



BOARD LETTER APPROVAL

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**REIKO A. KERR**

Senior Assistant General Manager – Power System  
Engineering, Planning, and Technical Services

A handwritten signature in blue ink, appearing to read 'Martin L. Adams', is written over a horizontal line.

**MARTIN L. ADAMS**

Chief Operating Officer

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**DAVID H. WRIGHT**

General Manager

**DATE:** February 2, 2018

**SUBJECT:** Renewable Biomass Energy Purchase from the American Renewable Power-Loyalton Biomass Project, Power Sales Agreement No. BP 17-036, and Fiscal Agency Agreement No. BP 17-037 Between the Los Angeles Department of Water and Power and the Southern California Public Power Authority

**SUMMARY**

Approval of Power Sales Agreement (PSA) No. BP 17-036 and Fiscal Agency Agreement (FAA) BP 17-037 is required for the Los Angeles Department of Water and Power (LADWP) to acquire 8.9 megawatts (MW) of biomass energy from the American Renewable Power(ARP)-Loyalton Biomass Project. Under the PSA, LADWP will purchase this renewable energy from Southern California Public Power Authority (SCPPA) for a five-year term. The FAA designates LADWP to provide financial services associated with the project to SCPPA.

The energy price is fixed at \$97.50 per megawatt-hour (MWh). LADWP's cost will be approximately \$7 million annually and \$35 million over the five-year delivery term. This purchase has been budgeted.

The attached Resolution authorizes LADWP to apply the renewable energy and environmental attributes acquired under this PSA toward the State-mandated compliance requirements of LADWP's Renewable Portfolio Standard Policy (RPS Policy) and Enforcement Program. This biomass purchase will comply with Senate Bill (SB) 859 which mandates LADWP and other applicable public and investor-owned utilities to procure 125 MW of specified bioenergy projects.

City Council approval, by Ordinance, is required pursuant to Charter Section 674.

### **RECOMMENDATION**

It is recommended that the Board of Water and Power Commissioners (Board) adopt the attached Resolution recommending City Council approval, by Ordinance, of PSA No. BP 17-036 to purchase 8.9 MW of biomass energy and FAA No. BP 17-037 to provide financial services to SCPA.

### **ALTERNATIVES CONSIDERED**

On March 13, 2017, SCPA issued a Request for Proposal (RFP), a competitive process, for Biomass Renewable Energy and received nine biomass proposals. The ARP-Loyalton Biomass Project was selected because the developer offered lowest price, including energy and transmission cost to the point of delivery (POD).

Proposed energy would contribute approximately eight tenths percent (0.8 percent) towards LADWP's RPS Program and SB 859 mandates by the State of California compliance requirements during the five-year term. This ARP-Loyalton purchase is 8.9 MW of the 14.3 MW share of biomass energy that LADWP must acquire to comply with SB 859.

If the ARP-Loyalton Biomass Project is not approved, LADWP would need to start negotiations with other developers for biomass energy that would have a higher price per MWh and could be at less favorable terms. Of the nine proposals SCPA received, only eight remain that meet the SB 859 specified requirements; and the ability to enter agreements are challenging depending on the availability of plant capacity, fuel costs, and timing of existing agreements with other utilities.

### **FINANCIAL INFORMATION**

The Power Purchase Agreement (PPA) has the following terms:

- Generation Capacity: 8.9 MW
- Capacity Factor: 92 percent
- Energy Price: \$97.50 per MWh with no annual escalation
- Energy Delivery Term: Five Years

The total energy LADWP will receive from the ARP-Loyalton Biomass Project is approximately 72,000 MWh annually. LADWP's estimated average cost of this energy is expected to be approximately \$7 million annually and \$35 million over the energy delivery term. This PPA does not have a purchase option.

The funds will be used to purchase renewable energy and environmental attributes as part of LADWP's RPS Policy and to comply with SB 859.

Funding is budgeted in Power Revenue Fund's Fuel and Purchased Power budget. The ARP-Loyalton Biomass Project is expected to have the System Retail Rates

increase by an average of 0.025 cents per kilowatt-hour over the five-year contract duration.

## **BACKGROUND**

Senate Bill No. 859, approved by the California Governor on September 14, 2016, requires electric utilities to collectively procure, through financial commitments of five years, their proportionate share of 125 MW, based on the ratio of the electric utility's peak demand to the total statewide peak demand, from bioenergy projects that commenced operation prior to June 1, 2013. Further, SB 859 requires that the publicly owned utilities (POUs) serving more than 100,000 customers procure their share of this 125 MW; accordingly, LADWP's share is 14.3 MW of the 29 MW POU mandate. This ARP-Loyalton purchase satisfies 8.9 MW and the remaining balance will be procured through separate PPA(s).

On March 13, 2017, SCPPA issued an RFP to solicit biomass proposals for the purchase of biomass energy in compliance with SB 859 on behalf of four SCPPA Participants: LADWP, City of Riverside, City of Anaheim, and Imperial Irrigation District (IID); and on behalf of three POUs: Sacramento Municipal Utility District (SMUD), Modesto Irrigation District (MID), Turlock Irrigation District (TID), (Project Participants). SCPPA received nine biomass proposals, including one from ARP-Loyalton.

The POD will be the California Independent System Operator (CAISO) Summit 120 kiloVolt (kV). The POD is not in the LADWP's Balance Authority (BA). LADWP will not incur the additional transmission cost to bring the energy from the CAISO POD to a LADWP BA by selling the power at the POD (as will all other Project Participants) but will keep the environmental attributes. The City of Riverside will act as the Scheduling Coordinator on behalf of Project Participants and will schedule and sell the entire energy from the project into the CAISO market at the POD, and the revenue or losses from the sale will be divided among all Participants based in the Project Participants' pro-rata shares of the project. LADWP will act as SCPPA's Fiscal Agent for the project pursuant to the FAA providing services such as billing and accounting.

### **City Administrative Officer Report**

Due to urgent operational needs and time constraints, the Mayor's Office has granted the LADWP a waiver to the Executive Directive No. 4 process.

### **LADWP's RPS Policy**

The RPS Policy represents the guiding principles of LADWP to implement renewable resources. The RPS Policy was amended in December 2013 to comply with regulatory requirements of the California Renewable Energy Resources Act, also referred to as California Senate Bill (SB) 2 (1X), which requires publicly owned utilities, such as LADWP, to supply 25 percent of its energy from renewable resources by 2016 and 33 percent by 2020. The RPS Policy was amended in accordance with Section No. 399.30(e) of the California Public Utilities Code. Furthermore, the RPS Policy has been amended to comply with SB 350 which the Senate and Assembly passed on

September 11, 2015, and the California Governor signed into law on October 7, 2015. The Bill requires LADWP to increase to 50 percent the amount of electricity generated and sold to its customers per year from eligible renewable energy resources, such as biomass, by December 31, 2030.

On September 14, 2016, the Governor approved SB 859 which requires electric utilities to collectively procure, through financial commitments of five years, their proportionate share of 125 MW from bioenergy projects that commenced operation prior to June 1, 2013. Further, SB 859 requires that POUs serving more than 100,000 customers procure their share of this 125 MW; accordingly, LADWP's share is 14.3 MW of the 29 MW POU mandate.

### LADWP's Power Integrated Resource Plan (IRP)

LADWP's IRP presents several potential strategies for meeting LADWP's regulatory mandates and policy objectives for increasing renewable energy generation, reducing greenhouse gas emissions, maintaining electric power service reliability, and minimizing the financial impact on ratepayers.

The IRP establishes the following key selection principles for renewable projects:

- Comply with the California Renewable Energy Resources Act, SB2 (1X), SB 350, and SB 859
- Maintain a high level of electric service reliability by taking advantage of the geographic diversity of renewable projects from various resources

### SCPPA

SCPPA is a non-profit joint power agency formed in 1980 to facilitate joint power and transmission projects for the benefit of the Southern California municipal utilities. SCPPA's members include LADWP, the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Pasadena, and Riverside as well as the Imperial Irrigation District (IID). On April 4, 2006, the Board approved the SCPPA Phase I Renewable Development Agreement No. 96125-76 under Resolution No. 006-157. This was subsequently superseded and replaced by the Phase II Renewable Development Agreement No. 12-020 which the Board approved on August 22, 2012, by adoption of Resolution No. 013-049, authorizing LADWP to participate with other members of SCPPA for the purpose of investigating and performing due diligence on potential new renewable resource options.

On March 13, 2017, SCPPA issued an RFP, a competitive selection process, for the purchase of biomass energy resources. SCPPA received nine biomass proposals from developers having the capability to provide biomass energy pursuant to SB 859, including one from ARP-Loyalton.

## Selection Criteria

The ARP-Loyalton Project was chosen based on a detailed comparison of each of the projects submitted to the SCPA March 2017 Biomass Renewable RFP and evaluated by LADWP's selection criteria. The selection criteria included:

- Lowest Price: \$97.50 per MWh, fixed price, when compared to \$121.03, calculated average fixed price of other biomass proposals. This price also includes transmission cost and expected losses to POD.
- Compliance with SB 859.

## PPA Between SCPA, SMUD, MID, TID and ARP Loyalton Cogen LLC

SCPA, SMUD, MID, and TID (Buyers) are entering into the PPA with ARP Loyalton Cogen LLC (Seller), a limited liability company organized and existing under the laws of the State of California.

The PPA provides that the Seller will sell the Buyers a net of 18 MW (approximately 145,066 MWh annually) of renewable biomass energy and associated environmental attributes from the ARP-Loyalton Project for a five-year term, approximately from April 1, 2018 through March 31, 2023.

The Buyers will purchase 18 MW from ARP-Loyalton as follows: SCPA (11.98 MW), SMUD (4.22 MW), MID (0.99 MW), and TID (0.81 MW). In turn, SCPA will sell its share to SCPA Project Participants as follows: LADWP (8.9 MW), Riverside (0.8 MW), Anaheim (0.8 MW), and IID (1.5 MW).

## PSA No. BP 17-036 between SCPA and LADWP

Under the terms of the PSA, LADWP contractually agrees:

- To purchase from SCPA 8.9 MW of renewable biomass energy and associated environmental rights and attributes over the five-year delivery term of the PPA.
- To pay \$97.50 per MWh, fixed price, for approximately 72,000 MWh of biomass energy annually, totaling approximately \$7 million annually and \$35 million over the energy delivery term.

The PSA also:

- Identifies the roles, rights, and obligations of SCPA and LADWP including but not limited to, project deliverables, project manager, setting up of an annual budget, accounting, and reporting requirements.
- Establishes SCPA as the Project Manager for the purpose of project control, communication, and coordination with SCPA Participants.
- Establishes payment mechanisms including but not limited to, payment pledges, charges and billing procedures, and interest payments.

- Establishes the rights and obligations of SCPA and LADWP for the delivery of energy, capacity, and environmental attributes.
- Encompasses other terms and obligations including but not limited to, nonperformance and payment defaults, and liability conditions to termination or amendments.
- Addresses other services such as delivery procedures and coordination with the Scheduling Coordinator.
- Addresses the Buyers Join Project Agreement (BJPA) between SCPA, SMUD, MID, and TID, establishing the Buyers' rights and obligations, and authorizing SCPA as Buyers' Agent to take certain actions on their behalf under the PPA. LADWP is a third party beneficiary in the BJPA.

#### FAA No. BP 17-037 between SCPA and LADWP

The FAA designates LADWP as the Fiscal Agent to provide financial services to SCPA including billing and accounting services in order to enable SCPA to carry out activities necessary for the management, planning and administration of the ARP-Loyalton Project.

The mutual covenants and agreements addressed by the FAA include:

- Identifying the roles and obligations of SCPA and LADWP in connection with project reviews, monitoring, accounting, billing, reporting, and controls, including the setting up of an annual budget and reporting requirements.
- Establishing payment mechanisms, and billing procedures including, but not limited to, payments between LADWP and SCPA for costs, and charges, related to the ARP-Loyalton Project.

#### Risk Management Provisions

The PPA requires the Seller furnish each Buyer a letter of credit issued by Qualified Issuers in amount of one million eight hundred thousand dollars (\$1,800,000) and delivered to each buyer in the amount equal to each Buyer's proportionate share (Performance Security).

In addition, a Buyer can terminate the contract if Seller fails to maintain Emissions Performance Standard (EPS), RPS, and SB 859 compliance, specifically the SB 859 feedstock requirements. Seller will submit reports demonstrating that Seller has met the feedstock requirements, and Buyers may deduct and withhold from invoice an amount equal to \$8,580 times the percentage that the Seller failed to meet the SB 859 feedstock requirement. In the event that the withholding amount is greater than the amount owed by a Buyer, then such Buyer may apply the excess withholding to future invoices or draw upon its share of Performance Security. If at the end of contract-year the Seller has not met the SB 859 feedstock requirement for such year, then Seller will reimburse Buyers the difference between the total amount that Buyers paid during such contract year minus the total amount such Buyers would have paid for energy not meeting SB 859 requirements but meeting the standards of "Portfolio Content Category

1" as defined by the RPS law. In addition, Buyers can terminate the contract when Seller failed to meet the feedstock requirement at the end of such contract year.

### **ENVIRONMENTAL DETERMINATION**

Determine item is exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15060 (c)(2). In accordance with this section, an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable indirect physical change in the environment. Since this PPA would involve purchase of power generated from an existing biomass facility that has been in operation since 1989, it is not subject to CEQA. The attached Resolution includes this determination.

### **CITY ATTORNEY**

The Office of the City Attorney reviewed and approved the Resolution, PSA, and FAA as to form and legality.

### **ATTACHMENTS**

- Resolution
- Draft Ordinance
- Power Sales Agreement No. BP 17-036
- Fiscal Agency Agreement No. BP 17-037