



News Release

For Immediate Release

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APPA JOINS PETITION FOR NARROW EXCLUSION FROM COMMODITY FUTURES TRADING COMMISSION SWAP DEALER RULES

Washington, D.C., July 12, 2012 – The American Public Power Association, the Large Public Power Council, the American Public Gas Association, the Transmission Access Policy Study Group, and the Bonneville Power Administration today filed a petition with the Commodity Futures Trading Commission asking for a narrow exclusion from swap dealer rules set to take effect on July 23, 2012. Under these rules, government-owned electric and gas utilities would see their ability to hedge against operational risks substantially hindered. Under the exclusion being sought, government-owned utilities' swap transactions related to hedging the commercial risks of utility operations would not count toward the rule's *de minimis* threshold for swap dealing activity with special entities. Government-owned entities, including public power, public gas, and federal utilities, are "special entities" under the CFTC's new Dodd-Frank Act provisions.

"We have been working with the CFTC since the final swap dealer regulations were released to resolve this issue," said APPA President and CEO Mark Crisson. "We will continue to work with them, but with these regulations soon set to take effect, we needed to act."

The CFTC's final rule (released May 23, 2012) defining "swap dealer" sets two separate thresholds for determining whether a swap provider is required to register with the CFTC as a "swap dealer." Such counterparties can deal in up to \$3 billion in swap transactions with investor-owned or cooperative utilities (\$8 billion during a transition period) before being required to register as a swap dealer. But these counterparties can only deal in up to \$25 million with government-owned utilities before being thrown into the CFTC's swap-dealer regime.

As a result, entities that do not want to be swap dealers (many natural gas producers, independent generators, and utility companies, for example) will severely limit their swap dealing activities with government-owned utilities to avoid reaching the \$25 million threshold.

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As CFTC Commissioner Scott O'Malia [observed](#) in comments at the CFTC's July meeting, the special entity sub-threshold will reduce the number of potential counterparties willing to do business with these utilities and result in less competition in pricing for the utilities' hedging activities.

And while it is typically the larger government-owned utilities that use swap transactions to hedge their operational risk, many small utilities will also be affected because they may purchase power or natural gas from larger government-owned utilities that are engaged in such hedging.

“These rules will make it harder for many of our members to hedge their commercial and operational risks, exposing their customers to either greater fluctuations in prices or higher costs, and we must find relief,” Crisson said.

Additional information is available in the attached [background document](#) and the [petition itself](#).

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Based in Washington, D.C., APPA is the national service organization for the nation's more than 2,000 community- and state-owned not-for-profit electric utilities serving 46 million customers.