H. R. 1038

AN ACT

To provide equal treatment for utility special entities using
utility operations-related swaps, and for other purposes.

1   *Be it enacted by the Senate and House of Representa-*

2   *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Power Risk Management Act of 2013".

SEC. 2. TRANSACTIONS WITH UTILITY SPECIAL ENTITIES.

Section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) is amended by adding at the end the following:

>   "(E) CERTAIN TRANSACTIONS WITH A UTILITY SPECIAL ENTITY.—
>
>   "(i) Transactions in utility operations-related swaps shall be reported pursuant to section 4r.
>
>   "(ii) In making a determination to exempt pursuant to subparagraph (D), the Commission shall treat a utility operations-related swap entered into with a utility special entity, as defined in section 4s(h)(2)(D), as if it were entered into with an entity that is not a special entity, as defined in section 4s(h)(2)(C).".

SEC. 3. UTILITY SPECIAL ENTITY DEFINED.

Section 4s(h)(2) of the Commodity Exchange Act (7 U.S.C. 6s(h)(2)) is amended by adding at the end the following:

>   "(D) UTILITY SPECIAL ENTITY.—For purposes of this Act, the term 'utility special enti-

1 ty' means a special entity, or any instrumen-

2 tality, department, or corporation of or estab-

3 lished by a State or political subdivision of a

4 State, that—

5 ''(i) owns or operates an electric or

6 natural gas facility or an electric or nat-

7 ural gas operation;

8 ''(ii) supplies natural gas and or elec-

9 tric energy to another utility special entity;

10 ''(iii) has public service obligations

11 under Federal, State, or local law or regu-

12 lation to deliver electric energy or natural

13 gas service to customers; or

14 ''(iv) is a Federal power marketing

15 agency, as defined in section 3 of the Fed-

16 eral Power Act.''.

17 **SEC. 4. UTILITY OPERATIONS-RELATED SWAP.**

18 (a) SWAP FURTHER DEFINED.—Section

19 1a(47)(A)(iii) of the Commodity Exchange Act (7 U.S.C.

20 1a(47)(A)(iii)) is amended—

21 (1) by striking ''and'' at the end of subclause

22 (XXI);

23 (2) by adding ''and'' at the end of subclause

24 (XXII); and

25 (3) by adding at the end the following:

4

1   "(XXIII) a utility operations-re-

2   lated swap;".

3   (b) UTILITY OPERATIONS-RELATED SWAP DE-

4 FINED.—Section 1a of such Act (7 U.S.C. 1a) is amended

5 by adding at the end the following:

6   "(52) UTILITY OPERATIONS-RELATED SWAP.—

7 The term 'utility operations-related swap' means a

8 swap that—

9   "(A) is entered into to hedge or mitigate a

10   commercial risk;

11   "(B) is not a contract, agreement, or

12   transaction based on, derived on, or ref-

13   erencing—

14   "(i) an interest rate, credit, equity, or

15   currency asset class; or

16   "(ii) a metal, agricultural commodity,

17   or crude oil or gasoline commodity of any

18   grade, except as used as fuel for electric

19   energy generation; and

20   "(C) is associated with—

21   "(i) the generation, production, pur-

22   chase, or sale of natural gas or electric en-

23   ergy, the supply of natural gas or electric

24   energy to a utility, or the delivery of nat-

5

1 ural gas or electric energy service to utility

2 customers;

3 "(ii) all fuel supply for the facilities or

4 operations of a utility;

5 "(iii) compliance with an electric sys-

6 tem reliability obligation;

7 "(iv) compliance with an energy, en-

8 ergy efficiency, conservation, or renewable

9 energy or environmental statute, regula-

10 tion, or government order applicable to a

11 utility; or

12 "(v) any other electric energy or nat-

13 ural gas swap to which a utility is a

14 party.".

15 **SEC. 5. EFFECTIVE DATE.**

16 The amendments made by this Act take effect as if

17 enacted on July 21, 2010.

Passed the House of Representatives June 12, 2013.

Attest:

Clerk.

113TH CONGRESS
1ST SESSION

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