



ultimate benefit of consumers. Further, locational exchanges are a mechanism that have long been utilized in bilateral markets in the Western United States.<sup>3</sup>

Therefore, EPSA requests that the Commission allow such transactions to continue on a generic basis without additional reporting or other regulatory requirements imposed. Additionally, 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”).

## **I. COMMUNICATIONS**

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

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## **II. BACKGROUND**

The NOI stems from a June 4, 2010 request for declaratory order by Puget Sound Energy, Inc., who sought clarification from the Commission that locational exchanges of power are not transmission transactions subject to an OATT, but rather are permissible wholesale power transactions.<sup>4</sup> In an order

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<sup>3</sup> EPSA members report there are other non-organized markets, such as the Southeast, that may also utilize locational exchange transactions.

<sup>4</sup> *Puget Sound Energy, Inc.*, Petition for Declaratory Order and Request for Expedited Action, Docket No. EL10-71-000 at 1 (filed June 4, 2010). (“Puget”) While seeking a general ruling, the Puget Petition specifically addressed two types of locational exchanges utilized: (1) to bypass a constraint or to reduce a risk of transmission curtailment, or (2) to trade around

issued concurrently with the NOI, the Commission responded to Puget and determined that there was “insufficient information in the record to make a determination” and that “Puget’s petition raise[d] significant policy issues potentially affecting multiple market participants in the electric industry.”<sup>5</sup> Accordingly, the Commission issued a wide-ranging NOI to obtain further information and to consider the proper regulatory treatment of these arrangements.<sup>6</sup> The Commission deferred action on Puget’s Petition pending the outcome of the NOI.

### **III. COMMENTS**

#### **A. Actions In This Proceeding Should Not Apply To RTO Markets**

As an initial matter, EPSA requests clarification that any actions the Commission may take in this proceeding are not applicable to the ISO/RTO markets internally. While the implication is that the focus is on the non-organized markets, EPSA believes an explicit statement is necessary to ensure any potential outcomes do not unintentionally conflict with market mechanisms that currently exist (or may be developed) in certain RTO markets, which function quite differently. As discussed below, the use of locational exchanges is a tool

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locational power market price spreads – to optimize power or transmission positions, both of which involve point-to-point transmission, and not network transmission service.

<sup>5</sup> *Order on Petition for Declaratory Order*, 134 FERC ¶ 61,122, Docket No. EL10-71-000 (February 17, 2011).

<sup>6</sup> The NOI requests comments regarding, among other things: the definition, characteristics and benefits of locational exchanges; how locational exchanges may affect congestion; whether the transactions offer opportunities to unduly discriminate between transmission service customers; whether current reporting is adequate; and, how transmission system reliability is affected. Additionally, the Commission seeks comment regarding circumstances in which locational exchanges should be permitted generically or considered on a case-by-case basis.

utilized by participants in the Western, bilateral markets,<sup>7</sup> operating outside of RTOs and accordingly, FERC should not impose any additional requirements, rules or regulations on the ISOs/RTOs.

### **B. The Characteristics and Benefits of Locational Exchange Transactions**

The Commission asks for general information on the characteristics of locational exchanges and as a threshold matter, whether the definition set forth by Puget sufficiently accounts for those characteristics. Puget 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 at the same price.<sup>8</sup>

Many EPSA members reported they have done or may utilize these transactions. Accordingly, EPSA believes this definition is sufficiently broad to capture the types of transactions that have or may occur and supports adoption of the language. Locational exchanges of power are a common business practice and have been utilized for many years, in some instances, for decades in the western regions of the country with bilateral markets. Locational exchanges provide an important function in the western region, and help to balance these bilateral markets, with transactions occurring primarily at liquid trading hubs. Often, such an exchange can help to balance the market within the pricing node, i.e., the power supply never leaves the pricing node.

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<sup>7</sup> See Footnote 3.

<sup>8</sup> NOI at P 8; Puget's Petition at 1.

Locational exchanges may be arranged under a variety of the formats specified in the NOI, but tend to be bilaterally negotiated; however,<sup>9</sup> this may depend on the protocols and processes required by the parties involved in the transaction. The transactions often are for smaller volumes (for example, less than 75 MW for primarily daily and monthly tenors) and shorter contract terms, but this can vary.

There are various reasons for undertaking and resulting benefits from these transactions, including providing congestion relief at constrained transmission pathway points and trading around price spreads to optimize the value of power resources.<sup>10</sup> Locational exchanges also offer additional flexibility to market participants. For example, a market participant may choose to undertake a locational exchange rather than a capacity reassignment for a particular transaction given a local counter-party's expertise or knowledge regarding electronic tagging or flows in a particular area. This is useful to a party where short response times for action may be required. In sum, locational exchanges add liquidity and allow efficient allocation of resources, and from a policy standpoint, should be preserved as a beneficial market mechanism.

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<sup>9</sup> NOI at 10, Question 6.

<sup>10</sup> EPSA generally supports the benefits of locational exchange transactions enumerated in the underlying Puget Petition at 17-18.

### **C. Locational Exchanges Enhance System Reliability**

EPSA believes one of the primary benefits of locational exchange transactions has been to enhance overall system reliability. By utilizing a locational exchange, parties reduce their need to engage in transmission transactions, which avoids relying on constrained transmission pathways and increases transmission capacity that may be available. In particular, EPSA views the Commission's Final Rule on transmission capacity reassignment,<sup>11</sup> which lifts the price cap on such secondary market transactions, as an effective and complementary action to locational exchange transactions. In a similar vein, use of locational exchanges can send more accurate price signals to promote more efficient use of the transmission system. Particularly in these non-organized areas, the ability to utilize a variety of mechanisms to flexibly respond to wholesale market conditions facilitates overall reliability. In addition, when transmission capacity is made available due to third party locational exchanges, load serving entities have more available transmission to serve real time demand, which also increases system reliability.

### **D. Affiliate and Discrimination Issues**

The NOI refers to two cases discussed in the Puget Petition specifically involving a merchant affiliate as one of the parties to a locational exchange.<sup>12</sup> The Commission asks whether locational exchanges may offer opportunities for transmission providers and their merchant affiliates to unduly discriminate

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<sup>11</sup> *Promoting a Competitive Market for Capacity Reassignment*, 132 FERC ¶ 61,238, Docket No. RM10-22-000, Order No. 739 (issued September 20, 2010).

<sup>12</sup> NOI at P 13-15.

against or between non-affiliate transmission customers. This has not been a significant concern for EPSA member companies who have engaged in or may consider utilizing locational exchanges. The current NERC electronic tagging obligations, Electric Quarterly Report (“EQR”) filings, Standards of Conduct rules and market-based rates rules provide sufficient protections and transparency to mitigate possible risks associated with merchant affiliates transacting on their respective affiliated transmission provider’s system. EPSA believes the Commission has the necessary authority to effectively monitor and take such action as may be necessary on an individual basis, and allow such transactions to continue as they have for years without significant concerns.

**E. Data Reporting and Commission Review**

The NOI notes that a locational exchange may be reported in the Electric Quarterly Report (“EQR”) as an exchange, or as two separate power sales (one by each party to the exchange). EPSA believes the current EQR procedures and requirements are sufficient to ensure appropriate locational exchange data reporting. EPSA does not believe a new reporting mechanism is necessary.

With respect to whether such transactions should be allowed on a generic or case-by-case basis, EPSA submits that to require these transactions to be evaluated on case-by-case basis would cause greater harm than the potential harm caused by allowing such transactions to take place on a generic basis. As discussed above, these transactions have been occurring frequently in the western bilateral markets for many years and provide market efficiencies and improve reliability. As a general matter, there are no indications before the

Commission reflecting market problems or other adverse consequences arising from the use of such transactions.

Additionally, if regulatory approval is required on a case-by-case basis, the regulatory process may have a chilling effect on these transactions, which frequently are for shorter durations and may not be arranged with significant lead times.

Furthermore, the Commission has significantly enhanced enforcement tools, audits, the Standard of Conduct rules and other reporting requirements, including the EQR to effectively monitor for potential abuses and address any individual concerns. Significantly, the Commission has its authority pursuant to the anti-manipulation rule as a remedy to address any harm to the market that may arise on an individual case-by-case basis.<sup>13</sup> Therefore, given the overall benefits and long-standing nature of these arrangements in the market, EPSA urges the Commission to allow locational exchanges to continue on a generic basis, without additional data reporting requirements.

#### **IV. CONCLUSION**

Wherefore, EPSA respectfully requests that the Commission consider and adopt the recommendations proposed herein. Specifically, EPSA requests that the Commission allow locational exchange transactions to continue on a generic basis without additional reporting or other regulatory requirements imposed.

Additionally, the Commission should declare that locational exchanges are

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<sup>13</sup> *Prohibition of Energy Market Manipulation*, Order No. 670, 114 FERC ¶61,047, Docket No. RM06-3-000 (January 19, 2006).

wholesale power transactions, and are not transmission service transactions that must be provided under an Open Access Transmission Tariff (“OATT”).

Respectfully Submitted,



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April 25, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the comments via email upon  
Each person designated on the official service list compiled by the Secretary in  
this proceeding.

Dated at Washington, D.C. April 25, 2011.



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Nancy Bagot, VP of Regulatory Affairs