



ANTONIO R. VILLARAIGOSA
Mayor

Commission
THOMAS S. SAYLES, *President*
ERIC HOLOMAN, *Vice President*
RICHARD F. MOSS
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCIOS, *Secretary*

RONALD O. NICHOLS
General Manager

May 1, 2012

The Honorable Lee Smalley Edmon
Presiding Judge
Los Angeles County Superior Court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Eleventh Floor, Room 11-506
Los Angeles, CA 90012-3210

BY HAND DELIVERY AND U.S. MAIL

Alf Schonbach, Foreperson
Civil Grand Jury
County of Los Angeles
Clara Shortridge Foltz Criminal Justice Center
210 W. Temple Street
Room 11-506

Re: Response of the Board of Water and Power Commissioners of the City of Los Angeles
to:

Final Report
Los Angeles County Civil Grand Jury 2010-2011

Investigative reports:
City of Los Angeles Department of Water and Power
Who's Really in the Dark? (pp. 73-130)

Whoa! The State of Public Pensions in Los Angeles County
Assessment of the State of Pension Plans in Los Angeles County
Phase II: Section 2
City of Los Angeles Department of Water and Power Employee
Retirement Plan (pp. 254-265)

Dear Presiding Judge Edmon and Foreperson Schonbach:

Enclosed please find the responses of the Board of Water and Power Commissioners to the findings and recommendations in the above-referenced investigative reports, as approved by the Board by its resolution adopted April 17, 2012 (attached).

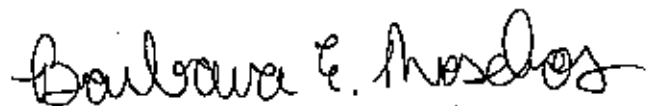
Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA

Recyclable and made from recycled waste.



Respectfully submitted,

A handwritten signature in black ink that reads "Barbara E. Moschos". The signature is written in a cursive style with a large initial 'B'.

BARBARA E. MOSCHOS
Board Secretary

cc: Thomas S. Sayles
President
Board of Water and Power Commissioners

Ronald O. Nichols
General Manager
Department of Water and Power

Encls.

WHEREAS, in June 2011, the Final Report of the Los Angeles Civil Grand Jury, 2010-2011, included two reports affecting the Los Angeles Department of Water and Power (LADWP) which directed a response from the Board of Water and Power Commissioners (Board); and

WHEREAS, a response is required to civil grand jury reports by state statute; and

WHEREAS, a draft response has been prepared for approval by the Board and is attached hereto to this resolution.

NOW, THEREFORE, BE IT RESOLVED that the draft response now on file with the Secretary of the Board be and the same is hereby approved as the official response.

BE IT FURTHER RESOLVED, that the President or Vice President of this Board, or General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of this Board be and they are hereby authorized, empowered, and directed to file the response, as substantially attached, for and on behalf of the Board with the Presiding Judge of the Los Angeles County Superior Court.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held APR 17 2012

Barbara E. Moschos

Secretary

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

APR 17 2012
BY *Eduardo A. Angeles*
EDUARDO A. ANGELES
SENIOR ASSISTANT CITY ATTORNEY

**Response of the Board of Water and Power Commissioners
to the 2010-2011 Los Angeles County Civil Grand Jury Report**

**GRAND JURY REPORT ON THE LOS ANGELES DEPARTMENT OF WATER
AND POWER**

Grand Jury Finding 1

The governance of the Department of Water and Power is distributed among several different groups including the Board of Water and Power Commissioners, the Mayor, the City Council, the City attorney [sic] and IBEW.

Board response to Finding 1

This finding does not call for a response from the Board of Water and Power Commissioners (Board) to the extent that it asserts matters over which the Board lacks "control"¹ for purposes of California Penal Code § 933(c). The Department of Water and Power's (Department's) governance is determined by the structure of Los Angeles City government, a matter beyond the Board's control inasmuch as the structure is a creature of the Charter of the City of Los Angeles, which is adopted by the City electorate. Management of the Department is entrusted by the City Charter to the Board, acting largely through the Department's General Manager. See, e.g., Charter §§ 675, 678. Governance broadly viewed encompasses, as well, the Mayor, City Council, and certain other departments (e.g., Personnel Department) and offices (e.g., City Controller's Office) of City government.

The Board disagrees with the finding's statement that IBEW is one of the "different groups" to which governance is distributed. That union is not part of City government and thus cannot and does not exercise governmental authority. As a union, the IBEW is involved in Department operations, but not in Department management. The County Grand Jury's (CGJ's) narrative concedes that IBEW's role is "not a formal governing relationship," Report at 84, and at one point characterizes the IBEW as being among the entities having "input or involvement into the management and governance of the Department..." Report at 82, while at a later point expresses the "opinion" that the IBEW "plays a significant part in the governance structure." Report at 84. Input or involvement in operations is a far cry from the exercise of governmental authority and the

¹ Even where the Board is vested with legal authority over a matter, the Board's "control" may not be complete. As a notable example, as with other City boards of commissioners, under Charter § 245 the City Council may by two-thirds vote veto Board actions that are not exempted by that provision. As another notable example, rate setting for both water and power requires joint action by the Board and the City Council acting by ordinance. Charter § 676(a).

responsibility that goes with it. The IBEW, in common with virtually all unions, makes demands, presents requests, and offers suggestions to Department management. Some of these are accepted, others are rejected, and still others result in compromise. These labor relations do not equate to governance and do not give the IBEW any "part in the governance structure," "significant" or otherwise.

Grand Jury Recommendation 1

LADWP's governance needs clarification and simplification. A stronger, independent Commission system is warranted.

Board response to Recommendation 1

This recommendation does not call for a response from the Board because it concerns matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The Board does not have the authority to change its own structure. This can only be accomplished through a change to the City Charter.

Grand Jury Finding 2

There has been a significant turnover in both Commissioners and General Managers for the LADWP, especially in recent years, which diminishes the overall governance continuity.

Board response to Finding 2

The Board agrees with this finding.

Grand Jury Finding 3

There is a perception that political contributions rather than specialized skills or experience may play a primary part in the decision to appoint personnel to the Commission or other governance positions.

Board response to Finding 3

The Board cannot control appointments to the Board. To this extent this finding does not call for a response from the Board because it asserts matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The Board does appoint the General Manager, subject to confirmation by the Mayor and City Council, Charter § 604(a), and the Chief Operating Officer is among employees appointed by the General Manager. Charter § 509(b). The

Board believes that political contributions should play no role in these appointments.

Grand Jury Recommendation 2

Establish guidelines for Commissioner appointment and reduce the politics of appointment, real or perceived.

Board response to Recommendation 2

This recommendation does not call for a response from the Board because it concerns matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The Board does not have authority over commissioner appointments.

Grand Jury Recommendation 3

Expect LADWP Commissioners to serve full five-year terms.

Board response to Recommendation 3

This recommendation does not call for a response from the Board because it concerns matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The Board cannot control expectations of others. It should be noted that when commissioners are appointed, it does not have to be for a five-year term, as it can be for the period of an unexpired term. Charter § 501(c). A more appropriate expectation would be for commissioners to serve their full term approved by City Council.

Grand Jury Recommendation 4

Reduce the bureaucratic impact to the Department due to Mayoral or Council involvement.

Board response to Recommendation 4

This recommendation does not call for a response from the Board because it concerns matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The Board does not have the ability to control the exercise of Mayoral or Council authority over the Department on matters for which the Council and/or the Mayor have specific authority established by the City Charter.

Grand Jury Finding 4

There are a variety of governance structures in place at other municipal utilities; there is no one structure that meets all needs.

Board response to Finding 4

This finding does not call for a response from the Board because it asserts matters over which the Board lacks "control" for purposes of California Penal Code § 933(c).

Grand Jury Finding 5

Although there was originally some concern that personnel were taking higher paying jobs at LADWP for only a short time (pension spiking) in order to increase lifetime pensions, such does not appear to be the case. However, the number of transfers from the City to the Department may have a negative impact on the pension funding for the Department.

Board response to Finding 5

The Board agrees with this finding.

Grand Jury Recommendation 5

The City and LADWP should come to an agreement to rescind the reciprocity agreement until such time as the number of employees transferred back and forth between the City and LADWP reaches equilibrium. Personnel should only be transferred as required by LADWP and then only with full financial contribution to the pension fund.

Board response to Recommendation 5

The Board agrees that the current reciprocity arrangement has not been equitable to the Department. Reciprocity without financial equilibrium, where the costs of overall transfers are generally neutral to each system, places a burden on one of the two cooperating retirement systems. The Board must point out that under the City Charter it does not have full control over this matter. It will be recalled that in 2010 the Board approved a Plan amendment to suspend the current reciprocity arrangement pending study of alternatives, but the Board's resolution to that effect was vetoed by the City Council under Charter § 245 on October 13, 2010.

Since the Council's action, the current reciprocity program has been further reviewed in light of the financial concerns noted above. Staff from the Department's Labor Relations office, the Water and Power Employees' Retirement Plan (WPERP) Retirement Office, the City Administrator's Office, and the Los Angeles Employees' Retirement System (LACERS) have discussed alternative reciprocity programs. A report of October 7, 2011 from the Segal Company, the actuary for both the WPERP and the LACERS, presented illustrations of the cost impact of possible proposed changes in the current reciprocity program. That report was presented to the WPERP Retirement Board, which on November 29, 2011 wrote to the Department to recommend that it "actively pursue" modeling the reciprocity program on that used by the California Public Employees Retirement System ("CalPERS"), one of the alternatives studied in the actuary's report and described therein as follows:

One option is a "CalPERS" style program where members can use their combined service from both WPERP and LACERS for eligibility purposes and their highest salary under either plan in the determination of their retirement benefit. However, retirement benefit amounts from each of the WPERP and LACERS plans would be calculated based only on the service earned for the time in each plan. Under this option, no assets are transferred between the two plans and each plan would retain the liability for the member's benefits based on the service the member/former member has with each respective plan. ¶ Members would contribute at the prevailing rate in the new plan at the time of transfer. Any Additional or Larger Annuity contributions would stay on deposit with the original plan, and would be used to determine additional benefits under the original plan.

Segal Company report at.2. The WPERP Retirement Board's recommendation is being reviewed by the Department. Unlike the suspension of the current reciprocity program attempted by the Board in 2010, which the Department (by approval of this Board and adoption by the WPERP Retirement Board) could have effected unilaterally but for the Council's veto, the Department cannot unilaterally establish a CalPERS style reciprocity program. That program would entail shared financial responsibility between the two retirement systems, requiring both systems to amend their foundational documents. Additionally, before proceeding it would have to be determined whether such a change would be subject to the meet-and-confer process (*i.e.*, collective bargaining) with City employee bargaining unit representatives.

Grand Jury Finding 6

Succession planning does not take place within LADWP to any meaningful extent.

Board response to Finding 6

The Board disagrees partially with this finding. While the Board agrees that no departmental succession plan is in place, the Board disagrees that succession planning does not take place within LADWP to any meaningful extent. Divisions have been developing their own succession plans for critical classes with guidance and assistance from Human Resources' (HR) Workforce Planning Group (WPG). Moreover, HR is currently developing a succession planning guide to assist the systems and divisions with their succession planning efforts.

WPG began its work in earnest in the fall of 2010 with the objective to provide divisions with detailed Strategic Workforce Operational Plans (SWOPs) for their identified critical classifications. In response to issues noted by subject matter experts on surveys conducted by WPG, SWOPs focus specifically on knowledge transfer/succession, recruitment, duties performed, civil service examinations, and training issues. Since early 2011, WPG has completed eleven SWOPs for classifications deemed essential to core business and submitted them to executive management for review.

Grand Jury Recommendation 6

Fully staff and fund the Workforce Planning Group to encourage a full review of options for future LADWP employment and work with City Personnel Department and the Civil Service Office [sic] to allow some changes in hiring and promotional practices for high level essential jobs.

Board response to Recommendation 6

The Board agrees with this recommendation. Full staffing of the WPG is in the best interest of LADWP; however, the current economic downturn and financial restrictions call for additional analysis to determine if filling the positions at this time would be fully justified and fiscally responsible in light of numerous presently unfilled positions across the Department.

Grand Jury Finding 7

The IBEW is very active in local and state elections, local and state legislation and in ongoing City politics. It also contributes substantial time and money to the election of City politicians, including various Council members, the Mayor and the City Attorney which potentially allows for a substantial amount of power in the day-to-day governance of the Department.

Board response to Finding 7

This finding does not call for a response from the Board because it asserts matters over which the Board lacks "control" for purposes of California Penal Code § 933(c).

Grand Jury Finding 8

There is considerable belief that the unions are increasingly involved in the operations and management of the Department.

Board response to Finding 8

The finding is not agreed to for lack of sufficient information and belief. The Board has not been presented with information, including empirical data on popular views, about the alleged "considerable belief" sufficient to infer whether or not it exists.

The Board disagrees with the underlying premise that "unions are increasingly involved in the operations and management of the Department." In response to Finding 1, the Board pointed out that management of the Department is entrusted by the City Charter to the Board, acting largely through the Department's General Manager. See, e.g., Charter §§ 675, 678. Unions are involved in Department operations, but not Department management.

Importantly in this regard, Charter § 234 states in relevant part: "The City shall encourage joint labor-management partnerships to set goals, encourage agreements, solve problems, create incentives for outstanding individual or team performance and encourage flexibility and innovation" To that end and consistent with this Charter directive, the Department engages fully in Joint Labor Management (JLM) Committees with various labor unions to discuss and create solutions to issues of concern for both management and labor. This process is in keeping with the practice and procedures followed by other City departments, and the JLM process allows both labor and management the ability to effectively identify and develop strategies for resolving issues and problems of mutual concern.

Therefore, while the Department engages fully in the above JLM process, which may increasingly involve unions in the operations of the Department, the Board disagrees that the unions are increasingly involved in the management of the Department. Once again, the unions are not involved in Department management.

Grand Jury Finding 9

The public sector unions, especially IBEW, have been successful for their members by accomplishing a higher level of salary and benefits than other employee unions. This information is of concern to many ratepayers since it will increase the rates developed to pay for services.

Board response to Finding 9

The Board agrees partially with this finding. While public sector unions participate in the negotiation of members' salary and benefits at the Department, unions are but one component among factors that result in the establishment of salary and benefits. Other factors that influence salary and benefits in the public sector include socioeconomic factors (cost of living, available labor concentration/pool, composition of the labor force/demographics, and wages offered by comparable employers); political factors (legal environment and government management and structure); and business factors (nature of business, size of organization, and fiscal capacity).

If this finding is meant to imply that public sector unions, like IBEW, have been more successful in obtaining a higher level of salary and benefits for Department employees as compared to other public sector unions representing employees in non-utility organizations, then the Board agrees in part, based on the above factors.

However, comparisons of Department positions to non-water and power utility positions within the City of Los Angeles cannot be made solely on wage levels by classifications. Responsibilities and job performance requirements vary, even where the title used by the City and the title used by the Department are the same, based on factors such as the 24/7 nature of required reliability of service and response to customers, levels of revenue involved, size of transactions, and consequences of delay or error to the health and safety of the people of Los Angeles served by the Department. However, there are also situations where classifications of employees that are similar between the Department and non-utility functions elsewhere in the City do have higher levels of compensation for similar hours of work for Department employees.

The Board would point out that the employee compensation variance between the Department and other City non-utility functions does not have a meaningful impact on Department utility rates to our customers, recognizing that total labor costs, including salary, overtime, benefits and pension contributions, in total are about twenty-five percent of costs to our customers.

Grand Jury Finding 10

The IBEW represents 88% of all LADWP employees which is an unusually high percentage for utilities.

Board response to Finding 10

The Board agrees with this finding.

Grand Jury Finding 11

Although the LADWP and the IBEW engage in "mutual gains bargaining" through a Joint Labor Management Resolution Board (JRB), the bargaining results are reportedly more in favor of the Union. The number of grievances filed by the Union has not materially changed as a result of this process.

Board response to Finding 11

The Board partially disagrees with this finding. The goal of mutual-gain negotiations is to create a level of trust and respect that will enable both parties to collaboratively explore potential outcomes. Through approaching issues as problems to be solved and seeking alternatives, often bargaining results in sustainable agreements that both parties can support.

The first sentence of the finding states that the bargaining results are reportedly more in favor of the IBEW. If bargaining results were only measured quantitatively, then the Board would agree with the portion of the finding that states the "results reportedly are more in favor of the Union." However, as stated above, mutual gains bargaining is measured qualitatively in obtaining sustainable agreements, and the parties have gained clarity in contract language interpretation and implementation over the past 10 years. Furthermore, in reviewing the number of grievances filed by IBEW before mutual gains bargaining was fully practiced (1990-2000) compared to after mutual gains bargaining was incorporated as part of the Department's culture (2001-2011), the number of grievances filed by IBEW decreased by 60 percent.

Grand Jury Recommendation 7

Determine if the current state of union/management relations is equitable and not favorable to one side at the expense of the other.

Board response to Recommendation 7

The Board finds that the above recommendation requires further analysis to determine if the current state of union/management relations is equitable and not favorable to one side at the expense of the other. The Board will consider conducting such an analysis that may include a review of the bargaining issues raised and agreements entered into with the five labor organizations representing employees at the Department over some period of time to assess the balance and equity in bargaining results and identify changes, if any. Such analysis would be conducted by the end of fiscal year 2012-13.

Grand Jury Finding 12

The LADWP is at risk by having a high percentage of essential personnel in the same Union and does not have a current "strike plan" to continue operations and serve the citizens of Los Angeles in case of a work action.

Board response to Finding 12

The Board agrees with this finding.

Grand Jury Recommendation 8

Immediately develop a confidential strike preparation plan and ensure that cross training and documentation of essential functions is included in the process and plan.

Board response to Recommendation 8

The Board agrees with this recommendation. The Department recognizes the need to respond from a position of total readiness including planning, cross training of staff, documentation of essential functions, and security and operational assessments to protect Department operations and continue to serve the people of Los Angeles. Furthermore, the Department acknowledges that a fully developed strike plan does not exist. Nevertheless, the Board has requested the Department to develop, by the end of fiscal year 2012-13, a confidential strike prevention and management contingency plan for review by the Board.

Grand Jury Finding 13

The Department has provided substantial funds to the City of Los Angeles in the form of Power and Water transfers for many years.

Board response to Finding 13

The Board agrees with this finding. The Water transfer is no longer made.

Grand Jury Finding 14

Although the Department had numerous reasons for not wanting to make the transfer without a rate increase that it felt it deserved, holding the City "hostage" under these circumstances was inappropriate since the Department had the cash to make the transfer, although they had it reserved for other uses.

Board response to Finding 14

The Board lacks sufficient information and belief to agree or disagree with this finding. Even with a comprehensive and costly attempt to reconstruct the past through investigation, there would be no guarantee that what would be learned would be sufficient to enable this Board to agree or disagree with this finding. The decision not to request Board approval of the transfer was a decision of a prior General Manager and not the Board.

Grand Jury Recommendation 9

Take steps to ensure that this transfer problem doesn't happen again.

Board response to Recommendation 9

The Board agrees with the recommendation. The passage of Measure J should prevent this problem in the future. Measure J added Charter § 684 and amended Charter § 344 by adding subsection (b).

Charter § 684 provides:

Submission of Budget to the City Council for Informational Purposes.

The Board of Water and Power Commissioners shall submit a preliminary budget for the upcoming fiscal year to the City Council for informational purposes by no later than March 31 of each year and shall by May 31 of that year update the preliminary budget based on additional information received after March 31, including without limitation, additional information about revenue and expense projections. This Section shall be operative on July 1, 2011.

Charter § 344(b) provides:

The Council may, by ordinance, direct that a transfer be made to the Reserve Fund from surplus money in the Water Revenue Fund or Power Revenue Fund with the consent of the Board of Water and Power Commissioners (the "Board"), as provided in this section.

(1) For purposes of this section, surplus in the Water Revenue Fund or Power Revenue Fund shall be defined as the amount remaining in the Water Revenue Fund or Power Revenue Fund, less outstanding demands and liabilities payable out of the fund, at the end of the fiscal year prior to the fiscal year in which the transfer is to be made, as shown by audited financial statements.

(2) Through the process provided in this section, the Board may withhold its consent to make the transfer in whole or in part if, despite the existence of a surplus as defined herein, it finds that making the transfer would have a material negative impact on the Department's financial condition in the year in which the transfer is to be made.

(3) By no later than November 30 of each year, the Board shall be presented with audited financial statements for the prior fiscal year. Based upon the audited financial statements for the prior fiscal year and budget status information for the current fiscal year, the Board shall, by December 31 of each year notify the Council and Mayor that the Board has (i) approved that the transfer be made in full, (ii) approved that the transfer be made in part, or (iii) decided that the transfer not be made in whole or in part. In the event that no approval of the transfer in full has been made by the date of notification, the Board shall provide the City Council and Mayor with (i) a detailed explanation of the basis therefor and all supporting financial information, and (ii) a preliminary assessment on the feasibility of making the transfer or the remaining portion of the transfer, as the case may be, by the end of the current fiscal year, which preliminary assessment shall be accompanied by a detailed explanation of its basis and all supporting financial information.

(4) In the event that the Board notifies the City that it will be unable to make the transfer in whole or in part because it will have a material negative impact on the Department's financial condition in the year in which the transfer is made, the City Administrative Officer shall verify the Department's findings and report to the Mayor and City Council concurrently, by no later than February 28, with that office's findings and recommendations. The Board shall after receiving the report from the City Administrative Officer and consultation with the Council and Mayor, act to either amend or uphold the Board's preliminary findings.

(5) Any transfer made shall be consistent with any applicable contractual obligations.

Grand Jury Finding 15

The ECAF as currently constituted at LADWP contains several elements that typically would not be found in a Cost Adjustment Factor.

Board response to Finding 15

The Board agrees with this finding. Different utilities use cost and adjustment factors for different cost categories. There is no universally applied definition of a utility cost adjustment factor.

Grand Jury Finding 16

The current ECAF design does not provide for adequate oversight and transparency into long-term commitments made by the Department, particularly with respect to Renewable Portfolio Standard (RPS) and Demand Side Management (DSM).

Board response to Finding 16

The Board agrees with this finding, and the Department is preparing plans for more frequent reporting of RPS and DSM plans, expenditures, and performance.

Grand Jury Recommendation 10

The CGJ agrees with the CCF Recommendation that a "new proposal for rate restructuring should be drafted and analyzed. One aspect of this proposal would be to split the current ECAF into several separate rate components. This will provide the Council (and the public) with greater visibility of LADWP's cost structure and of the justification for any rate increases."

Board response to Recommendation 10

The Board agrees with this recommendation in part. The Board recognizes that the current ECAF does not provide the desired level of transparency. In the rate setting process anticipated to take place this fiscal year, the Board will be looking for ways and means of increasing transparency in any rate revision it sends to the City Council for approval. The composition of the ECAF will doubtless be a major topic for consideration during that process. The Board, however, properly should not now commit in any rate action it will take to splitting the "current ECAF into several separate rate components" until it takes into account all other factors bearing on the effects of doing so at that time. The Board agrees that transparency should be a goal of future electricity charges. To that end, the

Board and the General Manager will pursue this goal of greater transparency as it interfaces with the City Council and the Office of Public Accountability on rates.

Grand Jury Recommendation 11

Increase the transparency of the cost of each current ECAF item by showing the item and amount of the ratepayer bill.

Board response to Recommendation 11

The Board agrees with this recommendation but realizes that current system limitations must be overcome before more billing details can be printed on the customer bill. For the creation of future charges, the Board, the General Manager, and Department staff will work with the Office of Public Accountability to balance transparency and other rate structure considerations.

Grand Jury Finding 17

The implementation of a Ratepayer Advocate at LADWP would be unusual in the municipal utility industry.

Board response to Finding 17

This finding does not call for a response from the Board to the extent that it asserts matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). Charter Amendment I, approved by City voters on March 8, 2011, created the Office of Public Accountability (Ratepayer Advocate).

Grand Jury Finding 18

Some people believe that the impact of the Ratepayer Advocate ballot measure is minimized because other proposed Charter amendments were not approved for the same ballot.

Board response to Finding 18

This finding does not call for a response from the Board to the extent that it asserts matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The finding concerns legislative matters beyond the purview of the Board.

Grand Jury Finding 19

Although the final wording of the Ratepayer Advocate ballot measure may be interpreted as being effective, the implementation of the measure, and therefore its strength, is up to Council ordinance.

Board response to Finding 19

This finding does not call for a response from the Board to the extent that it asserts matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). This finding concerns interpretation of a Charter amendment that was adopted by the City's voters, a matter beyond the Board's ability to control.

Grand Jury Recommendation 12

Ensure that the Ratepayer Advocate's function is clearly defined and that the function is not captured by politicians or a bureaucracy that will stagnate their independence and ability.

Board response to Recommendation 12

This recommendation does not call for a response from the Board because it concerns matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The Board does not oversee the Ratepayer Advocate's function.

Grand Jury Recommendation 13

Ensure that the public has primary input into the appointment of the Ratepayer Advocate. The "citizen's committee" should have ample representation from Neighborhood Councils and other citizen-based organizations.

Board response to Recommendation 13

This recommendation does not call for a response from the Board because it concerns matters over which the Board lacks "control" for purposes of California Penal Code § 933(c). The citizens committee, authorized by Charter Amendment I, was formed and made an appointment to the position of Executive Director of the Office of Public Accountability (Ratepayer Advocate), which appointment was confirmed by the City Council on January 31, 2012 and by the Mayor on the following day. The Board had no role in the committee's creation, nor did the Board play a role regarding public input in the appointment process.

**Response of the Board of Water and Power Commissioners
to the 2010-2011 Los Angeles County Civil Grand Jury Report**

**GRAND JURY REPORT ON THE ASSESSMENT OF THE STATE OF
PENSION PLANS IN LOS ANGELES COUNTY**

Grand Jury Finding 1

DWP employee relations management staff has not initiated any substantive meet and confer sessions with employee bargaining groups to modify aspects of the retirement benefit package in an effort to reduce costs, despite total annual retirement benefit contributions of approximately \$360 million or 46.9% of pensionable salaries in FY 2009-2010.

Board response to Finding 1

The Board partially disagrees with the finding. The Department recognizes the rising costs associated with maintaining the status quo with the Department's Retirement Plan. Furthermore, the Department agrees that it has not initiated any substantive meet and confer sessions with employee bargaining units to modify the Plan in an effort to reduce costs. While the Department has not initiated bargaining with labor, the Department is currently assessing costs associated with its Retirement and Disability Plan.

However, in 2009, before the other City unions began their concessions, the IBEW agreed that employees would take a one-time payment in lieu of a cost of living adjustment (COLA). It is estimated that this agreement will result in \$401 million in savings due to lower salaries going forward, lower overtime costs, and lower retirement costs through fiscal year 2015-2016.

Grand Jury Recommendation 1

The DWP Board of Commissioners give direction to management to evaluate and report back in closed session on alternatives for reducing the Department's cost of employee retirement benefits."

Board response to Recommendation 1

The Board agrees with this recommendation. The Board agrees that identifying and evaluating alternatives for reducing the Department's cost of employee retirement benefits is important and agrees to provide the direction to management to evaluate and report to the Board. The Board will give that direction and request a report back by December 31, 2012.

Grand Jury Recommendation 2

The DWP Board and Commissioners advise the new Ratepayer Advocate and the City Council of the decision by the DWP management to accelerate payment of the Retiree Health Benefit Fund ARC in each of the last three fiscal years to ensure that the prepayments are fully considered when the DWP seeks future rate increases or indicates it is unable to make revenue transfers to the General Fund.

Board response to Recommendation 2

The Board agrees with this recommendation. Notice will be provided.

Grand Jury Recommendation 3

Los Angeles City Council, the DWP Board of Commissioners and LACERS Board of Administrators need to expedite reaching an agreement regarding transferring funds to WPERP to cover the cost of an increased UAAL imposed on DWP, estimated by actuaries to equal as much as \$183 million for the six year period between 2004 and 2010, due to Los Angeles City Employees who have moved from City departments to DWP so that the burden is not imposed on ratepayers.

Board response to Recommendation 3

The Board agrees with this recommendation. Discussions between the Board and the City Council on the future of the reciprocity program will need to address rectification of the imbalance from the recent past.

Grand Jury Recommendation 4

Los Angeles City Council, the DWP Board of Commissioners and LACERS Board of Administrators need to amend the reciprocity agreement between LACERS and WPERP with regard to the transfer of employer pension contributions in order to prevent such inequity in the future.

Board response to Recommendation 4

The Board agrees that the current reciprocity arrangement has not been equitable to the Department. Reciprocity without financial equilibrium, where the

costs of overall transfers are generally neutral to each system, places a burden on one of the two cooperating retirement systems. The Board must point out that under the City Charter it does not have full control over this matter. It will be recalled that in 2010 the Board approved a Plan amendment to suspend the current reciprocity arrangement pending study of alternatives, but the Board's resolution to that effect was vetoed by the City Council under Charter § 245 on October 13, 2010.

Since the Council's action, the current reciprocity program has been further reviewed in light of the financial concerns noted above. Staff from the Department's Labor Relations office, the Water and Power Employees' Retirement Plan (WPERP) Retirement Office, the City Administrator's Office, and the Los Angeles Employees' Retirement System (LACERS) have discussed alternative reciprocity programs. A report of October 7, 2011 from the Segal Company, the actuary for both the WPERP and the LACERS, presented illustrations of the cost impact of possible proposed changes in the current reciprocity program. That report was presented to the WPERP Retirement Board, which on November 9, 2011 recommended pursuing the alternative of modeling the reciprocity program on that used by the California Public Employees Retirement System ("CalPERS"), one of the alternatives studied in the actuary's report and described therein as follows:

One option is a "CalPERS" style program where members can use their combined service from both WPERP and LACERS for eligibility purposes and their highest salary under either plan in the determination of their retirement benefit. However, retirement benefit amounts from each of the WPERP and LACERS plans would be calculated based only on the service earned for the time in each plan. Under this option, no assets are transferred between the two plans and each plan would retain the liability for the member's benefits based on the service the member/former member has with each respective plan. ¶ Members would contribute at the prevailing rate in the new plan at the time of transfer. Any Additional or Larger Annuity contributions would stay on deposit with the original plan, and would be used to determine additional benefits under the original plan.

Segal Company report at 2. The WPERP Retirement Board's recommendation is being reviewed by the Department. Unlike the suspension of the current reciprocity program attempted by the Board in 2010, which the Department (by approval of this Board and adoption by the WPERP Retirement Board) could have effected unilaterally but for the Council's veto, the Department cannot unilaterally establish a CalPERS style reciprocity program. That program would entail shared financial responsibility between the two retirement systems, requiring both systems to amend their foundational documents. Additionally, before proceeding it would have to be determined whether such a change would be subject to the meet-and-confer process (*i.e.*, collective bargaining) with City employee bargaining unit representatives.