

From: Ed Barron
Sent: Monday, July 11, 2011 11:32 PM
To: Fajfar, Mark
Subject: National Rural Utilities -- and their Cooperative Finance Corp. (CFC)

Dear Mark,

I really appreciate all the work you and your team are doing for the nation and CFTC. We met some time ago regarding rural electric cooperative issues. I know you guys have a lot on your mind besides the nonprofit rural electric co-ops and their wholly owned, nonprofit, captive unit (in Herndon, VA) that handles their hedging and risk mitigation activities.

I want to point out that Congress directly referenced a way to exempt the rural electric co-operatives in the Dodd-Frank Act. I want to bring in a couple key people from the Cooperative Finance Corporation to discuss, for about 20 minutes, why CFTC should provide that exemption.

The CFTC proposal on “further definitions” recognized that some “electricity services are provided as a *public good* rather than for profit” and referred to Federal Power Act “and to the *non-profit, public power systems* such as rural electric cooperatives”

That preamble invited comments on “whether there are special considerations, including without limitation special considerations arising from section 201(f) of the Federal Power Act, related to non-profit, public power systems such as rural electric cooperatives” The CFTC proposal explained the “exemptive authority for rural co-ops in section 722(f) of the Dodd-Frank Act”

That public interest waiver section provides that “Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

“(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into— “(C) between entities described in section 201(f) of the Federal Power Act (16 U.S.C. 824(f)).” Those entities include the rural electric cooperatives. The non-profit CFC is owned by the rural cooperatives.

I represent the CFC, and their nonprofit owners (essentially the rural electric co-ops) of the nonprofit Cooperative Finance Corporation who recently filed a comment with CFTC (dated June 15; attached as finREC letter) with over 600 signatures from the rural electrics explaining that:

Under the DFA, Congress provided CFTC with precise authority to exempt “electric cooperative end users . . . from the margining and clearing requirements for swaps used to mitigate our own business risks.”

The letter encouraged the CFTC to “look through CFC to its REC [rural electric co-op] member-owners and clarify that, as a nonprofit lender owned and controlled by the entities exempted under the DFA, CFC is provided a clear exemption from margining and clearing requirements.”

The above attached filings, and other CFC filings with CFTC, describe the federal tax status that precludes speculation by the CFC; all the attached have been filed with the CFTC.

Rich Larochelle, and a couple others, along with me, would like to meet with you on this – we have some helpful ideas. We think the meeting will last no more than 20 minutes – unless you wanted to talk longer. Thanks very much. Below are some dates for our short meeting with you and any others at CFTC that you wish to invite – such as the team we met with in the past.

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