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Congress of the United States
House of Representatives

Committee On Appropriations
Chairman, Agriculture Subcommittee
Defense Subcommittee
Labor HHS and Education Subcommittee

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August 9, 2012

Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St NW
Washington, D.C. 20581

Dear Chairman Gensler,

I am writing to voice my opposition to the \$25 million de minimis sub-threshold for energy producers and distributors that engage in energy swaps with counterparties classified as “special entities.” While I am aware that the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) created this classification of “special entity” to enforce certain business conduct standards, applying the sub-threshold to energy swaps with utilities designated “special entities” places them at a distinct disadvantage with their private sector utility counterparts.

According to the final rule, an energy producer or distributor must register as a “swap dealer” when it has over \$25 million in swaps with a utility “special entity.” However, the same counterparty would be allowed to engage in up to \$8 billion (the current general de minimis threshold amount) worth of swaps with a private sector energy company before registration is required – 320 times higher than the “special entity” sub-threshold. If the CFTC moves forward without providing relief from the \$25 million sub-threshold for utility “special entities,” it will create a disincentive for providers of electric and natural gas commodity swaps to engage with municipal utilities.

These actions will have negative repercussions for consumers’ energy bills and possibly price small and rural government-owned utilities out of the market. Therefore I urge you to promptly consider the Petition filed on July 12 with the CFTC by the American Public Power Association, Large Public Power Council, and American Public Gas Association, the Transmission Access Policy Study Group, and the Bonneville Power Administration and to consider appropriate relief from the \$25 million “special entities” sub-threshold.

The intent of Dodd-Frank was to reduce systemic risk, not to raise energy prices for those who can least afford it. I look forward to your response.

Sincerely,



Jack Kingston
Chairman

Subcommittee on Agriculture, Rural
Development, Food and Drug Administration,
and Related Agencies Appropriations

cc:

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