

Seattle City Light, Tucson Electric Power Company, and Xcel Energy Services, Inc. (collectively the “Western Group”) respectfully submits these comments. The Western Group is composed of a variety of market participants in the Western Interconnection, including consumer-owned utilities, investor-owned utilities, and a Federal power administration.

I. EXECUTIVE SUMMARY

The Western Group offers the following key points:

- Locational exchanges are widely used by power market participants in the Western Interconnection.
- Locational exchanges increase the liquidity and competitiveness of power markets.
- Locational exchanges are beneficial to power market participants, because they allow utilities to better manage their resources for the benefit of their customers.
- Locational exchanges do not raise any issues of undue discrimination.
- Existing regulatory safeguards for power markets are adequate to police locational exchanges.

For all of these reasons, the Commission should permit locational exchanges generically and should not require case-by-case prior review. Moreover, the Commission should declare that locational exchanges are wholesale power transactions, and are not transmission service transactions that must be provided under an Open Access Transmission Tariff (“OATT”).

These comments address key policy issues raised by the NOI. Appendix A to these Comments provides question-by-question responses to the specific questions posed

by the Commission’s NOI; Appendix B describes examples of past and present locational exchange transactions involving certain members of the Western Group.⁵

II. BACKGROUND

A. Puget Sound Energy’s Petition for Declaratory Order

On June 4, 2010, Puget Sound Energy, Inc. (“Puget”) filed a Petition for Declaratory Order (“Petition”) with the Commission requesting a finding that locational exchanges of power are power sales transactions and not the provision of transmission services that must be undertaken pursuant to an OATT.⁶ In its Petition, Puget defined a locational exchange as “a pair of simultaneously arranged wholesale power transactions between the same counterparties in which party A sells electricity to party B at one location, and party B sells the same volume of electricity to party A at a different location with the same delivery period, but not necessarily the same price.”⁷ All of those providing substantive comments on the Petition – Xcel Energy Services, Portland General Electric, and the Financial Institutions Energy Group – filed in support of Puget’s requested declaration.⁸

B. Commission’s Notice of Inquiry

In response to Puget’s Petition, on February 17, 2011, the Commission issued a NOI concerning locational exchange transactions.⁹ The Commission initiated this

⁵ Appendix B describes examples of locational exchanges involving members of the Western Group. Appendix B demonstrates that locational exchanges are broadly employed in the Western Interconnection and that the characteristics of the locational exchanges performed by market participants vary considerably.

⁶ Puget Sound Energy, Inc., Petition for Declaratory Order and Request for Expedited Action, Docket No. EL10-71-000 (filed June 4, 2011) (“Petition”).

⁷ *Id.* at 1.

⁸ *Puget Sound Energy, Inc.*, 134 FERC ¶ 61,122 at P 2 (2011) (“*Order on Petition*”).

⁹ *Id.* at P 4 (the Commission determined that Puget’s Petition “raises significant policy issues potentially affecting multiple market participants in the electric industry[,]” and consequently deferred action on Puget’s Petition “pending the outcome of the NOI issued in RM11-9-000.”).

expanded inquiry to provide “guidance as to the circumstances under which locational exchanges of electric power should be permitted generally and circumstances under which [FERC] should consider locational exchanges on a case-by-case basis.”¹⁰ Further, the NOI solicits comments on “whether and how different types of locational exchanges are consistent with [FERC’s] core principles that transmission service must be available on a transparent and not unduly discriminatory basis.”¹¹

The NOI seeks comments and answers to specific questions on a number of topics including: general information on locational exchanges; the effects of locational exchanges on system congestion and system reliability; whether locational exchanges raise issues with regard to affiliate preference or discrimination; the use of network transmission service to effectuate locational exchanges; and pricing and price reporting of locational exchanges. In order to assist the Commission in this effort, the Western Group has compiled answers to the questions presented by the NOI in Appendix A. Appendix B contains examples of representative locational exchange transactions in which certain members of the Western Group have been involved.

III. LOCATIONAL EXCHANGES ARE WIDELY USED IN WESTERN POWER MARKETS, AND PROVIDE BENEFITS TO MARKET PARTICIPANTS

A. Locational Exchanges are Widely Used in the West

Locational exchanges are common in the non-ISO/RTO markets of the Western Interconnection. Most of the members of the Western Group engage in, or have engaged in, locational exchange transactions. Members of the Western Group believe that locational exchanges are beneficial transactions for the marketplace.

¹⁰ NOI at P 1.

¹¹ *Id.*

The definition of “locational exchange” proposed by Puget – “a pair of simultaneously arranged wholesale power transactions between the same counterparties in which party A sells electricity to party B at one location, and party B sells the same volume of electricity to party A at a different location with the same delivery period, but not necessarily the same price” – captures the key characteristics that distinguish locational exchanges from other types of transactions.¹² Such transactions are beneficial for the marketplace.

In response to the Commission’s request for examples of locational exchanges, the Western Group has compiled a list of examples of locational exchanges, attached hereto as Appendix B, that are representative of locational exchanges in which certain members of the Western Group have participated.¹³ An examination of the examples described in Appendix B reveals that locational exchanges may be utilized in a variety of ways in western power markets, and illustrates that:

- Participants in locational exchanges may include all types of market participants: investor-owned utilities, public power, power marketing agencies, independent power producers, and power marketers.
- The term of the locational exchanges can be short term – an hour or a day – or long term, with some covering a period of years (and in one case, covering the life of a particular generation facility).

¹² Petition at 1. Puget’s proposed definition excludes pairs of transactions that are not simultaneously arranged, but that incidentally provide for transfer of the same volume and delivery period at different locations. *See also* Appendix A, response to question 3.

¹³ The Commission stated that any policy determinations resulting from this NOI will only be applied prospectively. NOI at P 1. The Western Group construes this language as ensuring that any entities that may have entered into locational exchanges in the past will not be subject to enforcement action if, as a result of this proceeding, the Commission eventually adopts new policies with respect to constraints on locational exchanges.

- The volume of power involved in locational exchanges can be significant, often involving hundreds of megawatts.
- The distances between the points of a locational exchange can be hundreds of miles.
- Western Group members undertake locational exchanges for a variety of reasons, including reducing exposure to risk of curtailment on a constrained transmission path, optimizing utilization of sunk costs in resources for the benefit of ratepayers, and reducing the cost of transmission losses.¹⁴

B. Locational Exchanges Provide Benefits to Market Participants

Locational exchanges are beneficial to both the power market and power market participants in the Western Interconnection. As a bilaterally negotiated voluntary transaction, both parties to a locational exchange derive benefits from the transaction. Moreover, the power market experiences improved liquidity as a result of the locational exchanges. Examples of the increased market flexibility are included below and are discussed in Appendix A.¹⁵

Locational exchange transactions allow market participants to avoid exposure to the risk of transmission curtailments on a congested path and, therefore, are valuable tools used by utilities to reliably serve load.¹⁶ In many such cases, locational exchanges would likely better align contract paths with actual system flows of power. For instance, as a result of a locational exchange to reduce exposure to risks of transmission curtailments such as the cross-Cascades exchanges described in Puget's Petition, the

¹⁴ See Appendix A, responses to questions 5-14.

¹⁵ See Appendix A, responses to questions 12 and 14.

¹⁶ See Petition at 5-6 (describing Puget's motivation for undertaking locational exchanges to avoid exposure to curtailment risks on the east-to-west Cross-Cascades path).

contract paths for the transmission from the point of delivery on each side of the exchange to the point of consumption will be more closely aligned with the actual power flow experienced on the system.¹⁷

Locational exchanges also allow market participants to optimize the value of their investment in generation resources and transmission rights on third-party systems and thus reduce costs to customers. For example, if a utility has a generation resource at Hub A, but has unused transmission rights on a third-party system to transmit power to load from Hub B, the utility may choose to exchange power at Hub A for power at Hub B. In doing so, the locational exchange may allow the utility to lower its delivered power costs for customers depending on the relative power pricing at Hub A and Hub B. This type of locational exchange provides a utility with the flexibility to serve its load using lower priced power and to take advantage of previously purchased transmission rights, and therefore provides benefits to native load customers.

Long-term locational exchanges may be used as cost-effective alternatives to long-term firm transmission commitments on third-party systems, and in some cases can avoid the cost of building expensive transmission upgrades that may be needed to secure such service. Such savings benefit customers.

In addition, locational exchanges can increase market liquidity by avoiding stranded generation. If FERC acted to restrict locational exchanges, certain generators may, in some situations, be required to remove generation from the market due to transmission constraints. Locational exchanges offer the opportunity for otherwise stranded energy to be sold into the market, thereby increasing energy market liquidity.

¹⁷ See Petition at Fig. 3 (Cross-Cascades Locational Exchange).

Finally, the use of locational exchanges avoids the need to reserve transmission service between the two points of an exchange, because there is no transmission service scheduled between the points, and thus reduces or avoids the associated scheduling burdens and payments for losses and (if not already reserved) point-to-point transmission service between the two points of the exchange. This, in turn, can free-up Available Transfer Capability (“ATC”) between the two points of the exchange that would otherwise be unavailable if transmission service were reserved between those two points.¹⁸

The types of benefits discussed above, while not an exhaustive list, are representative of the benefits provided by locational exchanges to the market and market participants.

C. Locational Exchanges Have Not Been the Subject of Complaints by Market Participants

Given the considerable experience with locational exchanges in the Western Interconnection, and the benefits these exchanges have been found to provide, there would seem to be no regulatory reason to restrict their continued use unless specific problems with such exchanges had been clearly identified. However, no party filed in opposition to Puget’s Petition,¹⁹ or suggested that these transactions should be treated as anything other than wholesale power transactions. Tellingly, one party commenting on Puget’s Petition expressed surprise that the Commission has any issue with locational

¹⁸ For ATC calculation purposes, a reservation that has counterflow impacts counter to the direction of congestion does not increase the ATC for the path because the transmission provider cannot depend on the reservation with counterflow impacts to be scheduled.

¹⁹ *See Order on Petition* at P 4.

exchanges, noting that they are wholesale energy transactions that provide market efficiencies and have legitimate economic value.²⁰

As described herein, locational exchanges have been conducted for years – they are not a new phenomenon. Some in the Western Group, for instance, began using locational exchanges in the mid-1990s, and at least one long-term locational exchange has been in place since 1989. The Western Group is not aware of any complaints by market participants concerning locational exchanges.²¹

The Commission’s sparse precedent on this topic likewise does not suggest any generic problem with locational exchanges that needs to be addressed by treating them as the provision of transmission service. The discussions in Order Nos. 888 and 888-A that are cited in the NOI are simply inapposite.²² Those orders considered whether a buy-sell transaction, under which a utility that buys power for a particular retail customer at its border and then transmits the power and resells it to the retail customer, is providing a FERC-jurisdictional unbundled retail transmission service or a state-jurisdictional bundled retail transmission service. There was no question that the utility was transmitting the power.²³ Such circumstances are distinct from the locational exchanges at issue here because neither party in a locational exchange is scheduling transmission of the power between the two points of the exchange. Moreover, there is no question that FERC has jurisdiction over locational exchanges and the authority to police such transactions as wholesale sales under sections 205 and 206 of the Federal Power Act.

²⁰ Motion to Intervene and Comments of the Financial Institutions Energy Group on Puget Sound Energy, Inc.’s Petition for Declaratory Order and Request for Expedited Action at 3-4, Docket No. EL10-71-000 (filed Jul. 6, 2010).

²¹ The *UAMPS* complaint discussed below, does not in our view involve a locational exchange, but rather was characterized by FERC as a buy-sell transaction accomplished through generation redispatch.

²² NOI at P 4.

²³ *New York State Elec. & Gas Corp.*, 77 FERC ¶ 61,044 at 61,152-153 (1996), *reh’g denied*, 83 FERC ¶ 61,203 (1998).

The only case in which FERC has suggested that a merchant engaging in power sales transactions could constitute provision of a transmission service was *Utah Associated Municipal Power Systems v. PacifiCorp*, 83 FERC ¶ 61,337 (1998), *reh'g denied*, 87 FERC ¶ 61,044 (1999) (“*UAMPS*”). That case, however, is limited to its unusual facts. The Commission found separation of functions violations, as *UAMPS* was originally denied the requested transmission service by the PacifiCorp transmission function, but then offered a redispatch service by the PacifiCorp merchant function. The Commission’s subsequent order in *El Paso Electric Co.*, 115 FERC ¶ 61,312 (2006) (“*El Paso*”) limited the *UAMPS* decision to its facts. As described in the NOI:

the Commission observed that, unlike the facts presented in *UAMPS*, in *El Paso* (1) the generation substations at which the sales occurred and the lines interconnecting the substations were owned jointly by multiple parties, not just El Paso, and thus El Paso’s counterparty could have obtained service from another source; (2) the counterparty had not requested redispatch, nor was redispatch needed to complete the transaction; (3) the counterparty was not an existing transmission customer of El Paso, so it was not paying twice for the same service and had not requested nor had it been denied transmission service; and (4) the swap could have been entered into with another power marketer instead of El Paso’s merchant affiliate.²⁴

From these factors, it is clear that *UAMPS* did not concern locational exchanges as defined by Puget and as contemplated by the NOI or these comments.

²⁴ NOI at P 6 (citing *El Paso Elec. Co.*, 115 FERC ¶ 61,312 at P 18-22 (2006)). The Commission’s use of the term “swap” in reference to the “Swap and Purchase” agreement at issue in *El Paso* should not be confused with the financial transactions also referred to as “swaps.” Currently, the Commodity Futures Trading Commission is considering issues pertaining to the definition and regulation of financial swaps, including their use as hedging tools in energy commodities markets, as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

IV. LOCATIONAL EXCHANGES DO NOT RAISE ANY ISSUES OF UNDUE DISCRIMINATION

The tenor of the NOI suggests possible concerns about unduly discriminatory access to opportunities to engage in locational exchanges. The Western Group does not see any valid concerns about possible discrimination.

A. There Are No Barriers to Engaging in Locational Exchanges

Locational exchanges can be conducted by any market participant that can buy and sell power and can identify a willing counterparty for the exchange. Similarly situated market participants have the ability to enter into similar locational exchange transactions.²⁵ The only practical limitation on whether a party can enter into a locational exchange is its ability to identify a willing counterparty.²⁶

In addition to the ability to undertake locational exchanges with willing counterparties, all market participants have the ability to secure transmission under a transmission provider's OATT. Any party that cannot identify a willing counterparty for a locational exchange will continue to have access to transmission service under nondiscriminatory rates, terms, and conditions.²⁷

B. Transmission Providers Have No Special Advantage in Employing Locational Exchanges

In the NOI, the Commission asked about whether or not transmission providers are better positioned to enter into locational exchanges than other market participants.

More specifically, the Commission seeks comment regarding whether locational

²⁵ The specific terms of a locational exchange will likely differ depending on the resources available and needs of each of the parties to the transaction.

²⁶ It is not practicable to require a party to a locational exchange to offer the same terms of any exchange to any other interested counterparty. Parties have finite resources and power needs at a particular time. The terms of the locational exchange are negotiated at arms length and are specific to the needs of both parties at a particular time.

²⁷ See Appendix A, response to question 24.

exchanges offer opportunities for transmission providers, in conjunction with their merchant affiliates, to unduly discriminate against non-affiliate transmission customers.²⁸

There is no basis for concern about undue discrimination. The relationship between the merchant function and the transmission function is governed by the Commission's Standards of Conduct. Where a transmission-owning utility is a party to a locational exchange, it is the merchant function of the utility, not the transmission function, which is involved.²⁹ The merchant function's execution of locational exchanges is subject to the FERC rules relating to wholesale sales. The merchant function's use of transmission to move power to a point of exchange, or away from a point of exchange to serve load, is governed by all the applicable limitations in the OATT. Consequently, a party's ability to enter into a locational exchange depends solely on its access to and need for power at the exchange points, not on ownership of transmission facilities.

C. Network Transmission Customers Have No Special Advantage for Entering Into Locational Exchanges

The Commission also expressed concern about whether network transmission customers might have unfair advantages in using locational exchanges. Again, this concern is unfounded.

A network customer would, of course, have to follow the OATT rules associated with the use of network service, including designating and undesignating network resources. Thus, before a previously designated network resource could be delivered to a counterparty in a locational exchange, it must be undesignated as a network resource

²⁸ NOI at P 14.

²⁹ The Commission's Standards of Conduct, which apply broadly to ensure independent operation of the transmission and marketing functions, would of course continue to preclude the transmission function from providing any non-public transmission information to the merchant function.

(with ATC adjusted accordingly). Similarly, where a network service customer acquires power via a locational exchange to serve its network load, that power must be designated as a network resource in order to use firm network transmission service or be transmitted to load using secondary network service.³⁰ Therefore, if properly designated, firm network service should be available from the points at which power is received in a locational exchange to serve network load.

Moreover, the Western Group believes that it is entirely appropriate to use secondary network service to serve load with power acquired in a locational exchange. So long as the network customer is serving network load, the OATT permits a customer to use secondary network service to displace more expensive firm network resources with economy energy purchases (including power acquired in a locational exchange) or to serve load more efficiently and reliably.³¹ If the network customer intends to serve non-network load with the locational exchange, the Commission has been clear that the customer must purchase point-to-point service.³² As long as the requirements of the OATT are followed, network customers should be able to utilize locational exchanges as a means of acquiring resources for meeting their load obligations.

³⁰ See Appendix A, responses to questions 17 and 21-23.

³¹ As demonstrated in Attachment B, there are many motivations for locational exchange transactions, including economics, avoidance of transmission losses, and reliability. The motivation behind an energy acquisition, however, is not a determining factor in whether secondary network service may be used. In Order No. 890, the Commission declined to adopt an economy energy definition for secondary service because “there are instances outside the proposed definition of economy energy that warrant the use of secondary service in order to serve network loads reliably.” *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats & Regs ¶ 31,241 at P 1601 (2007), *order on reh’g*, Order No. 890-A, 73 Fed. Reg. 2,984 (Jan. 16, 2008), FERC Stats & Regs ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g and clarification*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009); *appeal vol. dismissed*, *Nat’l Rural Elec. Coop. Ass’n v. FERC* (D.C. Cir. No. 08-1278). In Order No. 890-A, the Commission clarified that “[t]he primary focus of the Commission’s analysis is whether the energy delivered using secondary network service was intended to serve network load.” Order No. 890-A at P 957.

³² Order No. 890 at P 1601 (citing *MidAmerican Energy Co.*, 112 FERC ¶ 61,346 at P 6 (2005)). See also *Idaho Power Co.*, 103 FERC ¶ 61,182 at P 4 (2003).

V. LOCATIONAL EXCHANGES HAVE NO PROBLEMATIC IMPACTS ON TRANSMISSION RATES

The Commission posed questions regarding the effects locational exchanges have upon transmission rates. Although it is possible that the use of locational exchanges may have an incremental effect on transmission rates,³³ such an effect provides no basis for restricting use of locational exchanges. Point-to-point transmission revenues are affected by a myriad of market decisions, including where generation is built and where power is bought and sold in the wholesale market. There is no effort by FERC to consider whether market participant decisions on whether and how to engage in the power market are affecting transmission revenues, or to restrict plant siting or power purchase and sale transactions based on such revenue impacts. There is no rationale for treating locational exchanges, only one of the many options available to market participants, differently in this respect.³⁴

VI. LOCATIONAL EXCHANGES ARE SUBJECT TO APPROPRIATE REGULATORY OVERSIGHT AS JURISDICTIONAL WHOLESALE POWER SALES

Locational exchanges are wholesale power transactions and the parties to these transactions are subject to the rules and regulations that govern those sales.

A. The Commission's Current Rules and Regulations Provide Adequate Protection to Markets

Existing power market safeguards provide adequate protection for markets and market participants with respect to locational exchanges. The Western Group believes

³³ There are many circumstances in which locational exchanges will have no effect on point-to-point revenues. For example, a locational exchange will not affect point-to-point revenues if transmission service between the exchange points was reserved before the exchange. Moreover, if the party to an exchange will require point-to-point service at either end of the exchange from the same transmission provider that provides service between the exchange points, revenues will not be reduced.

If the alternative to an exchange is construction of a new transmission facility, the rate impacts of such a project would far exceed any impacts of a locational exchange on point-to-point revenues.

³⁴ See Appendix A, responses to questions 18 and 25-27.

that the Commission's Standards of Conduct, regulations prohibiting energy market manipulation, Electric Quarterly Report ("EQR") rules, and complaint procedures provide adequate protection against any potential abuse. In addition, all of the FERC rules and OATT requirements concerning the use of transmission to move power to or away from a point of exchange, including e-tagging requirements that track power from source to sink, apply to these transactions and support transparency and reliability.³⁵

B. Obtaining Prior Approval of Locational Exchanges on a Case-by-Case Basis Would Render Many Exchanges Infeasible

The Commission should not require prior approval of locational exchanges on a case-by-case basis. Many short-term locational exchanges are arranged on a real-time or day-ahead basis, making pre-approval entirely impractical. Even for long-term exchanges, a prior approval requirement would be burdensome on the parties to a locational exchange, would have little apparent benefit, and could create a barrier to participation in these mutually beneficial wholesale power transactions. The better course would be to rely on the after-the-fact reporting through the EQR mechanism coupled with the Commission's complaint process to investigate any problems that might be alleged.

³⁵ See Appendix A, response to question 33.

VII. CONCLUSION

The Western Group respectfully urges the Commission to permit locational exchanges generically; case-by-case prior review should not be required. Moreover, the Commission should declare that locational exchanges are wholesale power transactions, and are not transmission service transactions that must be provided under an OATT.

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APPENDIX A

Appendix A:
**Western Group Responses to Questions Presented by the Notice of Inquiry
Regarding Locational Exchanges**

1. “The Commission seeks comments regarding circumstances in which locational exchanges of electric power should be permitted generically or considered by the Commission on a case-by-case basis.”¹

- *The Western Group believes that locational exchanges should be permitted on a generic basis and should not require case-by-case prior review. Moreover, the Commission should treat locational exchanges as wholesale power sales transactions, subject only to the restrictions applicable to such transactions. Locational exchanges should not be treated as transmission transactions that must be undertaken pursuant to a transmission service tariff.*
- *Locational exchange transactions have been undertaken widely in the Western Interconnection for years. There is no pattern of abuse that suggests the need for case-by-case review by the Commission prior to the occurrence of these transactions. The only case identified in the NOI as finding that paired power sales effectuated a transmission service was UAMPS,² a case that was specifically limited to its facts. UAMPS did not involve a locational exchange, but rather a redispatch service. Moreover, the Commission found separation of functions violations. Indeed, UAMPS demonstrates that generally applicable regulatory oversight, including Open Access Transmission Tariff (“OATT”) requirements, the Standards of Conduct and the availability of the FERC complaint process, is sufficient to address any concerns by FERC or third parties that may arise in the context of locational exchanges, and that case-by-case prior approval is not required.*

2. FERC also seeks “comments as to whether and how different types of locational exchanges are consistent with [its] core principles that transmission service must be available on a transparent and not unduly discriminatory basis.”³

- *Locational exchanges are not transmission service transactions—neither party is agreeing to transmit power for the other.*
- *Locational exchanges do not inhibit the ability of market participants to obtain transmission services under an OATT.*
- *The ability of market participants to enter into locational exchanges is not constrained in any way that is unduly discriminatory. As with all competitive wholesale market transactions, the ability to execute locational exchanges is*

¹ *Locational Exchanges of Wholesale Electric Power*, 76 Fed. Reg. 10,353 (Feb. 24, 2011), FERC Stats. & Regs. ¶ 35,570 at PP 1, 7 (2011) (“NOI”).

² *Utah Associated Municipal Power Systems v. PacifiCorp*, 83 FERC ¶ 61,337 (1998), *reh’g denied*, 87 FERC ¶ 61,044 (1999) (“UAMPS”).

³ NOI at P 1.

limited only by the ability to identify a willing counterparty with which to execute the exchange.

- *Locational exchanges are subject to the generally applicable Electric Quarterly Report (“EQR”) and NERC electronic tagging (“e-tagging”) requirements for each recipient’s transmission service use beyond the point of exchange. These mechanisms provide sufficient transparency.*
- *The Standards of Conduct require separation of functions and guard against discriminatory access to non-public transmission information.*

3. “The Commission seeks comments regarding the characteristics of locational exchanges and whether the definition set forth by Puget’s Petition sufficiently accounts for those characteristics.”⁴

- *Puget’s Petition defines a “locational exchange” as:
“a pair of simultaneously arranged wholesale power transactions between the same counterparties in which party A sells electricity to party B at one location, and party B sells the same volume of electricity to party A at a different location with the same delivery period, but not necessarily the same price.”⁵*

The Western Group concurs that this definition appropriately describes the transactions at issue.

- *We note that there are other exchange-like transactions that fall outside this definition. For example, seasonal exchanges provide for exchanges, including exchanges at different locations, but the delivery periods are different. A “firming service” in which a unit contingent product is traded for a firm energy source, would also be excluded, because the two products exchanged are different. Finally, there are transactions similar to exchanges used to integrate Variable Energy Resources (“VERs”) by a host Balancing Authority. All of these other types of transactions are part of a healthy marketplace and are important to the power markets in the Western Interconnection. None of these other types of transactions raises a concern that the transaction effectuates a transmission service.*

4. The Commission encourages “commenters to identify other transactions that may be different in form from the types of transactions encompassed by Puget’s proposal but should be considered by the Commission as part of this proceeding.”⁶

- *As described above, there are other exchanges that may have a locational element, but also have different delivery periods or involve exchange of different products. However, such exchanges do not conceivably effectuate transmission service, and thus should not be considered in this proceeding.*

⁴ *Id.* at P 8.

⁵ Puget Sound Energy, Inc., Petition for Declaratory Order and Request for Expedited Action at 1, Docket No. EL10-71-000 (Filed June 4, 2010) (“Puget Petition”).

⁶ NOI at P 8.

Characteristics of Locational Exchanges

5. “How common are locational exchanges?”⁷
 - *Locational exchanges are commonplace in the Western Interconnection. Attachment B provides examples of locational exchanges undertaken by members of the Western Group. Many of the members of this group undertake or have undertaken locational exchanges with a wide range of counterparties. Members of the Western Group believe that locational exchanges are beneficial to the marketplace.*
6. “What types of parties use locational exchanges (affiliate, marketer, generator)?”⁸
 - *Many of the members of the Western Group undertake locational exchanges. The members include investor-owned utilities, consumer-owned utilities, and a Federal power administration. The counterparties for locational exchanges executed by members of the Western Group include utilities (investor-owned and consumer-owned), independent power producers, and marketers.*
7. “How common is it for an affiliate of the transmission provider to be one of the parties to a locational exchange?”⁹
 - *Many of the members of the Western Group that are transmission-owning utilities, engage in (or have engaged in) locational exchanges through their merchant functions.*
8. “In what regions of the country and in what types of organized and non-organized markets are locational exchanges used?”¹⁰
 - *Locational exchanges are common in the non-organized markets in the Western Interconnection.*
 - *In organized Regional Transmission Organization/Independent System Operator markets, locational exchanges can be performed on the “edges” of those markets, with one of the points of delivery or receipt being located outside of the organized market.*
9. “In a typical locational exchange how much power (in megawatts) is being exchanged?”¹¹

⁷ *Id.* at P 11.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

- *Illustrative examples of locational exchanges involving members of the Western Group are described in Attachment B. The volume of these transactions can be hundreds of megawatts, and cover periods of years in some cases.*
10. “Do locational exchanges typically involve short-term or long-term contracts?”¹²
- *Locational exchanges may be short-term (for hour-ahead or day-ahead) or long-term (e.g., for a month, quarter, year, or longer). In some cases, the exchange may extend for the life of a plant. See Attachment B.*
11. “How many days in advance is a locational exchange typically arranged?”¹³
- *As shown in Attachment B, short-term locational exchanges are often arranged on a day-ahead basis. Longer term exchanges may be arranged from days to months in advance of the exchange commencing.*
12. “Under what circumstances, and for what purposes are locational exchanges used?”¹⁴
- *For the load-serving utility members of the Western Group, locational exchanges are used to manage resources and reduce costs to native load customers.*
 - *Locational exchanges are used to reduce exposure to the risk of transmission curtailments, such as the Cross-Cascades scenario described in Puget’s Petition.¹⁵ In this scenario, Puget and its counterparty would enter into an agreement where Puget receives power west of the system constraint to serve its native load, and the counterparty receives the same amount of power at the Mid-C trading hub. Both parties derive a benefit from the transaction.*
 - *Locational exchanges are also employed to make valuable use of previously obtained third-party point-to-point transmission rights (by taking delivery of exchanged energy where existing transmission rights can be used rather than purchasing additional point-to-point transmission from another location), and to optimize the value of generation assets.*
 - *Long-term locational exchanges may be used to avoid the cost of transmission network upgrades that would otherwise be needed to secure firm transmission service.*
 - *Locational exchanges may be used to avoid the costs of transmission service between the exchange points (where such service has not already been reserved) and to avoid transmission losses that otherwise would have been incurred when using transmission on the segment between the points of exchange.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Puget Petition at 5-6.

13. “How are locational exchanges arranged (bilateral negotiation via email, phone call, or instant message; broker; electronic exchange)?”¹⁶

- *Locational exchanges are arranged using all of the different means typical to power markets, but bilateral negotiations are the predominant method.*

14. “What are the benefits of locational exchanges? In identifying the benefits of these arrangements, please describe the type of circumstances in which the locational exchange provides this benefit and why the locational exchange serves as a means to achieve the specified benefit. The Commission also urges commenters to provide specific examples demonstrating particular benefits.”¹⁷

- *As described in Puget’s Petition, locational exchanges can be used to reduce exposure to the risk of transmission curtailments on congested paths.*¹⁸
- *Locational exchanges can be used to gain value from previously purchased third-party point-to-point transmission rights for the benefit of customers. Long-term point-to-point costs are embedded and there is a zero incremental price if these rights are used to move energy from the exchange point to load, rather than purchasing additional transmission to move energy absent the exchange.*
- *Locational exchanges can be used to avoid the costs of reserving point-to-point transmission between the exchange points, and avoid the associated costs of losses over that segment for power scheduled.*
- *Long-term locational exchanges may be used as an alternative to costly transmission upgrades that may be a prerequisite for obtaining firm transmission service.*
- *Locational exchanges can be used to improve market liquidity and reduce the risk of stranded generation.*

Effects of Locational Exchanges on System Congestion

15. “[T]he Commission encourages parties to comment on the effect of locational exchanges on system congestion and to provide examples of how these arrangements do or do not reduce system congestion.”¹⁹

- *Where, as in the scenario in Figure 1 of the NOI, there is a significant price spread across two trading points, acquisition of power by locational exchange may, or may not, result in changes to a utility’s dispatch of its other owned resources. The effect, however, would be no different than for acquisition of economy power via any means other than exchange. The exchange itself does not affect physical congestion. Indeed, whether accomplished by means of exchange or unpaired wholesale sales, one would expect economy transactions to equalize prices across marketing points until transmission system constraints are reached.*

¹⁶ NOI at P 11.

¹⁷ *Id.*

¹⁸ Puget Petition at 5-6.

¹⁹ NOI at P 12.

- *Locational exchanges may be used to reduce an entity's exposure to the risk of transmission curtailment between the points of exchange.*²⁰
- *In at least some cases, locational exchanges help bring the contractual path into better alignment with the physical flows, which helps make better use of the transmission system consistent with reliability limits.*
- *The scenario put forward in Figure 1 of the NOI is difficult to analyze without further information (e.g., is the entire figure in one balancing authority area, who had transmission rights, and how the load of B was being served prior to the exchange?). But at a general level, while it is possible that a locational exchange could lead to greater physical congestion, the expected result would be that there would be no different impact on congestion as compared to equivalent economy transactions. The decisions about what plants to run and what sales to make are driven by the relative generator economics. One would expect the market to take advantage of all price spread opportunities until the transmission constraints are reached. These economy transaction opportunities will be pursued via locational exchange or unpaired wholesale transactions.*
- *A locational exchange that results in the physical transmission of energy must have a transmission reservation and schedule from each exchange point of receipt to the point of delivery.*²¹ *These reservations and schedules, together with e-tags, provide sufficient visibility for transmission providers to manage system congestion.*

Merchant Affiliate Issues

16. “The Commission seeks comment as to whether locational exchanges may offer opportunities for transmission providers and their merchant affiliates to discriminate unduly against or between non-affiliate transmission customers.”²²

- *The transmission function in a transmission-providing utility has no role in locational exchanges.*
- *The marketing function or a marketing affiliate of a transmission provider is in no special position to enter into a locational exchange based on affiliation with the transmission provider.*
- *Access to non-public transmission information is regulated under the Standards of Conduct.*
- *In short, affiliation with a transmission provider does not create any special risks of undue discrimination related to locational exchanges.*

17. “We seek comment on whether a merchant affiliate of a transmission provider is uniquely positioned, due to its access to network transmission service, to provide locational exchanges on its affiliated transmission provider's system, and whether, in

²⁰ See Puget Petition at 6-7.

²¹ A locational exchange is like any other power transaction in that it may, or may not, result in the physical transmission of energy. For example, a locational exchange may serve to “book out” another transaction, or the delivery point of the exchange could be at a load center and not require transmission.

²² NOI at P 14.

some cases, may be the only counterparty available for a customer seeking to enter into a locational exchange.”²³

- *It is not only merchant functions of transmission-providing utilities that have access to network service on a transmission system. The merchant function of a transmission owner is no differently situated than other network service customers.*
- *It is not clear what advantage a network transmission customer would have over any other market participant in engaging in a locational exchange.*
 - *Network transmission must not be used to move power to an exchange point for delivery to a counterparty in an exchange—it is only available for service to load. Point-to-point transmission would need to be used to move power to a point of exchange.*
- *Moving power from a point of receipt in an exchange to load is an appropriate use for network service, just as if the power was purchased rather than acquired by locational exchange at the point of receipt. The ability to use secondary network service flexibly to move resource acquisitions to load (whether acquired by purchase or exchange) is a right secured, and paid for, by network customers and is consistent with the principles of Order Nos. 888 and 890.*

18. “We seek comment on whether, under these circumstances, the merchant affiliate of a transmission provider (or its parent company) could benefit from revenues that flow from the locational exchange, while the transmission provider continues to recover its transmission cost-of-service, effectively shifting costs to network and native load customers due to decreased use of point-to-point transmission service pursuant to the OATT.”²⁴

- *A locational exchange may or may not affect point-to-point revenues.*
- *First, where there is no available transmission path on an exchange party’s transmission system between the two exchange points, a locational exchange involving those two points will not change the volume of point-to-point transmission service on that utility’s system. The party simply could not have purchased point-to-point transmission to move power between these two points.*
- *Where a utility’s transmission system connects the two points involved in a locational exchange, there may be alternative delivery options obviating the need for any new purchase of point-to-point transmission service on the utility’s system.*
- *In addition, either party to a power sales transaction may decide to use existing firm or re-directed transmission rights, remove their generation from market, make sales to alternative counterparties at the same delivery point or make use of the transmission re-assignment market at its uncapped market-based rates if the exchange was unavailable. None of these options would affect point-to-point transmission revenues.*

²³ *Id.*

²⁴ *Id.*

- *More fundamentally, for the load-serving utilities in the Western Group, locational exchanges (and optimization of the resource portfolio more generally) are undertaken for the benefit of native load. Any reduction of costs due to resource optimization flow to native load customers.*

19. “[C]omment on how industry participants now assure that such activities do not violate Commission policies. For example, do tagging obligations, Electric Quarterly Report (EQR) filings, standards of conduct rules and market-based rates rules provide sufficient protections and transparency to mitigate against the possible risks related to locational exchanges involving a merchant affiliate transacting on its affiliated transmission provider’s system?”²⁵

- *Locational exchanges involving public utilities are subject to FERC reporting and oversight requirements for wholesale sales.*
 - *The transactions are reported on EQRs.*
 - *These transactions are subject to the strictures on market manipulation.*
 - *FERC has found that locational exchanges are not wash trades. The Commission found that exchanges at different locations to avoid the need to use physical transmission “would either be at different prices, transfer beneficial ownership, or both. As such, the exchange could not be characterized as a wash trade as we define it.”²⁶*
 - *The Standards of Conduct provide regulatory assurance that transmission functions are functionally separated from marketing function (including participation in locational exchanges) and further assure that the marketing function has no access to non-public transmission information.*
 - *Network transmission customers are subject to restrictions in the OATT on proper use of network transmission services, including, for instance, the designation and undesignation of network resources.*
- *The FERC-jurisdictional utilities in the Western Group are diligent in their internal efforts to assure compliance with FERC regulatory requirements, including requirements relating to EQRs, market manipulation, Standards of Conduct, and OATT compliance.*
- *These existing safeguards are ample to guard against any affiliate preference.*
- *As demonstrated in UAMPS, market participants that believe they have been harmed by regulatory violations always have the option of filing a complaint (or taking more informal steps such as calling the Enforcement Hotline).*

20. “The Commission would also welcome comment on whether any additional regulatory safeguards are necessary.”²⁷

- *No further regulatory limits or safeguards are needed.*

²⁵ *Id.* at P 15.

²⁶ *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 at P 54 (2003).

²⁷ NOI at P 15.

Use of Network Service to Effectuate Locational Exchanges

21. "The Commission seeks comment on whether locational exchanges could interact with network service rights in a manner that is inconsistent with the Commission's open access principles."²⁸

- *The Western Group does not see a risk that locational exchanges would interact with network service in a manner inconsistent with open access principles.*
- *Network service must not be used to transmit power to an exchange point at which the network service customer will exchange the power with a counterparty.*
- *Any previously designated network resource that is to be used to provide power to a counterparty in an exchange must first be undesignated.*
- *Network service could only be employed in transmitting power acquired in a locational exchange to supply native load customers. In order to use firm network service, the power acquired by exchange must first be designated as a network resource.*
- *In short, all of the rules governing network service would apply to network transmission customer participating in a locational exchange.*

22. "[T]he Commission is inquiring whether the interaction between network service rights and locational exchanges could create a risk that parties will be able to engage in the effective provision of transmission service in a non-transparent manner outside of an OATT."²⁹

- *Network customers must not use their network service right to provide transmission service to others.³⁰ The only special flexibility that network service customers have is the flexibility to designate and undesignate network resources as needed to serve load or make third-party sales. This does not, however, constitute provision of transmission service to a third party. If a resource is to be used on the "sell" side of a locational exchange, it must first be undesignated, and any movement of that power to the exchange point must be done using point-to-point transmission as opposed to network transmission. On the "buy" side of the exchange, a network customer may use secondary network service to move the power acquired to load (and may use firm network service if the resource is first designated). This flexibility is no different than if the network customer acquired the resource by purchase rather than exchange.*
- *We do not discern any connection (problematic or otherwise) between locational exchanges and network service that suggests locational exchanges involving network service customers requires special scrutiny.*
- *The scenario put forward in Figure 1 of the NOI is ambiguous in some respects (e.g., are all the loads and sources in the figure within a single balancing area?). However, to the extent that the figure provides an example in which a network*

²⁸ *Id.* at P 16.

²⁹ *Id.*

³⁰ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890-A, 73 Fed. Reg. 2,984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 at Pro Forma OATT § 28.1 (2007).

service customer (Party B) undesignates a previously designated network resource in order to sell at wholesale or acquires economy energy from a third party to use in lieu of its own generation, it does not seem exceptional or inappropriate. There is no suggestion that the rules concerning the use of network service have been violated. The NOI's review of locational exchanges should not be used to undermine network service rights established consistent with Order Nos. 888 and 890³¹ and paid for by network customers.

23. “[T]he Commission seeks comment on whether a party with network transmission rights could use locational exchanges to circumvent the Commission’s open access principles.”³²

- *The Western Group does not believe that by its nature, a locational exchange executed by a party with network transmission rights would circumvent the Commission’s open access policies.*

Potential Discriminatory Effects

24. “The Commission seeks comments as to whether locational exchanges allow some parties to obtain the functional equivalent of transmission service on more favorable terms or rates than those available to other parties.”³³

- *First, locational exchanges are not transmission service. They do not provide for physical movement of power. Rather, they are paired wholesale power transactions.*
- *Locational exchanges can be conducted by any market participant that can buy and sell power and can identify a willing counterparty for the exchange. The only constraints on availability are commercial and market constraints.*
- *As with other wholesale market transactions, one would expect that similarly situated pairs of parties would reach deals on exchanges in the marketplace on similar terms. The wholesale market does not guarantee that the terms of all transactions are identical, and the same would be true for locational exchanges.*
- *Of course, transmission service under the OATT also remains available to all market participants, as well as the secondary reassignment market.*

³¹ In Order No. 890, the Commission declined to adopt an economy energy definition for secondary service because “there are instances outside the proposed definition of economy energy that warrant the use of secondary service in order to serve network loads reliably.” *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats & Regs ¶ 31,241 at P 1601 (2007), *order on reh’g*, Order No. 890-A, 73 Fed. Reg. 2,984 (Jan. 16, 2008), FERC Stats & Regs ¶ 31,241 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g and clarification*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009); *appeal vol. dismissed, Nat’l Rural Elec. Coop. Ass’n v. FERC* (D.C. Cir. No. 08-1278). In Order No. 890-A, the Commission clarified that “[t]he primary focus of the Commission’s analysis is whether the energy delivered using secondary network service was intended to serve network load.” Order No. 890-A at P 957.

³² NOI at P 17.

³³ *Id.* at P 18.

25. “The Commission also seeks comment regarding the potential distortive effects of locational exchanges on billing determinants and how such distortions may affect transmission rates.”³⁴ “The Commission seeks comment as to whether locational exchanges could increase charges for remaining transmission customers while allowing those entering into locational exchanges to avoid transmission charges.”³⁵

- *The Western Group does not perceive anything distortive about locational exchanges. The volume of point-to-point transmission revenue is dependant on a variety of market participant decisions, such as where to construct new generation, where to buy and sell power, and to a more modest degree, whether and where to use locational exchanges. No one would argue that the decision to build generation or purchase power in close proximity to load distorts transmission billing determinants. The same is true for locational exchanges.*
- *Each party to a locational exchange that plans to move the acquired energy must hold or acquire transmission rights to move the power from the point of exchange to the point of delivery, so in many cases the volume of transmission that is associated with the locational exchange as opposed to a traditional purchase is unchanged.*

26. “The Commission seeks comment as to whether and, if so, how locational exchanges affect billing determinants or create other such potential market distortion.”³⁶

- *Locational exchanges are not a new phenomenon in the Western Interconnection. There is no reason to believe that granting the declaration requested will result in dramatic increases in use of locational exchanges, dramatic reductions in point-to-point revenues, changes in transmission rates, or any other market distortion.*

27. “[T]he Commission seeks comment on whether certain types of customers are less likely to be able to enter into locational exchanges and thus may be forced to pay potentially increased transmission costs that result from the distorted billing determinants.”³⁷

- *The Western Group does not believe current transmission rates are “distorted” as a result of the use of locational exchanges.*
- *There are no structural barriers to entry or restrictions on conducting locational exchanges. Market and commercial circumstances govern whether attractive locational exchange opportunities are available.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at P 19.

³⁷ *Id.*

Price Reporting

28. “The Commission seeks comment as to whether the current EQR procedures and requirements are sufficient to ensure appropriate locational exchange data reporting.”³⁸

- *The current EQR requirements are sufficient for reporting information associated with locational exchanges. Public utilities report locational exchanges on their EQRs. As the NOI indicated, a locational exchange may be reported as an exchange, or as two separate power sales (one by each party to the exchange). Thus, there is no need to create new procedures or requirements.*

29. “How are locational exchanges typically reported to the EQR today?”³⁹

- *Locational exchanges are either reported on the EQR with the Product Name of “exchange” or as two separate power sales.*
- *The quantity of the exchange is reported, and the price being reported depends on the way that the contract or confirmation is written.*
 - *If there are prices stated in the agreement, each party would report the price stated in the agreement.*
 - *If there is no price stated in the contract, and no difference in the value of the energy being exchanged (i.e., neither counterparty is receiving a premium for the energy being exchanged), the price is reported as zero by both counterparties.*
 - *If there is a difference in the value of the energy, the party receiving the premium reports the amount of the premium being received per MWh as the price (and the other party reports a price of zero).*
- *There may be some utilities that report real-time locational exchanges as energy sales (both parties, if jurisdictional, would report a sale of the same number of MWhs, at the same time, at different locations) because their trade capture systems do not have a way of distinguishing locational exchanges from energy sales.*

30. “Are additional rules needed to ensure that locational exchanges are reported in EQR as exchanges, and not reported as two separate power sales?”⁴⁰

- *No.*

System Reliability

31. “The Commission inquires as to whether locational exchanges affect the ability of system operators and any other relevant entities to obtain information or perform other functions necessary to maintain adequate system reliability.”⁴¹

³⁸ *Id.* at P 20.

³⁹ *Id.* at P 21.

⁴⁰ *Id.*

⁴¹ *Id.* at P 22

- *No. Locational exchanges do not have any adverse impact on the ability of system operators or others to maintain reliability.*

32. “The Commission also seeks comment on the effects and implications of locational exchanges on the transmission system(s) and the operator’s ability to comply with Commission approved North American Electric Reliability Corp. (NERC) reliability standards.”⁴²

- *Locational exchanges do not adversely affect the ability of transmission system operators to comply with NERC reliability standards.*

33. FERC seeks comment on: “the potential effect of locational exchanges on system performance including inadvertent power flows and the availability of information regarding power flows to the transmission provider and other reliability entities.”⁴³

- *Locational exchanges do not impede availability of information about power flows. NERC e-tagging requirements apply as they would to any other power sales transaction.*
- *Often, locational exchanges function to better align contract paths with actual flow.*

34. FERC seeks comment on: “how locational exchanges interact with scheduling and tagging requirements.”⁴⁴

- *Each side of a locational exchange is treated just as an unpaired power sale would be for tagging purposes. Power transferred through a locational exchange is e-tagged from source to sink.*
- *Locational exchanges may reduce scheduling burden by decreasing the number of transmission transactions.*

35. FERC seeks comment on: “how locational exchanges affect short-term and long-term system planning.”⁴⁵

- *Locational exchanges are treated in system planning just as other power sales conducted over the same time contract term.*
- *If a locational exchange is of sufficiently long duration, it may be considered in system planning.*

36. “The Commission also seeks information associated with the relationship between locational exchanges and curtailment issues and procedures.”⁴⁶

⁴² *Id.*

⁴³ *Id.* at P 23.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

- *Some locational exchanges reduce the exposure of participants to risk of transmission curtailments.*
- *If a transmission curtailment affects a party's ability to perform one side of a short-term locational exchange, the other side will still be performed and a financial settlement will typically result for the half of the exchange not performed, just as it would for failure to perform under any other power sales contract.*

37. FERC asks that responses on system reliability “consider scenarios where locational exchanges [are] effectuated...

- (a) within one balancing authority area;
- (b) within more than one balancing authority area;
- (c) over short distances as compared to long distances;
- (d) involving small amounts of MWs as opposed to large amounts of MWs; and
- (e) involving more than two points of exchanges in the context of the different scenarios listed in (a) through (d) above.”⁴⁷

- *The locational exchange involves two power transfers from one party to another, and these transfers are tracked just as two unpaired power sales transactions. In all cases there is an e-tag that tracks the power from source to sink. The differences referenced in (a) – (d) above—that is, whether the exchange points are in a single balancing area or not, whether the exchange points are separated by short or long distances, and whether the volumes are small or large—do not make any difference for purposes of considering impacts on system reliability. There is no adverse impact on reliability in any of these scenarios.*

Pricing of Locational Exchanges

38. “If the Commission determines that a locational exchange is transmission service subject to an OATT, the Commission seeks comment as to whether there is an appropriate existing transmission pricing policy that should apply specifically to these types of arrangements.”⁴⁸

- *Locational exchanges do not constitute provision of transmission service.*
- *Locational exchanges are not conducted by the transmission function within transmission-owning public utilities, and must not be under the separation of functions requirements.*
- *If locational exchanges are deemed to constitute provision of transmission services, then public utilities that are not transmission owners (e.g., independent power producers, marketers) but participate in locational exchanges would be required to adopt an OATT.*
- *Cost-based rate regulation, as would be standard under an OATT, is not sensibly applied to market-driven locational exchanges.*

⁴⁷ *Id.* at P 24.

⁴⁸ *Id.* at P 25.

39. “In the alternative, the Commission urges parties to propose a pricing mechanism that would efficiently price those exchanges that make use of the transmission system.”⁴⁹

- *It is not clear what it means for an exchange to “make use of the transmission system.” The exchange itself does not make use of the transmission system. It is transmission of power to the point of exchange or movement of power away from the point of exchange that involves transmission, but such transmission arrangements are no different than if the power was to be sold or purchased outside of an exchange.*
- *We know of no reason not to allow market forces to determine the pricing arrangements for locational exchanges.*

Commission Review of Locational Exchanges

40. “[T]he Commission seeks comment regarding the potential effect of requiring parties to seek prior Commission approval for locational exchanges on a case-by-case basis.”⁵⁰

- *As shown in Attachment B, short-term locational exchanges are typically arranged only shortly before the exchange is to begin. A requirement for prior-approval would effectively prohibit such transactions.*
- *Only exchanges agreed to months in advance could practically be run through a Federal Power Act section 205 filing process.*
- *More generally, it is not at all clear what benefit would be derived from requiring prior approval. FERC has not announced any regulatory criteria to be applied in such a regulatory process. Simply adopting a case-by-case prior approval process without specifying the particular regulatory purposes that would be achieved through such a process would have the practical effect of precluding many beneficial locational exchanges.*

41. “In particular, the Commission urges parties to comment as to whether such a requirement would impose undue delays and other administrative burdens affecting the ability of market participants to use locational exchanges.”⁵¹

- *Yes, it would. Thus, the Western Group urges the Commission not to require case-by-case prior review of locational exchange transactions. Doing so would be tremendously burdensome on the industry, with no apparent benefit.*
- *Prior review would effectively eliminate short-term locational exchanges.*

42. “The Commission seeks comment regarding circumstances in which locational exchanges of electric power should be permitted generically.”⁵²

⁴⁹ *Id.*

⁵⁰ *Id.* at P 26 (citing *El Paso Elec. Co.*, 115 FERC ¶ 61,312 (2006)).

⁵¹ *Id.*

⁵² *Id.* at P 27.

- *Locational exchanges should be permitted generically as long as the participants abide by all applicable rules for wholesale power transactions.*
- *Specifically, the Commission should declare that locational exchanges do not constitute the provision of transmission service.*
- *The Commission has adequate rules in place that, to the extent appropriate, provide all the protection FERC should require for locational exchange transactions, i.e., EQR reporting, rules on market manipulation and Standards of Conduct.*

APPENDIX B

**Appendix B:
Examples of Locational Exchange Transactions**

Utility A

Characteristics of Exchange	Example #1	Example #2	Example #3
Volume of power exchanged	5–200 MW	25–100 MW	25–300 MW
Term of exchange	Daily through Yearly	Daily through Quarterly	Monthly and Quarterly
How far in advance was exchange agreed to?	Day-ahead through Year-ahead	Day-ahead through Year-ahead	Day-ahead through Year-ahead
Type of counterparty	IPP, IOU, Marketer, Public Utility	IPP, IOU, Marketer, Public Utility	IPP, IOU, Marketer, Public Utility
Exchange Point X	Mid-C	Mid-C	Third-Party Generator
Exchange Point Y	COB	NOB	Mid-C
Motivation for exchange	Optimization of resources, including reducing physical delivery at COB due to transmission derate.	Optimization of resources, including reducing physical delivery at NOB due to transmission derate.	Optimization of resources, including managing physical delivery required due to transmission derate.

**Appendix B:
Examples of Locational Exchange Transactions**

Utility B

Characteristics of Exchange	Example #1	Example #2	Example #3
Volume of power exchanged	125 MW	50–100 MW	50–100 MW
Term of exchange	24 months (1-2006 through 12-2007)	Pre-schedule	Pre-schedule
How far in advance was exchange agreed to?	9 months	Pre-schedule	Pre-schedule
Type of counterparty	IOU	Marketer	Marketer or IOU
Exchange Point X	Remote generator	John Day or Big Eddy	Remote generator
Exchange Point Y	Mid-C	Mid-C	Mid-C
Approx. distance between points of exchange	50+ miles	100+ miles	600+ miles
Motivation for exchange	Save transmission cost and losses Firm delivery	Recoup fixed transmission costs	Save transmission cost and losses

**Appendix B:
Examples of Locational Exchange Transactions**

Utility C

Characteristics of Exchange	Example #1	Example #2	Example #3
Volume of power exchanged	50–125 MW per hour (done seasonally; 41,900 MWh per year)	50–250 MW per hour (done seasonally; 32,236 MWh per year)	25–100 MW per hour (done seasonally; 56,830 MWh per year)
Term of exchange	Hourly/Daily	Hourly/Daily	Hourly/Daily
How far in advance was exchange agreed to?	Up to one day or week in advance	Up to one day or week in advance	Up to one day or week in advance
Type of counterparty	IOU	Municipality	IOU
Exchange Point X	Remote substation	Remote substation	Remote substation
Exchange Point Y	Palo Verde hub	Palo Verde hub	Palo Verde hub
Approx. distance between points of exchange	200+ miles	200+ miles	200+ miles
Motivation for exchange	Reliability, reduce cost of importing power	Decrease impact to ratepayers, saves losses	Mutual benefit, reduced cost of importing power, reliability

**Appendix B:
Examples of Locational Exchange Transactions**

Utility D

Characteristics of Exchange	Example #1	Example #2	Example #3
Volume of power exchanged	Varies. 139 aMW for 2010	Up to 10 aMW	Up to 1 aMW
Term of exchange	Ongoing since 1989.	6 years	~1 year with possible extension
How far in advance was exchange agreed to?	Many months in advance of effective date	Several months to several years ahead	Several months to several years ahead
Type of counterparty	IOU	Non-IOU Load Serving Entities (Municipalities and PUDs)	Non-IOU Load Serving Entity
Exchange Point X	Two Balancing Areas away	Non-IOU Load Serving Entities load	Utility customer's system
Exchange Point Y	Utility D system	Mid-C	System border
Approx. distance between points of exchange	600+ miles	50 to 150 miles	Up to 600+ miles
Motivation for exchange	Best business case	Simplify administration (e.g., scheduling)	Reduce transmission needs; simplify scheduling

**Appendix B:
Examples of Locational Exchange Transactions**

Utility E

Characteristics of Exchange	Example #1¹	Example #2	Example #3
Volume of power exchanged	5–100 MW	100-200 MW	25–200 MW
Term of exchange	Hourly	Season	Hourly and/or Daily
How far in advance was exchange agreed to?	Real-Time	6+ months	Real-Time and Day-Ahead
Type of counterparty	IPPs, IOUs, and Power Marketers	IPP	IPPs, IOUs, and Power Marketers
Exchange Point X	Generator	West-of-Cascades Generator or Delivery Point	Generator or delivery at liquid trading hub in WECC
Exchange Point Y	Mid-C or Delivery Point on or adjacent to Utility's system	Mid-C Generation	Mid-C or Delivery Point on or adjacent to Utility's system
Motivation for exchange	Decreasing transmission curtailment risk for improved reliability or responding to transmission curtailments to avoid loss of load or contingency reserve activation.	Optimization of resources and increased native load customer service reliability. Minimizes transmission curtailment risk.	Optimization of resources. Increased ability to financially or physically hedge future positions at most liquid market to increase native load customer service reliability at least cost.

¹ Examples 1 and 3 are illustrative of the types of exchanges entered into by Utility E in the past. Each example likely represents tens or hundreds of actual transactions, each with their own unique characteristics, with similar motivating factors for executing the exchange for each counterparty involved.

**Appendix B:
Examples of Locational Exchange Transactions**

Utility F

Characteristics of Exchange	Example #1	Example #2
Volume of power exchanged	25–150 MW	25–150 MW
Term of exchange	Day-Ahead	Day-Ahead
How far in advance was exchange agreed to?	Day-Ahead	Day-Ahead
Type of counterparty	IOU	Marketer
Exchange Point X	System/BPA Busbar	Mid-C
Exchange Point Y	Mid-C	Big Eddy/John Day
Motivation for exchange	In lieu of transmission	Price premium; manage transmission

**Appendix B:
Examples of Locational Exchange Transactions**

Utility G

Characteristics of Exchange	Example #1
Volume of power exchanged	50 aMW (109,200 MWh)
Term of exchange	Q2
How far in advance was exchange agreed to?	6 months
Type of counterparty	Marketer
Exchange Point X	Utility G delivers energy at John Day
Exchange Point Y	Utility G receives energy at Mid-C
Approx. distance between points of exchange	400+ miles
Motivation for exchange	Need for capacity