



January 16, 2015

Via Electronic Mail

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Re: Request for No-Action Relief Regarding the CFTC Trade Option Reporting Requirements, 17 C.F.R. § 32.3(b)(1)-(2).

Pursuant to Section 140.99(d) of the rules of the Commodity Futures Trading Commission (“CFTC” or “Commission”), the American Gas Association, American Public Power Association, the Edison Electric Institute, the Electric Power Supply Association, and the National Rural Electric Cooperative Association (“Joint Associations”)¹ hereby request on our members’ behalf that the CFTC Division of Market Oversight and Office of General Counsel issue joint no-action relief providing that staff would not recommend an enforcement action against non-SD/MSP market participants for differences between Form TO compliance for calendar years 2013 and/or 2014, and Form TO compliance for future calendar years, due to a revised, final CFTC Interpretation regarding the regulatory Exclusion for Forward Contracts with Embedded Volumetric Optionality.² The Joint

¹ A description of each of the Joint Associations is provided below, in Appendix A.

² See Interim Final Rule, Commodity Trade Options, 77 Fed Reg. 25320 (April 27, 2012) (the “Commodity Trade Option IFR”); see also *Interim Final Interpretation, Further Definition of Swap, Security-Based Swap, and Security-Based Swap Agreement, Mixed Swaps*, 77 Fed. Reg. 48207, at 48238-42 (August 13, 2012) (“Products Release”), and, *Proposed Interpretation, Forward Contracts with Embedded Volumetric Optionality*, 79 Fed. Reg. 69073 (November 13, 2014) (“Proposed Interpretation”). Under CFTC Interim Final Rule 32.3(a), a commodity trade option is generally a nonfinancial commodity option purchased by a commercial market participant that is intended, upon exercise, to result in the sale of such nonfinancial commodity for immediate

Associations propose that the safe harbor provided by this no-action relief would be available only to non-SD/MSPs, and would be limited to these entities' Form TO compliance for calendar years 2013 and 2014.

This request is made in light of the Commission's Proposed Interpretation regarding Forward Contracts with Embedded Volumetric Optionality that is pending before the Commission for finalization as non-SD/MSPs approach the calendar year 2014 Form TO filing deadline on March 1, 2015.³ Joint Associations have worked to implement the provisions in the Commission's April 2012 Commodity Trade Option IFR, the Commission's August 2012 interim final interpretation of Section 1a(47) of the Commodity Exchange Act (particularly the seventh element of that interpretation),⁴ and the April 2013 CTO No-Action Letter and to file Form TO consistent with the guidance provided. Joint Associations have provided comments on the Proposed Interpretation and will implement the changes necessary to comply with the Final Interpretation.

The Joint Associations respectfully urge the Division of Market Oversight and Office of General Counsel to provide the above-requested relief promptly, so that the Joint Associations' members will have regulatory certainty.

Thank you for your consideration. If we can provide any additional information, please do not hesitate to contact us at the information provided below in Appendix A.

Sincerely,

American Gas Association
American Public Power Association
Edison Electric Institute
Electric Power Supply Association
National Rural Electric Cooperative Association

(spot) or deferred (forward) shipment or delivery. *See* 17 CFR 32.3(a). As per Part 45 of the CFTC's rules, CFTC Interim Final Rule 32.3(b)(1), and CFTC Staff No-Action Letter 13-08 (April 5, 2013) ("CTO No-Action Letter"), swap transaction data related to commodity trade options entered into by non-SD/MSP counterparties is not required to be reported to a swap data repository by the reporting counterparty. However, as a condition to relying on the CTO No-Action Letter, a non-SD/MSP counterparty to an otherwise unreported trade option must submit an annual filing to the Commission for the purpose of providing certain information about one or more such unreported trade options entered into and/or exercised during the prior calendar year

³ Forms TO for calendar year 2013 commodity trade option information were due to be filed with the Commission by March 1, 2014, and Forms TO for calendar year 2014 information are due to be filed with the Commission by March 1, 2015.

Certification and Affirmation Pursuant to Commission Regulation 140.99(c) (3) (i)

As required by CFTC Regulation 140.99(c)(3)(i), I hereby certify that the material facts set forth in this letter, dated January 16, 2015, are true and complete to the best of my knowledge. Further, if at any time prior to the issuance of an exemptive no-action or interpretive letter any material representation made in this request ceases to be true and complete, I will ensure that Commission staff is informed promptly in writing of all materially changed facts and circumstances.



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Appendix A

AGA is the national trade association representing U.S. shareholder-owned natural gas distribution companies. There are more than 71 million residential, commercial and industrial natural gas customers in the U.S., of which 94 percent — over 68 million customers — receive natural gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies and industry associates. Today, natural gas meets more than one-fourth of the United States' energy needs. AGA's members engage in financial risk management transactions with counterparties that may be considered swap dealers or major swap participants that are regulated by the CFTC. As such, AGA's members will be directly affected by regulations promulgated under the Dodd- Frank Act. For more information, contact Arushi Sharma Frank, Counsel, Regulatory Affairs, American Gas Association, asharma@aga.org.

APPA is the national service organization representing the interests of publicly-owned electric utilities in the United States. More than two thousand public power systems provide over fifteen percent of all kilowatt-hour sales to ultimate customers. APPA's member utilities are not-for-profit utility systems that were created by state or local governments to serve the public interest. Some publicly-owned electric utilities generate, transmit, and sell power at wholesale and retail, while others purchase power and distribute it to retail customers, and still others perform all or a combination of these functions. Public power utilities are accountable to elected and/or appointed officials and, ultimately, the American public. The focus of a public power utility is to provide reliable and safe electricity service, keeping costs low and predictable for its customers, while practicing good environmental stewardship. For more information, contact James C. Cater, Director of Economic and Financial Policy, American Public Power Association, jcater@publicpower.org.

EEl is the association of U.S. shareholder-owned electric companies. EEl's members serve 99 percent of the ultimate consumers in the shareholder-owned segment of the U.S. electricity industry, and represent approximately 70 percent of the U.S. electric power industry. EEl also has more than 65 international electric companies as Affiliate members, and more than 170 industry suppliers and related organizations as Associate members. For more information, contact Lopa Parikh, Director, Regulatory Affairs, Edison Electric Institute, lparikh@eei.org.

EPSA is the national trade association representing leading competitive power suppliers, including generators and marketers. These suppliers, who account for nearly 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. For more information, contact Melissa Mitchell, Director of Regulatory Affairs and Counsel, Electric Power Supply Association, mmitchell@epsa.org.

Formed in 1942, NRECA is the national service organization for more than nine hundred not-for-profit rural electric utilities and public power districts that provide electric energy to approximately forty-two million consumers in forty-seven states or twelve percent of the nation's population. Kilowatt-hour sales by rural electric cooperatives account for approximately eleven percent of all electric energy sold in the United States. Because its members are customers of the cooperative, all the costs of the cooperative are directly borne by its consumer-members. For more information, contact Russell Wasson, Director of Tax, Finance and Accounting Policy, National Rural Electric Cooperative Association, russell.wasson@nreca.coop.