

**Testimony of John DiStasio
On behalf of
The Sacramento Municipal Utility District and
Large Public Power Council**

Before the

**U.S. House of Representatives Energy and Commerce Committee
Subcommittee on Energy and Power**

**Hearing on
“The American Energy Initiative: Electric Transmission Issues”**

October 13, 2011

Good morning Mr. Chairman, Ranking Member Rush, and Members of the Committee.

Thank you for inviting me to provide my testimony on behalf of the Sacramento Municipal Utility District and the Large Public Power Council. I commend this distinguished committee for focusing attention on issues vital to our nation’s energy and economic security.

I. INTRODUCTION

My name is John DiStasio and I am the General Manager and Chief Executive Officer of the Sacramento Municipal Utility District (“SMUD”) located in Sacramento, California. SMUD has been supplying electricity to California’s capital region since 1946. SMUD serves a population of 1.4 million consumers and has 473 miles of transmission lines and 9,784 miles of distribution lines crossing its 900 square mile service territory.

I am testifying today on behalf of SMUD and the Large Public Power Council (“LPPC”).¹ LPPC is an association of 25 of the nation’s largest municipal and state-owned utilities. LPPC members own approximately 35,000 miles of transmission, representing nearly 90% of the transmission investment owned by non-Federal public power entities in the United States. LPPC’s member systems are located in states and territories representing every region of the country. LPPC utilities are not-for-profit entities that are directly accountable to their customers – the citizens of their respective communities. LPPC’s commitment is to provide highly reliable, low cost and environmentally responsible electric service to its customer-owners.

My testimony will address two subjects FERC Order No. 1000², and briefly, proposed delegation of “back-stop” siting authority by the Department of Energy (“DOE”) to the Federal Energy Regulatory Commission (“FERC”). As to Order No. 1000, I am concerned that FERC’s rule forces transmission planning to be driven inappropriately by regulatory policy instead of economic demand, will likely result in additional and unnecessary costs for our customers, and that the transmission subsidy contemplated by the Order will tilt the market playing field in favor of distant generating resources, and against more efficient resources such as local renewables and demand management resources. With respect to DOE delegation, I understand and am encouraged to know that DOE has chosen not to delegate its authority to FERC.

¹ LPPC’s members are Austin Energy, Chelan County Public Utility District No. 1, Clark Public Utilities, Colorado Springs Utilities, CPS Energy (San Antonio), ElectricCities of North Carolina, Grant County Public Utility District, IID Energy (Imperial Irrigation District), JEA (Jacksonville, FL), Long Island Power Authority, Los Angeles Department of Water and Power, Lower Colorado River Authority, MEAG Power, Nebraska Public Power District, New York Power Authority, Omaha Public Power District, Orlando Utilities Commission, Platte River Power Authority, Puerto Rico Electric Power Authority, Sacramento Municipal Utility District, Salt River Project, Santee Cooper, Seattle City Light, Snohomish County Public Utility District No. 1, and Tacoma Public Utilities.

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 76 Fed. Reg. 49,842 (Aug. 11, 2011), 136 FERC ¶ 61,051 (2011) (“Order,” or “Final Rule”).

SMUD and LPPC considered the proposed delegation to be unwisely designed to facilitate siting of the very transmission facilities the cost of which my customers may be asked to bear under Order No. 1000.

I speak from the perspective of a utility that is among the most aggressive in the nation in integrating renewable resources into our portfolio and in implementing demand-side management techniques. Currently, over 24% of SMUD's electric supply portfolio is renewable, and we plan for that figure to increase to 37% by 2020. In addition, SMUD is implementing an ambitious smart grid program featuring 615,000 new smart meters in our system. In other words, SMUD shares the perspective of those who believe that we must aim high in implementing programs designed to reduce our dependence on fossil fuels. But I also believe that we must employ our resources as efficiently as possible, and that Order 1000 undermines our effort to invest in local energy solutions.

II. FERC Order No. 1000

Issued on July 21, 2011, FERC Order 1000 was designed to encourage greater regional transmission planning and the construction of new transmission facilities. As to regional planning, SMUD, and LPPC members generally, have been dedicated participants in planning processes previously implemented by the FERC following issuance of Order No. 890.³ We agree that regional planning and interregional coordination is critical in ensuring that transmission facilities necessary to ensure reliability are constructed.

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, order on reh'g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh'g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228 (2009), order on clarification, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

To the extent the intent of Order No. 1000 is to advance these goals, SMUD and LPPC are sympathetic and dedicated to cooperating with the Commission. Municipal utilities such as SMUD are exempt from direct regulation by FERC for specific purposes under section 201(f) of the FPA. Nonetheless, we voluntarily participate in the planning processes under FERC Order No. 890, and FERC indicates in Order No. 1000 that it “expects” municipal participation in the new processes. I also expect that we will do all we can to participate in these processes, but want to make sure that our customers bear no unnecessary costs, or sacrifice other goals, such as development of local energy resources.

LPPC members have approached transmission planning from a “bottom up” perspective. In a nutshell, this planning philosophy calls for the evaluation of needs and resources on a local level in the first instance, to be followed by consideration of more distant resources and solutions, including long-line transmission, where necessary. The regional planning process under Order No. 890 assumes appropriately that State and local authorities directly accountable to the citizens that they represent are best suited to make informed choices when confronted with competing priorities during the transmission planning and siting process. This is not to say that regional needs can be ignored. Using my own utility as an example, SMUD coordinates its transmission planning with other transmission providers and stakeholders in Northern California, and the Western Interconnection as a whole.

The significance of the regional coordination outlined above and similar ongoing efforts of other LPPC members across the nation cannot be overstated. These processes result in transmission plans that identify transmission facilities needed to

meet the needs of transmission customers and other stakeholders in the region. Thus, comprehensive transmission planning currently exists, planning studies are being performed, results are being evaluated, and interested stakeholders are actively engaged.

Grafted onto these existing planning programs, Order 1000 requires regions to develop formal regional plans (as opposed to calling for regional planning and coordination). The Commission specifies that these regional plans must include a “cost allocation” mechanism that provides for the recovery of costs on a region-wide basis from all utilities deemed to “benefit” from new transmission projects. The Commission does not specify how such benefits will be defined, nor exactly how the cost of these transmission projects will be recovered. This new approach to “cost allocation” differs from historical practice because it allows a transmission developer to assess costs for new transmission lines to all entities within a region regardless of their demand for such facilities.

My concern with this new approach is two-fold, relating first to the impact on existing planning, and second to the cost implications. As to the impact on current planning processes, I am concerned that mandating development of regional plans which must include cost allocation mechanisms will turn existing planning and coordination into contentious processes that may very well grind to a halt. Like other companies, SMUD participates in regional planning and interregional coordination because we understand that these discussions are mutually beneficial. The ability to exchange information and cooperation in the development of new facilities provides demonstrable benefits to us and to members of our planning region. System planners

involved in these processes are responsible for either seeking contribution to fund facilities they decide they need, or to avoid projects and associated costs they believe are unjustified. I believe requiring such processes to culminate in the development of a plan that provides for the recovery of new transmission projects from all regional participants based on some abstract determination of their “benefits” will likely embroil system planners in counterproductive arguments concerning planning transmission lines that might not benefits to their utilities. I am concerned that forcing our planning discussions to follow the path to cost allocation prescribed by Order 1000 will undermine the cooperative environment in which this work now takes place.

As to the merit of cost allocation proposals Order 1000, I have several concerns. First, I am concerned with the difficulty in defining the “benefits” that the Commission says will justify regional cost allocation. The Commission specifically prohibits what it refers to as “participant funding” in regional cost allocation proposals. Participant funding describes the current practice that calls for entities which take service over new transmission developments to pay for them. It is important to distinguish what is at issue in Order 1000 – the allocation of costs across a region by developers who have no direct service relationship to utilities or their customers – from the allocation of costs by utilities to customers who take service from them. By separating the determination of so-called “benefits” from an assessment of actual use of new transmission facilities, the Commission invites endless debate regarding the definition of benefits. Order 1000 does not define how benefits will be calculated, other than to note that they may include such broad and rather vague notions as reliability, economic, and public policy benefits.

As such, Order 1000 could likely result in transmission charges being assessed to entities for facilities over which they take no transmission service.

In comments LPPC and SMUD filed with FERC, we pointed out that the Commission does not have the legal authority to permit transmission developers to recover costs from entities with which they do not have a contract or service relationship.

Additionally, the allocation of costs based on a determination of apparent benefits regardless of usage (sometimes referred to as “cost socialization”) masks the true costs of developing remote resources that require long transmission lines to reach load. By enabling a transmission developer to broadly allocate its transmission costs to all entities within a region regardless of use and based only on a vague benefits test, Order 1000 effectively subsidizes projects that may otherwise be uneconomic. Such a policy removes market discipline, which is critical in ensuring efficient investments are made and creates an environment in which the developer has little to lose if the generation projects for which these long transmission lines are constructed do not ultimately pencil out. I firmly believe that planning and constructing transmission based on a hypothetical set of policy goals instead of demonstrated demand for these facilities is a grave mistake.

Transmission development fueled by speculation of future need carries with it the risk of stranded investments, which imposes even greater financial and environmental costs on consumers. Energy markets are dynamic, especially in the world of renewable resources where a project’s environmental value can evaporate overnight due to shifting regulatory policy. For instance, the Bonneville Power Administration (BPA) recently

reported that many of its customers that signed precedent transmission service agreements requiring that they take and pay for transmission service over new facilities upon completion of construction have requested to be released from that obligation. The customers requesting termination of their agreements represents almost 2,000 MW. Wind representatives cited changing regulations limiting the demand for out-of-state renewable resources under the California renewable portfolio standards (RPS), and the fact that most utilities in the northwest have met their RPS requirements through 2020, as the reason for the dramatically decreased demand. Fortunately, in this case, BPA has not yet moved forward with the massive infrastructure builds as they currently stand, and will likely allow the developers to terminate their transmission service agreement rather than risk being saddled with stranded assets, the costs of which would ultimately be borne by BPA ratepayers.

LPPC members support establishing a framework that maximizes the reliable and economic integration of these resources into grid operations. However, the cost allocation policy advanced in Order 1000 is simply not necessary to encourage needed new facilities, and may actually discourage the development of local energy solutions.

Forcing upon all entities within a transmission planning region the substantial cost of constructing transmission to reach remote resources creates sunk costs, and may have the unfortunate effect of diverting scarce resources that would otherwise be used to support non-transmission solutions such as the development of local renewable resources, deployment of smart grid, and the implementation of energy efficiency measures. I note that JEA, an LPPC member, has made significant commitment to solar energy, agreeing to purchase the full output of a 12.7 MW central station solar

photovoltaic plant in Jacksonville, Florida through 2040. Heavy transmission subsidies for other forms of remote renewable energy could have undermined this project, and the nascent solar industry in the Southeast.

Another LPPC member, Snohomish PUD presently has 1 MW of net metered distributed generation within its service territory. That resource has been incentivized directly by Snohomish PUD through cash incentives (\$500/kW with \$2,500 limit) or low-cost loans (\$25,000 limit) to residential customers and provides cash incentives to businesses (\$500/kW with \$10,000 limit) for the installation of qualified solar photovoltaic systems.

My own utility, SMUD, employs a diverse renewable energy supply mix which includes biomass, wind, solar, and small hydro in an effort to reduce its environmental footprint, in accordance with the policies established by our Board of Directors. Of this mix, we own and operate 102 MW of wind facilities, with plans to more than double this capacity by 2012. We also operate one of the nation's largest and most comprehensive utility-sponsored solar electric (photovoltaics) programs. We have over 10 MW of photovoltaics operating in our territory, deployed in more than 1,100 individual sites. We expect to add 100 MW of local solar generation to our portfolio over the next few years. We are also exploring energy storage options, such as pumped hydropower storage, and demand response measures to help manage the impacts that these resources will have on our system operations. Almost all of these projects are either within our service territory or within 30 miles of it, and have required only interconnection and local transmission upgrades, which SMUD intends to fund without

reliance on any Order 1000 process. No new transmission lines have been required to date.

Additionally, California's Governor Jerry Brown earlier this year released his Clean Energy Jobs Plan, which focuses on creating local jobs through renewable energy and efficiency. This plan calls for the development of 12,000 MW of on-site or small energy systems by 2020. At the same time, California strictly limits the extent that a utility may purchase out-of-state resources to meet California's aggressive RPS goal of meeting 33% of its energy needs by 2020.

The types of projects and policies outlined above impact customers rates. When these investments were made it was beyond contemplation that the customers in these regions may be required by federal policy to pay for remote facilities that they will never use. State and local policy makers are best situated to determine which resource mix will most economically meet their unique regional needs, and whether the costs of any particular project are outweighed by its potential benefits. Broad cost allocation policies skew this analysis by making non-transmission alternatives uneconomic, and with respect to regions that have already committed to meet their regional needs with local resources, threaten to impose yet another set of costs that must ultimately be passed on to consumers with no real benefit.

I should add that as a municipal utility, a company such as SMUD would generally be exempt from an allocation of costs by FERC. Of course, we do pay FERC-regulated transmission rates to the extent we use the service of investor-owned utility systems. One unique feature of Order No. 1000 that changes our exempt status is that FERC now says that our participation in regional planning discussions means that we

necessarily benefit from new regional transmission and must pay these new costs. I do not think that FERC has the legal authority over us to take this action, and I believe that threatening to do so will discourage companies such as SMUD from participating in regional planning as they historically have .

III. DOE Delegation Under FPA Section 216

Turning to the DOE delegation issue, I understand and am encouraged to know that the DOE has chosen not to delegate authority to FERC under section 216 of the Federal Power Act (FPA).

SMUD and LPPC have been concerned that the proposed delegation of authority was unwisely designed to facilitate siting of the very transmission facilities our customers may be asked to pay for under Order No. 1000. I continue to believe that it is inappropriate to retrofit section 216 to force the siting of otherwise uneconomic projects under Order 1000.

Thank you again for the opportunity to speak to you today. I look forward to your questions.