

SEC Field Hearing on the State of the Municipal Securities Market
Jefferson County, Alabama
July 29, 2011

Opening Remarks provided by Paul E. McElroy

Good afternoon; I'd like to start by expressing my gratitude to the SEC officials for organizing these hearings. I appreciate this opportunity to answer your questions and share our thoughts on how proposed derivatives policies and rules may affect our operations and cost structures.

My name is Paul McElroy and I am currently the Chief Financial Officer for JEA. Prior to joining JEA, I accumulated over twenty years of financial experience in a number of commercial, as well as consumer businesses.

JEA is a municipal utility operating in Jacksonville, Florida and parts of three adjacent counties, serving over 400,000 customers. Our product portfolio includes electric, water, wastewater and district energy services. Today, we are the largest community-owned utility in Florida and the eighth largest in the country, with total assets of \$8.6 billion and municipal debt of \$6 billion.

JEA is a member of the Large Public Power Council (LPPC), an organization comprised of the 24 largest Public Power entities in the country. It is also a member of the American Public Power Association (APPA), an organization comprised of approximately 2,000 public power utilities, which are predominantly municipal electric systems. LPPC and APPA, as part of the "Not-for-Profit Electric End User Coalition" have been very active in the rulemaking processes for the implementation of the Dodd-Frank financial reform legislation, particularly in regard to the derivatives section of the Act. We have filed, primarily with the CFTC, hundreds of pages of comments and have met with CFTC staff and commissioners. LPPC and APPA have also provided written comments to the SEC regarding the new process for registering municipal advisors and the rule changes to improve disclosure. It is important to note that public power utilities are owned by their communities and have clear missions to provide safe, reliable and low cost utility services. We are not-for-profit, non-financial businesses; yet many of us utilize financial instruments to hedge commercial risk. Done properly, with appropriate regulatory oversight, as well as rigorous internal policies, including clearly stated goals and objectives, efficiently hedging commercial risk leads to stable pricing for our customers.

Our primary point-of-concern in the context of today's hearing is the possible adverse outcome arising from proposed regulations regarding business conduct rules on swap dealers, particularly the additional restrictions related to swaps with "special entities." The business conduct requirements for public power and other special entities contain two key provisions: (a) an "advisor" to a special entity must act in the "best interests" of the special entity, and (b) a swap dealer must determine that the special entity has a qualified "independent swap advisor."

Although the SEC is not responsible for regulating the interest rate and commodity swaps that we use, we believe that it is important that the SEC and CFTC coordinate their efforts related to the business conduct rules. The SEC's proposed business conduct rules regarding requirements for advisors are a marked improvement over previous regulatory proposals. Specifically, the change to an overall facts and circumstances-based approach that permits a swap dealer and special entity to acknowledge that the dealer is not acting as an advisor, better balances regulatory objectives and possible unintended market impacts. Since every swap with a special

entity must involve an independent advisor, and since the “disclaimers” of advisor status by the dealer and special entity are already typically included in standard swap agreements, this approach appears to be workable and would represent a significant improvement.

The SEC’s proposed business conduct rules regarding the determination that the special entity has a qualified “independent swap advisor” are also an improvement, again striking a better balance between regulatory objectives and possible unintended market impacts. Permitting the dealer counterparty to rely on representations to determine if a special entity has a qualified “independent swap advisor” draws upon reasonable and customary, commercial terms and standards, commonly employed in our market. We also agree with the SEC’s determination that an employee of a special entity qualifies as “independent” for these purposes.

We note that certain of the specific requests for comments included by the SEC in its proposed business conduct rules suggest the possibility that the SEC might back away from these aspects of the business conduct rules. We urge the SEC not to do so and we will be submitting written comments to that effect.

We encourage the Commission to continue on the path of merging regulatory objectives with reasonable and customary commercial terms and standards which have been time tested and successfully employed in our market.

Thank you, I look forward to your questions.

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