

Board Policy Committee Meeting and Special SMUD Board of Directors Meeting

Date: Wednesday, December 13, 2023

Time: Immediately following the Finance & Audit
Committee Meeting scheduled to begin at 6:00 p.m.

Location: SMUD Headquarters Building, Auditorium
6201 S Street, Sacramento, CA

AGENDA

BOARD POLICY COMMITTEE MEETING AND SPECIAL SMUD BOARD OF DIRECTORS MEETING

Wednesday, December 13, 2023
SMUD Headquarters Building, Auditorium
6201 S Street, Sacramento, California
**Immediately following the Finance & Audit Committee meeting scheduled to
begin at 6:00 p.m.**

This Committee meeting is noticed as a joint meeting with the Board of Directors for the purpose of compliance with the Brown Act. In order to preserve the function of the Committee as advisory to the Board, members of the Board may attend and participate in the discussions, but no Board action will be taken. The Policy Committee will review, discuss and provide the Committee's recommendation on the following:

Virtual Viewing or Attendance:

Live video streams (view-only) and indexed archives of meetings are available at:
http://smud.granicus.com/ViewPublisher.php?view_id=16

Zoom Webinar Link: [Join Board Policy Committee Meeting Here](#)

Webinar/Meeting ID: 161 146 3325

Passcode: 684504

Phone Dial-in Number: 1-669-254-5252 or 1-833-568-8864 (Toll Free)

Verbal Public Comment:

Members of the public may provide verbal public comment by:

- Registering in advance of a meeting by sending an email to PublicComment@smud.org, making sure to include the commenter's name, date of the meeting, and topic or agenda item for comment. Microphones will be enabled for virtual or telephonic attendees at the time public comment is called and when the commenter's name is announced.
- Completing a sign-up form at the table outside of the meeting room and giving it to SMUD Security.
- Using the "Raise Hand" feature in Zoom (or pressing *9 while dialed into the telephone/toll-free number) during the meeting at the time public comment is called. Microphones will be enabled for virtual or telephonic attendees when the commenter's name is announced.

Written Public Comment:

Members of the public may provide written public comment on a specific agenda item or on items not on the agenda (general public comment) by submitting comments via email to PublicComment@smud.org or by mailing or bringing physical copies to the meeting. Comments will not be read into the record but will be provided to the Board and placed into the record of the meeting if received within two hours after the meeting ends.

DISCUSSION ITEMS

1. Steve Lins Accept the monitoring report for **Strategic Direction SD-11, Public Power Business Model.**
Presentation: 10 minutes
Discussion: 2 minutes

INFORMATIONAL ITEMS

2. Elizabeth Whitney Provide the Board an informational briefing on federal
MANAGING PRINCIPAL legislative activities.
MEGUIRE WHITNEY, LLC Presentation: 10 minutes
Discussion: 5 minutes

DISCUSSION ITEMS (cont.)

3. Rosanna Herber Committee memberships and chairs for 2024.
Presentation: 1 minutes
Discussion: 1 minutes

INFORMATIONAL ITEMS (cont.)

4. Heidi Sanborn Board Work Plan.
Presentation: 1 Minute
Discussion: 2 minutes
5. Public Comment
6. Dave Tamayo Summary of Committee Direction.
Discussion: 1 minute

Members of the public shall have up to three (3) minutes to provide public comment on items on the agenda or items not on the agenda, but within the jurisdiction of SMUD. The total time allotted to any individual speaker shall not exceed nine (9) minutes.

Members of the public wishing to inspect public documents related to agenda items may click on the Information Packet link for this meeting on the smud.org website or may call 1-916-732-7143 to arrange for inspection of the documents at the SMUD Headquarters Building, 6201 S Street, Sacramento, California.

ADA Accessibility Procedures: Upon request, SMUD will generally provide appropriate aids and services leading to effective communication for qualified persons with disabilities so that they can participate equally.

in this meeting. If you need a reasonable auxiliary aid or service for effective communication to participate, please email Toni.Stelling@smud.org, or contact by phone at 1-916-732-7143, no later than 48 hours before this meeting.

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| SSS No. LEG 2023-0132 |
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BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

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| Committee Meeting & Date Policy – 12/13/23 |
| Board Meeting Date December 14, 2023 |
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|----|-------------------|--|--|--|-----|----------------------------------|--|--|--|
| TO | | | | | TO | | | | |
| 1. | Steve Lins | | | | 6. | | | | |
| 2. | Brandy Bolden | | | | 7. | | | | |
| 3. | Farres Everly | | | | 8. | | | | |
| 4. | Jennifer Davidson | | | | 9. | Legal | | | |
| 5. | Suresh Kotha | | | | 10. | CEO & General Manager | | | |

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|----------------------------|-------------------------------------|------------|--|-------------------|-------------------------------------|-----------------------|---|
| Consent Calendar | <input checked="" type="checkbox"/> | Yes | No <i>If no, schedule a dry run presentation.</i> | Budgeted | <input checked="" type="checkbox"/> | Yes | No <i>(If no, explain in Cost/Budgeted section.)</i> |
| FROM (IPR) Dani Roberts | DEPARTMENT Government Affairs | | | MAIL STOP B404 | EXT. 6419 | DATE SENT 11/17/23 | |

NARRATIVE:

Requested Action: Accept the monitoring report for **Strategic Direction SD-11, Public Power Business Model.**

Summary: The 2023 annual monitoring report (link below) provides the Board with a status report of legislation and regulations that impact SD-11, Public Power Business Model. This core value was established to support public power and preserve local decision making.

Board Policy: Strategic Direction SD-11, Public Power Business Model
(Number & Title)

Benefits: Receive input and opportunity to make corrections, additions, or changes if necessary.

Cost/Budgeted: Costs contained in internal labor budget.

Alternatives: Provide to the Board via memo or written report.

Affected Parties: SMUD and Board of Directors

Coordination: Executive Office, Board Office, Government Affairs and Legal Department

Presenter: Steve Lins, Deputy General Counsel and Director of Government Affairs

Additional Links:

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| SUBJECT Monitoring Report – SD-11, Public Power Business Model | ITEM NO. (FOR LEGAL USE ONLY) |
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SACRAMENTO MUNICIPAL UTILITY DISTRICT

OFFICE MEMORANDUM

TO: Board of Directors

DATE: November 29, 2023

FROM: Claire Rogers *CR 11/29/23*

**SUBJECT: Audit Report No. 28007615
Board Monitoring Report; SD-11: Public Power Business
Model**

Internal Audit Services (IAS) received the SD-11 *Public Power Business Model* 2023 Annual Board Monitoring Report and performed the following:

- Selected a sample of statements and assertions in the report for review.
- Interviewed report contributors and verified the methodology used to prepare the statements in our sample.
- Validated the reasonableness of the statements in our sample based on the data or other support provided to us.

During the review, nothing came to IAS' attention that would suggest the items sampled within the SD Board Monitoring report did not fairly represent the source data available at the time of the review.

CC:

Paul Lau



Board Monitoring Report 2023

SD-11, Public Power Business Model

1. Background

Strategic Direction [11](#), Public Power Business Model states that:

Supporting and strengthening the public power business model is a core value. Local decision making and flexibility are essential to effective and responsible local governance. Community-owned utilities are primarily accountable to their customers, not stockholders. Community citizens have a direct voice in public power decisions.

Preservation of this business model is vital to ensure public power systems continue to provide innovative solutions tailored to best meet the needs of their customers and communities.

2. Executive Summary

SMUD is in compliance with SD-11.

The SD-11 monitoring report updates the Board on our efforts to insulate SMUD from issues that may impact our local governance and provide the Board with a final status report on 2023 issues impacting this strategic directive. SMUD's interests are advanced in the legislative and regulatory arenas to the greatest extent possible. For instance, SMUD meets with key federal and state officials, both elected and appointed, with the driving purpose of educating them on the impact of new and existing policy.

State Legislative. SMUD had several victories this year in the California Legislature that advanced the public power business model to ensure local decision making and flexibility. SMUD defended against legislation that would have forced publicly-owned utilities (POUs) to allow attachments to utility poles without appropriate safeguards in place if a short shot-clock approval timeline was not met [Assembly Bill (AB) 965] and secured amendments to remove POUs not within the California Independent System Operator (CAISO) from a planning reserve margin fee assessed by the California Energy Commission (AB 1373). SMUD also worked through our trade associations to remove special districts from a bill that would have required us to change our website and email domains to .ca.gov or .gov (AB 1637). Further, SMUD helped advance legislation to protect rate-making authority [Assembly Constitutional Amendment (ACA) 13] and allow remote Board meetings during emergencies (AB 557). SMUD also worked through a broad coalition to secure funding for electric vehicle infrastructure through the Clean Transportation Program (AB 126).

State Regulatory. SMUD engaged in numerous proceedings before state agencies this year, chiefly the California Energy Commission (CEC) and California Air Resources Board (CARB), to advance the public power business model. Most notably, SMUD and our associations successfully influenced the development of the CARB's Advanced Clean Fleets regulation, which requires public agencies and large commercial fleets to transition all medium- and heavy-duty (MHD) vehicles to zero-emission beginning in 2024, to add compliance flexibility measures while supporting the trajectory to electrify MHD vehicle fleets. Key changes in the final rule included securing a fleet averaging compliance option for public fleets as an alternative to purchase mandates and expanding the conditions for seeking an exemption.

SMUD tracked and participated in numerous agency proceedings for opportunities to advance

SMUD's strategic directives, protect jurisdictional limits, and monitor potential changes to industry standards. These include, but are not limited to:

- CARB's Cap-and-Trade pre-rulemaking proceeding (ongoing) where SMUD continues to advocate to preserve allowance allocations for POU's and flexibility regarding allowance disposition.
- CARB's Low Carbon Fuel Standard (LCFS) pre-rulemaking proceeding (ongoing), where through our associations, SMUD is advocating for increased program stringency to promote additional transportation emissions reductions and support credit prices and changes to utility spending requirements to increase flexibility and adaptability.
- CEC's Demand Side Grid Support (DSGS) and Distributed Electricity Backup Assets (DEBA) program implementation, where SMUD and the California Municipal Utilities Association (CMUA) influenced program guidelines to provide greater flexibility for POU-administered programs and dedicated funding for projects in POU service areas.
- CEC's Power Source Disclosure (PSD) pre-rulemaking proceeding (currently ongoing), where SMUD and our associations are advocating to ensure that implementation of hourly greenhouse gas (GHG) accounting requirements and other changes to the PSD program are accurate and within the statutory authority.
- California Public Utilities Commission (CPUC) investigation into a new statewide database of utility poles and conduits (ongoing), where through our associations, SMUD advocated against assertion of jurisdiction over POU's.
- Office of Energy Infrastructure Safety (OEIS) development of potential recommendations to the CPUC regarding wildfire-related General Orders (ongoing), which could impact the industry standards SMUD follows.

Finally, SMUD worked closely with agency staff on the successful approval of SMUD's Neighborhood SolarShares program as a community solar program under the CEC's 2022 Energy Code, and SMUD's application to use LCFS credit proceeds to fund workforce development programs in accordance with LCFS equity spending requirements. SMUD also continued coordination with the CEC regarding SMUD's compliance approach for the newly adopted Load Management Standards regulations, which took effect in April 2023.

Federal. SMUD has secured a \$50 million grant from the Department of Energy's (DOE) Grid Resilience and Innovation Partnership (GRIP) Program which will help fund our Connected PowerCity Project. This \$156 million project will develop the next generation of smart grid infrastructure here in Sacramento showcasing public power's ingenuity by deploying a technology ecosystem enabling interactive energy management relationships between SMUD and our customers.

On the legislative front, SMUD has been active in the appropriations process, which determines the level of funding available for high-priority grant programs authorized in the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA), as well as defended against proposals to reverse the direct pay provisions enacted in the IRA. SMUD submitted earlier this year a Congressionally Directed project, or earmark request, to offices for Senators Feinstein and Padilla for a battery storage fire safety training initiative which was not selected to proceed among the Senators' appropriation submissions. However, SMUD was awarded an earmark of \$3 million dollars for a total project cost of \$6 million dollars. Using this funding, SMUD plans to electrify 300 homes in the Meadowview neighborhood. This request was made and awarded through Representative Matsui's office.

Defensive positions included advocating against legislation that would rescind energy tax credits and the ability to elect direct payment of tax credits in House legislation to raise the debt limit. In a legislative

victory, the provisions rescinding SMUD's favored provisions were dropped from the final bill.

In the regulatory arena, SMUD worked with numerous coalitions on comments responding to the U.S. Environmental Protection Agency's (EPA) proposal to curb greenhouse gases from new and existing fossil-fueled power plants. SMUD also continued engagement with the Federal Energy Regulatory Commission (FERC) on dockets related to cost allocation and transmission planning. SMUD continues to develop its enterprise-wide grant capture program to respond to federal funding opportunity announcements and build relationships with key officials and new offices within the DOE in charge of IJJA grant guidance and implementation efforts.

Community Choice Aggregators (CCA). AB 117 (2002) created Community Choice Aggregation and authorized local governments to aggregate customer electric load and become the default power provider in the service territory of an incumbent investor-owned utility (IOU). SMUD responded by offering to provide operational services to CCAs.

Today, SMUD offers the following services: contact center services, billing services, data management services, analytics services, program design and administration services, marketing services, and market research, and debt collection services. Current clients include: Valley Clean Energy (VCE), Ava Community Energy (formerly known as East Bay Community Energy), Silicon Valley Clean Energy (SVCE), Marin Clean Energy (MCE), and Sonoma Clean Power (SCP). CCAs enable their customers to access many of the same public power benefits that SMUD and other POUs have provided millions of Californians. Our support of CCAs promotes public power. CCAs also have aggressive carbon reduction goals similar to SMUD's. Our support of CCAs promotes carbon reduction regionally. SMUD is leveraging our decades of experience as a utility, staff expertise, and existing systems to provide skilled services to CCAs, generating new revenue and strengthening SMUD's ability to provide cost effective public power service to our customers.

There are currently over 24 active CCAs in California, representing nearly half of the state, and additional ones emerging or investigating the feasibility of starting a new CCA. The potential for new CCA clients for SMUD is great.

Western Energy Imbalance Market (EIM) and Extended Day-Ahead Market (EDAM)

SMUD continues to see significant benefits with its participation in the CAISO's EIM since joining in 2019 through the Balancing Authority of Northern California (BANC). On March 25, 2021, the remaining BANC Balancing Authority Area (BAA) footprint joined the EIM. This broader BANC resource participation has resulted in greater economic benefits and a better ability to integrate and manage intermittent resources within the BANC footprint.

SMUD and BANC, as well as other EIM participants, have supported the extension of the EIM real-time framework to the CAISO's day ahead market under the CAISO's EDAM initiative. After a few years of discussions, direct involvement with the CAISO and a handful of other stakeholders, and broader stakeholder meetings to develop an EDAM proposal, the CAISO filed a tariff amendment with FERC in August 2023. Pending FERC's approval of the filing, to which SMUD also filed supportive comments, EDAM implementation activities are planned for 2024 with EDAM launch as early as 2025. SMUD plans to participate in EDAM beginning in the 2026 timeframe, depending on its implementation efforts and coordination with other BANC participants. SMUD views EDAM as an important step forward in the evolution of Western energy markets and it aligns well with SMUD's 2030 Zero Carbon Plan goals.

As SMUD's Strategic Plan indicates, internal and external factors are driving our business and shaping our business model. Legislative and regulatory uncertainty continues to be a threat to the Public Power Business Model (SD-11). SMUD takes positions on legislation and regulations based on the Board's Strategic Direction.

3. Additional Supporting Information

Local decision making and flexibility are essential to effective and responsible local governance. We continued to guard local decision-making and flexibility as we pursue innovative solutions that meet the needs of our customers and our community. High priority 2023 issues were as follows:

- Meetings with state legislators to highlight SMUD's legislative priorities to advance the public power business model.
- Securing amendments to remove applicability on onerous requirements to SMUD (e.g., AB 965, AB 1637, AB 1373).
- Advocating for the passage of ACA 13 to protect local governments' fee and rate authority.
- Supporting AB 557, which eliminates the sunset date on provisions of law allowing local agencies to use teleconferencing without complying with specified Brown Act requirements during a state of emergency.
- Working with coalition of electric vehicle (EV) advocates to secure reauthorization of Clean Transportation Program funding (AB 126).
- Grants capture initiatives to support SMUD's 2030 Zero Carbon Plan, including the GRIP II grant, the Recompete grant, and Matsui earmark.
- Advocating for favorable outcomes in the appropriations process, which determines the level of funding available for high-priority grant programs authorized in the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA).
- Defending against proposals to reverse the direct pay provisions enacted in the IRA.
- Meetings with CEC Commissioners to educate key policy decision-makers on activities and needs related to SMUD's 2030 Zero Carbon Plan, including transportation electrification, building electrification, and load flexibility, to advance the public power business model.
- Securing changes to the Advanced Clean Fleets regulation to increase compliance options for public agencies and improve the transparency and scope of the exemption process.
- Advocating to preserve POU allowance allocations and flexibility regarding allowance value within the Cap-and-Trade program.
- Continued outreach to the CEC regarding SMUD's compliance approach to the Load Management Standards regulation, as well as the development of SMUD's compliance plan.
- Advocating at the CEC for funds from, and flexible program guidelines to implement, the Demand Side Grid Support (DSGS) and Distributed Energy Backup Assets Program (DEBA) Programs to support grid investment.
- Working with the California Electric Transportation Coalition (CaIETC) and partners to encourage changes to strengthen the LCFS program and update utility spending requirements.
- Securing approval of SMUD's application to serve as community solar administrator of Neighborhood SolarShares under the 2022 Energy Code.
- Securing approval of SMUD's application to use LCFS equity proceeds for workforce development programs.
- Working with trade associations to monitor and respond to proposals that could impact jurisdictional authority (e.g., pole attachments proceeding).
- Periodic meetings with CARB staff to advocate for consideration of electricity reliability and affordability in the development of programs, policies, and regulations impacting the electricity sector.

4. Challenges:

SMUD continues to face prescriptive legislative and regulatory mandates for carbon reduction, renewable energy, resources planning, and building and vehicle electrification, in part because

of the State's robust climate change goals and their potential interplay with pending federal regulations. With SMUD customers still struggling as energy costs continue to rise, it is particularly important to defend against mandates that increase costs for SMUD. At the state level, an increased interest by legislators and the Governor in both reliability and climate change led to legislative action in the form of planning reserve margin requirements and the creation of a central procurement entity (optional for POU's).

While state policy is increasingly recognizing the importance of a diverse set of resources to reliably and affordably achieve electric sector decarbonization goals, uncertainty remains regarding the definition of "zero-carbon resources," particularly emerging technologies, for purposes of the state's long-term goals. This uncertainty and potential lag time in updating state policy and regulations may pose some challenges for SMUD, as a POU that is making early investments in emerging technologies to support decarbonization goals that are faster than those of the state. For example, next year the CEC and CARB will also be preparing reports that consider and evaluate the potential role of resources like hydrogen, carbon capture and sequestration, and long duration storage, in contributing to the state's goals. The CEC will also be leading the development of the next SB 100 Joint Agency Report, which will evaluate the tradeoffs of various scenarios – including one with no combustion of biogas, carbon capture, or hydrogen – to inform state policymakers. SMUD will continue to advocate for policies that recognize the renewable and zero-carbon resources needed to decarbonize our grid.

Changes to Cap-and-Trade are on the horizon, and CARB staff has signaled both a need to reduce allowance allocations and interest in more prescriptive requirements for the disposition of allowance value. In addition, the CEC is preparing for a rulemaking to implement hourly GHG emissions accounting and reporting requirements for SMUD and other large utilities as part of the Power Source Disclosure program. The new requirements will be highly complex, and it will be critical to ensure that implementation is accurate, understandable, and fair.

SMUD will continue to advocate for the advancement of beneficial transportation and building electrification, along with consideration of utility needs for accelerating the enabling infrastructure. Transportation electrification has been a priority for this Administration, with Governor Newsom's executive order to require that all new cars and passenger trucks sold in California be zero-emission vehicles by 2035 and CARB's Advanced Clean Cars II regulation that took effect at the end of 2022. Moreover, with the Advanced Clean Fleets regulation taking effect in January 2024, the CEC, CARB, and CPUC are all focusing on efforts to deploy the necessary infrastructure to support zero-emission vehicles and freight, which may include recommendations for mandates. Changes to the LCFS are also on the horizon; while many of the current proposals are expected to be positive, SMUD and our associations are also monitoring for potential changes regarding the recipients of base credits and the impacts of CARB's proposal to phase out avoided methane crediting for dairy digesters.

Additionally, SMUD continues to monitor CPUC proceedings that may attempt to assert jurisdiction over POU's (e.g., pole and conduits database, demand flexibility through dynamic rates, discharge permitting for electric utility maintenance tasks, resiliency activities, and General Orders).

5. Recommendation

It is recommended that the Board accept the Monitoring Report for SD-11.

Appendices

State Legislation that Impacted SD-11

ACA 13 (Ward) Voting Thresholds

ACA 13, a proposed constitutional amendment, requires any constitutional amendments proposed by initiative that call for an increase in the threshold vote requirement be approved by the same proportion of votes cast as the measure would require for future local measures.

SMUD Position: Support. SMUD's advocacy, including Board involvement, proved vital in getting this legislation over the finish line.

Status: This legislation passed through the legislature and does not need action by the Governor. It will be on the November 2024 ballot and must be approved by a majority of California voters.

Staff Comment: This proposed constitutional amendment is in response to the California Business Roundtable (CBRT) initiative, which would jeopardize local government revenues and hinder local governments' ability to deliver essential services. Under current law, it would take only a simple majority vote to pass the CBRT measure, but, with ACA 13, it would need to be approved by a two-thirds vote.

AB 965 (Carrillo) Broadband Permit Applications

This bill would have required POU's (in addition to cities and counties) to undertake batch broadband permit processing upon receiving two or more "substantially similar" broadband permit applications submitted at the same time, within a reasonable time. If the POU did not approve or reject those batch permits in a reasonable time, the permits would be deemed approved.

SMUD Position: Oppose unless amended. Once amendments were taken to remove POU's from the bill's requirements, SMUD moved to a neutral position.

Status: Signed by the Governor without provisions that impact SMUD

Staff Comment: There would have been significant safety concerns with this bill, particularly in deeming pole attachments approved if we do not meet the review shot clock. SMUD opposed the bill with a very strong letter and effective advocacy, including in meetings with the Board and our legislative delegation, resulting in the removal of POU's from the bill. The bill passed and was signed by the Governor, setting forth requirements for cities and counties.

AB 1373 (Garcia) Energy

This urgency bill that required a two-thirds vote, became law as soon as the Governor signed it on October 7. At a high level, the bill requires the CEC to produce a report by January 31, 2024, assessing every POU's planning reserve margin (PRM) and whether each POU met it. The report will also look at how POU PRMs stack up against the CPUC standards for 2023. The CEC Executive Director is required to assess a capacity payment on POU's that serve load in the CAISO which are found to be short on their PRM in any month when the Strategic Reliability Reserve is used to maintain grid reliability. The bill also provides a mechanism for the Department of Water Resources to centrally procure various electric generating and storage resources. Costs will be borne by customers of load-serving entities. POU's can voluntarily participate in a centrally procured resources.

SMUD Position: Neutral once priority amendments were included in bill. Previously held an oppose unless amendment position.

Status: Signed by Governor. Became law on October 7 as an urgency measure.

Staff Comment: SMUD staff advocated heavily on this bill. The idea initially came about through the Governor's proposed budget and morphed into a policy bill. We had an oppose unless amended position on the bill. The amendments we sought were to remove non-CAISO POU's from the PRM requirements and to get some clarification on the central procurement entity. With the narrowing of the central procurement entity and the removal of non-CAISO POU's from the PRM, we became neutral on the bill.

AB 1637 (Irwin) Internet Websites and Email Addresses

This bill requires local agencies to adopt a .ca.gov or .gov domain name. This would have included special districts, as well as cities and counties, but we successfully advocated to get special districts removed from the bill.

SMUD Position: Worked through CMUA and the California Special Districts Association (CSDA) to express our concerns.

Status: Signed by Governor

Staff Comment: The impact would have been widespread, costly, and potentially have impacts to our cyber security efforts. We successfully advocated to get special districts removed from the bill, but we anticipate a similar effort to resurface next year.

AB 557 (Hart) Local Agencies: Teleconferences

This bill removes the January 1, 2024 sunset in current law for local agency governing bodies to hold remote, instead of in-person, meetings during states of emergencies. It also extends the period that a local agency body must make findings of a continuing emergency from every 30 days to every 45 days.

SMUD Position: Support

Status: Signed by Governor

Staff Comment: CSDA sponsored the bill, and SMUD supported it.

SB 57 (Gonzalez) Disconnection of Residential Service

This bill would have required an electrical corporation, local publicly owned electric utility, gas corporation, local publicly owned gas utility, water corporation, or local agency that owns a public water system to postpone the disconnection of a customer's residential service for nonpayment of a delinquent account when the temperature will be 32 degrees Fahrenheit or cooler, or 95 degrees Fahrenheit or warmer, within the utility's service area during the 24 hours after that service disconnection would occur.

SMUD Position: None

Status: Two-Year Bill

Staff Comment: The bill died before it had a hearing, but we, along with other CMUA members, expressed concern immediately. This could have significant financial impacts and presents jurisdictional concerns.

AB 735 (Berman) Workforce Development: Utility Careers

This bill establishes the High Road Utility Careers program to connect existing resources with individuals interested in careers in the utility sector.

SMUD Position: Support
Status: Two-Year Bill

Staff Comment: The bill is sponsored by CMUA, and SMUD is supporting the bill. It unfortunately didn't pass this year, but we will continue to support if it moves forward next year.

AB 538 (Holden) Multistate Regional Transmission System Organization: Membership

This bill authorizes the CAISO to submit a Regional Transmission Organization (RTO) governance plan to the CEC. This would essentially be the first step to allow for a west-wide RTO. The bill included language to make a POU's participation optional.

SMUD Position: SMUD does not have a position on the bill, but we engaged in conversations and watched it closely. CMUA had an oppose unless amended position.
Status: Two-Year Bill

Staff Comment: Relatedly, on July 14, regulators from California, Oregon, and Washington state sent a letter to the Committee on Regional Electric Power Cooperation (CREPC), which is part of the Western Interstate Energy Board. CREPC is comprised of Western energy commissioners and state energy office officials and focuses on regional cooperation issues. On behalf of California, CPUC President Alice Reynolds and CEC Vice Chair Siva Gunda signed the letter, which basically would create a separate 501(c) entity for the purposes of forming a West-wide market, and the CAISO would staff the entity. The signatories of the letter — Oregon, Washington, California, Arizona, and New Mexico — plan to work through an initial development phase this year, and they would decide key elements of the new entity's structure. Implementation is targeted for 2024.

AB 9 (Muratsuchi) Greenhouse Gases: Market-Based Compliance Mechanism

This bill would have required CARB to initiate a regulatory process to evaluate potential updates to Cap-and-Trade. It also would have required the evaluation to focus on specified items, including whether the supply of emission allowances and carbon offsets are consistent with statewide greenhouse gas emissions reduction goals.

SMUD Position: No official position.
Status: Two-Year Bill

Staff Comment: Given that potential changes to the Cap-and-Trade program could impact rates, we will continue to watch this bill closely, should it move next year.

SB 308 (Becker) Carbon Dioxide Removal Market Development Act

This bill would have required CARB, no later than 2027, to adopt a regulation to require emitting entities who produce 25,000 metric tons or more a year to purchase negative emissions credits equal to a specified amount of their greenhouse gas emissions.

SMUD Position: None
Status: Two-Year Bill

AB 126 (Reyes) Clean Transportation Program Fee Extension

The bill reflects a three-party compromise to continue funding the Clean Transportation Program (CTP), the Air Quality Improvement Program (AQIP) and the Enhanced Fleet Modernization Program (EFMP) in California until 2035. These are all critical programs to advance zero emission vehicles and related

infrastructure. Specifically, AB 126 extends the fees originally established in 2007 to 2035 at the same levels to maintain reliable funding (over a billion dollars has been provided over the last 15 years) to support the state's transition to zero-emission vehicles and reduce vehicle pollution. In order to reach this compromise, amendments were taken on September 11, 2023, that include a 15% carve out in the CTP for light-, medium-, and heavy-duty hydrogen infrastructure until 2030 as well as the addition of new reporting requirements for zero-emission vehicle charging and refueling infrastructure.

SMUD Position: Support
Status: Signed by Governor

Staff Comment: SMUD was active in our support of this bill and worked closely with the CalETC and other low carbon vehicle advocates.

AB 1594 (Garcia) Medium- and Heavy-Duty Zero-Emission Vehicles: Public Agency Utilities

The bill is intended to rectify issues in the CARB Advanced Clean Fleets (ACF) rule. Specifically, the bill requires a state agency to ensure rules applicable to vehicle fleet purchases allow public agency utilities to replace vehicles without regard to model year and to determine the daily usage of a utility vehicle that does not exclusively rely on the lowest mileage reading and does not exclude the highest usage days. The legislation allows CARB, in consultation with public agency utilities, to determine the end of useful life of an applicable vehicle.

SMUD Position: Watch; worked with CMUA on amendments
Status: Signed by Governor

State Regulation that Impacted SD-11

Advanced Clean Fleets (ACF) Regulation

In April 2023, CARB unanimously adopted the ACF regulation, which requires public agencies, drayage truck operators, and larger companies to transition their medium- and heavy- duty (MHD) vehicle fleets to zero-emission vehicles (ZEVs). The rule also increases the ZEV sales requirement for truck manufacturers to 100% of vehicle sales by the 2036 model year. The ACF regulation is part of a comprehensive strategy to achieve a zero-emission truck and bus fleet by 2045 everywhere feasible, and significantly earlier for market segments such as public fleets.

The final ACF regulation provides two compliance pathways for public agencies like SMUD:

- Annual ZEV purchase requirements, which require half of all MHD vehicle purchases to be zero-emission starting in 2024 and 100% to be zero-emission starting in 2027, or
- A “ZEV milestones” option that is based on fleet averaging and requires an increasing percentage of the fleet to be zero-emission at each milestone date. The first milestone date is in 2025.

The ZEV milestone option was originally available only to commercially owned fleets; SMUD successfully advocated to expand its availability to public agencies, which may opt in up until January 1, 2030. Along with CMUA, CalETC, and utility stakeholders, SMUD also advocated for the final regulation to include robust, transparent frameworks for determining when ZEVs are commercially available and have been demonstrated to be reliable for specialized use cases, as well as for assessing other exceptions to the ZEV requirements.

As a result of stakeholder advocacy, the final regulation expanded on the reasons for which fleet owners make seek exemptions, upon demonstration of specific requirements, if ZEVs are unavailable for purchase, cannot meet certain mileage or energy usage requirements, are needed for mutual aid and cannot be refueled using mobile charging. The regulation also includes extensions if vehicle deliveries are delayed or if a fleet owner experiences delays beyond its control in the construction or utility energization of ZEV charging infrastructure. However, there are limitations in the use of each extension or exemption, so relief may be challenging to secure in practice.

Status: The ACF regulation was approved by the Office of Administrative Law in September 2023 and will take effect October 1, 2024. Regulatory requirements for fleet owners begin January 1, 2024. CARB is convening a Truck Regulation Advisory Committee (TRAC) working groups to focus on ACF implementation, including ZEV infrastructure needs and the application of certain exemption requirements.

Cap-and-Trade Amendments (Pre-Rulemaking)

The Cap-and-Trade program is a key element of California's strategy to reduce GHG emissions by setting an economy-wide, declining cap on annual GHG emissions. Covered entities must surrender compliance instruments, or allowances, for each metric ton of GHG emissions. The current regulation provides SMUD, and other electric utilities, a specified amount of directly allocated allowances through 2030 to mitigate the cost impacts to ratepayers of compliance with the Cap-and-Trade program. As a POU, SMUD has the option of depositing allowances to meet our compliance obligations or consigning allowances to auction and using the proceeds to benefit ratepayers, in accordance with certain regulatory requirements.

This summer, CARB initiated pre-rulemaking activities for potential updates to the Cap-and-Trade regulation. The primary objective of the update is to align the Cap-and-Trade program with CARB's 2022 Scoping Plan Update, which calls for additional emissions reductions by 2030 in order to achieve carbon neutrality by 2045. As part of the update, CARB will also consider changes to improve program implementation. While CARB has not yet proposed any formal amendments, potential changes under consideration that are key to SMUD include:

- Reductions to allowance budgets, including utility allowance allocations, through 2030.
- Reduced flexibility for POUs to either consign allowances to auction or deposit for compliance.
- Reduced flexibility for POUs regarding use of allowance proceeds.

POU allowance allocations provide important ratepayer benefits and are critical to advancing the state's GHG reduction goals. Reductions in allowance allocations may directly impact ratepayers during a time when the state is suffering from an affordability crisis. SMUD and our associations have urged CARB to minimize changes to utility allowance allocations to the extent possible. SMUD also does not support changes that would require POUs to consign all allowances and restrict proceeds; preserving POUs' flexibility to determine how best to use allowance value is the most efficient, effective, and suitable way to respond to local communities' needs and reduce GHG emissions in our service areas.

Status: CARB has held several pre-rulemaking workshops but has not yet released draft regulatory amendments. The formal rulemaking is expected to begin late 2023 or early 2024, with a target effective date of January 1, 2025.

Power Source Disclosure Amendments (Pre-Rulemaking)

Last year, SB 1158 (Becker) established new hourly GHG reporting requirements for retail suppliers of electricity, including SMUD, which the CEC is tasked with implementing. Under the new law, retail suppliers will be required to report the following information beginning January 1, 2028:

- Sources of electricity used to serve hourly loss-adjusted retail load.
- The GHG emissions associated with each source.
- Annual total and average GHG emissions intensity.
- Annual avoided GHG emissions.

Implementation of the new hourly reporting requirements will be proposed in conjunction with changes to the existing Power Source Disclosure program and annual reporting and disclosure requirements. In late summer 2023, CEC staff released proposals and draft regulatory amendments. Under these proposals, retail suppliers would be attributed the emissions associated with all owned and contracted generation during a given hour, even if that generation was sold into the market and did not serve loss-adjusted retail load. The staff proposal also would expand the annual Power Content Label to address non-retail loads, among other changes.

The CEC staff proposals could result in misattribution or double accounting of greenhouse gas emissions well as create perverse incentives for retail suppliers to rely on market purchases instead of their own procured resources. Moreover, addressing non-retail loads on the Power Content Label is likely to confuse customers and is inconsistent with the statutory requirements. SMUD and CMUA are advocating for changes to the proposals and additional discussion prior to the CEC finalizing the implementation approach.

Status: CEC is reviewing comments on the staff proposal and considering changes. The formal rulemaking process is expected to begin in late 2023 or early 2024, with a target completion date of June 2024.

Low Carbon Fuel Standard Program (Pre-Rulemaking)

The LCFS program is designed to encourage the use and production of low carbon transportation fuels. The LCFS is a market-based program that is based on declining carbon intensity (CI) benchmarks; transportation fuels that have a CI lower than the benchmark generate LCFS credits, and those with higher a CI generate credit deficits. LCFS credits associated with electricity can be generated in several categories, depending on the type and location of the charging; proceeds must generally support transportation electrification projects or programs. Utilities, including SMUD, currently receive “base credits” that are allocated based on estimated EV charging within their service areas. A minimum portion of these base credits funds the statewide Clean Fuel Reward (CFR) program; the remaining “holdback” credits fund utility-specific programs, with minimum spending requirements for projects benefiting low-income and disadvantaged communities. SMUD currently generates credits through partnerships with dairies that produce digester gas for low-carbon electricity.

CARB is currently developing amendments to the LCFS regulation to increase the stringency of the program and displace additional fossil fuels, strengthen equity provisions, and support zero-emission charging infrastructure, among other objectives. Proposed changes include an immediate step-down in CI and inclusion of an auto-acceleration mechanism, changes to capacity credits for ZEV infrastructure, and changes to avoided methane crediting. At this time, CARB has not proposed any changes to base crediting.

SMUD supports an increase in program stringency to drive additional emissions reductions and bolster

low credit prices. Through our membership in CalETC, we are also advocating for changes to the CFR and utility holdback programs to improve program impact, adaptability, and focus on the needs of priority communities. SMUD is also monitoring how potential changes to avoided methane crediting would affect our existing partnerships.

Status: The formal rulemaking process is expected to begin late this year, with a targeted effective date in mid-2024.

Demand Side Grid Support (DSGS) Program

The CEC's Demand Side Grid Support (DSGS) program was established last summer as part of the new Strategic Reliability Reserve created by AB 205. The program provides incentives to utility customers that provide incremental net load reductions during grid emergencies or extreme events. DSGS providers, which may include POUs, enroll customers and administer the program; depending on the participation option, providers receive administrative cost reimbursement or incentives for committed load reduction capacity. After an accelerated initial launch last summer, the CEC revised the program guidelines in 2023 to reflect lessons learned, expand eligibility allow third-party aggregators to serve as program administrators under certain conditions, and pilot new participation options.

The current DSGS program includes three participation pathways, originally designed with the CAISO in mind:

- Option 1, which provides incentives to customers that voluntarily reduce net load in response to Energy Emergency Alerts (EEAs) issued by a California balancing authority (BA).
- Option 2, which provides monthly capacity payments for demand response resources participating in electricity markets that can provide additional load reduction capability.
- Option 3, which provides monthly capacity payments for behind-the-meter battery virtual power plants that dispatch based on market or other reliability-related signals.

SMUD successfully advocated for flexibility allowing non-CAISO balancing authority areas to benefit from the DSGS program and for POUs to propose alternative program requirements that are best suited for the reliability needs of the POU and their BA. In coordination with CMUA, SMUD also successfully advocated for changes requiring third-party aggregators to obtain written permission from the host POU before becoming a DSGS provider, to ensure any DSGS activities are coordinated with POU needs and operations.

Status: The CEC adopted the revised DSGS guidelines in July 2023. SMUD enrolled as a DSGS provider for "Option 1" this summer. SMUD is exploring options for potential implementation of "Option 3" in summer 2024 and will continue to work with the CEC on program updates.

Office of Energy Infrastructure Safety Recommendations on General Orders

The Office of Energy Infrastructure Safety (OEIS) has initiated a process to make formal recommendations to the California Public Utilities Commission (CPUC) regarding safety requirements to mitigate the risk of wildfires brought on by climate change and aging infrastructure, including potential updates to General Order (GO) 95, GO 128, and GO 165. OEIS has commissioned a study that will consider a wide range of topic areas, including vegetation management, local conditions, temperature and loading, strength of materials, inspection of lines, replacement, undergrounding, inspection requirements, and standards for operation during disasters and emergencies.

OEIS has not yet released a proposal with specific recommendations. However, any recommendations developed by OEIS and accepted by the CPUC could have a significant impact on the industry

standards that SMUD follows. Through CMUA, SMUD has advocated that OEIS allow for a thorough public review and input process prior to submitting recommendations to the CPUC, as well as considering whether any proposed recommendations would be more appropriately considered as mitigation measures selected through the utility Wildfire Mitigation Plan development process.

Status: OEIS anticipates developing recommendations to transmit to the CPUC in late 2023. Such recommendations are expected to feed into the CPUC's climate change adaptation proceeding, which will explore changes to existing safety requirements.

CPUC Pole Attachments Database Proceeding

As part of its investigation considering strategies for increased and non-discriminatory access to utility poles and conduit by competitive communications providers, the CPUC has established requirements for IOUs to maintain certain pole attachment data in an online database accessible to attaching entities. In December 2022, the CPUC issued a new ruling considering whether such requirements should apply to POUs and whether the CPUC should also develop online database requirements for conduit information.

SMUD does not support the proposed application of database requirements to POUs or the expansion to include conduit information. Through our membership in CMUA, SMUD has disputed the CPUC's assertion of jurisdiction over POUs for imposing requirements for the convenience and access of pole attachers. CMUA also recommended against developing requirements for conduit information, given that conduit does not pose the same safety risks as overloaded poles and there are greater security and safety risks associated with sharing of conduit information.

Status: SMUD is awaiting the issuance of the CPUC's proposed decision.

2025 Energy Code – Pre-Rulemaking Activities

The CEC is in the process of developing proposals for the 2025 Energy Code. The new code is expected to continue the trend toward more heat pump space heating (HPSH) and heat pump water heating (HPWH) through prescriptive requirements for new single-family homes, multifamily, and select nonresidential building types. The CEC also proposes including prescriptive heat pump requirements for alterations of existing single-family homes, where demonstrated to be cost effective. The proposed changes also include updates to efficiency standards and certain photovoltaic and energy storage requirements, including a clarification to community solar requirements.

SMUD supports the trend to encourage all-electric new construction, particularly in single family homes. SMUD is also monitoring and providing feedback on proposals that could impact requirements for community solar administrator, based on our unique perspective as the only currently-approved administrator for purposes of the Energy Code. This summer, SMUD recommended against changes to community solar opt-out requirements for multifamily buildings that would have added significant complexity with uncertain practical benefits; such changes were not included in the latest pre-rulemaking amendments.

Status: The formal rulemaking process for the 2025 Energy Code is expected to begin in January 2024. If approved, the 2025 Energy Code requirements will go into effect for construction permits that are applied on or after January 1, 2026.

Load Management Standard (LMS) Regulation

The amended LMS regulations were adopted by the CEC in October 2022 and took effect on April 1, 2023, expanding on efforts to increase efficiency and demand flexibility in California's electricity grid. While the standard has been in statute since 1978, the most recent amendments are intended to form the foundation of a statewide system that automates the creation of hourly or sub-hourly costs and signals that can be used by end-use automation to provide real-time demand flexibility on the grid. The amended regulations require the state's three largest IOUs and CCAs, the Los Angeles Department of Water, and Power (LADWP) and SMUD to develop marginal cost-based rates that change at least hourly for each customer class that is determined to materially reduce peak load, among other requirements.

During the rulemaking process, SMUD staff advocated to CEC staff, Commissioners, and other key policymakers to help guide the development of the LMS and ensure that SMUD can continue to offer pilots and programs as an alternative to dynamic rates. The final regulations largely reflected our recommendations for a separate compliance pathway for POUs that provides greater implementation flexibility.

Status: The new LMS regulations went into effect in April 2023. This year, SMUD has continued outreach to the CEC regarding our LMS compliance approach. We also successfully completed our first two compliance milestones: uploading our existing time-dependent rates into an online CEC database and submitting our proposed compliance plan to the SMUD Board of Directors by October 1.

Delta Water and Hydro Impacts

Two substantial Delta planning processes could potentially affect energy available for SMUD's purchase from the Central Valley Project (CVP) and flows within the Upper American River Project (UARP) watershed: the Bay-Delta Water Quality Control Plan (Bay-Delta Plan), and the Delta Conveyance Project (successor to the California WaterFix Project, which was in turn successor to the Bay Delta Conservation Plan).

Phase 2 of the Bay-Delta Plan is ongoing and could potentially affect SMUD by increasing the volume of water required for outflow into the Bay (Phase 3 would, if carried out, implement Phase 2 through modifications to water rights). A substantial change in Delta outflow and tributary flow requirements could, among other things, have a major impact on the timing of hydroelectric energy generation. The State Water Resources Control Board (SWRCB) staff released a draft of one of the Phase 2 documents identifying an environmental need for significantly more outflows (in short, 35 to 75% of all water is allegedly needed for outflow with staff recommending 45 to 65%).

Governor Newsom requested the SWRCB explore negotiation of voluntary agreements with water purveyors in lieu of imposing a strict plan. Work on the voluntary agreements process has been slow and sporadic but still appears to be the preferred path for compromise.

Although the earlier, two-tunnel Delta conveyance WaterFix Project was cancelled and its environmental documents rescinded in 2019, the Department of Water Resources (DWR) quickly relaunched the project as a one-tunnel option, renamed the Delta Conveyance Project. The Draft Environmental Impact Report was released in July 2022. The project would involve building one new intake and a tunnel to complement the historical diversion of water through the Delta channels for the State Water Project (SWP). It had been expected the Project would involve the CVP as well, though that does not appear to be the case and the U.S. Bureau of

Reclamation has not been participating, suggesting no CVP power would be used for the project. This is important because if provided by the CVP, power for the estimated 10-year construction effort and long-term operations would come out of supplies otherwise sold to public power contractors, the single largest share of which goes to SMUD under an existing long-term contract (which will be succeeded a new contract). Using the tunnels would be part of an effort to maintain or even increase Delta watershed exports to Southern and Central California. Proponents have claimed the project would help reduce the historical impacts of the South of Delta pumps on special status fish species, though modeling by Northern California interests of the prior project suggests the reduced impacts have not been proven and in fact the opposite could be true. Modeling of the newly proposed project is under way. Changes in the timing of the energy generation due to the project are as yet unclear.

Staff Comment: SMUD is working closely with a coalition of water interests to evaluate the impacts of the Bay–Delta Plan and the Delta Conveyance Project to understand the implications for power generation and SMUD’s water rights and hopefully agree upon a voluntary agreement substitute for a regulated process.

Federal Legislation that Impacted SD-11

H.R. 3746 (McHenry): Raising the Debt Limit

The “Fiscal Responsibility Act” became law on June 3, 2023. It would raise the federal debt limit, establish new discretionary spending limits, and makes reforms to the federal permitting process (particularly as it relates to the National Environmental Policy Act or NEPA). SMUD supported the increase to the debt limit as a default would have had a significant material impact on the national economy. SMUD also supported the meaningful and balanced reforms to NEPA, which will facilitate energy infrastructure deployment. Previous iterations of the legislation, including H.R. 2811, House Republicans’ initial version of the debt limit bill, would have repealed several clean energy tax credits as well as the direct pay provisions of the IRA. SMUD opposed these provisions and worked directly with its federal delegation and trade associations to push back on the bill.

Tax Policy

As a municipal utility, SMUD relies on municipal bonds and utilizes all available financing mechanisms to decrease the financing costs of infrastructure investments and projects. Therefore, SMUD has continued to advocate for maintaining the longstanding tax exemption for municipal bond interest as well as preserving the ability of municipal utilities to make an election for elective payment of energy tax credits as authorized under the Inflation Reduction Act (IRA).

The 2017 Tax Cuts and Jobs Act (TCJA) preserved the general exemption, but removed it for advance refunding bonds, which are used to effectively refinance an original bond. SMUD has worked individually and through coalitions like APPA, and the Alliance to Save Energy’s 50X50 Commission to restore the exemption for advance refunding bonds. Bipartisan bills in both the House and Senate have been proposed that would restore advanced refunding. Such legislation is unlikely to be passed as a stand-alone bill; however, restoring advance refunding may be considered as part of a tax reform package as several tax provisions in the TCJA are set to expire at the end of 2025.

The 2022 IRA includes a provision that allows tax-exempt entities to receive refundable elective payments of various energy tax credits, making them directly available to public power utilities for the first time. Both the House and Senate have introduced provisions in various legislation that would repeal energy tax credits authorized under the law; however, none have been advanced. SMUD has worked individually and through coalitions like the American Public Power Association (APPA) and

Large Public Power Council (LPPC) to preserve the energy incentives and the ability of municipal utilities to elect elective payment of various energy tax credits. Bipartisan bills in both the House and Senate have been proposed that would restore advanced refunding. A provision to restore advance refunding was included in the bond financing title of an early House version of the budget reconciliation bill. The Inflation Reduction Act omitted the advance refunding provision, and it is unlikely to be passed as a stand-alone bill, however the provision may return next year as Congress looks to put together a tax reform package. Federal Affairs will continue to track this issue.

Pole Attachments

Municipal utilities are exempt from federal regulation of pole attachments under Section 224 of the Federal Communications Act. However, the Federal Communications Commission (FCC) has taken steps in recent years that impact public power pole attachments. In September 2018 the FCC issued a declaratory order and ruling reinterpreting other sections of the law to impose fee limits and timelines on pole attachment applications. Most recently, in March 2022, the FCC approved a Further Notice of Proposed Rulemaking (FNPRM) on the allocation of pole replacement costs and the resolution of pole attachment disputes. SMUD has expressed to its delegation concerns about this federal intrusion, noting that it has developed pole attachment agreements with telecom carriers. Rep. Anna Eshoo (D-CA) introduced legislation in January 2019 to nullify the 2018 FCC order, and Senator Dianne Feinstein (D-CA) sponsored similar legislation in the Senate in June 2019. The bills have failed to gain bipartisan support or traction in either chamber and they have not been reintroduced in subsequent congressional sessions.

Appropriations

As has been customary for many years, Congressional appropriators failed to pass yearly funding bills before the end of the fiscal year (Sept 30). Despite opposition from several members of the House Republican majority, Speaker Kevin McCarthy (R-CA) advanced a continuing resolution (CR) to keep the government funded through Nov. 17, 2023, which resulted in the disaffected members banding with the Democratic Caucus to oust McCarthy from the Speakership under rules negotiated at the beginning of the 118th Congress. Mike Johnson (R-Louisiana) has taken over the speakership.

Spent Nuclear Fuel Removal

Unable to make progress on removing spent nuclear fuel to interim storage facilities, congressional attention has turned to reprocessing and establishing a consent-based process for siting new facilities. The House Fiscal Year 24 Energy & Water Appropriations bill prohibits funds from being used to site an interim storage facility, and the Senate bill directs the Department of Energy to identify a site for interim storage using consent-based principles.

Federal Regulatory Issues that Impacted SD-11

FERC Order 1000

SMUD has participated in Order 1000 regional transmission planning through WestConnect, a regional planning entity that is comprised of member transmission providers (both jurisdictional and non-jurisdictional transmission providers) with service areas consisting of all or portions of eleven states. WestConnect members work collaboratively to jointly plan transmission facilities, assess stakeholder and market needs and develop cost-effective enhancements to the western wholesale electricity market.

In 2015, FERC accepted WestConnect's withdrawal rights for non-jurisdictional transmission providers such as SMUD. Accordingly, if costs are allocated for particular transmission projects that are unacceptable, the non-jurisdictional transmission provider has a right to withdraw from the cost

allocation determination. El Paso Electric, a WestConnect jurisdictional transmission provider, appealed FERC's decision in the 5th Circuit Court of Appeals contending that a non-jurisdictional's decision not to accept cost allocation for a project will cause free ridership. On August 2, 2023, the 5th Circuit issued a decision reversing FERC's WestConnect order, concluding that FERC's order implementing Order 1000 for the WestConnect region is not a just and reasonable application of cost causation. FERC declined to seek rehearing, and accordingly, there is uncertainty at this time on the future of WestConnect's regional planning process. SMUD, along with the other non-jurisdictionals, are exploring options for continued planning that will ensure we are able to decide whether to accept costs for a transmission project.

Meanwhile, in April 2022, FERC issued a Notice of Proposed Rulemaking: Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection (NOPR) seeking comments on reforms to existing regulations under Order 1000 to plan the grid for the future and address the nation's changing resource mix. SMUD worked with LPPC, APPA, and the Transmission Agency of Northern California (TANC) to develop separate comments in response to the NOPR. FERC also hosted a technical conference with industry experts to discuss certain transmission planning and cost allocation issues, including proposals in the NOPR. FERC has yet to issue an order. We will continue to monitor the rulemaking to ensure our public power interests are represented.

EIM and EDAM

SMUD has a direct interest in finding long-term solutions to the challenges posed by the integration of intermittent resources, such as wind and solar. One solution has been the development of an EIM operated by the CAISO, and another solution has been what the CAISO refers to as an "Extended Day Ahead Market" (EDAM). In general, the EIM is a sub-hourly energy platform that automatically clears and dispatches the lowest cost electricity available to serve demand on a real-time basis, with EDAM providing similar functionality but with a day-ahead resource and scheduling commitment.

SMUD joined in spring of 2019 under what is referred to as "Phase 1" of BANC's EIM participation as the first municipal participant. SMUD has successfully participated in the EIM since go-live on April 3, 2019, which has provided reliability, operational flexibility, and financial benefits.

The rest of BANC, including the Western Area Power Administration (WAPA) – Sierra Nevada Region, joined the EIM on March 25, 2021, under what is referred to as BANC EIM "Phase 2." This broader BANC resource participation in EIM has resulted in additional economic benefits and a greater ability to integrate and manage intermittent resources within the BANC BAA.

Given the success of EIM, the CAISO, with the support of SMUD and BANC, as well as other EIM participants, launched a stakeholder initiative to develop an extension of the EIM real time framework to the CAISO's day ahead market, referred to as the EDAM. Like EIM, EDAM would broaden the access to regional resources for the reliable integration of renewable resources, only over a longer (day ahead) time horizon, and participation is voluntary. SMUD (along with BANC) was given a seat at the table in the development of EDAM. After a few years of negotiations, along with discussions and stakeholder meetings, the CAISO Board of Governors and WEIM Governing Body jointly approved the EDAM framework in February of 2023. On August 22, 2023, the CAISO filed an EDAM tariff amendment with the FERC, to which SMUD filed supportive comments. Pending FERC's approval of the filing, EDAM implementation activities are planned for 2024 with EDAM launch as early as 2025. SMUD plans to participate in EDAM beginning in the 2026 timeframe, depending on its implementation efforts and coordination with other BANC participants. SMUD and

other EIM Entities believe EDAM is an important step forward in the evolution of Western energy markets and intermittent resource integration by allowing participants to decommit less efficient resources in the day ahead timeframe, as opposed to only in the shorter real time window. Thus, EDAM aligns well with SMUD's 2030 Zero Carbon Plan goals. Moreover, like EIM, EDAM remains a voluntary market, allowing SMUD the added flexibility of pivoting later, should better options arise in the future.

Greenhouse Gas Regulation

On May 11, the Environmental Protection Agency proposed greenhouse gas emissions standards for fossil-fueled power plants under Sec. 111 of the Clean Air Act. New and reconstructed plants would need to either use highly efficient generation or install carbon capture technology (CCS) or co-fire with hydrogen, depending on the capacity factor of the resource. Existing large units (over 300 MW with a capacity factor over 50%) would be subject to a standard equivalent to either 90 percent capture of CO₂ using CCS by 2035, or co-firing of 30% hydrogen beginning in 2032 and co-firing 96% hydrogen beginning in 2038. Existing coal plants that plan to operate after 2040 would need to capture 90% of their emissions, but those that commit to closing earlier would be subject to a less stringent standard. SMUD is monitoring this proposal, which would have minimal impacts on SMUD if enacted as proposed, but it could be expanded to cover additional units in a way that would pose challenges for SMUD's expected timelines for closure of its natural gas plants.

SSS No.
LEG 2023-0136

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

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| Committee Meeting & Date Policy – 12/13/23 |
| Board Meeting Date N/A |
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|---------------------------|-------------------|------------|-------------------------------------|--|-----------------|-------------------------------------|------------|---|--------------|-----------------------|
| TO | | | | TO | | | | | | |
| 1. | Steve Lins | 6. | | | | | | | | |
| 2. | Brandy Bolden | 7. | | | | | | | | |
| 3. | Farres Everly | 8. | | | | | | | | |
| 4. | Jennifer Davidson | 9. | Legal | | | | | | | |
| 5. | Suresh Kotha | 10. | CEO & General Manager | | | | | | | |
| Consent Calendar | | Yes | <input checked="" type="checkbox"/> | No <i>If no, schedule a dry run presentation.</i> | Budgeted | <input checked="" type="checkbox"/> | Yes | No <i>(If no, explain in Cost/Budgeted section.)</i> | | |
| FROM (IPR) Larry Luong | | | | DEPARTMENT Government Affairs | | | | MAIL STOP B404 | EXT. 6130 | DATE SENT 11/29/23 |

NARRATIVE:

Requested Action: Provide the Board an informational briefing on federal legislative activities.

Summary: SMUD’s federal lobbyist, Elizabeth Whitney of Meguire Whitney, will brief the Board on the year-end Federal Legislative Report.

Board Policy: *(Number & Title)* The federal legislation and policies SMUD tracks affect overlapping Strategic Directions including the following: Strategic Direction SD-2, Competitive Rates; Strategic Direction SD-3, Access to Credit Markets; Strategic Direction SD-4, Reliability; Strategic Direction SD-7, Environmental Leadership; Strategic Direction SD-9, Resource Planning; Strategic Direction SD-11, Public Power Business Model; and Strategic Direction SD-16, Information Management and Security.

Benefits: Informs the Board on federal legislative issues.

Cost/Budgeted: There is budgetary impact for this item.

Alternatives: Choose not to receive an annual update or provide to the Board via memo or written report.

Affected Parties: Board of Directors and all SMUD Departments

Coordination: Executive Office, Board Office, and Government Affairs

Presenter: Elizabeth Whitney, Managing Principal, Meguire Whitney

Additional Links:

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|---|--------------------------------------|
| SUBJECT Annual Federal Legislative Update | ITEM NO. <i>(FOR LEGAL USE ONLY)</i> |
|---|--------------------------------------|

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.



Elizabeth K. Whitney
Managing Principal
Meguire Whitney, LLC

Elizabeth K. Whitney has more than fifteen years of federal policy experience, focusing on energy policy. Her government relations practice centers on energy markets, environmental regulation, climate change, and nuclear power. Ms. Whitney launched Meguire Whitney in January 2017 after spending six years at Morgan Meguire, where she led work relating to the Clean Power Plan and other environmental regulation, spent nuclear fuel, and Dodd-Frank implementation. There she represented clients in meetings with Congress, the Commodity Futures Trading Commission, EPA, and FERC, as well as participated on clients' behalf in coalitions.

Ms. Whitney was the Senior Legislative Assistant to Rep. Bart Gordon (D-TN), then-Chairman of the House Science Committee and a senior member of the House Energy and Commerce Committee. She advised Chairman Gordon on energy and environmental issues before that committee and worked closely with Science Committee staff on energy and environment initiatives. In addition, she managed appropriations, budget and tax issues, financial services, and transportation for Chairman Gordon, and served as his liaison to the centrist Blue Dog Coalition. She came to Capitol Hill in 2007 as an aide to Rep. Zack Space (D-OH), handling appropriations and transportation, among other issues.

She was a co-founder of the Women's Congressional Staff Association, for which she was named "Congressional Staffer of the Year" along with her co-founders by Women in Government Relations. Prior to her time on Capitol Hill, she was a Government Affairs Associate at the American Public Works Association. There, she managed a federal grant from the U.S. EPA educating water utilities on environmental management practices. She began her career at the University of Michigan's state government relations office.

Ms. Whitney holds a B.A. in Communication from Muhlenberg College (2004), an M.A. in Political Management from George Washington University (2008), and a J.D. from Georgetown University Law Center (2015). She is a member of the Maryland State Bar.

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| SSS No. BOD 2023-015 |
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BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

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| Committee Meeting & Date Policy – 12/13/23 |
| Board Meeting Date N/A |
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|-----------------------------|-------------------|------------------------------|--|---|----------------------------------|-----------|--|
| TO | | | | TO | | | |
| 1. | Jennifer Davidson | 6. | | 7. | | 8. | |
| 2. | Suresh Kotha | 9. | Legal | 10. | CEO & General Manager | | |
| 3. | Brandy Bolden | | | | | | |
| 4. | Farres Everly | | | | | | |
| 5. | | | | | | | |
| Consent Calendar | | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <i>If no, schedule a dry run presentation.</i> | | | |
| Budgeted | | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <i>If no, explain in Cost/Budgeted section.</i> | | | |
| FROM (IPR) | | DEPARTMENT | | MAIL STOP | EXT. | DATE SENT | |
| Dave Tamayo / Karen Wilfley | | Board Office | | B304 | 6154 | 11/16/23 | |

NARRATIVE:

Requested Action: Allow the Board members an opportunity to discuss committee memberships and chairs for 2024.

Summary: This discussion will cover appointments for the four Board committees including chairs, vice chairs, and member and the SMUD -Sacramento Tree Foundation 2 x 2 representatives.

Board Policy: This discussion supports Governance Process GP-6, Role of the Board President, which states that the Board President will appoint committee chairs and members of standing committees.
(Number & Title)

Benefits: This discussion will prepare the Board’s committee structure and memberships for the upcoming year.

Cost/Budgeted: Included in budget

Alternatives: Not select new chairs of members for the committees at this time.

Affected Parties: Board of Directors

Coordination: Crystal Henderson, Special Assistant to the Board

Presenter: Rosanna Herber, 2024 Board President Elect

Additional Links:

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|---|-------------------------------|
| SUBJECT Committee Membership 2024 | ITEM NO. (FOR LEGAL USE ONLY) |
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

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| SSS No. BOD 2022-014 |
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BOARD AGENDA ITEM STAFFING SUMMARY SHEET

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| Committee Meeting & Date Policy Committee 12/13/23 |
| Board Meeting Date N/A |
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| | |
|----------------------|--------------------------------------|
| TO | TO |
| 1. Jennifer Davidson | 6. |
| 2. Suresh Kotha | 7. |
| 3. Brandy Bolden | 8. |
| 4. Farres Everly | 9. Legal |
| 5. | 10. CEO & General Manager |

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|---|----------------------------|-------------------------------------|--|-------------------|--------------|---|
| Consent Calendar | Yes | <input checked="" type="checkbox"/> | No <i>If no, schedule a dry run presentation.</i> | Budgeted | Yes | No <i>(If no, explain in Cost/Budgeted section.)</i> |
| FROM (IPR) Heidi Sanborn / Crystal Henderson | DEPARTMENT Board Office | | | MAIL STOP B307 | EXT. 5079 | DATE SENT 12/22/2022 |

NARRATIVE:

Requested Action: Enable the Board of Directors and Executive Staff an opportunity to review the Board Work Plan.

Summary: The Board President reviews the Board Work Plan at the Policy Committee meeting to ensure agenda items support the work of the Board.

Board Policy: *(Number & Title)* This review of the work plan supports GP-6 Role of the Board President which states that the Board President shall give progress reports on the Board's work plan.

Benefits: Reviewing the Work Plan allows the Board members and Executive staff to make changes to the Work Plan and Parking Lot items as necessary.

Cost/Budgeted: Costs included in budget.

Alternatives: Not review the Work Plan at this time

Affected Parties: Board and Executive staff

Coordination: Special Assistant to the Board

Presenter: Heidi Sanborn, Board President

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| Additional Links: |
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| SUBJECT Board Work Plan | ITEM NO. <i>(FOR LEGAL USE ONLY)</i> |
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

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| SSS No. BOD 2022-018 |
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BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

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|---|
| Committee Meeting & Date Policy Committee 12/13/23 |
| Board Meeting Date N/A |
| |

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|----------------------|--------------------------------------|
| TO | TO |
| 1. Jennifer Davidson | 6. |
| 2. Suresh Kotha | 7. |
| 3. Brandy Bolden | 8. |
| 4. Farres Everly | 9. Legal |
| 5. | 10. CEO & General Manager |

| | | | | | | |
|-------------------------|------------|-------------------------------------|--|-----------------|------------|---|
| Consent Calendar | Yes | <input checked="" type="checkbox"/> | No <i>If no, schedule a dry run presentation.</i> | Budgeted | Yes | No <i>(If no, explain in Cost/Budgeted section.)</i> |
|-------------------------|------------|-------------------------------------|--|-----------------|------------|---|

| | | | | |
|---|----------------------------|-------------------|--------------|-----------------------|
| FROM (IPR) Dave Tamayo / Crystal Henderson | DEPARTMENT Board Office | MAIL STOP B307 | EXT. 5079 | DATE SENT 12/27/22 |
|---|----------------------------|-------------------|--------------|-----------------------|

NARRATIVE:

Requested Action: A summary of directives provided to staff during the committee meeting.

Summary: The Board requested an on-going opportunity to do a wrap up period at the end of each committee meeting to summarize various Board member suggestions and requests that were made at the meeting in an effort to make clear the will of the Board. The Policy Committee Chair will summarize Board member requests that come out of the committee presentations for this meeting.

Board Policy: GP-4 Agenda Planning states the Board will focus on the results the Board wants the organization to achieve.
(Number & Title)

Benefits: Having an agenda opportunity to summarize the Board's requests and suggestions that arise during the committee meeting will help clarify what the will of the Board.

Cost/Budgeted: Included in budget

Alternatives: Not summarize the Board's requests at this meeting.

Affected Parties: Board of Directors and Executive Staff

Coordination: Special Assistant to the Board

Presenter: Rob Kerth, Policy Vice Chair

Additional Links:

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| SUBJECT Summary Of Committee Direction - Policy | ITEM NO. (FOR LEGAL USE ONLY) |
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.