

114TH CONGRESS
1ST SESSION

S. 1111

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

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2015

Mr. DONNELLY (for himself and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Power Risk
5 Management Act of 2015”.

6 **SEC. 2. TRANSACTIONS WITH UTILITY SPECIAL ENTITIES.**

7 Section 1a(49) of the Commodity Exchange Act (7
8 U.S.C. 1a(49)) is amended by adding at the end the fol-
9 lowing:

1 “(E) CERTAIN TRANSACTIONS WITH A
2 UTILITY SPECIAL ENTITY.—

3 “(i) Transactions in utility operations-
4 related swaps shall be reported pursuant to
5 section 4r.

6 “(ii) In making a determination to ex-
7 empt pursuant to subparagraph (D), the
8 Commission shall treat a utility operations-
9 related swap entered into with a utility
10 special entity, as defined in section
11 4s(h)(2)(D), as if it were entered into with
12 an entity that is not a special entity, as de-
13 fined in section 4s(h)(2)(C).”.

14 **SEC. 3. UTILITY SPECIAL ENTITY DEFINED.**

15 Section 4s(h)(2) of the Commodity Exchange Act (7
16 U.S.C. 6s(h)(2)) is amended by adding at the end the fol-
17 lowing:

18 “(D) UTILITY SPECIAL ENTITY.—For pur-
19 poses of this Act, the term ‘utility special enti-
20 ty’ means a special entity, or any instrumen-
21 tality, department, or corporation of or estab-
22 lished by a State or political subdivision of a
23 State, that—

24 “(i) owns or operates, or anticipates
25 owning or operating, an electric or natural

1 gas facility or an electric or natural gas
2 operation;

3 “(ii) supplies, or anticipates sup-
4 plying, natural gas or electric energy to an-
5 other utility special entity;

6 “(iii) has, or anticipates having, pub-
7 lic service obligations under Federal, State,
8 or local law or regulation to deliver electric
9 energy or natural gas service to customers;
10 or

11 “(iv) is a Federal power marketing
12 agency, as defined in section 3 of the Fed-
13 eral Power Act.”.

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

15 (a) SWAP FURTHER DEFINED.—Section
16 1a(47)(A)(iii) of the Commodity Exchange Act (7 U.S.C.
17 1a(47)(A)(iii)) is amended—

18 (1) by striking “and” at the end of subclause
19 (XXI);

20 (2) by adding “and” at the end of subclause
21 (XXII); and

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

23 “(XXIII) a utility operations-re-
24 lated swap;”.

1 (b) UTILITY OPERATIONS-RELATED SWAP DE-
2 FINED.—Section 1a of such Act (7 U.S.C. 1a) is amended
3 by adding at the end the following:

4 “(52) UTILITY OPERATIONS-RELATED SWAP.—
5 The term ‘utility operations-related swap’ means a
6 swap that—

7 “(A) is entered into to hedge or mitigate a
8 commercial risk;

9 “(B) is not a contract, agreement, or
10 transaction based on, derived on, or ref-
11 erencing—

12 “(i) an interest rate, credit, equity, or
13 currency asset class;

14 “(ii) except as used as fuel for electric
15 energy generation, a metal, agricultural
16 commodity, or crude oil or gasoline com-
17 modity of any grade; or

18 “(iii) any other commodity or category
19 of commodities identified for this purpose
20 in a rule or order adopted by the Commis-
21 sion in consultation with the appropriate
22 Federal and State regulatory commissions;
23 and

24 “(C) is associated with—

1 “(i) the generation, production, pur-
2 chase, or sale of natural gas or electric en-
3 ergy, the supply of natural gas or electric
4 energy to a utility, or the delivery of nat-
5 ural gas or electric energy service to utility
6 customers;

7 “(ii) fuel supply for the facilities or
8 operations of a utility;

9 “(iii) compliance with an electric sys-
10 tem reliability obligation;

11 “(iv) compliance with an energy, en-
12 ergy efficiency, conservation, or renewable
13 energy or environmental statute, regula-
14 tion, or government order applicable to a
15 utility; or

16 “(v) any other electric energy or nat-
17 ural gas swap to which a utility is a
18 party.”.

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