



Weekly Update – December 1, 2011

Senate Hearing on Dodd-Frank Dominated by Failure of MF Global

On Thursday, December 1, the Senate Agriculture Committee held a hearing to discuss the implementation of the Derivatives Title of the Dodd-Frank Wall Street Reform legislation featuring testimony from the Chairman of the Securities and Exchange Commission (SEC), Mary Schapiro and the Chairman of the Commodities Futures Trading Commission (CFTC), Gary Gensler.

However, the bankruptcy announcement of Wall Street firm, MF Global, on October 31 and the revelations of possible misuse of customer funds prior to its collapse dominated the hearing. Rather than focus on the status of critical regulations from Dodd-Frank at the SEC and CFTC, both chairmen were grilled about the particulars of MF Global's failure.

Of particular concern to Congressional members of both parties was the fact that customer funds, which are required to be largely segregated from firm's operating accounts, were used by MF Global to purchase the sovereign debt of several European countries that are now in financial crises. Once these transactions failed, a majority of customer funds were lost.

The question which vexed Committee Members is whether this use of customer funds was illegal. According to Chairman Schapiro and Chairman Gensler, under the original Commodity Exchange Act, such transactions were illegal. Although in the early 2000s, a rule change was made allowing firms to use customer funds to purchase sovereign debt for financial transactions so long as the transaction to purchase the debt was made in the currency of the country whose debt was being purchased.

No definitive answer could be given as to the legality of the actions of MF Global given the ongoing investigation into its demise. However, this point was and will be critical as Congress determines if a change in the law to potentially revert back to the previous outright ban on using customer funds by financial firms for any purpose should be made.

If APGA members have any questions, please contact Scott Morrison by phone at 202-464-2742 or by email at smorrison@apga.org.

National Fuel Gas Company Launches Pilot Program to Promote NGV Use

On Tuesday, November 29, BuffaloNews.com reported that the National Fuel Gas Company located in Buffalo has launched a pilot, two-track program to encourage natural gas vehicle (NGV) use and will continue to promote the construction of NGV refueling infrastructure.

The National Fuel Gas Company already has an established infrastructure development program that dates back to 2003. Under this old program, the company agreed to loan businesses with vehicle fleets sufficient capital to finance a portion of the construction costs for the infrastructure. The National Fuel Gas Company loaned \$650,000 to six customers under the program.

However, the new two-track program contains both an updated infrastructure program and an NGV purchasing program. The new infrastructure program allows fleet customers to receive upfront funding from the National Fuel Company ranging from \$10,000-\$200,000 for construction of new refueling infrastructure. In exchange, customers will agree to future natural gas purchases from the National Fuel Gas Company.

In similar fashion, the National Fuel Gas Company will provide upfront funding to assist businesses with the purchase of natural gas vehicles which can be more expensive than gasoline-powered vehicles (anywhere from an additional \$7,000-\$22,000 per vehicle depending on size). Customers can receive upfront funding for NGV purchases in exchange for fuel purchasing agreements.

The hope is that the combination of incentives for infrastructure and vehicle purchasing along with the low cost of natural gas as a fuel will overcome the Buffalo area's "chicken-and-egg problem" with respect to NGVs and infrastructure.

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FERC ISSUES FINAL RULE ON BIDDING BY AFFILIATES IN OPEN SEASONS

At its November 17 Open Meeting, the Federal Energy Regulatory Commission (FERC) issued Order 894 which addresses bidding by affiliates in open seasons for pipeline capacity. FERC adopted its notice of proposed rulemaking (NOPR) proposal, supported by APGA, to prohibit multiple affiliates of the same entity from bidding in an open season for pipeline capacity in which the pipeline may allocate capacity on a *pro rata* basis unless each affiliate has an independent business reason for submitting a bid. The rule is designed to ensure that an entity cannot use multiple affiliates to secure a larger allocation of capacity than it could secure on its own.

APGA filed comments on May 31 in response to this rule when it was originally proposed. In addition to expressing support for the rule, APGA's comments proposed that FERC revises its regulations "to require that, if affiliates of the same entity do participate in open seasons for pipeline capacity, each be required to identify itself as such in its bid and that any award of open season capacity likewise note that fact." This revision is proposed to address the fact that

corporate names can often times be deceiving in that affiliation between and among entities is often not self-evident from the name of the entity. FERC declined to adopt APGA's suggestion that when multiple affiliates participate in such an open season, they identify themselves so that all parties are on notice, observing that since each affiliate must have an independent business reason for submitting a bid, "consumers should be protected by the rule even if each affiliate is not labeled as such." FERC also declined to adopt that part of its NOPR restricting the ability of affiliates to release capacity to other affiliates, relying again on the "independent business reason" requirement as providing sufficient protection.

A copy of APGA's comments is available on the APGA website at www.apga.org. A copy of Order 894 may be viewed on the FERC website at www.ferc.gov. If you have any questions on APGA's comments and or this article, please contact Dave Schryver of APGA's staff by phone at 202-464-2742 or by email at dschryver@apga.org.

PHMSA Small Operators Guide Being Updated By the SIF

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has asked the APGA Security and Integrity Foundation (SIF) to review PHMSA's Guidance Manual for Operator of Small Natural Gas Systems and revise the document to reflect current industry practices, technology and regulations. The Small Operators' Guide is used by many small utilities and master meter system operators to understand how to operate a natural gas distribution piping system safely and in compliance with pipeline safety regulations. The Guide was last updated in 2002, and significant changes to regulations have taken place since then, including Distribution Integrity Management Programs rules. The current Guide can be downloaded at www.phmsa.dot.gov.

The SIF is currently assembling a review team comprised of industry operations and safety managers plus federal and state pipeline safety regulators. Anyone interested in volunteering to assist with this review and update should contact John Erickson. No travel will be required as it is expected that all the work can be accomplished via email and conference calls. The project is planned to be completed by September, 2012. For further information contact John Erickson of APGA at 202-464-2742, ext 1002 or jerickson@apga.org.

Editorial Committee Set to Meet Next Week

Every quarter the APGA editorial committee meets to discuss the content for the next issue of The SOURCE magazine. Next week the committee is set to discuss and choose the types of articles we will feature in the next issue which is set for spring 2012. Subscribers will receive this issue sometime in early March of 2012. As always, we focus each issue around a major theme and for spring 2012 our theme is *Securing the Future – Safety, Planning and Investment*. Within this issue, we plan to discuss the trends facing the natural gas industry such as job creation, safety standards, succession planning, NGV's and updates on new insurance offerings.

As our readers, the editorial committee looks to you to inform us about newest local trends and subject matters that matter most to your public gas utilities and communities. If you would like

to suggest an article topic or know a dynamic writer who writes about natural gas, please let us know. All suggestions are welcome and will be brought forth to the editorial committee when they meet next week.

Please send your ideas to Kristin Gomez at kgomez@apga.org.

EIA Reports Storage Decline of 1 Bcf to Put Working Gas Storage at 3,851 Bcf

Here is the weekly EIA Summary Report issued on Thursday, December 1, 2011, that reports last week's storage report highlights for Friday, November 25, 2011. A 1 Bcf decrease has been reported.

Summary:

Working gas in storage was 3,851 Bcf as of Friday, November 25, 2011, according to EIA estimates. This represents a net decline of 1 Bcf from the previous week. Stocks were 41 Bcf higher than last year at this time and 261 Bcf above the 5-year average of 3,590 Bcf. In the East Region, stocks were 73 Bcf above the 5-year average following net withdrawals of 17 Bcf. Stocks in the Producing Region were 159 Bcf above the 5-year average of 1,102 Bcf after a net injection of 14 Bcf. Stocks in the West Region were 29 Bcf above the 5-year average after a net addition of 2 Bcf. At 3,851 Bcf, total working gas is above the 5-year historical range.