

**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 18-0116  
MAY 02 2018

**REPORT RE:**

**DRAFT ORDINANCE APPROVING POWER PURCHASE AGREEMENTS  
NOS. BP 16-004 AND BP 16-005, BOTH BY AND BETWEEN THE CITY OF  
LOS ANGELES, ACTING BY AND THROUGH THE LOS ANGELES DEPARTMENT  
OF WATER AND POWER, AND PACIFICORP, AN OREGON CORPORATION;  
AND DELEGATING TO THE BOARD OF WATER AND POWER COMMISSIONERS  
LIMITED AUTHORITY TO AMEND SUCH AGREEMENTS**

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 provides for the approval of Power Purchase Agreements Nos. BP 16-004 and BP 16-005, both by and between the City of Los Angeles, acting by and through the Los Angeles Department of Water and Power (LADWP), and PacifiCorp, an Oregon Corporation; and delegating to the Board of Water and Power Commissioners limited authority to amend such agreements. The PSA provides for LADWP's sale of wholesale energy to PacifiCorp. PacifiCorp will use this power to provide retail electric service to the Milford Wind Corridor Phases I and II Projects (Milford I and II), which have provided renewable wind energy to LADWP since 2007 and 2011, respectively.

## Background

Milford I and II are wind-powered generating facilities located in the state of Utah. Their combined capacity is 302 megawatts (MWs). LADWP takes delivery of the renewable energy at the Intermountain Power Project (IPP) switching station in Delta, Utah and pays for the renewable energy based on the project output under the terms and conditions of Power Sales Agreements (PSAs) with the Southern California Public Power Authority (SCPPA). The renewable energy from Milford I and II is applied towards LADWP's Renewable Portfolio Standard through two 20-year PSAs, the first approved in 2007 for Milford I (LADWP No. BP 07-015) and the second approved in 2011 for Milford II (LADWP No. BP 10-007).

PacifiCorp is the sole provider of retail electric service in the state of Utah, including retail service provided to the Milford I and II facilities. The only available electric service facilities connecting Milford I and II and the IPP switching station is the transmission system that LADWP operates. Because PacifiCorp does not have electric service facilities that connect to the Milford facilities, PacifiCorp will continue to purchase wholesale energy from LADWP under the proposed Power Purchase Agreements and subsequently use that energy to provide retail electric service to the Milford facilities. Milford I and II purchase retail energy from PacifiCorp as part of their annual operating and maintenance costs. These Agreements do not impact the costs LADWP pays for the Milford I and II renewable energy under the PSAs.

LADWP and PacifiCorp have previously entered into short-term Power Purchase Agreements, LADWP No. BP 09-021 and BP 10-023, for the same purpose. Those expired on July 23, 2012, and December 6, 2013, respectively. The Agreements presented here represent the product of protracted negotiations and provide a long-term solution for the provision of electric service to the Milford facilities. No competitive process was used because PacifiCorp is the sole provider of retail electric service at this location. Upon execution of these Agreements, PacifiCorp will pay LADWP \$290,000 to true-up the accounts for the provision of wholesale energy.

The new Agreements will allow LADWP to sell wholesale energy to PacifiCorp, who will then provide retail electric service to Milford I and II. The Agreements will be coterminous with the LADWP 20-year PSAs, which expire in 2029 for Milford I and in 2031 for Milford II.

## Charter Enabling Provisions

Charter Section 674(a)(2) provides that, subject to approval by ordinance, the Board shall have the power to contract for the sale of electric energy or electric generating capacity. In addition, pursuant to Charter Section 101, the City Council has the power to authorize the Board to amend the agreements without further City Council approval.

CEQA Findings

In accordance with Section 15060 (c)(2) of the California Environmental Quality Act (CEQA) Guidelines, an activity is not subject to CEQA if it will not result in a direct or reasonably foreseeable indirect physical change in the environment. Because these Agreements allow for the continued sale of wholesale energy to provide retail electric service for existing wind plants and no physical change in the environment will occur, they are not subject to CEQA.

Council Rule 38 Referral

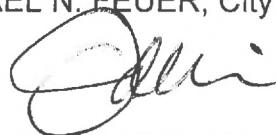
This draft ordinance has been presented to the Board of Water and Power Commissioners pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Deputy City Attorney William Kysella at (213) 367-5296. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON  
Chief Assistant City Attorney

DM:WHK:rc  
Transmittal