

113TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

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 2013”.

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—

1 “(i) owns or operates an electric or
2 natural gas facility or an electric or nat-
3 ural gas operation;

4 “(ii) supplies natural gas and or elec-
5 tric energy to another utility special entity;

6 “(iii) has public service obligations
7 under Federal, State, or local law or regu-
8 lation to deliver electric energy or natural
9 gas service to customers; or

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

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

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

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

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

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

22 “(XXIII) a utility operations-re-
23 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; or

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

18 “(C) is associated with—

19 “(i) the generation, production, pur-
20 chase, or sale of natural gas or electric en-
21 ergy, the supply of natural gas or electric
22 energy to a utility, or the delivery of nat-
23 ural gas or electric energy service to utility
24 customers;

1 “(ii) all fuel supply for the facilities or
2 operations of a utility;

3 “(iii) compliance with an electric sys-
4 tem reliability obligation;

5 “(iv) compliance with an energy, en-
6 ergy efficiency, conservation, or renewable
7 energy or environmental statute, regula-
8 tion, or government order applicable to a
9 utility; or

10 “(v) any other electric energy or nat-
11 ural gas swap to which a utility is a
12 party.”.

13 **SEC. 5. EFFECTIVE DATE.**

14 The amendments made by this Act take effect as if
15 enacted on July 21, 2010.