**Commodity Futures Trading Commission**
**Office of Public Affairs**
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# Q & A – Proposed Relief for Certain Non-Financial Energy Transactions between Government and Cooperatively-Owned Electric Utilities

## Under what authority is the proposed relief being provided?

The Dodd-Frank Act added new section 4(c)(6)(C) to the Commodity Exchange Act (CEA), which directs the Commission to exempt any transactions entered into between entities described by Federal Power Act (FPA) section 201(f) where the Commission finds that such an exemption would be consistent with the public interest and purposes of the CEA. FPA section 201(f) exempts certain government and cooperatively-owned electric utilities from the plenary jurisdiction of the Federal Energy Regulatory Commission (FERC).

## What is the purpose of the proposed relief?

The proposed relief is in response to a petition from several trade organizations on behalf of their electric utility members, most of which are described by FPA section 201(f). The proposed relief will provide not-for-profit government and cooperatively-owned electric utilities with regulatory certainty to continue entering into certain non-financial energy transactions with one another in order to fulfill their unique public service mission to provide customers with reliable, affordable electric energy.

## Who is eligible for the proposed relief?

Any entity described by FPA section 201(f) is eligible for the relief, which includes government-owned electric utilities and electric cooperatives that receive financing from the Rural Utilities Service or that sell less than 4,000,000 megawatt hours of electric energy per year. Additionally, the proposed relief applies to electric facilities owned by Federally-recognized Indian tribes, which are treated as FPA section 201(f) entities by the FERC, and the small number of not-for-profit electric cooperatives that do not qualify under the FPA section 201(f) criteria in a given year (either because they sell too much electricity, do not receive federal financing, or both).

## Which types of transactions are eligible for the proposed relief?

In order for a transaction to qualify for the proposed relief, it must be intended for making or taking physical delivery of the underlying commodity upon which the transaction is based. In addition, the exempted transactions must be used to facilitate existing or anticipated contractual obligations to facilitate the generation, transmission, and/or delivery of electric energy, which may be affected by unpredictable fluctuations in customer demand due to weather and other macro-economic factors. The proposed relief is limited to only those categories of exempted transactions specifically enumerated and described in the proposed relief—electric energy delivered, generation capacity, transmission services, fuel delivered, cross-commodity pricing, and other goods and services.