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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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Power Risk Management Act of 2015''.

SEC. 2. TRANSACTIONS WITH UTILITY SPECIAL ENTITIES.

Section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) is amended by adding at the end the following:

"(E) CERTAIN TRANSACTIONS WITH A UTILITY SPECIAL ENTITY.—

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

"(ii) In making a determination to exempt pursuant to subparagraph (D), the Commission shall treat a utility operations-related swap entered into with a utility special entity, as defined in section 4s(h)(2)(D), as if it were entered into with an entity that is not a special entity, as defined in section 4s(h)(2)(C).".

SEC. 3. UTILITY SPECIAL ENTITY DEFINED.

Section 4s(h)(2) of the Commodity Exchange Act (7 U.S.C. 6s(h)(2)) is amended by adding at the end the following:

"(D) UTILITY SPECIAL ENTITY.—For purposes of this Act, the term 'utility special entity' means a special entity, or any instrumentality, department, or corporation of or established by a State or political subdivision of a State, that—

"(i) owns or operates, or anticipates owning or operating, an electric or natural

gas facility or an electric or natural gas operation;

"(ii) supplies, or anticipates supplying, natural gas or electric energy to another utility special entity;

"(iii) has, or anticipates having, public service obligations under Federal, State, or local law or regulation to deliver electric energy or natural gas service to customers; or

"(iv) is a Federal power marketing agency, as defined in section 3 of the Federal Power Act.".

SEC. 4. UTILITY OPERATIONS-RELATED SWAP.

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

(1) by striking "and" at the end of subclause (XXI);

(2) by adding "and" at the end of subclause (XXII); and

(3) by adding at the end the following:

"(XXIII) a utility operations-related swap;".

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

"(52) UTILITY OPERATIONS-RELATED SWAP.—The term 'utility operations-related swap' means a swap that—

"(A) is entered into to hedge or mitigate a commercial risk;

"(B) is not a contract, agreement, or transaction based on, derived on, or referencing—

"(i) an interest rate, credit, equity, or currency asset class;

"(ii) except as used as fuel for electric energy generation, a metal, agricultural commodity, or crude oil or gasoline commodity of any grade; or

"(iii) any other commodity or category of commodities identified for this purpose in a rule or order adopted by the Commission in consultation with the appropriate Federal and State regulatory commissions; and

"(C) is associated with—

"(i) the generation, production, purchase, or sale of natural gas or electric energy, the supply of natural gas or electric energy to a utility, or the delivery of natural gas or electric energy service to utility customers;

"(ii) fuel supply for the facilities or operations of a utility;

"(iii) compliance with an electric system reliability obligation;

"(iv) compliance with an energy, energy efficiency, conservation, or renewable energy or environmental statute, regulation, or government order applicable to a utility; or

"(v) any other electric energy or natural gas swap to which a utility is a party.".

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