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Chief Executive Officer and General Manager

December 10, 2008

Ms. Mary Nichols
Chair - California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Dear Ms. Nichols:

Subject: Los Angeles Department of Water and Power's Comments to the California Air Resources Board on the Assembly Bill 32 Climate Change Proposed Scoping Plan (Released October 15, 2008)

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to review the California Air Resources Board's (CARB) Climate Change Proposed Scoping Plan (PSP). The LADWP remains committed to partnering with the State of California to achieve the goals of Assembly Bill (AB) 32 to, first, reach 1990 greenhouse gas (GHG) emission levels by 2020 and then make the significant further emission reductions post 2020 that compelling scientific evidence clearly demonstrates will be necessary . The LADWP is taking action now to make investments in its generation portfolio that will improve its emissions profile and set it on a path to become a provider of low-carbon electricity, and it is the governing body – the Los Angeles Board of Water and Power Commissioners and the Los Angeles City Council – that are best positioned to make the critical decisions regarding how to effectively accomplish the LADWP's climate change goals.

The LADWP commends the CARB for the leadership it has demonstrated over the past several months to develop the PSP in a way that has been respectful of different viewpoints on how best to address climate change. The LADWP appreciates the CARB's ability to explore various direct emission reduction strategies, acknowledge the complexity of key policy choices like emission allowance distribution, and also recognize when it is prudent to take the necessary time to design a workable approach to cap-and-trade that minimizes unintended consequences. The CARB's ability to cautiously navigate the uncharted waters of regulating greenhouse gas emissions is a testament to its ability to lead California and be a model for a federal climate change program.

The LADWP fully supports the adoption of the PSP at the CARB's December 11, 2008 meeting, while recognizing that there remains much work to be done in the coming months associated with cap-and-trade design and enforcement of mandated measures, such as those for renewables and energy efficiency. In all, the PSP provides a sensible starting point for a comprehensive, multi-sector strategy that relies on both mandated measures and market measures, and that recognizes the benefits of a regional approach that extends beyond California's borders. To that end, the LADWP provides its unequivocal support to the CARB and will continue to work closely with staff and others to ensure that the implementation of AB 32 reflects a workable and balanced approach that yields real and quantifiable environmental benefits while minimizing windfall profits and unnecessary wealth transfers.

Since comments were solicited on the Draft Scoping Plan in August 2008, the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) adopted their "Final Opinion on Greenhouse Gas Regulatory Strategies," on October 16, 2008. These recommendations were forwarded to the CARB for consideration in the next phase of rule development. As you are aware, the LADWP and other southern California municipal utilities continue to express serious concerns regarding the recommendations specific to allowance distribution. The LADWP appreciates that the CARB has not adopted these recommendations wholesale and, instead, will examine cap-and-trade design to ensure that unnecessary wealth transfers and windfall profits are avoided.

In their recommendations, the CPUC and CEC proposed a flawed market-based cap-and-trade program that aggressively pushes the electricity sector to 100 percent auction of emissions allowances by 2016, while shifting the criteria for distributing allowance value from emissions to gross sales. While the LADWP do not oppose the theory behind cap-and-trade, its concerns lie in the real world implementation of allowance auctions that run the risk that revenues will be unjustly and unlawfully transferred between retail providers for zero environmental benefit or that the State may view our dollars as surplus revenue that can be diverted to purposes such as the State's ever-growing budget deficit. Such a scheme would force the LADWP to spend ratepayer monies on purchasing emissions allowances at market-rate prices rather than funding direct emissions reductions programs—increasing renewable energy and energy efficiency measures.

Customers of these utilities already bear significant cost of retooling their generation portfolios and ramping up their energy efficient programs. Under the CPUC/CEC scheme, southern California municipal utilities will be forced to pay dearly for emissions allowances while attempting to invest in renewable energy and energy efficiency programs. The LADWP conducted a financial analysis of the CPUC/CEC scheme that yields some alarming results. At $100 per ton, for example, southern California's municipal utilities would pay in the near term almost $3.4 billion (of which LADWP's portion is $2.2 billion). The cumulative wealth transfer by 2020 alone exceeds $4.6 billion. Even at $50 per ton, the cumulative wealth transfer is still over $2.3 billion. These results are the exclusive result of allowance distribution and do not include the cost of implementing emission reduction measures.

Any cap-and-trade auction or allowance allocation policy that results in a wealth transfer, whether from customers of electric retail providers to other sectors or the state or federal government, or between customers of different retail providers cannot be supported, particularly when it would divert ratepayer dollars away from direct investments in permanent and verifiable emission reductions. In LADWP's view and as previously stated, entities must be allowed to make necessary investments in direct GHG emissions reductions. A wealth transfer will only increase compliance costs, create financial winners and losers, and will do little to reduce actual greenhouse gas emissions. The LADWP's position is based on its desire to continue investing in renewable energy, energy efficiency programs, and community-based projects, not divert its ratepayers' money away from these programs to a convoluted market scheme.

Again, the LADWP does not oppose a market mechanism so long as it truly results in meaningful emission reductions and avoids harmful distributional impacts like those expressed here. The LADWP is confident that these concerns will be thoroughly examined in the coming months and that the cap-and-trade program will be designed to avoid the unintended consequence of creating dual compliance costs. We appreciate the opportunity to make positive contributions to the AB 32 program and to help set a better course for future generations of Californians.

If you have any questions, please do not hesitate to contact me at (213) 367-1338 or Ms. LeiLani Johnson Kowal of my staff at (213) 367-3023.

Sincerely,

H. David Nahai
Chief Executive Officer
and General Manager

LJK:ps
c: (See enclosed list)

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