

**Testimony of Jan Schori,  
General Manager, Sacramento Municipal Utility District  
on Behalf of  
The Large Public Power Council  
before the  
Subcommittee on Energy and Air Quality  
House Energy and Commerce Committee**

*March 14, 2003*

My name is Jan Schori and I am the General Manager of Sacramento Municipal Power District, located in Sacramento, California. I am testifying today on behalf of the Large Public Power Council (LPPC), an association of 24 of the largest public power systems in the United States. LPPC members directly or indirectly provide reliable, affordably priced electricity to almost 22 million customers. Our members own almost 33,000 miles of transmission and control over 61,500 MW of generation. LPPC members are located in states and territories representing every region of the country, including several states represented by members of this Subcommittee – such as Georgia, Florida, Texas, California, New York, and Arizona.

LPPC has testified before the Subcommittee on numerous occasions throughout the consideration of energy policy and electric restructuring. Over the years, we have worked with members of the Subcommittee and full Committee and their staff in a cooperative fashion. We appreciate the opportunity to continue our involvement. We also appreciate the continued support of the Chairman on private use. In addition, on

behalf of our members from the Tennessee Valley, I want to thank the Chairman and the Subcommittee for your years of support for the consensus process in that region – support we sincerely hope will continue to be demonstrated by the inclusion of a TVA title in this bill when introduced. Finally, thank you for this opportunity to express the views of LPPC on your draft energy legislation. I will not be commenting on all provisions of interest or concern to LPPC members today but will, instead, focus on several issues of primary concern to our members – FERC transmission jurisdiction, service obligation, and “Uniform Refund Authority.” I commend to you as well the list of specific concerns that another witness on this panel, John Twitty, outlines in his testimony.

### **Public Power is Unique**

Public power systems are owned by the communities we serve, not by investors. We are not-for-profit entities, which makes us different. Public power systems have been a part of the nation’s electric system since the late 1800s, with many created as a part of the city government. Many LPPC member systems continue to provide numerous services to their communities in addition to electricity, such as flood control and natural gas, water and wastewater services.

Electricity is a vital component of our lives now and, as has been recently demonstrated in my home state of California, a cornerstone of the economy. There are dire consequences if electricity is not reliable and affordable.

As the electric supply of the country has been “deregulated,” many providers of electricity have sold off their generation or transmission assets or have severed their direct relationship with electric customers. But public power systems still have an obligation to serve the customers for which the systems are built. This service obligation is generally imposed by state law or local ordinance, sometimes by the statute creating the public entity. As a result, all available resources go first to serving those customers. Power is sold and surplus transmission made available only if it is surplus to those needs.

Our rates reflect the fact that we are not-for-profit entities. Our rates include only the costs of producing and delivering power to our customers and, in some cases, payments to our governing boards or municipal entities as a component of the local budget. Since public power systems are locally controlled, decisions about policies such as rates are made by people who are in touch with local concerns. The city council sets policies for many LPPC members, while other public power systems have a separately elected or appointed utility board that governs their policies. Local control helps ensure that we respond to community needs. In addition, since public power systems are community based, our revenues stay close to home. This helps keep the local economy strong.

## **The Need for Market Reforms**

As the Chairman noted last week, this Subcommittee has held over 30 hearings in the last five years on the issues of energy policy and electric restructuring. LPPC has been involved in many of these efforts.

This Subcommittee has undertaken tremendous efforts to become well educated on the electricity industry and market. However, this industry has undergone tremendous change and no substantive hearings have been held by the Subcommittee or full Committee since December 2001. Once robust investor-owned utilities are now in serious financial shape with 180 rating downgrades in the past year. Some significant players in the market have filed for bankruptcy. There is an unstable market for all participants and for consumers. The capitol market for utility infrastructure has basically collapsed. Many LPPC members and our customers have serious concerns about legislating major changes to electric power markets at this time, concerns which are shared by our cities and states. Any legislative action must be cautious and carefully considered.

Standard & Poor's recently issued a credit analysis report on the public power sector that noted that the credit rating stability of public power "is a testament to the sector's ability to withstand periodic shocks as well as respond to new challenges." More than 80% of the public power sector has an "A" rating or better at this time and public

power systems are functioning well in competitive wholesale markets. A strength of public power systems is our focus on providing the lowest-cost power to our customers.

### **Expansion of FERC Jurisdiction**

Our issue of primary concern today before this Subcommittee, one that affects our willingness to continue to support legislative action and our ability to exhibit the strength and resilience market watchers see in our sector, is the issue of expanded FERC jurisdiction. LPPC and its member companies support open access transmission. In 1999, LPPC worked with the Chairman of this Subcommittee to guarantee open access transmission service by non-jurisdictional entities. Public power agreed that limited FERC jurisdiction could be extended to public power systems and cooperatives in order to ensure that open access transmission service would be provided to all market participants. That is the provision that is known as “FERC-lite.” LPPC continues to support this limited expansion of FERC transmission jurisdiction – for the purpose of open access transmission. A recent Supreme Court Decision and the subsequent issuance of FERC’s proposed Standard Market Design rule have raised concerns that the current language of the FERC-lite provision could be read to allow expansion beyond its original intent, possibly to impose full FERC jurisdiction over public power systems and cooperatives.

LPPC looks forward to working with the Subcommittee to craft language that would preserve the original intent of FERC-lite and respect the compromise that was

made three years ago. The modification we seek to “FERC-lite” would make it clear that FERC may require public power, coops, TVA and PMAs to provide open access transmission services – that is, service to others that is comparable to the service they provide themselves. This is completely consistent with FERC’s reciprocity requirements.

FERC itself is not seeking to expand its jurisdiction over public power systems. FERC Chairman Pat Wood has not asked Congress to expand federal authority over public power systems, preferring a “voluntary approach to entice such utilities into the marketplace.” The Administration and Commission have generally supported the concept of open access transmission but have not sought additional jurisdiction over the transmission assets of public power. We hope that the Chairman and this Subcommittee recognize this issue and correctly return FERC-lite to a limited extension of FERC jurisdiction to ensure open access to the transmission system.

I know that LPPC is not alone in raising the issue of service obligation. We hope that you will address this issue because, for us, it is about protection our customers.

On the issue of “Uniform Refund Authority,” LPPC is reviewing your new draft. LPPC has no official position on the language but we appreciate the fact that you have narrowed the focus to the spot market and limited the grant of authority to violations of market rules in place at the time of the sale in question. Before legislating further, it would be my advice that Congress should take a hard look at how FERC is exercising its current refund authority prior to granting additional authority.