

**Los Angeles City Attorneys Association
P.O. Box 53808
Los Angeles, CA 90053**

**HON. COUNCILMEMBER HERB J. WESSON, JR., CHAIR
HON. COUNCILMEMBER JOSE HUIZAR
HON. COUNCILMEMBER MARQUEECE HARRIS-DAWSON**

Re: Proposed Charter Amendments for the Los Angeles Department of Water and Power
(DWP Reform Initiative)

April 4, 2016

We are writing on behalf of the Los Angeles City Attorneys Association (MOU 29). We fully support this committee's mission to review the proposed initiative to reform the Los Angeles Department of Water and Power. As your honorable committee engages in this important endeavor, we wish to bring to your attention one aspect of the initiative that has not received much attention to date. Specifically, this letter describes our concerns over proposed changes to Charter § 271, which would strip the City Attorney's Office of its crucial role as the exclusive legal advisor for DWP.

Our Association represents over 450 Deputy City Attorneys. At any given time, approximately five percent of our members are working to provide legal services to DWP. Other members that are not working directly for DWP also provide legal support to DWP in varying capacities. We provide legal services to DWP in the areas of general civil litigation, regulatory compliance, worker's compensation, public governance, and infrastructure, among others. Our work supports the goals of reducing DWP's exposure to unnecessary expenditures and liabilities, minimizing the costs of providing water and power to its residential and business customers, and ensuring the highest quality of service to ratepayers. Many of the attorneys at DWP have dedicated their careers to public service and have enjoyed varied careers in the City Attorney's Office; many have spent a decade or more in service to DWP. All of our members are highly skilled and have extensive expertise in their respective practice areas. These attorneys are valuable public resources for the entire city, not just the DWP. The prospect of losing these resources should give pause to anyone who would advocate the wholesale adoption of the proposed reform initiative.

We believe that we are uniquely situated to provide insight on the consequences, both direct and collateral, that would result from DWP relying exclusively on legal advisors outside the City Attorney's Office. The following constitutes our primary concerns:

1. We are not aware of any current problem(s) with respect to legal services currently provided to DWP by MOU 29 members or the City Attorney's Office in general that would be solved by amending Charter § 271. We do not see any negative impact associated with MOU 29 members or other City Attorneys fulfilling their current charter responsibilities on behalf of DWP.
2. It is a well-worn, tired myth that there is an inherent conflict between attorneys working for the City and those working for DWP; there is simply no history of problems that the current system has failed to address. There is absolutely no basis for the argument that the City Attorney's Office has handled any purported conflict of interest in a manner that has ever caused a service impact or negative result to DWP or the City.
3. Obviously, MOU 29 members working for DWP would be displaced when their positions are removed from the City Attorney's appointment authority. That may trigger re-assignment and trickle-down displacement for MOU 29 members with less seniority; in a worst-case scenario this situation could even trigger layoffs. If those positions are retained within the City Attorney's Office, the cost impact on the General Fund would have to be addressed when those positions are no longer reimbursed by DWP.
4. The loss of intellectual capital would be significant. MOU 29 members are dedicated public servants, many of whom began their City careers as prosecutors or serving in other divisions of the City Attorney's Office. The City would lose the life-time value of each one of these attorneys if they could not find a suitable replacement position within the City Attorney's Office. More likely, these attorneys would simply be recruited to work for the newly constituted DWP Legal Department or hired by the private firm(s) contracted to provide specific legal services to DWP. This would result in DWP paying significantly more for the same attorneys. Further, the City would lose the financial investment it has made in developing these valuable human resources and would lose access to this intellectual capital forever. It would no longer be possible for attorneys working for DWP to seamlessly transfer into another City Attorney assignment or serve another City department.
5. Other deputy city attorneys, and City staff, by extension, would also lose access to these resources. It would be more difficult for any lawyer to coordinate and collaborate with DWP attorneys who are no longer truly colleagues; it would be less likely that "proprietary" attorneys working for DWP would share their expertise with non-DWP city attorneys. The current collegiality and shared sense of responsibility among City Attorneys would not be felt by attorneys working exclusively for DWP.

6. MOU 29 members are public servants of the highest order. If DWP were to hire its own legal staff, the attorneys working for DWP would no longer be public servants or government lawyers in the same sense. This could also jeopardize the quality of the legal advice DWP receives: if DWP received unwelcome but accurate legal advice from an “in-house” attorney, management could insist on a different opinion or simply fire that attorney and hire a replacement who was more willing to provide different advice.

7. Legal fees to DWP would surely increase, with no comparable increase in the quality of services. Billing rates plus overhead would be significantly greater if DWP were paying for legal services on a contract basis or recruiting attorneys from the private sector with comparable skills and experience to those currently working for the City Attorney’s Office. Only, as stated above, any attorney hired from the outside would not have comparable skills and experience when measured against City Attorneys who have been faithful providing high-quality legal services to DWP for decades.

We appreciate your time and attention and your willingness to hear these concerns with an open mind.

Sincerely,

The Board of Directors of the Los Angeles City Attorneys Association (MOU 29)

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