



June 21, 2013

The Honorable Doug LaMalfa  
506 Cannon House Office Building  
Washington, DC 20510

Dear Congressman LaMalfa:

On behalf of the Business Council for Sustainable Energy (BCSE), I am writing to thank you for introducing H.R. 1038, the Public Power Risk Management Act of 2013, and congratulate you on successfully shepherding the legislation through the House of Representatives, on a vote of 423-0.

The Business Council for Sustainable Energy is a coalition of companies and trade associations from the energy efficiency, natural gas and renewable energy sectors, and also includes independent electric power producers, investor-owned utilities, publicly-owned utilities, and commercial end-users. Founded in 1992, the Council advocates for policies that expand the use of commercially available clean energy technologies, products and services. The coalition's diverse business membership is united around the revitalization of the economy and the creation of a secure and reliable energy future for America. A document with information about BCSE is attached for your reference.

Earlier this year, BCSE and Bloomberg New Energy Finance (BNEF), a leading market research firm, released the *Sustainable Energy in America Factbook 2013*. The report is quantitative and objective and fills important gaps in existing data about clean energy in the United States, which is radically different from a generation ago. The *Factbook* provides up-to-date, accurate market intelligence about the broad range of industries — energy efficiency, renewable energy and natural gas — that are contributing to the country's shift towards cleaner energy production and more efficient energy usage. According to the *BCSE-BNEF Sustainable Energy in America Factbook 2013*, natural gas provided 31% of U.S. electricity in 2012, up from just 22% in 2007 and in April 2012 electricity generation from natural gas equaled that from coal for the first time in U.S. history; natural gas and renewables combined now account for 57% of electric capacity in the United States. Information about the *Factbook* is attached for your reference. For a complete copy of the *Factbook*, please visit our website at [www.bcse.org/sustainableenergyfactbook](http://www.bcse.org/sustainableenergyfactbook).

These trends highlight the importance of ensuring that natural gas markets are able to function efficiently and that utilities are able to hedge their risk to protect against price volatility in the natural gas and energy markets. During consideration of the Dodd-Frank Act, many members of Congress expressed their intention not to harm electric utilities and other “end users” who enter into swaps to hedge against these kinds of commercial risks. Last spring, however, the U.S. Commodity Futures Trading Commission (CFTC) finalized rules that put tight restrictions on swap transactions with special entities, including municipal utilities. These rules were designed to protect local governments from risky transactions. However, they inadvertently created a significant regulatory burden for our hedging partners that transact with municipal utilities seeking to engage in essential and non-speculative commercial transactions to mitigate risk. The net effect has been to drastically reduce the number of counterparties available to public power systems—a restriction that does not exist under the CFTC rules for any other sector of the electricity industry.

Enactment of H.R.1038 will clarify congressional intent under the Dodd-Frank Act by removing public power hedging contracts from the CFTC's “sub-threshold” and would provide parity in the treatment of utility risk management contracts. The bill will remove unnecessary regulatory barriers to transacting with municipal utilities and prevent the consolidation of risk in large banks. BCSE supports the narrow construction of the legislation, which leaves regulatory safeguards and requirements intact while resolving this unintended consequence.

The Council urges Congress to support this bipartisan, common sense piece of legislation and we look forward to working with you towards its swift enactment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa Jacobson". The signature is written in dark ink on a light background.

Lisa Jacobson  
President  
Attachments (3)