

<b>DOCKETED</b>	
<b>Docket Number:</b>	21-OIR-03
<b>Project Title:</b>	2022 Load Management Rulemaking
<b>TN #:</b>	246224
<b>Document Title:</b>	SMUD Comments Re Proposed Revisions to Regulatory Language for the LMS Regulations Submitted September 12 2022
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	SMUD
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	9/27/2022 4:34:59 PM
<b>Docketed Date:</b>	9/27/2022

*Comment Received From: Nicole Looney  
Submitted On: 9/27/2022  
Docket Number: 21-OIR-03*

**SMUD Comments Re Proposed Revisions to Regulatory Language  
for the LMS Regulations Submitted September 12 2022**

SMUD Comments Re Proposed Revisions to Regulatory Language for the LMS  
Regulations Submitted September 12, 2022.

*Additional submitted attachment is included below.*

**STATE OF CALIFORNIA  
BEFORE THE CALIFORNIA ENERGY COMMISSION**

<b>In the matter of:</b>	)	Docket No. 21-OIR-03
	)	
<b>2022 Load Management Rulemaking</b>	)	SMUD Comments Re:
	)	Proposed Revisions to Regulatory
	)	Language for the Load Management
	)	Standards Regulations Submitted
	)	September 12, 2022
	)	
		September 27, 2022

---

**Comments of SACRAMENTO MUNICIPAL UTILITY DISTRICT on  
Proposed Revisions to Regulatory Language for the Load Management  
Standards Regulations Submitted September 12, 2022**

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the California Energy Commission’s (CEC’s) proposed third 15-day language for the Load Management Standards (LMS) issued on September 12, 2022 (Third 15-Day Language).

SMUD continues to strongly support the LMS objectives and thanks CEC staff for the collaborative approach and commitment to working with stakeholders throughout this proceeding to develop a proposed regulation that is both ambitious and effective. We appreciate the staff’s consideration of the supplemental comments submitted on September 10, 2022, by SMUD and the Joint POUs, and we are pleased that the Third 15-Day Language incorporates elements of those recommendations. We believe the latest iteration of the proposed regulation strikes an appropriate balance between the CEC’s role as the state’s lead energy policy agency and the independent decision-making authority of each Large POU governing body and is much better positioned to achieve the LMS goals.

We offer the following observations and comments on the Third 15-Day Language:

- A separate compliance path for POUs is appropriate based on their unique positions as community-based utilities and constitutional authorities.
- The inclusion of equity and safety, along with technical feasibility and cost effectiveness, are necessary elements of a successful LMS program.
- The definition of “customer class” for purposes of this regulation appropriately excludes street lighting.
- POUs must have the ability to modify the timeline for providing Rate Identification Number (RIN) information on customer bills, based on specified factors.

- The Final Statement of Reasons (FSOR) should clarify the following:
  - The scope of the CEC approval process for POU compliance plans, as well as any conditions of CEC approval of such plans, will focus on the procedures followed by the POU governing bodies and respect the determinations of such bodies based on the required factors.
  - In initiating an enforcement action for failure of a POU to respond to a reasonable request from the CEC, response “deadlines” set by the Executive Director or CEC will be no less than 90 days.
  - While Large POU's may be more nimble than Large IOUs, such that Large POU's may implement rates and/or programs within a shorter timer period, it is reasonable for Large POU's also to adopt plans calling for implementation within 45 months, in alignment with the Large IOU requirements.

SMUD also supports the comments of the California Municipal Utilities Association dated September 27, 2022.

**I. A separate compliance path for POU's is appropriate based on their unique positions as community-based utilities.**

SMUD supports the inclusion of a separate compliance pathway for Large POU's that provides an express role for their respective governing bodies to determine early in the process whether rates, programs, or modified requirements are feasible and appropriate for their specific businesses and communities, based on specified factors. With this pathway, the LMS regulation establishes policy objectives and priorities for Large POU's aligning with those established for the Large IOUs, while recognizing the judgment and expertise of the Large POU's in implementing these objectives consistent with the defined framework. Such a structure appropriately distinguishes between the CEC's role in setting statewide policy and the independent authority of granted to each Large POU governing body.

This compliance pathway also appropriately recognizes the unique position of Large POU's to engage their communities and develop programs and rates that are tailored to their communities' specific needs. As a community-owned utility, SMUD is accountable to our community and customers and our journey to a zero-carbon future is a partnership with our customers and community. This close relationship provides us invaluable insight as we study, design, test, and implement rates that customers will adopt.

SMUD's success in implementing new rates such as Time-of-Day (TOD), was possible because SMUD took the time to research, plan, study, test, educate staff and customers, set up systems, and conduct an educational campaign. This allowed us to build on our existing customer relationships, policies, and processes that delivered carefully designed and tested programs that could successfully deliver load flexibility benefits without resulting in complex tariffs. As a result, after the first full summer, our

TOD had a 97% adoption rate and has successfully contributed to SMUD's ability to effectively manage extreme weather and other reliability events.

However, designing rates that are appealing and provide the assurance needed to depend upon customer response for grid services will be challenging and may not be possible for all rate classes. Based on past experience with dynamic rate structures for commercial classes, opt-in participation was generally low. Moreover, while participating customers were happy while prices were low, they exited the rate when prices escalated. SMUD believes that the flexibility provided to POU in the Third 15-Day Language to determine which offerings are most suitable for their individual customers and communities, based on specified factors, will result in greater achievement of the LMS objectives.

**II. The inclusion of equity and safety, along with technical feasibility and cost effectiveness, are necessary elements of a successful LMS program.**

SMUD supports the explicit inclusion of equity and safety, along with technical feasibility and cost effectiveness in achieving the LMS objectives as factors that must be evaluated when considering the implementation of specific elements of the LMS program. Our goal is to reach zero carbon emissions in our power supply by 2030 while maintaining affordable rates. We aim to do this with an eye toward equity for underserved communities, especially for low-income consumers who are already struggling to make ends meet.

**III. The definition of "customer class" appropriately excludes street lighting.**

SMUD supports the revision to the definition of "customer class" in section 1621(c)(6) to exclude street lighting, for purposes of this regulation. As SMUD has noted in prior comments, street lighting is generally not elastic, and creating marginal cost-based rates are unlikely to be cost-effective or feasible. Excluding street lighting allows utilities to focus their evaluation and development of rates and programs on customer classes where such offerings are expected to materially reduce peak load.

SMUD also observes that, in addition to street lighting, other customers classes such as agriculture and various levels of commercial classes may not lend themselves to marginal cost-based approaches. SMUD believes it is appropriate that POU governing bodies retain full discretion pursuant to Section 1623.1(a)(1)-(2) to determine which customer classes would benefit from a dynamic pricing tariff.

**IV. POU must have the ability to extend the timeline to provide RIN information on customer bills, if needed.**

The Joint POU proposal recommended allowing POU governing bodies to modify or delay compliance, based on specified findings, with any requirement of the LMS applicable to POU, including the requirements to implement a statewide RIN access

tool upon approval by the CEC and to provide RIN information on customer bills via text and QR code within one year of the regulation effective date. The ability to modify or delay these requirements, if the POU governing body determines that timely compliance is not technologically feasible, is necessary due to the uncertainty around the timing to upgrade the billing systems and confirm operability with the newly developed RIN access tool. Utility billing processes, procedure functions, and associated information systems are core enterprise platforms. These platforms are not easily reconfigured to manage new RIN data and implementation of new RIN requirements must consider the time and resources required to develop and accurately implement this system upgrade.

The timeline in the Third 15-Day Language fails to acknowledge the complexity and cost of transitioning systems and processes necessary to implement the RIN requirement across multiple customer classes. SMUD is concerned that the proposed Third 15-Day Language does not clearly address how a POU may adapt these requirements, as may be needed. Section 1623.1(a)(1) allows POU governing boards to modify any requirement in section 1623.1(b)-(d) based on specified factors. However, the provisions regarding RIN information on customer bills and the development of the RIN access tool are included in 1623(c). SMUD believes this omission may have been a drafting oversight. The current reference to section 1623.1(d) is to the enforcement provisions, which SMUD understands that Large POUs may not modify. Moreover, the Large IOUs have the ability to request a modification of *any* requirement in Section 1621 or Section 1623, including the RIN requirements. SMUD is unaware of any reasons for the CEC to make a modification pathway available to Large IOUs but not Large POUs.

SMUD requests a confirming change to section 1623.1(a) to replace the erroneous reference to section 1623.1(d) and replace it with section 1623(c). SMUD believes this change is necessary for clarity and to avoid an arbitrary approach to implementation of RIN requirements for POUs relative to IOUs. However, if the CEC determines that additional regulatory changes are not needed, the FSOR must, at minimum, clarify that POUs can modify these requirements consistent with the process in section 1623.1(a).

**V. The FSOR should clarify the scope of the CEC's approval process in section 1623.1(d) is limited to the processes and procedures followed by a Large POU governing body.**

As noted above, SMUD supports the structure of the Large POU compliance pathway in Section 1623.1(a). This structure specifies objectives and priorities for POU governing bodies but allows POU governing bodies to offer programs or delay or modify LMS requirements after the evaluation of specified factors, as described in section 1623.1(a) and (b).

SMUD understands that the CEC's oversight role in approving Large POU compliance plans is specifically focused on whether POU governing bodies considered the required factors when developing plans to implement rates and/or programs.

Such an oversight role is appropriate because it limits the CEC's assessment to whether a POU has taken the required steps in developing the plan, but does not seek to substitute the CEC's judgment for that of the POU governing body regarding cost-effectiveness and feasibility of these offerings for specific customer classes on specified timelines.

This understanding is consistent with the language of Section 1623.1(a)(3)(B) of the Third 15-Day Language, which states that the CEC "may place conditions on its approval of plans or material plan revisions that are necessary to guarantee the plan or material plan revision will comply with Section 1623.1(a)(1) or (2) by a date certain" (emphasis added). However, to avoid ambiguity, SMUD requests that the FSOR confirm that the scope of the CEC's approval process is limited to the process to develop and implement the Large POU compliance plan, not the substance or underpinning decisions of the plan itself.

**VI. The FSOR should clarify that the "deadlines" in section 1623.1(d)(3) are no less than 90 days, consistent with section 1623.1(a)(3)(B)**

Section 1623.1(d)(3) specifies that the Executive Director may seek enforcement action against a Large POU if the POU "Does not provide information by a deadline established by the Executive Director or the CEC". SMUD understands that the deadline referenced in Section 1623.1(d)(3) is the 90-day period in which Large POUs are required to respond to requests for information specified in Section 1623.1(a)(3)(B). To avoid any ambiguity, SMUD requests that the FSOR expressly confirm that the deadline referenced in Section 1623.1(d)(3) shall be no less 90 days, consistent with the timeline established by 1623.1(a)(3)(B).

**VII. The FSOR should clarify why additional time to implement rates is afforded to the Large IOUs but not the Large POUs.**

The timeline for Large IOUs to offer voluntary participation in a marginal cost rate was extended to 45 months (previously 3 years) from the effective date of the LMS regulation. However, the implementation timeline for Large POUs to meet a similar requirement remained at 36 months. SMUD hopes that this inconsistency was an unintentional oversight and requests that the FSOR clarify that although Large POUs may be more nimble than Large IOUs, such that they may implement rates and/or programs within a shorter timer period, it is reasonable for Large POUs also to adopt plans calling for implementation within or even exceeding 45 months pursuant to Section 1623(a), in alignment with the Large IOU requirements.

**Conclusion**

As California moves toward a zero-carbon future, coordination between utilities and regulators becomes ever more important to ensure we reach the state's goals at the lowest levelized cost to consumers. A successful Load Management Standard will

necessitate a delicate balance between the CEC's recommendations and oversight, and recognition of the autonomy of POU's to administer independent rate-structuring decisions within their service territories.

SMUD thanks staff for their collaborative approach and commitment to working with stakeholders throughout this proceeding to develop an innovative regulation that advances California's ambitious climate goals. As always, we appreciate the opportunity to provide these comments and look forward to continuing to jointly work toward ensuring the successful implementation of the proposed Load Management Standards Regulation.

/s/

---

JOY MASTACHE  
Senior Attorney  
Sacramento Municipal Utility District  
P.O. Box 15830, MS B406  
Sacramento, CA 95852-0830

/s/

---

KATHARINE LARSON  
Regulatory Program Manager  
Government Affairs  
Sacramento Municipal Utility District  
P.O. Box 15830, MS B404  
Sacramento, CA 95852-0830

/s/

---

MARTHA HELAK  
Government Affairs Representative  
Government Affairs  
Sacramento Municipal Utility District  
P.O. Box 15830, MS B404  
Sacramento, CA 95852-0830

cc: Corporate Files (LEG 2022-0139)