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An Update on Financial Reform and EPA Greenhouse Gas Rules Affecting Gas Operations

2011 ANGA Spring Seminar

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American Public Gas Association



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APGA

- **The** national trade association for publically-owned natural gas utilities
- ~1000 community-owned gas systems
 - ▶ 36 states
 - ▶ >5M Customers
 - ▶ ~21,000 Employees
 - ▶ ~120,000 Miles of Main
- Meters: 12 to ~500,000
- Largest : Philadelphia, San Antonio, Indianapolis, Memphis, Omaha, Long Beach
- Smallest: Freedom, OK (12 meters)

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Priority #1

The Safe and Reliable Delivery
of Affordable Natural Gas at
Just & Reasonable Rates



APGA Today

Primary Committees:

- Government Relations
- Operations and Safety
- Marketing and Sales
- Gas Supply

Complementary Organizations

- APGA Insurance Group
- APGA Research Foundation
- APGA Security and Integrity Foundation



Financial Markets Reform

Goal: Restore public confidence in the pricing of natural gas

- APGA supported greater transparency in 2005
- Public gas systems use market instruments to manage price volatility
- Our transactions do not pose systemic risk
- APGA legislative goal was to ensure transparency without removing hedging tools





Overview of Dodd-Frank

- Dodd–Frank Wall Street Reform and Consumer Protection Act signed into law in July, 2010
- Dramatic Change to Financial Regulation
- Goals of the Act
 - Mitigate Systemic Risk
 - Transparency
 - Customer Protection



Dodd-Frank Act

- Goals mean new requirements
 - Mandatory Clearing
 - Mandatory Reporting
 - Registration of Dealers
 - New Duties to Customers

Law provides the framework, many of the details will be addressed by CFTC rulemakings



Dodd-Frank Act

- Who is affected by the Act?
 - Swap Dealers
 - Major Swap Dealers
 - End-users
 - Special Entities



Dodd-Frank Act

- A Swap Dealer is an entity that:
 - Routinely enters into swaps with counterparties as an ordinary course of business for its own account
 - Makes a market in swaps
 - A dealer or market maker in swaps

CFTC will make ultimate determination

Exclusions for insured depository institution, if hedging on own account and not as part of regular business

De minimis exception to be defined by CFTC





Dodd-Frank Act

- A Major Swap Participant is an entity that:
 - Is not a Swap Dealer;
 - Maintains a “substantial position” in swaps;
 - Positions create substantial counterparty exposure that may cause systemic risk
 - A highly leveraged financial entity
- CFTC will determine what a “substantial position” is



Dodd-Frank Act

- Requirements on Swap Dealers and Major Swap Participants:
 - Registration;
 - New rules related to fraud, manipulation and other market abuses;
 - Position limits; and
 - Principles in fair dealing and good faith



Dodd-Frank Act

- An End-User is:
 - A party that is not a financial entity
 - Using swaps to hedge or mitigate commercial risk
 - Must communicate to the CFTC how it meets its financial obligations for un-cleared transactions



Dodd-Frank Act

- A Special Entity is:
 - A governmental entity including public gas and power systems
 - A Pension Plan
 - An Endowment
- The Act places a higher standard of care on swap dealers and MSP's when dealing with special entities



Dodd-Frank Act

- Requirements when dealing with Special Entities
- When acting as advisor must:
 - Act in the best interest of the Special Entity
 - Reasonable efforts to obtain the information needed to make a recommendation

When acting as a counterparty must:

Have a reasonable basis to believe that the Special Entity has an independent representative to review and approve transaction



Dodd-Frank Act

What is a swap?

- A transaction, agreement or contract that is a put, call, cap, floor, collar or similar option for the purchase or sale or an interest rate, commodity, currencies, security, etc
- Proposed to include options on physical commodities



Dodd-Frank Act

- A swap does not include:
 - Contract sales for future delivery
 - Sales of nonfinancial commodities for deferred shipment if intended to be physically settled



Dodd-Frank Act

- The Act places new requirements on swaps
- Mandatory clearing of swaps
- Swaps will have to go through a Derivatives Clearing organization, collateral and margin must be posted
- APGA worked with others towards successfully getting an exception for end-users from mandatory clearing



Dodd-Frank Act

- Act required 193 Rulemakings
- The vast majority of these must be in place by July 16th, 2011
- CFTC has held 12 Open Meetings on Proposed Rules
- APGA responding to rulemakings that have biggest impact on public gas systems



Dodd-Frank Act

- Key Rulemakings:
 - Standards of Conduct
 - End-User Exception
 - Definition of Eligible Contract Participant
 - Registration of Municipal Advisors
 - Position Limits
 - Capital and Margin Requirements
 - Agricultural Commodity Definition



Dodd-Frank Act

- Next Steps
 - Funding
 - Legislation introduced to delay implementation of the Act
 - Regulations go into effect in July

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Environmental Protection Agency

2001-2008



2008-Now





Global Warming Rules

- EPA has taken 3 actions that could significantly affect utility operations
 - Final rule on reporting greenhouse gases (GHG)
 - Proposed rule on reporting fugitive emissions of methane from utility operations
 - Final rule “tailoring” the Clean air Act to make sense when GHG’s are concerned



Reporting CO2

- EPA requires utilities to report on behalf of their customers
- Other industries get 25,000 metric ton threshold (~460 MMcf/yr) – not LDCs
- APGA sued EPA over exemption
- APGA and DOJ signed a settlement applying threshold to utilities
- 8/11/10 EPA proposed a rule setting the LDC threshold at 460 Million cf/yr



Reporting CO2

- For those utilities delivering $> \sim 460$ MMcf/yr:
 - By March, 2010, prepare written GHG Monitoring Plan (APGA has a model plan)
 - By January 31, 2011, submit a Certificate of Representation
 - Original deadline March 31st, new deadline to be set for this summer



Reporting CO2

- Gas received at city gate station(s)
- Gas placed into on-system storage
- Gas withdrawn from on-system storage
- Gas from vaporized LNG
- Gas from local production
- Gas delivered to other LDCs or pipes
- Gas delivered to customers > 460MMcf/y
- Gas delivered to residential, commercial, industrial and electric generation



Reporting Fugitive Methane

- Utilities must report fugitive emissions of methane
- Proposed rule would allow estimation rather than direct measurement
- 25,000 mt threshold is applied to LDCs, exempts most public gas systems
- Leak factors are bizarre:

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TABLE W -7 OF SUBPART W -DEFAULT METHANE EMISSION FACTORS FOR DISTRIBUTION Distribution	Emission Factor (scf/hour/component)
Leaker Emission Factors - Above Grade M&R Stations Components, Gas Service	
Connector	1.69
Block Valve	0.557
Control Valve	9.34
Pressure Relief Valve	0.270
Orifice Meter	0.212
Regulator	0.772
Open-ended Line	26.131
Population Emission Factors - Below Grade M&R Stations Components, Gas Service ¹	
Below Grade M&R Station, Inlet Pressure > 300 psig	1.30
Below Grade M&R Station, Inlet Pressure 100 to 300 psig	0.20
Below Grade M&R Station, Inlet Pressure < 100 psig	0.10
Population Emission Factors - Distribution Mains, Gas Service ²	
Unprotected Steel	12.58
Protected Steel	0.35
Plastic	1.13
Cast Iron	27.25
Population Emission Factors - Distribution Services, Gas Service ²	
Unprotected Steel	0.19
Protected Steel	0.02
Plastic	0.001
Copper	0.03
¹ Emission Factor is in units of "scf/hour/station"	
² Emission Factor is in units of "scf/hour/service"	





Tailoring Rule

- EPA is regulating GHG under the CAA, but
- EPA says applying the CAA as written results in “absurd” results
- CAA says major source is “potential” to emit > 250 tons per year
- EPA changed to 100,000 tpy
- Expect many legal challenges
- The good news: 100,000 tpy exempts most LDCs and LDC customers



Other Issues

- Pipeline Safety
- Natural Gas Vehicles
- Energy Bill/Section 5 Reform
- LIHEAP Funding
- Natural Gas Supply

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Questions?
www.apga.org



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