

**Comments of the Sacramento Municipal Utility District on the Draft
Recommendations of the Joint Outreach Team (JOT)
January 22, 2013**

The Sacramento Municipal Utility District (SMUD) submits these comments for the record in response to the Draft Recommendations of Department of Energy (DOE)/Western Area Power Administration (Western) Joint Outreach Team (JOT) published in the *Federal Register* on November 20, 2012.¹

By way of background, SMUD is the sixth largest customer-owned utility in the U.S., providing electricity to the California capital region since 1946. We serve 1.4 million customers within a 900-square mile service territory. SMUD operates the Balancing Authority of Northern California (BANC), a 5,000 MW balancing authority (BA) that spans most of Northern California and connects to clean energy in the Pacific Northwest. We are the Western-Sierra Nevada Region's (Western-SNR) largest preference customer and, along with other Power Marketing Administrations' (PMA) customers, have successfully partnered with Western-SNR for decades, resulting in significant benefits both to SMUD and Western customers, as well as to the region.

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On March 16th, 2012, DOE Secretary Chu issued a memorandum (March 16th Memorandum) calling for the PMAs to take a leadership role in transforming the Nation's electric sector. The March 16th Memorandum set forth broad policy objectives including the promotion of energy efficiency, demand response, and clean energy. It also endorsed the prospect of Western's participation in an energy imbalance market (EIM) and directed the PMAs to create rate structures that incentivize the integration of variable resources, among other things.

SMUD attended DOE/Western workshops in both Rapid City, South Dakota and Sacramento/Folsom, California. Moreover, it has participated in numerous meetings and discussions regarding the other regional meetings as well. Throughout this process, SMUD has expressed concern that Secretary Chu's March 16th Memorandum announced broad unwarranted top-down initiatives without either establishing a record of need or taking time to understand that the past and current

¹ Notice of Availability of Draft Recommendations of Western Area Power Administration and Department of Energy Joint Outreach Team, 77 Fed. Reg. 224, 69619 (Nov. 20, 2012).

actions by the PMAs and their customers already further many of the policy goals articulated in the Secretary's Memorandum.

In particular, SMUD has been at the forefront of accomplishing the very objectives advanced by the DOE's March 16th Memorandum. SMUD's mission to serve customers with reliable, low-cost power in an environmentally responsible manner drives our decision-making. And we are doing all of this within the unique and challenging California regulatory framework, including a 33% renewable portfolio standard by 2020 that requires at least 75% of the renewable generation mix to come from within the State. That approach, along with local costs and benefit considerations, has resulted in accomplishments to date that include:

- An electricity supply portfolio comprised of over 24% of renewable resources, which we expect to increase to 37% by 2020.
- The construction of 230 MW of wind facilities.
- Operation of one of the nation's largest and most comprehensive utility-sponsored PV programs with over 120 MW of PV located on 1,100 sites within our service territory. We expect this to increase to 135 MW by the end of 2013.
- Active investigation of energy storage options, including a 400 MW pumped hydropower storage project.
- The launch of one of the country's first electric transportation programs in 1989. We are now among the utility leaders having supported all major automakers with demonstration efforts spanning electric battery, plug-in hybrids, and fuel cell electric vehicles.
- Movement toward our long-term carbon reduction goal of 10 percent of 1990 levels by 2050. Taking into account our hydro-electric generation and our Western-SNR preference power allocation together with our renewable resources, SMUD's energy supply portfolio in 2012 was comprised of nearly 50% non-carbon emitting resources.

Additionally, California utilities, including Western customers, are leaders in energy efficiency and demand response. Some of SMUD's recent accomplishments include:

- A residential demand response program of 108 MW currently in place through air conditioning load shedding with an additional 56 MW for commercial demand response.

- Installation of more than 600,000 smart meters that allow SMUD to further engage customers in energy efficiency and dynamic demand response programs and increase its MW reduction capabilities.
- Time of use and critical peak pricing study using multiple rate options with more than 7500 active participants with interim results demonstrating high customer satisfaction among participants and peak period energy savings ranging from 6% to 19%.
- A robust residential and commercial energy efficiency retrofit program. In the past five years, SMUD has invested \$161.5 million in customer retrofit projects which has reduced consumption by 136 MW.
- Ongoing support of numerous EV Federal government programs including recent ARRA grant demonstrations, and DARPA and DOT research consortiums.
- Establishment of a separate EV rate and a pilot program to determine quantifiable benefits of off-peak charging.

All of these achievements were the products of local decision-making and were designed to meet community needs and values. Accordingly, in comments submitted to JOT Team in August, SMUD urged the DOE to rethink its top-down strategy and engage in a transparent process to better understand the current operations of the different Western regions and the contributions that Western and its customers are already making to achieve the objectives outlined in the March 16th Memorandum. Additionally, SMUD observed that certain statutory and operational constraints placed on Western severely limit its ability to carry out many of the desired objectives.

On November 20, JOT released its Draft Recommendations. The Draft Recommendations note that JOT developed a set of principles to help guide the development of the recommendations. The principles instruct the JOT to (1) consider the unique attributes of Western's regions; (2) coordinate with federal generating agencies, including the U.S. Bureau of Reclamation; (3) ensure that the beneficiary pays; (4) consider the existing efforts within Western; and (5) ensure that Western stays within the limits of its authority.² Significantly, JOT further acknowledged that the potential impacts of implementing any of the Draft Recommendations, including the potential for any cost shifts, needed to be part of the evaluation process with Western's customers, tribes, and stakeholders.³

² Draft Recommendations at 4.

³ *Id.*

Overall, SMUD is encouraged by the approach adopted by JOT in the Draft Recommendations. Specifically, SMUD appreciates JOT's decision to abandon any recommendations targeted at energy efficiency, demand response, or electric vehicles. As SMUD noted in its previous comments, these types of initiatives are retail functions which fall outside of the purview of Western and are best left to local decision makers to craft solutions that best meet the unique needs of the communities they serve.⁴

We also support changes that would result in increased organizational efficiencies through consolidation of functions, standardization of automation tools, and the development of best practices. Importantly, however, any proposed changes must squarely fit within Western's jurisdictional and statutory framework. Moreover, specific solutions need to be developed in collaboration with regional stakeholders to ensure that the significant economic and environmental value to consumers that currently exists is not eroded in the process.

While SMUD generally supports the Draft Recommendations, we remain concerned with some of the proposed recommendations that appear to overlook the historic mission and statutory constraints placed upon the PMAs, as well as some of the operational limitations of resources within Western. Many of the recommendations recommend that Western perform additional studies or analyses of a particular proposal. Although SMUD certainly advocates that Western be deliberate and thoughtful in its approach, it simply makes no sense for Western to study a proposal that it legally and/or operationally cannot implement. Moreover, any proposed studies come with a cost and those costs must be allocated to those that stand to benefit from them. Western's customers should not be viewed as the default source of funds for these studies. For these reasons, before engaging in detailed studies, JOT should clearly delineate the objective of each study and outline the legal authority that would allow Western to pursue or implement the stated objectives. To the extent that Western performs any such studies it should identify the beneficiaries and allocate costs accordingly.

SMUD also challenges the Draft Recommendations to the extent that they advocate that Western march toward market mechanisms. As noted above and explained more in detail below, Western lacks the statutory and operational authority to actively participate in an energy imbalance market. Setting that issue aside, there has been no study demonstrating that organized markets provide any real benefit to consumers beyond that available in bilateral competitive markets under open access tariffs like those Western itself now operates. To the contrary, over ten years after the 2000-2001 California market meltdown, organized markets throughout the United States, including the CAISO market in California (the only organized market in the

⁴ As a practical matter, Western customers already have economic incentives, state policy directives, and local policies and preferences that promote energy efficiency. For that reason, we did not envision a necessary or positive role that Western could play in promotion of electric vehicles. Instead, such action would run counter to Western's legal mandates and result in unwarranted cost-shifts to Western customers.

Western interconnection), still struggle with pricing irregularities and market manipulation, both of which increase costs that will ultimately be borne by consumers.⁵

In addition to these general comments, SMUD's specific comments on particular recommendations proposed by JOT are set forth below. Although SMUD does not discuss every proposed recommendation, it supports the comments filed by the American Public Power Association (APPA) and the Balancing Authority of Northern California (BANC). Further, it has joined the "Limited Joint Comments" filed by APPA and a number of other organizations regarding legal considerations raised by JOT draft recommendations (Joint Legal Comments).

Recommendation No. 1: *Undertake an analysis to determine the regulation reserve capability that is required for each of Western's BAs or sub-BAs using a consistent methodology and criteria. Additional analysis should be conducted to determine the regulation reserve capability that is available from all dispatchable generation sources within each of Western's BAs or sub-BAs.*

JOT proposes that each of Western's BAs or sub-BAs determine the regulation reserve capability that is required for their footprint using a consistent methodology and criteria.⁶ Once the requirements are calculated, JOT then recommends that an additional analysis be performed to determine the regulation reserve capability that is available from all dispatchable generation sources within each of Western's BAs or sub-BAs.

SMUD supports the concept that Western periodically reassess the regulation reserve capacity that it requires to meet applicable reliability standards. The

⁵ Just since last September alone, FERC has announced three investigations or settlements regarding manipulation of California energy markets. *See, e.g., Gila River Power LLC*, Docket No. IN12-8, 141 FERC ¶ 61,136 (Nov. 19, 2012) (order approving settlement under which Gila River admitted to using "wheel-through" transactions to manipulate prices in the markets operated by the California ISO); *Barclays Bank PLC, et al*, 141 FERC ¶ 61,084 (2012) (show cause order initiating investigation into charges that Barclays Bank had manipulated energy markets "in and around California" from November 2006 to December 2008) and proposing \$435 million penalty); *Deutsche Bank Energy Trading LLC*, 140 FERC ¶ 61,178 (2012) (show cause order directing investigation of "fraudulent scheme" by Deutsche Bank senior level employees "of scheduling physical transactions to benefit Deutsche Bank's financial CRR position"). Other organized markets continue to face these types of problems as well. *See, e.g. Constellation Energy Commodities Group, Inc.*, 138 FERC ¶ 61,168 (2012) (approving settlement agreement between FERC Enforcement Staff and Constellation requiring civil penalty of \$135 million and disgorgement of \$110 million in illegal profits stemming from manipulation of New York ISO's, PJM's and ISO New England's organized markets); *Rumford Paper Co.*, 140 FERC ¶ 61,030 (2012) (one of four show cause orders directed against sellers in the ISO New England organized market for fraudulent activities in ISO-NE's Day-Ahead Load Response Program); *In re Joseph Polidoro*, 138 FERC ¶ 61,018 (2012) (Order directing civil penalty and two year trading ban from participation in PJM's Demand Response markets). Another large investigation involving JP Morgan Ventures Energy Corporation is now in litigation in the U.S. District Court for the District of Columbia over whether certain internal company emails are protected by the attorney-client privilege. *See* 2012 FERC Staff Report on Enforcement at p. 7 (citing *FERC v. J.P. Morgan Ventures Energy Corp.*, Docket No. 1:12-me-00352 (D.D.C. filed Jul. 2, 2012)).

⁶ Draft Recommendations at 8.

Draft Recommendations, however, do not explain the rationale for why each of Western's BAs or sub-BAs should apply a consistent methodology and criteria. SMUD cautions against adopting a one-size fits all approach to the determination of the required level of regulation reserve capacity. Instead, and consistent with the principles in the Draft Recommendations, in applying the methodology each Western BA should be able to factor in criteria that reflect the unique operating characteristics of its particular region in determining the amount of regulation reserve capacity that it requires.

Additionally, while it may make sense for Western to understand the amount of regulation reserve capacity that is available from dispatchable generation sources within each of Western's BAs or sub-BAs, the fact that Western does not have dispatch control over much of the generation in its BA or sub-BAs should not be overlooked. For example, the operations of the Central Valley Project (CVP), which is within the Western-Sierra Nevada Region (SNR), are largely dictated by decisions related to water releases (for flood control, water supply and environmental objectives, which are determined by the Bureau of Reclamation, not Western). Indeed, statutory requirements regarding CVP resources subordinate power to these higher uses. Accordingly, Western simply lacks the ability to alter operations to increase the availability of regulation reserve capacity and other ancillary services. Finally, to the extent that Western has excess regulation reserve capacity, it must be first offered to preference customers in accordance with statutory requirements and the applicable PMA marketing plans.

Recommendation No. 2: Consolidate Western's four Open Access Same-time Information System (OASIS) sites within the Western Interconnection into a single OASIS site.

JOT recommends that Western's four OASIS sites within the Western Interconnection be consolidated into a single OASIS site. SMUD supports consolidation of Western's OASIS sites to the extent that it will increase efficiencies and relieve unnecessary redundancies. SMUD further agrees that Western should first focus on consolidation of the west-side regions' OASIS sites given that they all apply a contract-path Available Transfer Capability (ATC) approach.

Recommendation No. 3: *Revise Western’s Large Generator Interconnection Procedures (LGIP) to conform to changes recommended by WestConnect’s LGIP Work Group and successfully implemented by several WestConnect participants.*

JOT recommends that Western revise its Large Generator Interconnection Procedures (LGIP) to conform to changes recommended by WestConnect’s LGIP Work Group.⁷ JOT further notes that Western should solicit feedback from customers, tribes, and stakeholders regarding the proposed changes through a separate *Federal Register* Notice and public comment period.⁸ Some of the reforms include eliminating the feasibility study from the interconnection study process, modifying the deposit requirements, and allowing only for good faith facilities study cost estimates to be provided within ninety days.⁹

SMUD supports modifications to Western’s LGIP to the extent that they discourage speculative interconnection requests and increase the efficiency of the interconnection process. SMUD further agrees that Western should solicit feedback on the proposed reforms from all customers and interested stakeholders in a public process to ensure that the impacts of the proposed changes are analyzed and understood before Western makes any final decision. Finally, once implemented, SMUD believes that Western should evaluate the new procedures with customers, tribes, and stakeholders to determine whether the reforms have been effective and whether additional reforms may be required.

Recommendation No. 4: *Conduct a study of the transmission and ancillary services rates charged by each Western-owned transmission project. Determine the feasibility and the appropriate level of potential consolidation of transmission rates from the bottom up, i.e., intra-regionally, inter-regionally, or Western-wide.*

Western would engage in a robust, collaborative process with customers, tribes, and stakeholders to determine whether a business case exists to consolidate transmission rates intra-regionally, inter-regionally, or Western-wide.

JOT recommends that Western conduct a study of the transmission and ancillary services rates charged by each Western-owned transmission project and consider, among other options, consolidating transmission rates intra-regionally, inter-regionally, or Western-wide. At the outset, SMUD does not believe that JOT intended its recommendation to apply to Western-SNR, which is not physically interconnected to Western’s other regions. A limitation to Western’s physically interconnected regions,

⁷Draft Recommendations at 11.

⁸ *Id.*

⁹ *Id.*

and not to SNR, is at least implied in JOT's recommendation to identify combined transmission system (CTS) opportunities across its Desert Southwest Region, Colorado River Storage Project, and Rocky Mountain Region service areas, while "encouraging continued CTS efforts in Western's SNR and UGP [Upper Great Plains Region] service areas."¹⁰ JOT's distinction between SNR and Western's other regions in the context of evaluating opportunities to create a CTS suggests it recognizes SNR is fundamentally different from Western's other regions from an integrated transmission perspective. While not expressly stated by JOT, this also suggests that JOT does not contemplate a joint rate between SNR and Western's other regions with which SNR is not physically interconnected. In order for a joint rate to be developed between two non-interconnected regions of Western, such as SNR, transmission facilities interconnecting these regions must be developed, constructed and paid for, or otherwise contracted for by Western.

If JOT *did* intend a joint rate to apply to SNR, this would likely conflict with the statutory requirements related to development of Western's wholesale and transmission rates. Rates charged by Western are by statute tied to recovery of costs of federally-generated electricity and costs of transmitting *that* energy (see 16 USC § 825s). Implicit in this is that the transmission rates paid by Western's wholesale customers must be based on the costs of transmission needed to deliver their power. Western might well contract with third parties to assure delivery of power to its wholesale customers (and pass such costs onto those customers, as it would do if it contracts with Pacific Gas and Electric Company (PG&E) to transmit preference power to Western wholesale customers). But it would likely be unnecessary for Western to purchase third party transmission to connect SNR with other Western regions because it would be unlikely that such transmission would be needed to deliver SNR preference power.

Significantly, the CVP has no wholesale customers outside of California and is not physically connected to Western's other regions. As such, joint rates would improperly assess transmission and ancillary services costs from Western's other regions to wholesale customers in SNR. Further, Western cannot construct a transmission line between SNR and Western's other regions purely to create a larger marketplace to facilitate JOT's joint rate recommendation – the cost of such a line would not be related to the transmission of federally-generated power, and therefore could not be recovered from Western's customers. Accordingly, any such action would conflict with statutory provisions, which provide that Western is authorized only to construct

¹⁰ Draft Recommendations at 18.

transmission lines and facilities as needed to make federally-produced power available for sale on fair and reasonable terms and conditions to federal preference customers.¹¹

Recommendation No. 5: *Initiate a collaborative process with Western regional offices, customers, tribes, and stakeholders to identify the best rate-setting methodologies currently in use by one or more of Western’s regions. To the extent possible, explore the potential to harmonize transmission and ancillary service rate setting methodologies across Western.*

SMUD supports the concept that Western should engage collaboratively with its customers, tribes, and other stakeholders to develop the most effective transmission and ancillary service rate methodologies. That said, any proposed rate methodology must ensure that Western fulfills its statutory mandate of delivering federal hydropower to preference customers at the lowest cost consistent with good business practices. Further, any proposed methodology must reflect the “beneficiary pays” principle.

Additionally, SMUD does not believe that Western should endeavor to harmonize transmission and ancillary service rate setting methodologies across the Western regions. While the goal of rate design consistency may have a superficial appeal, applying the same rate methodologies across all Western regions is inappropriate because each Western region has unique operating characteristics that must be taken into consideration in establishing Western’s rates.

Recommendation No. 7: *Perform a Western-wide infrastructure investment study (IIS). The IIS would determine the state of Western’s infrastructure and the commercial value of transmission paths over which Western transacts business to ensure continued reliability on the system and to maximize return on investment, prioritize grid capital investment projects identified and proposed in Western’s 10-year transmission plan as well as interconnection-wide, inter-regional, regional and sub-regional expansion planning processes.*

JOT recommends that Western engage in a Western-wide infrastructure investment study (IIS) to determine the state of Western’s infrastructure and the commercial value of transmission paths over which Western transacts business.¹² The Draft Recommendations note that Western should broaden its current transmission planning process to include important information data and information on the value of Western’s transmission assets and existing transmission paths.

¹¹ 16 USC § 825s.

¹² *Id.* at 16.

SMUD supports Western's involvement in transmission planning, and agrees that any data collection and model development should be done in collaboration with other related industry efforts. SMUD further agrees that an IIS may enable Western to optimize its process for evaluating and prioritizing transmission upgrades and new transmission projects. However, the costs of any projects or upgrades identified through the IIS must be allocated in accordance with the "beneficiary pays" principle, and in a manner that ensures that Western can continue to fulfill its statutory mandate to deliver power to its preference customers at the lowest possible costs consistent with sound business principles.

The Draft Recommendation includes language that would require Western to determine the "commercial value" of the transmission paths over which Western transacts business.¹³ It also states that Western needs an understanding of the commercial value of Western's existing transmission paths to make informed business decisions and choices related to the allocation and prioritization of resources.

Western's existing transmission assets have been paid for by Western's transmission customers, and the transmission rights over those facilities are subject to long-term agreements. Moreover, Western has an obligation to market federal hydropower to preference customers "at the lowest possible rates to customers consistent with sound business principles."¹⁴ Assigning a commercial value to a particular transmission path implies that the transmission path can be freely marketed to third parties at whatever price the market will bear.

As noted above, however, Western's existing transmission must first be used to meet the needs of its preference power customers, and such power must be provided to preference customers at the lowest possible rates irrespective of the commercial value of the transmission over which it flows. Accordingly, SMUD questions the purpose of performing studies to determine the commercial value of Western's existing transmission. Therefore, JOT should explain the manner in which it intends to determine the commercial value of the transmission, and describe how such an analysis furthers its statutory obligation to provide power to preference customers at the lowest possible rates.

¹³ *Id.*

¹⁴ Flood Control Act of 1944, § 5, 16 U.S.C. § 825s (2012), *see also*, Reclamation Project Act of 1939 § 9(c), 43 U.S.C. § 485h(c) (2012).

Recommendation No. 9: *Conduct a study to explore potential options for moving to a flow-based environment in Western's footprint in the Western Interconnection and away from a contract-path environment.*¹⁵

*Western should engage customers and stakeholders to evaluate efforts within the WECC footprint to move from a contract-path to a flow-based approach. As part of Western's analysis, it should ensure that outcomes are cost effective and that benefits are clearly identifiable and assignable, and costs are neutral or that any cost-shift is minimized.*¹⁶

According to the Draft Recommendations, implementation of intra-hour scheduling requirements (e.g., FERC's VERs rule) and other market mechanisms would drive the use of LMP which, in turn, would prompt the need for flow-based scheduling. JOT notes, however, that a single entity such as Western or a single BA may not represent a large enough footprint to justify the transition costs and seams issues associated with this change, adding that it is desirable for all or most members in a region to jointly implement flow-based pricing.

SMUD does not believe that Western should allocate its limited time and resources to pursue this option. First, the Draft Recommendations do not clearly define an objective. Specifically, JOT recommends exploring potential options for "moving to a flow-based environment..."¹⁷ However, it remains unclear from the recommendation and rationale whether JOT proposes changing the scheduling and pricing methodology in Western's footprint from a contract path to a flow-based approach, adopting a flowgate methodology for calculating Available Transfer Capability (ATC), or some combination of the two. Before it can expend resources and incur costs to pursue a recommendation, JOT should better clarify its objective, including what outcome, if any, it hopes to achieve.

Second, if the Draft Recommendations contemplate moving to a flow-based approach to *pricing* transmission, such an approach would be inconsistent with preference service provided to Western's federal customers, and rates charged to Preference Customers, since a flowgate methodology would price into transmission rates costs of congestion and marginal losses of energy. This congestion factor is an add-on to the cost of generation that effectively would turn otherwise cost-based rates into market-based rates, reflective of the market value of generation on one side of a transmission constraint. Pricing in congestion, then, would produce non-cost-based-generation. Such an outcome conflicts with Western's statutory mission to provide

¹⁵ *Id.* at 19.

¹⁶ *Id.*

¹⁷ *Id.*

preference power to its customers “at the lowest possible rates to customers consistent with sound business principles.”¹⁸

Third, as JOT itself recognizes, transitioning to a flow-based approach is only practical where it can be implemented across a significant footprint or on a region-wide basis, such as throughout the Western Interconnection. Presently, however, with the exception of the CAISO, most portions of the Western Interconnection do not use flow-based pricing. In these circumstances, there is no practical reason to devote resources to exploring this alternative.

Fourth, the Draft Recommendations simplistically and wrongly assume the benefits that would result, describing a near utopia from the transition to flow-based pricing:

Transitioning to a flow-based environment is likely to yield an increase in ATC, which would allow efficiencies to be captured and would support more reliable and efficient transmission planning, construction and operations. A flow-based environment would also continue to provide low-cost, reliable power to customers, align with best practices, help identify opportunities customers can undertake that have low financial impact on themselves and Western, enhance security, offer more options to address contingencies, establish a broad consensus for making investment decisions, expand and uniformly price transmission service products, deliver price transparency, eliminate pancaking, result in greater consistency in operations and transmission planning, expedite queue requests, and enhance renewables integration and common billing.¹⁹

But simply stating these benefits does not make them so. The fact is that there are still numerous problems within regions that deploy flow-based transmission pricing mechanisms, including pricing irregularities, reliability concerns, an inability to reach consensus on investment decisions, a lack of price transparency and nearly unmanageable interconnection queues. Seemingly ignored by JOT, the real issue is what is best and necessary for Western and Western customers in the context of the individual Western regions.

With so many other initiatives actively being pursued in the Western Interconnection, moving to a flow-based environment, even assuming *possible* benefits, should be a low priority at this time. Indeed, the Draft Recommendations note that it is its *other* recommended initiatives that “would drive the need for flow-based, as opposed

¹⁸Flood Control Act of 1944, § 5, 16 U.S.C. § 825s (2012), *see also*, Reclamation Project Act of 1939 § 9(c), 43 U.S.C. § 485h(c) (2012).

¹⁹*Id.*

to contract-based scheduling systems.”²⁰ While SMUD disagrees with this conclusion, as discussed below, we do agree that the need, if any, has not yet presented itself (and may never, in fact, present itself). SMUD would therefore urge JOT to eliminate or revise this, at best, premature recommendation.

Fifth, in recommending a potential move to flow-based pricing, and suggesting that such a move may yield an increase in ATC and capture certain transmission efficiencies, the Draft Recommendations appear to assume that these benefits can *only* be achieved through flow-based pricing. However, the Draft Recommendations do not substantiate this assumption. On the contrary, the assumption overlooks the fact that many of these benefits can be achieved under a contract-path methodology. There is no reason, for instance, why Western and others cannot take advantage of countervailing flows in, e.g., North/South transactions, under a contract-path environment by netting transactions flowing in opposite directions. There are bi-directional capacity entitlements under contract path transmission arrangements that can, and do provide for such netting. Similarly, the release of unused contract capacity under contract path arrangements, disclosed under a transparent OASIS, can maximize the use of ATC and capture additional efficiencies.

Finally, the Draft Recommendations do not address how a proposed move from a contract-path environment to a flow-based methodology will affect existing transmission contracts. Before moving forward with any recommendation, JOT should study and fully understand the potential legal consequences of such a move, and determine how existing transmission agreements will be affected and treated.

Recommendation No. 11: Pursuant to FERC Order No. 764 (*Integration of Variable Energy Resources (VER)*), Western BAs/sub-BAs should work with regional reliability organizations, Western regional offices, customers, tribes, and stakeholders to coordinate the implementation of intra-hour scheduling consistent with neighboring utilities, including the implementation of 15-minute scheduling.

JOT recommends that Western’s BAs and sub-BAs work with regional reliability organizations, customers, and other stakeholders to coordinate the implementation of intra-hour scheduling. SMUD supports Western’s efforts in this area and has been actively engaged with Western and other neighboring transmission providers to implement intra-hour scheduling.

²⁰ *Id.*

Recommendation No. 12: *Western BAs and sub-BAs in WECC's footprint should evaluate the benefits and costs of ADI, RBC, and DSS, and if appropriate, proceed with implementation. The control systems may be modified to accept the programming requirements needed to implement any of the initiatives.*

SMUD supports this recommendation as further explained in the response to Recommendation No. 13.

Recommendation No. 13: *Undertake a study to evaluate the benefits and costs to Western and its customers, tribes, and stakeholders in participating in either regional or sub-regional initiatives investigating energy imbalance markets. The study should identify methods that enable Western's impacted parties to maximize the physical benefits of sub-hourly generation scheduling and inter-BA coordination.*

JOT recommends that Western evaluate the benefits and costs in participating in either regional or sub-regional initiatives investigating energy imbalance markets (EIM). SMUD found this recommendation particularly vague. We interpret it to recommend that Western study and evaluate the benefits and costs of participation in ongoing initiatives investigating an EIM, as opposed to recommending that Western conduct its own studies.

That noted, under the section referencing the "time frame," JOT recommends that Western complete precursor analyses, including "identifying imputed transmission rates, identifying regulation and load-following capacity, and estimating each BA's level of energy imbalance requirement within 3-6 months and continue to participate in on-going regional/sub-regional market design activities."²¹ These precursor analyses, however, sound a lot like Western *indirectly* conducting its own EIM evaluation/analysis and even preparing for EIM implementation. If this is the case, SMUD objects to this proposed recommendation based on Western's limited statutory and operational authority, the questionable benefits of an EIM model and the need to await the evaluation of key initiatives ongoing in the Western Interconnection that may alter or obviate the need for a Western role in EIM.

Western has very limited statutory authority, and it remains an open question whether it has any authority to participate in an EIM. In fact, Western itself, in an April 5, 2012 report,²² conducted its own internal review of its possible EIM

²¹ *Id.* at 25.

²² "Report on the WECC Energy Imbalance Market Implementation Cost Analysis, Western Area Power Administration (April 5, 2012) "(Western EIM Report).

participation and noted that it has yet to study whether it possesses such authority.²³ At least as important are three other observations Western made in that report. First, by Western's own reckoning, the physical and statutory constraints on its power supply operations means that it will have little or no power to sell in an EIM.²⁴ Western was itself emphatic on this point, observing that "violation of environmental constraints is prohibited by law, and Western therefore cannot participate in the EIM if there is the *possibility* of such a violation."²⁵ Second, Western's client agencies, the Army Corps of Engineers and the Bureau of Reclamation, must, but have not agreed to participate in an EIM and, in fact, have previously expressed concern about such participation.²⁶ Third, and related, is Western's observation that, as a result, its role in EIM markets would only be to facilitate participation by its customers with excess capacity.²⁷

Questions about Western's legal authority aside, however, SMUD remains skeptical of the claimed benefits of an EIM given the scope and complexity of attempting to impose this economic model in the Western United States. We further believe that, in particular, Western-SNR's participation in an EIM market will likely result in unreasonable cost shifts to its customers to the extent that it seeks to integrate remote variable energy resources. Specifically, California's Renewable Portfolio Standards law requires utilities to procure most of their renewable resources from in-state renewable generation. Accordingly, Western's participation in a costly and unproven market model for the purpose of integrating remote renewable generation simply forces Western customers to incur additional costs to integrate renewable resources that they do not need and cannot use. This prospect is especially troubling given that California already has among the highest power rates in the nation.

²³ The Western EIM Report states: "The EIM Team assumed there were no statutory restrictions on Western participating in the EIM because it complies with the Energy Policy Act of 2005. However, the EIM Team did not have time to examine the possibility of such restrictions." *Id.* at 5 (emphasis added).

²⁴[²⁰] As noted in the Western EIM Report, "it is likely only a limited amount of capacity on many of the Federal projects would be available for offer into the EIM." *Id.* at 2. The April 5 Report goes on to add that "Western will very likely schedule its Federal hydro generation capacity on a Self-dispatched basis as needed to fulfill Western's contractual and statutory commitments" and that there are only likely to be "certain times" when "there may be *minor amounts of generation capacity* in excess of such commitments." *Id.* at 6. Even then, sale into the EIM would not be a given. Western would have to decide whether to "sell such capacity on a bilateral basis" or "make it available for deployment by the Market Operator into the EIM," a decision that would necessarily be made in a way that would "avoid adverse rate impacts to Western's statutory customers." *Id.* at 6 (emphasis added)

²⁵ *Id.* at 6 (emphasis added).

²⁶ Western put the problem this way in its report:

The Army Corps of Engineers (Corps) and Bureau of Reclamation (BOR) must agree to the participation of the Federal hydro resources in the EIM before Western could become a Market Participant. The EIM Team assumed such agreement would be forthcoming, but this is considered to be a high risk assumption insofar as the EIM Team was unable to coordinate its analysis with the generating agencies given the time constraint, and as the agencies have in the past expressed concern regarding potentially increased mechanical wear on certain hydro unit components (primarily, the wicket gates) arising from an increased frequency of unit dispatch variations. *Id.* at 4.

²⁷ *Id.* at 2.

Finally, there are ongoing and prior initiatives, including Reliability-Based Control (RBC), Ace Diversity Interchange (ADI), Dynamic Scheduling System (DSS), Intra-hour Transaction Accelerator Platform (I-TAP), and intra-hour (15-minute) scheduling, that have yet to be fully implemented and evaluated, which means that further efforts by Western towards an EIM are either premature or may even prove unnecessary altogether.²⁸ It is therefore simply imprudent to expend customer resources at this time prior to having the benefit of evaluating the impact of these other initiatives.

SMUD does agree with the general outline of business objectives for EIM participation. Nevertheless, until a detailed evaluation of RBC, ADI, DSS, I-TAP and intra-hour scheduling occurs, it will be difficult, if not impossible, to determine whether “benefits . . . exceed costs,” whether an EIM will “provide increased capability to variable resources into the Western BAs,” or whether there are “quantifiable operational efficiencies” created by an EIM. Therefore, there is simply no current practical need or basis for the application of these objectives until an evaluation of the current initiatives is completed. Instead, as noted above, Western should not invest its time and resources studying the feasibility of joining an EIM before all other alternatives have been thoroughly assessed, and a determination has been made that an EIM will provide measurable benefits above and beyond its estimated costs. Finally, even if such an evaluation were to conclude that an EIM is still worth considering (and assuming that Western has the statutory authority to participate in an EIM), the proper application of these business objectives would be through an open and transparent federal process to ensure full participation and input from Western customer groups.

Conclusion

SMUD appreciates the opportunity to submit these comments on the Draft Recommendations. As explained herein, we support JOT’s recommendations to the extent that they seek to implement targeted measures aimed at ensuring that Western can continue to effectively and reliably fulfill its core mission while meeting the energy challenges posed by a more dynamic resource mix. Any measures must also take into account the diversity within the various Western regions.

Given the breadth of the studies, analyses, and processes contemplated by the Draft Recommendations, SMUD believes it to be crucial for JOT to include in its recommendation to the Secretary a proposed plan for sequencing the action to be taken

²⁸ JOT observes that “it may not be practical to implement an energy imbalance initiative prior to a detailed evaluation of RBC, ADI, DSS and implementation of intra-hour scheduling initiatives.” Draft Recommendations at 25.

by Western over the next few years. The proposed sequencing plan should prioritize those activities that clearly fall within Western's purview and those activities in which Western is currently engaged. A staged approach will ensure that Western has sufficient resources to effectively implement JOT's proposals. Moreover, given that most of the Draft Recommendations contemplate coordination with customers and other stakeholders, a measured and targeted approach will facilitate meaningful participation.

Specifically, SMUD believes that Western should first focus on working with neighboring utilities to implement intra-hour scheduling, including 15-minute scheduling, consistent with FERC Order 764. It should also continue its efforts to coordinate with other utilities to evaluate the benefits and costs of ADI, RBC, and DSS. On a parallel path, Western could also take steps to consolidate its four OASIS sites, and institute a public process to reform Western's Large Generator Interconnection Procedures.

Only after the above actions have been taken and the results assessed should Western turn to the other initiatives outlined in the Draft Recommendations. Further, the more controversial and legally suspect aspects of the recommendations should be abandoned completely or deferred. Matters that fall into this category include the recommendations to study: (a) the consolidation of Western's transmission rates across regions, (b) options for moving to a flow-based environment and (c) exploration of possible EIM benefits. These matters also include activity intended to promote federal policies unrelated to Western's core mission and designed to transfer the benefits of Western generation away from the customers that invested in the resources to other stakeholders.

Finally, to ensure a transparent process and maintain a robust dialogue, SMUD urges JOT to respond to the comments received as part of this process and publish the Final Recommendations in the *Federal Register*.