

Draft  
September 1, 2010

Ratepayers Advocate  
Preliminary Term Sheet

**Role**

The Office of the Ratepayers Advocate (the “Ratepayers Advocate”) will review and analyze the operations, finances, and management, of the Department of Water and Power as well as other matters not explicitly excluded from its role.

Such review and analysis will be done on a timely and continuous basis.

In addition to all matters relating to rates and the reliability and quality of service, the Ratepayers Advocate would have the right to review and analyze, among other matters, DWP’s credit rating; its long term strategy; the Integrated Resources Plan; the Urban Water Management Plan; the Recycled Water Master Plan; the state of its infrastructure and information technology systems; its Customer Relation Management systems; the implementation of the recommendations of the IEA Survey and Independent Fiscal Review; the efficiency of its operations; its procurement, contracting, and inventory policies; its relationship with the City and its departments; and all material contracts, including those with the Metropolitan Water District and its unions.

The Ratepayers Advocate will not set rates or policy, will not select the General Manager or any Commissioner, and will not determine the Transfer to the City, but may review, analyze, and comment on such matters. The Ratepayers Advocate will not make management decisions. The Ratepayers Advocate is not required to review individual customer complaints, but may so at its discretion.

The Ratepayers Advocate will not have the subpoena and prosecutor powers of an Inspector General; provided, however, that DWP provides the Ratepayers Advocate with all requested information on a timely basis.

The Ratepayers Advocate will have a “seat at the table” at any meeting of the Board of Commissioners or any of its committee and at any City Council meeting or any of its committees when the DWP is being discussed. The Ratepayers Advocate will be given equal time.

The DWP will cooperate fully with and assist as necessary the Ratepayers Advocate.

The Ratepayers Advocate will be a source of objective information for Ratepayers, the City Council, the Mayor, and other City officials and stakeholders.

**Funding**

The DWP will provide funding equal to 0.1% of annual revenues, payable quarterly in advance. Funds not used may be accumulated, but shall not exceed 0.3% of annual revenues.



Additional funds may be required based upon extraordinary requests by DWP or elected officials or their representatives. Such additional funds must be approved in advance by DWP.

## **Reporting**

The Ratepayers Advocate will not report to any elected official or body consisting of elected officials or appointed by elected officials. The Controller, the City Council, the Mayor and the Mayor's office, the City Administrative Officer, the Chief Legislative Analyst, the DWP Board of Commissioners, and Neighborhood Councils are therefore not eligible.

The Ratepayers Advocate will report to the Ratepayers Advocate Board of Commissioners on a frequent basis.

The Ratepayers Advocate Board of Commissioners will consist of five independent members: two homeowners, two from the business community, and one from the rental community.

Commissioners may not be a city, county, or state employee, consultant, lobbyist, or contractor, or any of their employees or union members; any elected politician (or candidate) who has been in office during the last 10 years; and any officer, past or present, of any political party.

Commissioners will be residents of Los Angeles and DWP customers whose obligations are current.

Commissioners will be chosen by the Mayor from a pool of qualified candidates determined by the Neighborhood Councils, the business community, and the multifamily community, subject to the approval of the City Council. There will be three candidates for each position.

Qualified candidates must demonstrate a level of knowledge and/or experience of large organizations, finance, management, and/or engineering.

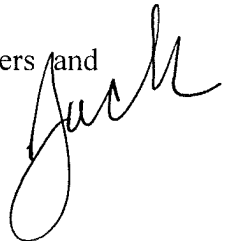
The Commissioners will serve five year staggered terms. However, the initial commissioners will serve terms of one, two, three, four and five year terms. Commissioners may not be removed unless the removal is approved by the mayor and at least 11 Council Members.

The Commissioners will approve the selection of the Executive Director of the Ratepayers Advocate.

Commissioners will be consulted on the hiring of staff and any consultants.

The Executive Director may be removed if approved by four of the Commissioners and confirmed by the Mayor and a majority of the City Council

## **Ratepayers Advocate**

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The Executive Director of the Ratepayers Advocate will have the necessary expertise and experience to lead an organization charged with fulfilling the role of the Ratepayers Advocate.

The City will retain a qualified executive recruiter to assist the City in finding a qualified candidate.

### **Outreach**

The office of the Ratepayers Advocate will maintain a fully functional website where it will post its findings on a timely basis.

The Ratepayers Advocate will meet at least six times a year with the Neighborhood Councils and other ratepayers in an effort to keep them fully informed about past, current, and future policies of the DWP, especially as it relates to rates and quality and reliability of service.

### **Location**

The location of the Ratepayers Advocate will be determined by the Executive Director in consultation with the Commissioners.

### **Budget**

The Executive Director will prepare an annual budget to be approved by the Board of Commissioners.

The Executive Director will also prepare a multiyear budget.

The compensation of the Executive Director and her/his staff will need to be adequate to attract personnel from the private sector that have the requisite skills.

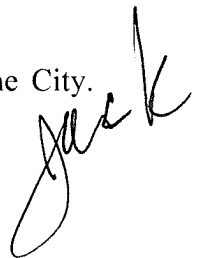
The Ratepayers Advocate will be required to fund only the normal costs related to pensions and medical benefits.

### **Charter**

The Ratepayers Advocate will part of the City Charter if approved by a majority of the voters in the March 2011 election.

There will be no sunset provisions.

The Ratepayers Advocate will not be subject to the competitive bidding policies of the City.

A handwritten signature in black ink, appearing to read "Jack", is located in the bottom right corner of the page.

# Here's What LA's Independent Ratepayers Advocate Should Be Doing ... Or Not!



LA WATCHDOG

*Jack Humphreville*



What is the role and responsibility of the independent Ratepayers Advocate? In previous articles, the role of the Ratepayers Advocate was to review and analyze the operations, finances, and management of the Department of Water & Power on a timely and continuous basis. In its June 10, 2010 memo, the DWP limited the Ratepayers Advocate review to water and power base rates and rate related matters and recommended a budget of \$300,000. This was not well received by the Neighborhood Councils or the City Council. (Link)

[[[ [http://citywatchla.com/index.php?option=com\\_content&task=view&id=3664](http://citywatchla.com/index.php?option=com_content&task=view&id=3664) ]]] Furthermore, the DWP Board of Commissioners rejected this memo and requested DWP management redefine the scope and funding of the Ratepayers Advocate.

But rather than attempt to define the specific role and responsibilities, it is easier to define what is NOT in the Ratepayers Advocate job description. Everything else is fair game.

The Ratepayers Advocate would not determine rates nor would s/he make management decisions or establish policy. However, the Ratepayers Advocate would have the right to review, analyze, and advise with respect to these matters.

Nor would the Ratepayers Advocate have subpoena powers, assuming of course that it had the full cooperation of the DWP, the support of its people, and access to information.

Nor would the Ratepayers Advocate have the rights of an Inspector General to prosecute the DWP or its employees for fraud, waste, abuse, or malfeasance. However, the Ratepayers Advocate would have the right to comment on any such matters and listen to whistleblowers.

There are a number of areas in addition to base rates, pass-throughs, and quality of service that deserve the attention of the Ratepayers Advocate given their impact on ratepayers.

For example, DWP is currently embarked on developing a Strategic Plan for the entire organization that will involve the investment of \$50 to \$60 billion over the next ten years. It is also developing its Integrated Resources and Urban Water Management Plans. Given these massive expenditures and their impact on rates, it makes sense for the Ratepayers Advocate to review and analyze these plans on behalf of the Ratepayers, the City Council, and the Mayor.

The Ratepayers Advocate would also advise on a number of very costly regulatory requirements such as AB 32 (Greenhouse Gas Emissions) and Once Thru Cooling. And does it make sense for DWP to aggressively try to mitigate the \$700 million of cap and trade payments to investor owned utilities such as Edison and Pacific Gas & Electric by having the Legislature waive some of the requirements of AB 32 as they relate to DWP, as suggested by David Nahai in October, 2008.

The Ratepayers Advocate could also review the status of the recommendations of the charter

mandated Industrial, Economic, and Administrative Survey that was completed in February, 2009. Then it would be able to analyze the efficiency of DWP compared to other comparable utilities.

It would also allow the Ratepayers Advocate to review DWP's labor rates and compare them to other utilities and the City. The Ratepayer Advocate would also advise on any labor contracts.

The Ratepayers Advocate would review and analyze various other transactions and projects, such as the proposed sale of DWP Headquarters, smart meters, the Fiber Optic network, and the \$1 billion proposal for underground transmission lines along the Los Angeles River, as well as other non-core, pet projects promoted by the Mayor or members of the City Council.

Likewise, the Ratepayers Advocate may analyze and advise regarding the DWP Retirement System and its \$2.4 billion unfunded liability.

The Ratepayers Advocate would also review the impact of various environmental related projects and initiatives, whether it be Shortage Year Water Rates, recycled water, the Rate Restructuring Plan, and the programs for energy efficiency, demand side management, and renewable energy.

A major concern is that the DWP, the Mayor, City Hall and their cronies will attempt to emasculate the Ratepayers Advocate by either co-opting the process or through backroom maneuvers.

Therefore, it is important the residential and commercial Ratepayers and the Neighborhood Councils oversee this process, whether through the Neighborhood Council DWP Memorandum of Understanding Oversight Committee, the DWP Committee, active and increased participation by actual Ratepayers in the DWP sponsored Ratepayer Advocate Advisory Group, or through contacting every member of the City Council on a continuous basis.

While most commercial and residential Ratepayers realize that the cost of water and power will be increasing due to the increasing cost of fuel and imported water, increased environmental and regulatory requirements, and increased labor costs and benefits, it is important that the Ratepayers not only receive quality service at a fair price, but believe that is the case.

And it is also important that DWP actively cooperate with the Ratepayers and Neighborhood Councils in this process. We do not need more controversy. DWP and the City desperately need to put one in the win column.

Note: On September 7, there will be a meeting in Mar Vista to discuss the Ratepayers Advocate and the DWP Reform Ballot Measures. Ratepayer participation and input is very important.

(Jack Humphreville writes LA Watchdog for CityWatch He is the President of the DWP Advocacy Committee and the Ratepayer Advocate for the Greater Wilshire Neighborhood Council. Humphreville is the publisher of the Recycler -- [www.recycler.com](http://www.recycler.com) . He can be reached at [lajack@gmail.com](mailto:lajack@gmail.com) ) -cw

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# Want an Independent Ratepayers Advocate? Show Me the Money!



PROPER FUNDING CRITICAL

*Jack Humphreville*



As a result of the very expensive and embarrassing ECAF Fiasco, there is a general agreement on the need for a truly independent Ratepayers Advocate to oversee the operations, finances and management of our less than transparent Department of Water & Power on a timely and continuous basis. However, the role, scope, and funding of the Ratepayers Advocate needs to be determined before it is placed on the March 2011 ballot.

To insure independence and sufficient resources, including access to third party expertise, the Ratepayers Advocate must be properly funded on a long term basis. In the past, a Councilman suggested that the Ratepayers Advocate be a voluntary position. Unfortunately, we cannot afford free anymore. It is too expensive.

On June 10, DWP proposed funding of \$300,000 for the Ratepayers Advocate. This would pay for two "experienced" people as well as \$100,000 for Administrative Fees and Contract Services. This proposal was so insulting to the City Council and Neighborhood Councils that the DWP Board of Commissioners referred the proposal back to DWP's management.

Furthermore, DWP management, in another attempt to emasculate the Ratepayers Advocate, recommended that the Ratepayers Advocate be established in the office of the City Administrative Officer and that any recommendations, reports, finding or other advisements be provided concurrently to the CAO and the DWP Board of Commissioners!

The June 22 CityWatch article ([link](#)), DWP Ratepayer Proposal Insults Councils & Ratepayers, No Shortage of Arrogance, provides some additional insight to DWP's proposal.

Some have suggested that the Ratepayers Advocate start off slowly and gradually build its staff and capabilities. But we do not have the luxury of time. In October, DWP will be requesting a substantial rate increase in water and power base rates and planning additional increases in the Energy Cost Adjustment Cost Factor.

In addition, DWP is the beginning stages of developing its Strategic and Integrated Resources Plans (the "Plans") that involve the investment of \$50 to \$60 billion over the next ten years. The Plans will have a dramatic impact on rates.

Given the immediacy of these rate increases and the Plans, we need to consider an interim Ratepayers Advocate or the retention of a competent consultant to review and analyze these proposals, not unlike the retention of PA Consulting in connection with the Energy cost Adjustment Factor and the Rate Restructuring Plan.

In trying to determine the funding of the Ratepayers Advocate, "you get what you pay for." We have an excellent example in comparing the Huron Consulting's Measure B performance (or lack thereof)

to that of PA Consulting with respect to the ECAF.

The Ratepayers Advocate requires experienced individuals who are knowledgeable about water and power utilities, rate setting, and the related engineering and technical aspects; have a thorough understanding of utility accounting and finances; and have experience with large, sophisticated organizations.

These individuals will also need to have the ability to work in a complex political environment and serve as a resource not only to the Ratepayers, but to the City Council and the Mayor when they are considering different policy alternatives.

The Ratepayers Advocate will also need access to outside third parties who have more detailed knowledge and experience about specific topics.

The Ratepayers Advocate is not a cheap proposition as was proposed by DWP. While the operating budget needs to be determined, the initial budget should be equal to one tenth of one percent (0.1%) of annual revenues of \$4.2 billion, or \$4.2 million.

While this is a considerably larger sum than proposed by DWP, it is not out of line given the DWP has assets that exceed \$20 billion, revenues in excess of \$4.2 billion, annual operating profits (before interest and depreciation) in excess of \$1.4 billion, and a ten year investment plan of \$50 to \$60 billion. DWP is also the largest source of revenue based on the 8% Transfer Fee and the 10% City Utility Tax.

Furthermore, for the average Ratepayer, it costs about a nickel (5¢) a month in our power bills and another nickel on our water bill. It is an increase of a 0.1% in our water and power bills, which is miniscule compared to the 28% increase in the ECAF proposed by Mayor Villaraigosa this spring.

This is a small price for the Ratepayers to spend to achieve a better understanding of our Department of Water & Power and how it is spending our money.

It is also the first step in developing a transparent organization and restoring Los Angeles' trust and confidence in the LADWP.

- RELATED-“LA Council Makes Bid to Assert More Control Over DWP”-Rick Orlov (Daily News)

*(Jack Humphreville writes LA Watchdog for CityWatch He is the President of the DWP Advocacy Committee and the Ratepayer Advocate for the Greater Wilshire Neighborhood Council. Humphreville is the publisher of the Recycler -- [www.recycler.com](http://www.recycler.com) . He can be reached at [lajack@gmail.com](mailto:lajack@gmail.com) ) -cw*

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# DWP Ratepayer Advocate Must be Independent: No Politicians, No Lobbyists, No Union Bosses



LA Watchdog

By Jack Humphreville

A truly independent Ratepayers Advocate would do much to restore the lost trust, confidence, and credibility of the Rate Payers and citizens of Los Angeles in our Department of Water and Power.



As such, it is critically important that the implementation of the Ratepayers Advocate be done in an open and transparent manner with significant input from the Neighborhood Council DWP MOU

Oversight Committee and other Ratepayer constituencies. As an aside, this same group should also participate in the selection of the next General Manager. Not only must the process be open, but the actual supporting documentation must be written in "Plain English" (as recommended by the Securities & Exchange Commission, Arthur Levitt, and Warren Buffett) so that the Ratepayers and citizens are not buried in legalistic, bureaucratic and charter mumbo jumbo.

The Ratepayers Advocate must not be undermined by "backdoor" language that creates numerous, sly exceptions as we have seen in the legislation that permitted the diversion of increased Sanitation Fees for the hiring of new police officers to the General Fund, or the use of designated bond funds for unrelated pet projects of powerful members of the State Legislature.

The priority on Ratepayer Advocate independence is very critical. We have to eliminate the pressure from special interest groups and campaign contributions and protect the people paying the bills: the Ratepayers.

For openers, this position must exclude any city, county, or state employee, consultant, lobbyist, or contractor, or any of their employees or union members; any elected politician (or candidate) who has been in office during the last 10 years; and any officer, past or present, of any political party.

To help maintain the independence of the Ratepayers Advocate, a commission composed of three independent Los Angeles residents should be created to select and oversee an experienced Rate Payers Advocate.

One commissioner should be selected by the MOU Certified Neighborhood Councils, one commissioner by the business community with the help of the Chambers of Commerce (recognizing that businesses consume over 60% of the power generated), and the third commissioner by the multifamily community.

The qualifications of the Ratepayers Advocate and the associated staff need to be such that the office has the experience and capability to review and analyze the operations, finances, and management of DWP on a timely and continuous basis and be able to disseminate findings to not only the Ratepayers, but the City Council, the Board of Commissioners, the Mayor, and the citizens of Los Angeles.

The Ratepayer Advocate should also have unfettered access to all DWP records and personnel; be free to conduct audits and investigations as deemed necessary, including those resulting from whistleblowers; and to make any recommendations for improvement of operations or to prevent fraud, waste, and abuse, including in the area of procurement. The Ratepayers Advocate should also be able to rely on DWP staff for assistance.

The Ratepayers Advocate will also have a "seat at the table" at any meeting of the Board of Commissioners or any of its committees and at any meeting of the City Council or any of its committees. The Ratepayers Advocate will also participate in other internal and external meetings as deemed appropriate, especially when it concerns rates and impacts on the Ratepayers. The RPA would not set rates or make management decisions.

This oversight position should be funded by DWP at a cost of less than \$1.00 a year for the average Ratepayer. One Council Member indicated opposition unless it was a volunteer post. Quite frankly, the Ratepayers and the City cannot afford any more volunteers to oversee DWP's \$15-20 billion of assets.

Other City Council Members believe the DWP Board of Commissioners and the City Council should be the Ratepayers Advocate. Needless to say, that arrangement has not worked as demonstrated by Measure B and the rapid, unexplained increase in rates.

Fortunately, the City Council, sensing the dissatisfaction and mistrust of DWP and its political operatives, has recently rejected the elimination of the cap on the ECAF, the 30% and 60% increase in Tiered power rates, and an unexplained increase in water rates, all of which had been approved by Mayor's political appointees to the Board of Commissioners.

Mayor Villaraigosa and Controller Wendy Greuel oppose the Ratepayers Advocate. That should come as no surprise given that their largest campaign contributor, the IBEW, DWP's domineering union controlled by Union Boss Brian D'Arcy, opposes any professional oversight or efficiency benchmarking. The IBEW will go to great lengths to protect the IBEW Labor Premium as well as the proposed IBEW Solar Premium that will extort from Ratepayers for an additional \$1-2 billion.

Ratepayers are the most important part of the equation as DWP rebuilds its infrastructure, stresses conservation, and transforms its operations to include a larger portion of renewables.

As such, the Ratepayers must be represented in a meaningful manner. To date, that has not been the case.

But it appears that times are changing as a majority of the City Council has endorsed the concept of increased oversight on behalf of that Very Special Interest Group, the ones paying the bill, the Ratepayers.

*(Jack Humphreville is a publisher and the Ratepayer Advocate for the Greater Wilshire Neighborhood Council. He writes LA Watchdog for CityWatch and can be reached at [lajack@gmail.com](mailto:lajack@gmail.com) )* □

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