

Board Policy Committee Meeting and Special SMUD Board of Directors Meeting

Date: Wednesday, December 11, 2024

Time: 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 11, 2024
SMUD Headquarters Building, Auditorium
6201 S Street, Sacramento, California
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: 160 113 6294

Passcode: 455984

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:

- 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. Email is not monitored during 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 Discuss the monitoring report for **Strategic Direction SD-11, Public Power Business Model.**
Presentation: 20 minutes
Discussion: 5 minutes

INFORMATIONAL ITEMS

2. Elizabeth Whitney Provide the Board an informational briefing on federal
MANAGING PRINCIPAL legislative activities.
MEGUIRE WHITNEY, LLC Presentation: 15 minutes
Discussion: 15 minutes

DISCUSSION ITEMS (cont.)

3. Gregg Fishman Committee Memberships and Chairs for 2025.
Presentation: 0 minutes
Discussion: 1 minute

INFORMATIONAL ITEMS (cont.)

4. Rosanna Herber Board Work Plan.
Presentation: 0 minutes
Discussion: 5 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.

SSS No.
LEG 2024-0139

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
Policy – 12/11/24
Board Meeting Date
December 12, 2024

TO		TO	
1.	Steve Lins	6.	
2.	Brandy Bolden	7.	
3.	Farres Everly	8.	
4.	Suresh Kotha	9.	Legal
5.		10.	CEO & General Manager

Consent Calendar	<input checked="" type="checkbox"/>	Yes	<i>No If no, schedule a dry run presentation.</i>	Budgeted	<input checked="" type="checkbox"/>	Yes	<i>No (If no, explain in Cost/Budgeted section.)</i>
FROM (IPR) Dani Roberts			DEPARTMENT Government Affairs	MAIL STOP B404			EXT. DATE SENT 6419 11/18/24

NARRATIVE:

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

Summary: The 2024 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:

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 25, 2024

FROM: Claire Rogers *CR 11/25/24*

**SUBJECT: Audit Report No. 28007757
Board Monitoring Report; SD-11: Public Power Business
Model**

Internal Audit Services (IAS) received the SD-11 *Public Power Business Model* 2024 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 2024

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 2024 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 sponsored legislation to extend our nonstock security authority for another 10 years [Assembly Bill (AB) 2457] and also 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 (AB 2221). SMUD also worked through our trade associations to remove notification requirements for hot work (AB 3062) and reduce the scope of a bill seeking to cap the amount of money utilities can recover for new housing construction service [Senate Bill (SB) 1210].

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 advocated for several amendments to CARB's Low Carbon Fuel Standard (LCFS). The LCFS encourages the use of low and zero carbon transportation fuels through a declining limit on carbon intensity. SMUD uses revenue from monetizing LCFS credits to fund numerous transportation electrification programs and projects. CARB approved the proposed amendments to the LCFS program at a hearing on November 8. We expect these changes will provide SMUD with a greater number of LCFS credits, increase LCFS credit prices, and maintain flexibility in utility spending requirements.

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 and flexibility regarding allowance disposition.

- 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 and solicitations to provide greater flexibility for POU-administered programs and dedicated funding for projects in POU service areas.
- CEC's Power Source Disclosure (PSD) 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. Additionally, SMUD has supported pathways for recognizing carbon capture, utilization, and sequestration (CCUS) in the Power Content Label (PCL), which are based on data reported in the PSD program.
- State Water Resources Control Board (SWRCB) rulemaking to develop statewide utility wildfire general order, where SMUD and our associations are advocating for balanced regulatory oversight for only those utility activities that pose a risk to water quality.
- CEC's Load Management Standards (LMS) regulation and implementation, which required coordination with other California utilities in the development of a single statewide tool and continued coordination with CEC staff on SMUD's LMS Compliance Plan.
- In 2023, 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. SMUD has continued to work with our associations on the implementation of AB 1594 (Garcia), which provides regulatory flexibility to publicly owned utilities for the purchase of traditional utility-specialized vehicles that are needed to maintain reliable service.

Federal. In 2023, SMUD was awarded a \$50 million grant from the Department of Energy's (DOE) Grid Resilience and Innovation Partnership (GRIP) Program which will help fund our Connected Clean PowerCity Project. This year, SMUD worked to negotiate the terms of the award with the Department of Energy for the \$142 million project to develop the next generation of smart grid infrastructure, executing the grant agreement on September 30. Once completed, the Connected Clean PowerCity project will showcase public power's ingenuity by deploying a technology ecosystem enabling interactive energy management relationships between SMUD and our customers. SMUD submitted two applications in the second round of GRIP funding and worked to secure support from the federal delegation for the proposals. In October, SMUD was notified that it was not selected for a second round award.

On the legislative front, SMUD has joined other utilities in advocating for permitting reform legislation. Throughout the year, permitting reform was frequently discussed, but a formal legislative proposal remained elusive until July, when Senate Energy and Natural Resources Committee Chairman Joe Manchin III (I-WV) and Ranking Member John Barrasso (R-WY) introduced a bill that was quickly advanced through their committee. Unfortunately, the legislation includes a provision to subject not-for-profit electric utilities like SMUD to the jurisdiction of the Federal Energy Regulatory Commission (FERC) for purposes of interregional planning and cost allocation. SMUD expressed serious concerns with this provision to Sen. Alex Padilla (D-CA), who sits on the Committee. Chairman Manchin pledged to continue discussions about public power's concerns about the provision, but the final disposition will not be known until legislators return to Washington, D.C. for a lame duck session after the November

elections.

In the regulatory arena, SMUD tracked and weighed in on the implementation of tax credits in the Inflation Reduction Act, particularly the implementation of the “elective pay” mechanism for not-for-profit utilities to receive cash payments for eligible projects since they have no tax burden to offset and the development of the new 45V tax credit for hydrogen production. SMUD also worked with numerous coalitions to follow the U.S. Environmental Protection Agency’s (EPA) final rule to curb greenhouse gases from new and existing fossil-fueled power plants. Finally, SMUD engaged with its national trade association, the American Public Power Association (APPA), to provide feedback on a proposal by the Cybersecurity and Infrastructure Security Agency’s (CISA) to require onerous and duplicative reporting of cyber incidents.

SMUD also continued engagement with 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 IIJA 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 11 comprehensive services to CCAs: contact center, billing, debt collections, customer relationship management systems, data management, market research, data analytics, custom reporting, customer programs, electrification concierge, and marketing services. SMUD supports seven CCAs: Valley Clean Energy (VCE), Ava Community Energy (formerly known as East Bay Community Energy), Silicon Valley Clean Energy (SVCE), Marin Clean Energy (MCE), Sonoma Clean Power (SCP), Central Coast Community Energy (3CE), and San Jose Clean Energy (SJCE). CCAs enable their customers to access many of the same public power benefits that SMUD and other POU’s 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 25 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.

California Independent System Operator Corporation (CAISO) Markets and Pathways Initiative SMUD continues to see significant benefits with its participation in the CAISO’s Western Energy Imbalance Market (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 Extended Day Ahead Market (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 which FERC approved in June. EDAM implementation activities have begun with EDAM launch planned for Spring of

2026. SMUD plans to join EDAM with the other BANC participants beginning in 2027.

To support EDAM, and further development of a west-wide market, multiple state commissioners in the west, including California, issued a letter to the Western Interstate Energy Board in summer of 2023 calling for the creation of an independent entity that could serve as a means of delivering a market for western states. A West-Wide Governance Pathways Initiative (Pathways Initiative) was created, and a broad stakeholder committee has proposed a multi-step process to create an independent governing body that would enable a path forward for a potential west-wide fully organized market (a Regional Transmission Organization, or RTO). An independent governing body is seen by many entities outside of California as critical to participating in EDAM and other future markets. Earlier in 2024, as the first step, the CAISO approved elevating the EIM/EDAM Governing Body joint authority with the CAISO Board to primary authority over EIM/EDAM market matters. The second step is creation of a non-profit entity and transfer of governance authority over EIM/EDAM markets from the CAISO to this new “Regional Organization.” This will occur after California legislation is introduced in 2025, and if approved, it amends existing California law applicable to the CAISO governance. And step 3 is potential continued future expansion of regionalized functions and services offered by the Regional Organization. SMUD views EDAM, and the Pathways Initiative, as important steps 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 2024 issues were as follows:

- Meetings with state legislators to highlight SMUD’s legislative priorities to advance the public power business model.
- Sponsoring legislation to extend SMUD’s nonstock security authority.
- Securing amendments to remove applicability of onerous requirements to SMUD (e.g., AB 2221, AB 3062, SB 1210).
- 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 federal 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.
- 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 revised compliance plan.
- Working with the California Electric Transportation Coalition (CaETC) and partners to encourage changes to strengthen the LCFS program and update utility spending requirements.
- Advocating for a balanced regulatory approach regarding the SWRCB’s Draft Utility Wildfire General Order.

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.

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. The CEC is in the process of developing the next SB 100 Joint Agency Report, which is evaluating 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 the potential for more prescriptive requirements regarding the disposition of allowance value. In addition, the CEC has initiated 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 are highly complex, and it is 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 the Newsom 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.

Additionally, SMUD continues to monitor CPUC proceedings that may attempt to assert jurisdiction over POUs (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

AB 2457 (McCarty) – Nonstock Security Authority

SMUD-sponsored legislation, [AB 2457](#), which extends the sunset and limit on the number of acquisitions under our current pilot project authority, granted through [AB 689](#) in 2019 that allows us to hold nonstock security in a corporation or other private entity under certain conditions.

Status: Signed by the Governor

SMUD Position: Sponsor. SMUD drafted the legislative language, developed and executed the legislative strategy, led all advocacy, testified in legislative committees, and developed a large support coalition of 18 organizations.

Staff Comment: New programs are often met with resistance from the legislature, particularly on more complicated topics such as nonstock security. While we initially sought to completely remove the sunset, rather than extend it, the passage of this bill is a significant victory for SMUD. We will be able to continue with this innovative authority to potentially seek additional financial upside in our various partnerships. Importantly, the bill also explicitly allows us to include services or access to SMUD facilities (e.g., workforce development training) as something SMUD can provide in exchange for nonstock security. This is a helpful clarification to existing law.

AB 2221 (J. Carrillo) – Broadband Pole Attachments

[AB 2221](#), sponsored by Crown Castle, sought to install problematic, burdensome, and limiting timelines (called shot clocks) for broadband pole attachment applications. If utilities did not approve or deny the pole attachment applications in accordance with the shot clocks, the applications would be deemed approved. SMUD worked with CMUA in opposing this bill, and the bill was held in the Assembly Appropriations Committee and died.

Status: Dead

SMUD Position: Worked through the California Municipal Utilities Association in opposing the bill.

Staff Comment: This bill would have had very significant safety implications. This was Crown Castle's second bite at the apple – as their AB 965 last year sought to institute similar provisions, but we were able to successfully get publicly owned utilities removed from that bill. SMUD worked closely with a coalition of publicly owned utilities to defeat this bill this year as well.

AB 3062 (Bauer-Kahan) – Hot Work Notification

[AB 3062](#), as introduced, would have required utilities to provide 24 hours' notice to fire protection agencies before performing any hot work. The bill was amended in the Assembly Utilities and Energy Committee and was limited to providing this notice at least 24 hours in advance of a controlled or prescribed burn.

Status: Signed by Governor

SMUD Position: SMUD worked through the California Municipal Utilities Association to oppose this bill

unless it was limited to controlled burns only. Once the amendments were in print, the California Municipal Utilities Association moved to neutral.

Staff Comment: While SMUD always coordinates closely with relevant agencies in our work, this bill as introduced would have imposed an additional bureaucratic requirement to performing our routine maintenance and managing our infrastructure. Limiting the notification or prescribed burns is much more reasonable, particularly since prescribed burns are usually conducted by the Bureau of Land Management, United States Forest Service or Cal Fire, and not SMUD.

AB 2619 (Connolly) – Net Energy Metering

[AB 2619](#) would have required the California Public Utilities Commission to develop by 2027 a new solar tariff to replace the current tariff (e.g., Net Energy Metering (NEM) 3.0). The bill would have reverted all NEM 3.0 customers to the prior NEM 2.0 tariff until the new tariff was developed.

Status: This bill was never heard in committee and is dead.

SMUD Position: Watch

Staff Comment: SMUD was neutral on the bill but watched very closely. The author said the bill was not intended to impact publicly owned utilities but the language was not as clear as we would have liked.

Energy Resources Surcharge

The Governor proposed a [budget trailer bill](#) to assess additional fees on the delivery of electricity to fund the CEC. The Energy Resources Surcharge Law imposes a surcharge on consumers for the consumption of electricity purchased from an electric utility at a rate annually fixed by the CEC not to exceed a surcharge rate cap of \$0.0003/kilowatt-hour, which the CEC states costs the average customer about \$2 per year. This bill would have expanded the applicability of the surcharge to additionally include the consumption of electricity generated by solar energy systems that are connected to the grid and would increase the surcharge rate cap from \$0.0003 per kilowatt-hour to \$0.00066 per kilowatt-hour, which would be subject to an annual adjustment based on the Consumer Price Index.

Status: Much to the CEC's chagrin, the Governor's Office and legislative leadership held the proposal for this year.

SMUD Position: SMUD worked closely with CMUA and other publicly-owned utilities to seek revisions from the CEC.

Staff Comment: Not only were we concerned with the doubling of the surcharge, but the methodology for including solar customers would be technologically challenging and confusing for our customers.

AB 2037 (Papan) – Weights and Measures: Electric Vehicle Chargers

[AB 2037](#) authorizes county sealers to test and verify as correct electrical vehicle (EV) chargers operated by a public agency that is located in the county in which the sealer has jurisdiction. If the EV charger is found to be incorrect, the bill requires the county sealer to mark it with a tag and require the charger to be repaired or corrected. This is only related to the weights and measures of the EV charger, not the operation of the charger, which was a point of confusion with the bill as it moved through the legislature. The bill seeks to ensure the right amount is charged to customers for the amount of electricity consumed – similar to what is done at gas stations.

Status: Signed by Governor

SMUD Position: Worked with the author to secure amendments.

Staff Comment: Through SMUD’s eFuel program, we offer leases on EV chargers for commercial customers. Thanks to help from the Board, we were successful in securing an amendment to make sure the operator of that leased charger is responsible for the bill’s requirements, as opposed to SMUD. SMUD also worked with CMUA on amendments to allow publicly-owned utilities to self-verify the accuracy of our commercially available EV chargers. The author accepted these amendments, but instead of requiring the verification to occur every two years, like it does for the County Sealer, the author wants publicly-owned utilities to verify our chargers every six months, which is where the bill language ultimately landed.

Taxpayer Deception Act

There was a significant [ballot measure](#) that SMUD watched closely this year. Called the Taxpayer Protection Act by its proponents and Taxpayer Deception Act by the opposition, this initiative would have changed voter thresholds for fee and tax increases and, importantly for us, would have changed our “reasonable cost of service” metric to “actual cost of service.”

Status: The initiative was removed from the November 2024 ballot by the California Supreme Court in a ruling that came out in late June. The Court stated that the initiative would have substantially altered the state’s basic plan of government and, therefore, cannot be enacted by initiative. It is rather governed by the procedures to revise the California Constitution.

SMUD Position: SMUD watched very closely but did not take an official position. The California Special Districts Association (CSDA), of which SMUD is a member, was heavily involved, filing an amicus brief to the California Supreme Court.

Staff Comment: The impacts of the initiative, if passed, were far-reaching and broad – a significant threat to the public power business model and SMUD’s ability to set rates and provide reliable and safe electricity to our customers.

AB 1465 (Wicks) – Title V Fee Increases

[AB 1465](#) increases existing air district civil penalty limits by a factor of up to three for emissions from a Title V source that contain one or more air contaminants.

Status: Signed by the Governor

SMUD Position: SMUD worked through CMUA in opposition to this bill last year, and it was held. The bill was brought back in the 11th hour this year and passed quickly.

Staff Comment: If a SMUD Title V emissions source was found to be in violation, the local air district may impose penalties that are triple the current rate. Typically, penalties are now assessed at \$5,000 per day (\$15,000 by January 1, 2025). Working with CMUA, SMUD was able to get a letter on record that clarifies that this does not apply during declared emergencies.

AB 2204 (Bennett) - Hydrogen

[AB 2204](#) sought to impose a concept called the 3 pillars, which would require all hydrogen produced or used in California to be from new and incremental renewable generation resources, include temporal matching of renewable generation resources, and geographic deliverability of renewable energy resources.

Status: Dead.

SMUD Position: SMUD did not have an official position.

Staff Comment: SMUD worked with the Northern California Power Agency, the building trades, International Brotherhood of Electrical Workers (IBEW) and the Alliance for Renewable Clean Hydrogen Energy Systems (also known as ARCHES, a public/private partnership to create a hydrogen hub in California) to meet with members of the legislature to share our concerns with the 3 pillars model, primarily that it could make it more difficult for federal dollars to flow to California.

SB 1210 (Skinner) – New Housing Construction

[SB 1210](#) initially would have imposed a cap on how much utilities can recover to provide service and upgrade capacity to serve new housing construction. The cap would have been one percent of the reported building permit value of a housing unit. The bill was ultimately amended to focus more on transparency of fees – the bill requires utilities to post on their websites both the schedule of estimated fees for typical service connections as well as the estimated time frames for completing service connections.

Status: Signed by the Governor

SMUD Position: SMUD worked with CMUA to express concerns with the bill as initially drafted.

Staff Comment: The bill as initially written was in conflict with how utilities provide service to new housing construction.

State Regulation that Impacted SD-11

Low Carbon Fuel Standard Program

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 fund 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 also generates credits through partnerships with dairies that produce digester gas for low-carbon electricity.

CARB started a formal rulemaking process in January 2024 with proposed amendments to the LCFS regulatory language. CARB then issued two rounds of changes to the proposed amendments, most recently in October, and approved the amendments at its November 8 hearing.

Status: CARB’s adopted amendments to the LCFS regulation will go into effect in 2025. There were several important changes to the LCFS program. First, CARB increased the stringency of the program, which is designed to displace the use of additional fossil fuels and potentially increase LCFS credit prices. Additionally, the regulatory changes will allow SMUD to retain a greater number of credits, contributing fewer credits to the statewide CFR program, and also preserve flexibility in how SMUD spends the credit value. CARB staff have indicated that they do not anticipate any further amendments to the LCFS program until after CARB’s next Scoping Plan Update, which is expected to occur in 2027.

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.

Over the past two years, CARB has engaged in 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 in late 2024.

Power Source Disclosure Amendments

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.

In May 2024, the CEC issued proposed amendments to the Power Source Disclosure (PSD) program to update the PSD program, incorporate the requirements of SB 1158, and make changes to the Power Content Label (PCL) that relies on data reported through the PSD program. SMUD submitted comments both individually and in coordination with CMUA, which highlighted several clarifications necessary to improve accuracy and avoid ambiguity. SMUD also advocated for the inclusion of a pathway for counting natural gas paired with carbon capture, utilization and sequestration (CCUS) technology.

The CEC subsequently issued revised proposed amendments in October 2024. These amendments made several of the clarifications requested by SMUD and CMUA, as well as incorporating a new

category for emerging technologies, which could include technologies like CCUS and green hydrogen. Status: Through CMUA, SMUD will continue to advocate for simplifying the PSD process and ensuring that CCUS has a path to being recognized. Following the current comment period, we expect that the CEC will adopt the proposed changes in 2025.

Demand Side Grid Support (DSGS) Program

The CEC's Demand Side Grid Support (DSGS) program was established as part of the Strategic Reliability Reserve created by AB 205 (2022). The program provides incentives to utility customers that provide incremental net load reductions during grid emergencies or extreme events. DSGS providers, which may include POU, enroll customers and administer the program; depending on the participation option, providers receive administrative cost reimbursement or incentives for committed load reduction capacity. 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 POU 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.

In October 2024, the CEC released additional revisions to the DSGS guidelines. The proposed changes would primarily revise certain requirements for Option 3 and add a new Option 4, which would provide an emergency load flexibility virtual power plant (VPP) that would allow participation by smart thermostats and electric water heaters. The proposed DSGS program retains POU flexibility and continues to ensure coordination between DSGS providers and host POU.

Status: SMUD is enrolled as a DSGS provider for "Option 1" and plans to expand the program to additional customers in the future. SMUD supported CMUA comments, submitted October 30, 2024, which generally supported the DSGS program, but sought clarification that DSGS providers will be able to recover administrative costs. The revised DSGS guidelines are expected to be adopted by the CEC in February or March 2025.

2025 Energy Code – Rulemaking Activities

The CEC released the proposed 2025 Energy Code in March 2024. The new code continued 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. Separately, the new code proposed a voluntary measure (Part 11) that included a heat pump space heating baseline for alterations of existing single-family homes. The changes also included

updates to efficiency standards and certain photovoltaic and energy storage requirements, including a minor clarification to community solar requirements.

SMUD supported the expansion of heat pump baselines and prescriptive requirements for space and water heating. Additionally, SMUD supported proposed electric ready requirements for new multi-family and non-residential buildings.

Status: The CEC adopted the 2025 Energy Code in September 2024 and the requirements will go into effect for construction permits that are applied for 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.

SMUD adopted its LMS Compliance Plan and submitted for CEC approval in November 2023. Thereafter, CEC staff indicated that they did not believe that SMUD's Compliance Plan met the requirements of the LMS regulations, and this ultimately resulted in a Deficiency Notice (Notice) from the CEC's Executive Director. The Notice indicated the CEC's view that SMUD must incorporate dynamic rates or programs incorporating dynamic price signals or must update the analysis provided in the Compliance Plan. SMUD is currently preparing a response to the CEC's letter, which is due in December 2024.

Status: The new LMS regulations went into effect in April 2023. This year, SMUD fulfilled several regulatory requirements, including incorporating the Rate Identification Number (RIN) onto customer bills, participated in a joint utility group to develop the concept paper for a "single statewide tool" that would enable customers and third parties to evaluate rates or make rate changes, and submitted a list of load-modifying programs. SMUD will continue preparing a response to the CEC's Notice and will continue coordination with CEC staff to resolve any issues.

Draft Utility Wildfire General Order

In June, the State Water Resources Control Board (SWRCB) issued the *Draft Utility Wildfire and Similar Operations and Maintenance Activities Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements General Order and Associated CEQA EIR* (Draft GO). The Draft GO covers twelve "project activities" related to wildfire risk mitigation, response, and cleanup activities that may cause or threaten to cause discharge of waste into waters of the state and applies to these activities even if the activity is not directly related to wildfire. The Draft GO applies to a project activity when the activity causes soil disturbance within specific distances from waters of the state (WOTS) or

due to the slope and soil characteristics where the work is being performed. If the Draft GO applies, then the utility must comply with a variety of project conditions and reporting requirements.

SMUD, CMUA and an informal joint utility group advocated for changes that would refocus the scope of the Draft GO on activities that pose a greater risk to water quality and ensure that any project conditions or reporting requirements balance the need for oversight with needed utility mitigation and maintenance work.

Status: Interested parties filed comments in early September 2024. SWRCB staff intends to submit a final utility wildfire general order in February 2025 for board approval, and SMUDs anticipates ongoing advocacy prior to adoption.

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 picking up speed and is now known as the Healthy Rivers and Landscapes Program. If adopted by its numerous sponsors and the SWRCB, the program would initiate aquatic habitat restoration and release of flows to support a healthier Delta ecosystem,

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. DWR approved the Project on December 21, 2023.

In the meantime, the Delta Conveyance Project faces numerous legal challenges.

- (1) In January of this year, dozens of plaintiffs filed nine lawsuits challenging the Project approval under the California Environmental Quality Act (CEQA) and Sacramento Superior Court issued a preliminary injunction against DWR. This ruling is on appeal.
- (2) Also in January, in another lawsuit the Court held that DWR lacked the authority to fund the project using revenue bonds. This ruling is also on appeal.
- (3) Yet another lawsuit is challenging the SWRCB's authority to rule on the water rights petitions that DWR filed in support of the Project until another proceeding is completed.

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 to agree upon a voluntary agreement process as a substitute for a regulated process. SMUD is also working with DWR on how to serve the Project with power.

Federal Legislation that Impacted SD-11

S. 4753 (Manchin): the “Energy Permitting Reform Act”

While SMUD has supported the intent of permitting reform proposals, S. 4753 includes a provision that would require public power entities, Power Marketing Administrations, and other non-jurisdictional entities to come under the jurisdiction of the Federal Energy Regulatory Commission (FERC) for purposes of interregional planning and cost allocation. This would upend the regime adopted by FERC in Order 1000 that provides for public power's voluntary participation in interregional planning, as well as require public power entities to file a tariff in order to build a transmission line in a national interest transmission corridor. SMUD expressed concerns about this provision to Sen. Alex Padilla (D-CA), who sits on the committee of jurisdiction, and SMUD has coordinated with APPA and the Large Public Power Council (LPPC) to relay the same concerns in their discussions with committees. SMUD will continue to monitor this legislation.

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 access 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 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. Most recently, Congress passed S.J. Res. 38, a resolution under the Congressional Review Act that would invalidate a secretarial waiver of provisions in the IRA that require a certain percentage of project components to be domestically sourced in order to receive a full elective payment. President Biden vetoed this resolution, preserving the full value of elective payment for projects where a domestic supply chain is infeasible. Federal Affairs will continue to track this issue.

H.R. 8790 (Westerman): the Fix Our Forests Act

In September, the House passed H.R. 8790, the “Fix Our Forests Act,” which would expedite forest management activities on federal land, including several provisions to allow local governments and special districts to participate in assessing firehedges, provide a categorical exclusion for vegetation management in utility rights-of-way, and automatically approve utility vegetation management plans 120 days after submittal. SMUD Federal Affairs will continue to follow this legislation, although it is unlikely to advance in the Senate.

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 (September 30). The federal government is currently operating under a continuing resolution (CR) to keep the government funded through Dec. 20, 2024. It is expected that Congress will pass a year-end omnibus spending bill, but the outcome of the November election could alter that trajectory.

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 25 Energy & Water Appropriations bill prohibits funds from being used to site a private interim storage facility, and the Senate bill authorizes the Department of Energy to identify a site for interim storage using consent-based principles. Meanwhile, the Biden Administration has made progress on establishing a consent-based siting process and issued a Request for Information seeking partners interested in developing interim storage facilities. Finally, Rep. Mike Levin (D-CA) introduced legislation to create a new government agency tasked with the disposition of used nuclear fuel, the “Nuclear Waste Administration Act.” This legislation is not expected to advance in the current Congress.

Federal Regulatory Issues that Impacted SD-11

FERC Order 1000 and Order 1920

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. In 2024, the WestConnect transmission providers began to discuss next steps to address the court's decision and Order 1920 (see below) together in a FERC filing. Meanwhile, in response to the court's decision, FERC issued an order on October 17 directing the jurisdictional transmission providers to revise their tariffs removing the opt-out provisions for non-jurisdictional transmission providers. The jurisdictional and non-jurisdictional transmission providers are discussing a response to FERC's order and exploring alternative options for continued planning that will ensure we are able to decide whether to accept costs for transmission projects. Accordingly, there is uncertainty at this time on the future of WestConnect's regional planning process.

In May 2024, FERC finalized its long-awaited rule known as "Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection" (Order 1920) reforming existing regulations under Order 1000. SMUD worked with LPPC, APPA, and the Transmission Agency of Northern California (TANC) to develop comments in response to the proposal. FERC also hosted a technical conference with industry experts to discuss certain transmission planning and cost allocation issues, including proposals in the Notice of Proposal Rulemaking (NOPR). The final Order requires transmission providers to engage in a long-term, forward-looking planning process once every five years, developing scenarios and identifying transmission needs as well as allocating costs to the various entities within the planning region. It imposes a set of seven benefits to be considered, including aging infrastructure replacement, reduced congestion, and mitigation of extreme weather events, among other things. On cost allocation, Order 1920 requires each transmission provider to consult with state regulators on a cost allocation methodology, but it does not require state approval. SMUD had advocated for cost containment elements, and two such controls were included: reevaluation of projects in changed circumstances and right-sizing transmission rebuilds. Some entities sought rehearing of the Order at FERC and subsequently appealed the Order in the 4th Circuit Court of Appeals, arguing among other things that public power entities should be given some of the same privileges as state entities in developing cost allocation methodologies. We expect FERC to issue its order on rehearing by the end of 2024 and the 4th Circuit will begin proceedings in 2025.

CAISO Markets and Pathways Initiative

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 is the CAISO's 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 generation and better optimization of 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 Western Energy Imbalance Market 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. FERC approved the bulk of the EDAM proposal in December 2023, but it rejected the EDAM transmission access charge component without prejudice. The CAISO subsequently filed a revised EDAM access charge tariff amendment providing additional details and addressing the deficiencies in its original filing, which FERC approved on June 11, 2024. The CAISO began EDAM implementation activities in 2024 with EDAM launch scheduled for 2026 with PacifiCorp and Portland General Electric as the first participants. SMUD, along with the other BANC participants, plans to join EDAM beginning in Spring 2027, with SMUD/BANC implementation activities beginning in 2025. Other EIM entities have also informed the CAISO of their interest in joining EDAM in 2027, including Los Angeles Department of Water & Power (LADWP) and NV Energy. Like EIM, EDAM remains a voluntary market, allowing SMUD the added flexibility to time its participation and pivoting later, should better options arise in the future.

Some parties outside of California have stated that a day-ahead market decision, such as participation in EDAM and market services beyond EDAM, hinges on the potential for representative, independent governance. In response, multiple western state commissioners, including California, issued a letter to the Western Interstate Energy Board in summer of 2023 calling for the creation of an independent entity that could serve as a means of delivering a market for western states. The West-Wide Governance Pathways Initiative (Pathways Initiative) was created and a stakeholder committee was formed to develop a governance proposal. Following an inclusive and broad set of stakeholder meetings and comment periods throughout 2024, the committee proposed a multi-step process to create an independent governing body that would enable a path forward for a potential west-wide fully organized market (a Regional Transmission Organization, or RTO). Earlier in 2024, as the first step, the CAISO approved elevating the EIM/EDAM Governing Body joint authority with the CAISO Board to primary authority over EIM/EDAM market matters. This transition will be triggered when the following

criteria are met: i) execution of EDAM Implementation Agreements by utilities representing load equal or greater than 70% of CAISO load, and ii) at least one new participant from both the Northwest and Southwest, beyond PacifiCorp, BANC, and LADWP. The second step is creation of a non-profit entity and transfer of governance authority over EIM/EDAM markets from the CAISO to this new “Regional Organization.” The CAISO would retain authority over its other functions such as balancing authority responsibilities, resource adequacy, transmission planning, and reliability coordination. The market governance transition would occur after FERC approval of a CAISO tariff filing. However, a condition precedent of this filing is the passage of California legislation in 2025 that would amend existing California law which currently requires the CAISO operate a market for California. And step 3 is a longer-term process that envisions future expansion of regionalized functions and services offered by the Regional Organization.

SMUD believes EDAM and the Pathways Initiative are important steps forward in the evolution of Western energy markets. EDAM enables improved 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. The Pathways Initiative is aimed at solving a critical independent governance gating issue for broader participation in EDAM and other future market offerings. As we have seen with EIM’s gradual expansion that now covers 80% of the load in the west, broader and more diverse participation throughout the west unlocks more reliability, operational flexibility, and financial benefits through regional diversity. Thus, EDAM and the Pathways Initiative align well with SMUD’s 2030 Zero Carbon Plan goals.

Implementing Clean Energy Tax Credits

The Department of the Treasury and Internal Revenue Service have been jointly issuing guidance to implement the clean energy tax provisions of the Inflation Reduction Act. These guidance documents can have significant and material impacts on the value of the credits, particularly with respect to the elective pay provisions that allow public power systems to directly avail themselves of the credits. In 2024, Treasury and the IRS released guidance on elective pay generally as well as separate guidance on the pre-registration system established as a prerequisite to access elective pay. SMUD engaged with trade groups and coalitions to provide comments on these guidance documents as well as volunteered as a beta tester of the pre-registration portal. In addition to the elective pay guidance, Treasury and IRS are working to finalize guidance on domestic content requirements, which erode the value of elective payments if they are not met or waived. After 2025, failing to meet domestic content targets will preclude entities from accessing elective pay, making it a crucial element of the process. SMUD is awaiting final guidance on post-2025 domestic content requirements.

SSS No.
LEG 2024-0141

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Policy – 12/11/24
Board Meeting Date N/A

TO	TO
1. Steve Lins	6.
2. Brandy Bolden	7.
3. Farres Everly	8.
4. Suresh Kotha	9. Legal
5.	10. CEO & General Manager

Consent Calendar	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No <i>If no, schedule a dry run presentation.</i>	<input type="checkbox"/>	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 11/22/24		

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:

SUBJECT Annual Federal Legislative Update	ITEM NO. <i>(FOR LEGAL USE ONLY)</i>
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.



Elizabeth K. Whitney
MeguireWhitney
Managing Principal

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.

SSS No. BOD 2024-021

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Policy – 12/11/24
Board Meeting Date N/A

TO				TO					
1.	Suresh Kotha	6.							
2.	Brandy Bolden	7.							
3.	Farres Everly	8.							
4.		9.	Legal						
5.		10.	CEO & General Manager						
Consent Calendar		<input type="checkbox"/> 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) Gregg Fishman / Crystal Henderson			DEPARTMENT Board Office			MAIL STOP B304	EXT. 6155	DATE SENT 11/14/24	

NARRATIVE:

Requested Action: Allow the Board members an opportunity to discuss committee memberships and chairs for 2025.

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

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

Cost/Budgeted: There is no budgetary impact for this item.

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

Affected Parties: Board of Directors

Coordination: Special Assistant to the Board

Presenter: Gregg Fishman, 2025 President Elect

Additional Links:

SUBJECT Committee Membership 2025	ITEM NO. <i>(FOR LEGAL USE ONLY)</i>
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SSS No. BOD 2024-05

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date POLICY – December 11, 2024
Board Meeting Date N/A

TO				TO							
1.	Suresh Kotha	6.									
2.	Brandy Bolden	7.									
3.	Farres Everly	8.									
4.		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	<input checked="" type="checkbox"/>	Yes	No <i>(If no, explain in Cost/Budgeted section.)</i>		
FROM (IPR) Rosanna Herber / Crystal Henderson				DEPARTMENT Board Office				MAIL STOP B307	EXT. 5424	DATE SENT 12/21/23	

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 Governance Process GP-6, Role of the Board President, which states, in part, that the Board President “shall ensure that the Board’s agendas meet the goals of the annual 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: Included in budget

Alternatives: Not review the Work Plan at this time.

Affected Parties: Board of Directors and Executive staff

Coordination: Crystal Henderson, Special Assistant to the Board

Presenter: Rosanna Herber, Board President

Additional Links:

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.

SSS No. BOD 2024-03

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date POLICY - December 11, 2024
Board Meeting Date N/A

TO				TO			
1.	Suresh Kotha	6.					
2.	Brandy Bolden	7.					
3.	Farres Everly	8.					
4.		9.	Legal				
5.		10.	CEO & General Manager				
Consent Calendar		Yes	<input type="checkbox"/>	No	<i>If no, schedule a dry run presentation.</i>		
FROM (IPR)		Budgeted		<input type="checkbox"/>	Yes	No <i>(If no, explain in Cost/Budgeted section.)</i>	
Dave Tamayo / Crystal Henderson		DEPARTMENT		MAIL STOP	EXT.	DATE SENT	
		Board Office		B304	5424	12/21/23	

NARRATIVE:

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

Summary: The Board requested an ongoing 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 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: *(Number & Title)* Governance Process GP-4, Board/Committee Work Plan and Agenda Planning, states, among other things, “the Board will develop and follow an annual work plan that ensures the Board...focuses on the results the Board wants the organization to achieve....”

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

Cost/Budgeted: Included in budget.

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

Affected Parties: Board of Directors and Executive Staff

Coordination: Crystal Henderson, Special Assistant to the Board of Directors

Presenter: Dave Tamayo, Policy Chair

Additional Links:

SUBJECT Summary of Committee Direction - Policy	ITEM NO. <i>(FOR LEGAL USE ONLY)</i>
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.