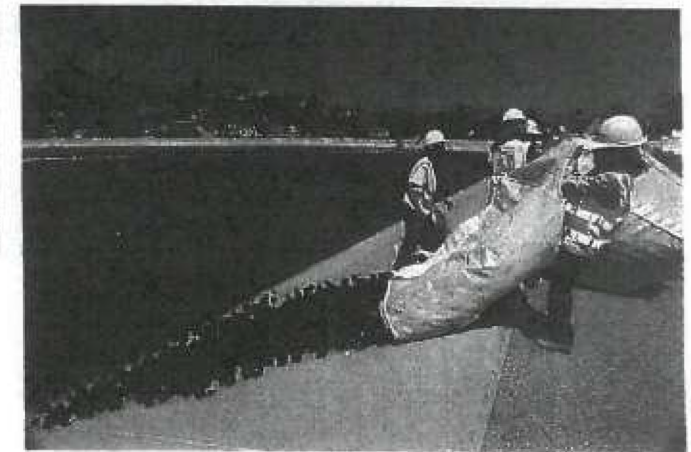
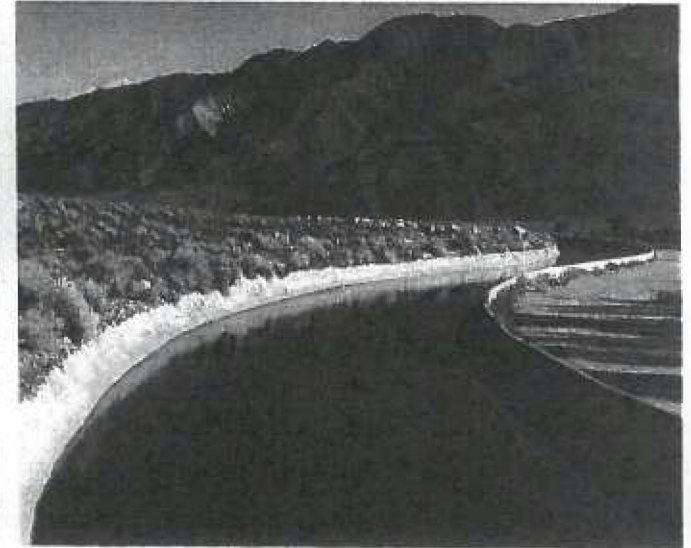


Water: 5-Year Spending Plan for Core Initiatives

Historical Average Annual Spend (\$M)*	Core Initiative	Proposed Average Annual Spend (\$M)	Total Five-Year Spend (\$M)
\$306	Infrastructure Replacement	\$711	\$3,553
\$134	Supply Transition**	\$382	\$1,912
\$299	Water Quality	\$272	\$1,362
\$103	Owens Valley Regulatory	\$209	\$1,045
\$842	Total	\$1,574	\$7,872

*Historical Average based on last completed fiscal years 2012-13 and 2013-14.

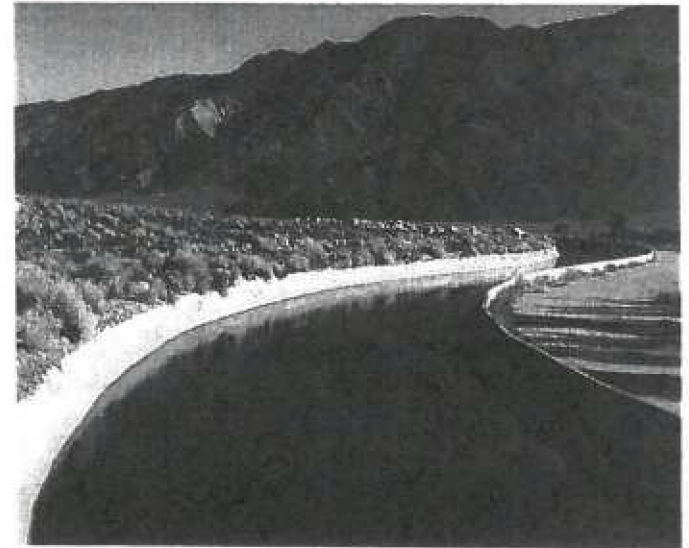
**Supply transition includes Local Water Supply Programs – recycled water, storm water capture, groundwater remediation



Financial Impacts of Financial Downgrade

In conjunction with the Office of Public Accountability/Ratepayer Advocate and Navigant:

- DWP has evaluated and is using the financial metrics that result in the lowest rate increases
- DWP will be issuing on average approximately \$1.6 Billion (Water and Power) in bonds every year for the next 5 years
- If both Systems are downgraded (A+ rating), it is estimated that Water and Power customers would pay \$280 million more over the 5 year period



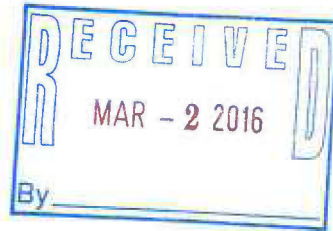
McNeillLawOffices
GOVERNMENT FEE LITIGATION

WALTER P. MCNEILL
RACHEL L. MCVEAN
DAN D. KIM

February 29, 2016

Energy and Environment Committee
Room 1010, City Hall
200 North Spring Street
Los Angeles, CA 90012

Los Angeles City Council
Room 340, City Hall
200 North Spring Street
Los Angeles, CA 90012



**re: Comment on Energy and Environment Committee Agenda Item
Number 1: Proposed Power Rate Ordinance and related matters.**
Special Committee Meeting of March 1, 2016 at 2:00 p.m.

**Comment on Los Angeles City Council Agenda Item Number 10:
Proposed Power Rate Ordinance and related matters.**
City Council Meeting of March 2, 2016 at 10:00 a.m.

Honorable Council Members:

I am one of the attorneys representing the Plaintiffs in the pending consolidated class action litigation *Eck v. City of Los Angeles, et al.*, Case No. BC577028 in the Superior Court for the County of Los Angeles, challenging the past and ongoing practice of the City of L.A. in overcharging its electricity customers to create "surplus" funds which are then transferred to the City's general fund for general expenditures. I am also counsel for the plaintiffs in *Citizens for Fair REU Rates v. City of Redding*, currently pending review in the California Supreme Court, No. S224779, a case challenging a similar practice by that City in overcharging power rates to create and transfer funds to Redding's general fund for general purposes. Both cases seek to enforce the mandate of Proposition 26, enacted by the voters in November of 2010, that prohibits the collection of "disguised taxes" in the form of fees or rates. The proposed increase in electrical power rates that you are now considering for approval only perpetuates and exacerbates the wrongful collection and transfer of "disguised taxes" we have complained of in the forgoing cases. For the record, we wish to make it known that we object to the increase in power rates, and we urge you to reconsider the matter.

"Layering of rates" is an illusion that does not circumvent Proposition 26.

After the adoption of Prop 26 in 2010 the City clearly recognized that it could not go forward with further electric rate increases that explicitly included a

component to generate the funds (roughly \$250M to \$300M) that are “traditionally” transferred over to the City general fund for general purposes. What has followed is a disingenuous attempt to evade Prop 26 by pretending that the electrical rate structure in effect on November 3, 2010 is left intact and unchanged – a purported “base” rate that the City believes it can use as an ongoing source of revenues [*illegal taxes*] to transfer to the general fund – while adding incremental charges or “layers” of additional rates on top of the pre-Prop 26 base rate to pay for increasing costs of operating the City’s power system. Thus the ratepayers in L.A. are asked to subscribe (unknowingly) to the fiction that the single bill each receives monthly for power service to that single customer is now a combination of a power rate from the past and power rate(s) from the future, jumbled together, requiring a single payment for the total, but allowing the City to continue to extract 8% or more as a tax transfer to the general fund. This emperor has no clothes.

1. Start with the obvious. A single payment for a single service at a new rate that is given discretionary approval by the City is a *new rate*, regardless of how the City attempts to characterize the components of the rate. The trigger for applying Prop 26 is simply that the City has applied its attention and discretion to create and impose a new electric rate structure. The only way for the City to avoid Prop 26 would have been to walk away from the rate setting process after Nov. 3, 2010 – never to revisit rates again. Even a decision made by the City today to impose rates that are the same as they were in the past would be a *new rate*, because it reflects the City’s new / current exercise of discretion to determine what the rates should be. When *you* (meaning both DWP and the Council) exercise your powers of rate setting you engage the legal and Constitutional duties you have *today*, including your obligation to abide by Prop 26 to stop imposing illegal taxes on the L.A. ratepayers.

2. The pre-Nov. 3, 2010 rates are not isolated, frozen, or segregated. The City does not even live up to its own fiction. In the rate design process, the cheaper costs of power available to customers before Nov. 3., 2010 are not used to calculate rates. To the contrary, cost inflation factors are deliberately applied to the so-called “base rate” to bring it into line with the current costs also applied in the incremental increase of the rates that the City “layers” on top. In the rate design there is no disaggregation of the pre-Nov. 3, 2010 costs from the current costs. The City is charging rates that are normal for a contemporary across-the-board rate increase – *except* that it is including the illegal tax increment for transfer to the general fund. The notion of a pre-Prop 26 rate component is a sham.

3. The proposed rates even try to make future customers pay for alleged under-collections of rates from past pre-Prop 26 customers! The new rates would include charges for “Legacy ECAF Under-Collection” going back to 2006, at \$129M, and charges for “Legacy RCA Under-Collection” for an indeterminate period, of at least \$89M, for a total of about \$218M. Simply put, you are asking new customers to pay for what you failed or neglected to collect from old customers. This by itself puts to rest the myth that pre-Prop 26 rates are preserved inviolate, when the new rates would explicitly try to make up for under-collections of rate revenues before Prop 26.

4. The proposed rates attempt to make present and future customers pay for LADWP's unfunded pension liabilities for services delivered in the past to past power customers. The rate design documents have clearly designated DWP Unfunded Pension Liabilities that are estimated to be \$2.1 billion, to be paid for by present and future power customers for services (they don't receive) delivered in the past by DWP employees whose pensions were not fully funded for those services in the past. The rate design documents deliberately obfuscate the City's intention to use increased power rates to pay for past unfunded DWP pension liabilities by referencing the obligation only as a placeholder, and then tying the payment amount to a figure developed through DWP's outside actuarial pension liability consultant. Nonetheless, the report prepared by the consultant (Segal Consulting) identifies the amortization of unfunded actuarial accrued liability at an amount of approximately \$280 million per year to amortize the entire DWP unfunded pension liability over a course of 7-8 years. This sort of backpayment for liabilities associated with services delivered in the past, much like the "Legacy" cost factors identified above, are prohibited by Proposition 26. Specifically, the City is only permitted to charge power rates to electricity customers "for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product" (California Constitution, Article XIII c, §1(e)(2)).

The City of Los Angeles has a general obligation to its past employees to pay for what are currently unfunded pension liabilities for services rendered to the public in many years past. Current ratepayers cannot be saddled with this obligation, amounting to \$280 million per year, when this portion of the rates is added to the "Legacy" factors for also failing to collect sufficient funds for services rendered in the past (about \$220 million per year – see above), the ratepayers in Los Angeles are being asked to pay electric rates falsely and illegally inflated in the amount of roughly \$500 million per year and receive nothing for it. These excessive charges are in addition to the falsely inflated portion of the rates collected to cover the 8% transfer from DWP to the City general fund of about \$260 million per year and increasing. Proposition 26 was approved by the voters for the very purpose of putting an end to the continuing abuses of charges for City services that are nothing but a "cash cow" for the City general fund.

5. The proposed restructuring of rates from per-usage rates to a combination of fixed charges for system access plus commodity charges for usage, is antithetical to the concept of a preserved pre-Prop. 26 rate component that can be exploited for tax transfers. The proposed rate restructuring to include a mandatory fixed charge to pay for the system infrastructure together with a commodity charge to pay for actual consumption of electricity, follows the trend prevalent in California for water and power utilities that need a reliable stream of revenue to pay for capital infrastructure costs/maintenance but have faced declining commodity revenues from necessary conservation of water and power resources. However, this structural change makes it impossible to pretend that pre-Prop 26 rates are preserved; the two structures cannot coexist in one final rate. Before Prop 26, a customer that maintained an electric utility account for a property but was not using electricity (like a vacant house, or a shuttered commercial building) paid only a negligible accounting charge. The new rate

structure, however, forces payment of the fixed charge regardless of power usage. Further, the single rate structure blends in capital costs, while the bifurcated rate structure shifts capital infrastructure costs to the fixed charge and then adds charges for costs from consumption of power as that occurs; the two structures can't be "mixed" because the blended infrastructure costs in the old rates result in overpayment, a problem that can't be avoided without incredibly complex disaggregation and offsets of costs that wasn't done here. The two structures are mutually incompatible. Thus, it is impossible for the City to claim that it is proposing new rates that encapsulate the pre-Prop 26 rates as a continuing source of illegal tax transfers to the general fund.

The electric ratepayers of Los Angeles have been exploited for far too long with excessive rates that pay for the expenses of general government in Los Angeles instead of simply buying electricity. The mandate of Prop 26 is clear and simple: collect what it costs to produce and deliver the electricity and *no more*.

Thank you for your attention to these comments. We request that this letter be made a part of the record with respect to consideration of this matter by the Energy and Environment Committee and the City Council.

Respectfully,

MCNEILL LAW OFFICES



WALTER P. MCNEILL