



September 27, 2012

Stacy Yochum, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Extension of Comment Period, “Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants,” 77 Fed. Reg. 41109 RIN 3038—AC97 (July 12, 2012).

Dear Ms. Yochum:

The American Public Power Association (“APPA”) and the Large Public Power Council (“LPPC”) submit these comments to the Commodity Futures Trading Commission (“Commission”) in support of the comments submitted on September 21, 2012 by the American Public Gas Association (“APGA”) on the proposed margin requirements for swap dealers and major swap participants.¹ APGA filed its comments in response to the Extension Notice, and its comments address the treatment of certain commodity swaps used to hedge municipal prepayment transactions for the supply of long-term natural gas or electricity (“Municipal Prepayment Transactions”). APPA and LPPC members have an interest in this issue as they also engage in Municipal Prepayment Transactions with the purpose of reducing costs to their electricity customers.

APPA is the national service organization representing the interests of publicly-owned electric utilities in the United States. APPA’s member utilities are not-for-profit utility systems that were created by state or local governments to serve the public interest. More than 2,000 public power systems provide over 15 percent of all kilowatt-hour sales to retail electric customers.

LPPC is an organization comprised of 26 of the nation's largest locally owned and operated public power systems in the nation. LPPC member utilities supply power to some of the fastest growing urban and rural residential markets in the country. Members are located in twelve states and Puerto Rico. (LPPC members are also members of APPA.)

¹ Extension of Comment Period, Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 77 Fed. Reg. 41109 (July 12, 2012) (“Extension Notice”); Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 76 Fed. Reg. 23732 (April, 28, 2011) (“Margin Notice”).

As explained in the APGA comments, Municipal Prepayment Transactions allow government-owned utilities to acquire a portion of their natural gas needs under long-term contracts at a discount to the market price. A public power utility may use a Municipal Prepayment Transaction to hedge the cost of its long-term supply of natural gas needed to generate electricity. These transactions are carefully structured to comply with Internal Revenue Code regulations that govern the issuance of tax-exempt debt. They also include a unique form of matched commodity swaps with a single swap dealer. These matched swaps allow the parties to hedge their respective exposures to the changing price of natural gas.

APPA and LPPC agree with APGA that the matched swaps that are part of the Municipal Prepayment Transactions economically offset each other in every way, as all of their material terms, notional quantities, tenor, and pricing points of the matched swaps are the same. As APGA described, in effect neither swap will survive the termination of the other swap, and so there is no counterparty or systemic risk associated with the matched commodity swaps in Municipal Prepayment Transactions.

If one of the matched swaps is between a swap dealer and a financial entity, margin requirements will apply, potentially making the swap prohibitively expensive and the Municipal Prepayment Transaction uneconomic. This would limit the ability of APPA and LPPC members to enter into Municipal Prepayment Transactions, even though these transactions serve an important public purpose.

APPA and LPPC join APGA in urging the Commission to expressly exempt these swaps from margin requirements. Similarly, APPA and LPPC request that the Commission exempt transactions involving matched commodity swaps used in connection with Municipal Prepayment Transactions from any direct or indirect capital charge.

Respectfully submitted,

AMERICAN PUBLIC POWER ASSOCIATION



By: _____
Susan N. Kelly, Senior Vice President of Policy
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LARGE PUBLIC POWER COUNCIL



By: _____
Noreen Roche-Carter, Chair, LPPC Tax and Finance
Task Force