American Public Gas Association

December 10, 2009

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi:

On behalf of the American Public Gas Association (APGA), I express opposition to several amendments that may be offered to H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. Specifically, we oppose Chairman Frank's amendment #66 and Congressman Stupak's amendments #47 and #48.

APGA is the national association for publicly-owned natural gas distribution systems. There are approximately 1,000 public gas systems in 36 states and almost 720 of these systems are APGA members. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

APGA is strongly opposed to Chairman Frank's amendment #66. This amendment would allow the CFTC and/or SEC to impose margin requirements on the legitimate hedging transactions of end-users such as public gas systems. This in effect, would eliminate the end-user exemption from mandatory clearing that was appropriately included in the over-the-counter reform legislation approved by the House Agriculture and Financial Services Committees. Our members rely on the OTC derivatives markets to hedge the price on the gas they buy in the physical markets. Requiring the clearing of all standardized OTC derivatives transactions would significantly impair the financial ability of our members to engage in their gas supply strategies. This would effectively remove hedging as a tool for many public gas systems to manage price risk and expose them and their customers to increased gas market volatility.

Another result of mandatory clearing would be the de facto elimination of tax-exempt natural gas prepays. Prepays were endorsed by Congress as part of the Energy Policy Act of 2005 and have been a key tool that public gas and power systems have used to secure long-term, firm supplies for terms of up to 30 years. The hedging of natural gas supply purchases by public gas systems using non-cleared bi-lateral OTC derivatives does not present the systemic risks posed by some dealers of credit-default swaps, which is the impetus behind the proposed clearing mandate. The proposed mandate to clear all standardized OTC derivatives transactions would increase costs for public gas and power systems and their customers, by potentially eliminating hedging and prepays as tools for managing risk and reducing costs.

APGA also opposes Congressman Stupak's amendments #47 and #48. Amendment #47 would require that all non-cleared swaps be executed on a registered swap execution facility. The intent of this amendment is to increase transparency and APGA has been, and continues to be, a strong proponent of enhanced transparency. However, without having a firm understanding as to how the amendment would work, we are extremely concerned about the impact the amendment would have on the transactions public

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gas systems currently engage in as well as the impact it would have upon their costs. APGA believes that there can be enhanced reporting without forcing transactions to exchanges or swap execution facilities.

Our concern with Amendment #48 relates to the elimination of balance sheet risk in the definition of commercial risk. Specifically, we are concerned that public gas systems would not receive recognition for balance sheet risk mitigation and as a result some of our member's hedges, such as storage inventory hedges, would not then be recognized as bonafide hedges.

APGA maintains that it is critical that the legislation the House passes strike an appropriate balance that enacts major reforms that will protect our financial system while allowing end-users, such as public gas systems, to continue to use the over-the-counter markets to hedge risk on behalf of their consumers. We thank you in advance for your consideration of our views.

Sincerely,

Bert Kalisch
President and CEO