

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

**Date:** June 28, 2011

**To:** Honorable Members of the  
Energy and Environment Committee &  
the Rules and Election Committee

**From:** Gerry F. Miller   
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**Subject:** Charter Amendment I (Office of Public Accountability) – Executive Director  
and the Ratepayer Advocate Position; Initial Operating Budget

## SUMMARY

On June 15, 2011, the City Council adopted several actions (CF 11-0452) relative to the initial implementation of Charter Amendment I - the Office of Public Accountability (OPA). As part of this action, the City Council instructed the Chief Legislative Analyst (CLA) and the City Administrative Officer (CAO) to provide a description of duties of the OPA's Executive Director and the Ratepayer Advocate position.

In addition, on June 7, 2011, the Energy and Environment Committee instructed the CAO to report as to an initial operating budget for the OPA.

In response to the City Council's action, this report provides details as to the duties and responsibilities of the Executive Director and the Ratepayer Advocate. The report clarifies the reporting relationship of these positions and provides a recommendation for the preparation of duties and associated implementing ordinances upon the appointment of the Executive Director. In terms of the Committee's request, the report also provides a recommendation for an initial operating budget for the OPA.

## DISCUSSION

### Charter Amendment I – Office of Public Accountability

Charter Amendment I, approved by the voters on March 8, 2011, establishes the OPA for the Department of Water and Power (DWP). The OPA will be tasked with providing independent analysis of DWP actions associated with water and electricity rates. Additionally, Charter Amendment I requires the OPA to maintain a Ratepayer Advocate position.

The OPA will be headed by an Executive Director who is selected by a Citizens Committee and confirmed by the Mayor and the City Council. The Charter Amendment provides that the

Executive Director serve one five-year term and conduct a variety of duties related to the operation and management of the OPA.

Duties of the Executive Director

As stated in the Charter Amendment, the Executive Director's duties as they relate to the operation and management of the OPA consist of the following:

- Report to, but not instructed by, the Board of Water and Power Commissioners;
- Have full charge and control of all OPA work and the proper administration of its affairs;
- Authority to appoint, discharge, suspend, or transfer its employees, subject to civil service provisions;
- Issue instructions to OPA employees in the line of their duties, subject to civil service provisions;
- Submit a proposed annual budget to the CAO covering the anticipated expenditures of the OPA;
- Authority to expend OPA funds, and award contracts, in accordance with appropriated funding under the adopted budget;
- Maintain OPA reporting requirements and schedules and consumer protection and complaint procedures, as developed by the City Council;
- Have access to DWP information to fulfill its responsibilities;
- Maintain a Ratepayer Advocate employee position and other employees to fulfill the responsibilities of the OPA;
- Issue periodic public reports; and
- Perform other related duties as may be prescribed by ordinance.

Duties of the Ratepayer Advocate

Charter Amendment I states that the OPA shall include a Ratepayer Advocate position in addition to other positions. The Charter Amendment does not designate any specific duties for this position. It calls for the duties of the Ratepayer Advocate, and the duties of the other positions, to be prescribed by ordinance.

However, given the general purpose of OPA, prescribed duties for the Ratepayer Advocate position may consist of the following, under the charge of the Executive Director:

- Review and analyze proposed water and power rate actions and their effect on ratepayers;

- Provide analysis of the impact of DWP renewable and energy/water conservation programs on rates;
- Review trends in the energy/water markets with emphasis on issues affecting publicly-owned utilities; and
- Conduct consumer protection/complaint evaluation services; or other duties.

Reporting Relationship: Executive Director and Ratepayer Advocate

The City Council instructed the CLA and the CAO to prescribe the duties of the Executive Director and the Ratepayer Advocate position to provide clarity as to the roles and responsibilities of each position. It was expressed by the Committee members during the Energy and Environment Committee hearing of June 7, 2011, that it was unclear as to the relationship of Executive Director to the Ratepayer Advocate position.

The central question was whether the Ratepayer Advocate position is under the authority of the Executive Director or if the Ratepayer Advocate position is an independent body with no subordinate connection to the Executive Director. Upon review of Charter Amendment I and the designated function and responsibilities of the Executive Director, it is established that the Ratepayer Advocate position is an employee of the OPA, which is under the authority of the Executive Director.

To support this statement, the Charter Amendment provides that the Executive Director is fully responsible for the principal charge of the OPA and the management of its affairs. The Executive Director is ultimately vested with the OPA's primary responsibility of independently analyzing DWP actions as they relate to water and electricity rates. The Executive Director has the authority to hire, manage and direct employees of the OPA in the pursuit of this purpose. The Ratepayer Advocate position falls within this purview.

Charter Amendment I provisions that illustrate this relationship and the corresponding hierarchy are as follows:

- Section 683 (b) - Declares the Executive Director the head of the OPA and establishes that the Executive Director shall be appointed by the Citizens Committee with confirmation by the Mayor and the City Council;
- Section 683 (c) (2) & (3) – Provides the Executive Director with full charge and control of all OPA work and the proper administration of its affairs;
- Section 683 (c) (4) & (5) – Grants the Executive Director authority to appoint, discharge, suspend and issue instructions to OPA employees in the line of their duties; and
- Section 683 (f) – Identifies the Ratepayer Advocate position as an employee of the OPA and that additional positions may be prescribed.

As previously stated, the Charter Amendment does not designate any specific duties for the Ratepayer Advocate position. It specifies that the duties of this position be established by ordinance. The City Council may wish to assign this position the duties previously identified.

However, it may be appropriate to develop this ordinance in conjunction with the Executive Director so that the Executive Director can have input into the structure and staffing of the organization that will be under his/her charge.

Along those lines, if there is interest that the Executive Director be designated and known as the Ratepayer Advocate, given public comments that the Executive Director is in charge of the OPA and should therefore be vested with the authority to protect ratepayer interests, this option should be available. To achieve this, the City Council may wish to advise the Executive Director, once confirmed, that he/she may consider assuming the created role and responsibilities of the Ratepayer Advocate. In this manner, the Executive Director and Ratepayer Advocate functions may be effectively merged into one.

The Executive Director should also work with the City Council in the formulation of the ordinance establishing OPA reporting requirements and schedules, including consumer protection and complaint procedures. In this manner, the OPA may reflect the Executive Director's vision and work plan.

#### Initial Operating Budget

As stated in a joint report of the CLA and CAO dated April 25, 2011, Section 683 (g) provides that the DWP include a budget for the OPA, set by ordinance, at a level not less than .025 percent of DWP annual revenues from the sale of water and electric energy. This section requires the Executive Director of the OPA, in consultation with the DWP and other offices as necessary, to submit a budget proposal for the fiscal year beginning on July 1 of the following fiscal year, and submit it to the City Council for approval. Upon approval by the majority of the City Council with the concurrence of the Mayor, or in the event of a mayoral veto, two-thirds of the City Council, the DWP shall include the approved OPA in the departmental budget for the coming fiscal year.

To implement these provisions, the City Attorney would need to be requested by the City Council to prepare the draft ordinances and to specify that the OPA submit a budget proposal to the CAO by December 31 of each year.

For Fiscal year 2011-12 we recommend that the City Council request the City Attorney to draft the ordinance providing for the minimum .025 percent funding and that the DWP include this amount in their budget. Currently, this amount is anticipated to be \$1,050,000 and the DWP has included this amount in their 2011-12 Budget. This would provide more than sufficient funding given the timing relative to selecting the Executive Director and hiring staff for the OPA. We also recommend that the ordinance specify that unspent funds at the end of the fiscal year will revert to the Power and Water Revenue Funds.

A proposed operating budget for Fiscal Year 2011-12 has been prepared by the CAO (see Attachment A) that includes partial year funding in the amount of \$1,050,000 and proposed positions to begin the operations of the OPA (partial year funding of a new operation is a customary City process). The additional staffing requirements can be finalized with the input of the Executive Director. In the future, the Personnel Department can be instructed to develop the proper classifications for the new positions and conduct examinations and the CAO will determine the appropriate salary for the positions.

It is anticipated that proposed modifications to this initial budget will be submitted by the Executive Director to reflect that individual's vision, scope of work, and work plan necessary to implement the intent of the Charter Amendment.

## **RECOMMENDATIONS**

That the City Council:

1. Upon the confirmation of the Executive Director by the Mayor and City Council, instruct the Chief Legislative Analyst, City Administrative Officer and request the City Attorney to work with the Executive Director to develop and report on the following OPA components for consideration by the City Council:
  - a. Section 683(d) – Reporting Requirements Schedule and Consumer Protection Procedures;
  - b. Section 683(f) – Ratepayer Advocate position and related duties including the option for the Executive Director to assume the Ratepayer Advocate designation;
2. Request the City Attorney to prepare and present an ordinance providing for the Office of Public Accountability Budget with the required minimum .025 percent funding, which amounts to \$1,050,000, and that the Office submit a budget proposal to the CAO by December 31 of each year; and that any unexpended funds at the end of the fiscal year revert to the Power and Water Revenue Funds.

ATTACHMENT A

PROPOSED INITIAL 2011-12 OPERATING BUDGET  
OFFICE OF PUBLIC ACCOUNTABILITY

Staffing/Salaries

Executive Director

Ratepayer Advocate

Staff analysts

Clerical support

\$800,000

Expense

Printing and binding, contractual services, office  
and administrative expense, travel, as required

243,000

Equipment

Undesignated

7,000

Total

\$ 1,050,000