Gas Authority

January 16, 2024

The Honorable Michael S. Barr
Vice Chairman for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20499

Mr. Michael J. Hsu
Acting Comptroller of the Currency
The Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219
Submitted via www.regulations.gov

> Re: Comment Letter on Proposed Rules: "Large Banking Organizations and Banking Organizations with Significant Trading Activity" (OCC Docket Number OCC-2023-0008 (RIN 1557-1557-AE78); Board Docket No. R-1813 (RIN 7100-AG64); FDIC RIN 3064-AF29); and "Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; System Risk Report (FR Y-15)" (Board Docket No. R-1814 (RIN 7100-AG65))

Dear Vice Chair Barr, Chairman Gruenberg, and Acting Comptroller Hsu:

On September 18, 2023, the Board of Governors of the Federal Reserve System (the "Board"), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the "agencies") published in the Federal Register proposals that would substantially revise the capital requirements applicable to large banking organizations and to banking organizations with significant trading activity.

The Municipal Gas Authority of Georgia (the "Gas Authority"), representing over 7.3 million customers[1], supports a stable banking system in the US, but is concerned that the consequence of these regulations, although unintended, is to place potentially overwhelming costs and risks directly on ultimate consumers, that is, in the case of municipally owned gas and electric utilities, the residential and commercial customers who are least able to bear them. For customers of those public energy systems, the regulations as drafted would directly increase costs, making normal end use hedging to protect these customers unaffordable, thereby subjecting these customers to more, not less, risk.

The Gas Authority was formed by the Georgia Legislature in 1987 as a public body corporate and politic, a public corporation, and an instrumentality of the State of Georgia to provide adequate, dependable, and economical natural gas supplies to its municipal utility members and customers ("Muni Utilities"). Individual municipal gas utilities historically were supply, transportation, and load management customers of their respective interstate pipelines. However, when the pipelines' services were unbundled in a series of regulatory changes, municipal gas utilities were required to purchase natural gas supply and schedule gas transportation on their own, managing large load swings in a highly complex and volatile market. They had limited bargaining power given their relatively small size, and it was prohibitively expensive to hire staff or outside consulting engineers with sufficient expertise to manage their supply, transportation, load, hedging, and storage.

Through the formation of the Gas Authority, the municipal gas utilities were able to enter into full requirements Gas Supply Contracts that provided for the efficient delivery of adequate, dependable, and economical natural gas supplies, together with rate analysis, industrial customer development, and system maintenance and safety support. Over the last decade, municipally owned power systems have also become large purchasers of affordable natural gas for electric generation, to manage their ultimate costs while transitioning away from coal-fired generation in support of a cleaner environment. The joint action of all of the municipal customers gives the Gas Authority the economies of scale necessary to provide an expert staff, to aggregate throughput, and to blend the customers' load profiles sufficiently to manage a portfolio of supplies on a reliable, economical, and efficient basis.

Natural gas is a core human need served through direct gas use or as fuel for electric generation to almost all people, and Muni Utilities fill a special niche in this market. Small, rural cities have historically been under-served by investor-owned utilities ("IOUs"), as there is not sufficient customer density to yield the profits that would motivate IOUs to invest in natural gas or electric distribution systems. Muni Utilities have brought core human need retail electric and gas service into areas that would not otherwise have been served. The Muni Utilities built their own gas or power distribution systems — typically financed from the proceeds of general obligation bonds issued by or on behalf of the municipal utilities — giving the governmental market participants a very different set of pricing motivations than banks, gas marketers, credit and liquidity providers, IOUs, and other for-profit, private sector hedge counterparties.

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[1] The Gas Authority's customer base is composed of approximately 7.3 million mostly residential households and small commercial customers, including the residential and commercial customers of public power providers using natural gas to generate the electric power they provide.

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As part of normal operations, Muni Utilities routinely enter into commodity derivative contracts, whether futures contracts or swaps, to reduce gas cost risk to their residential and commercial customers. They use the existing, well-functioning derivatives markets to hedge natural gas commodity costs, both to help minimize their retail customers' exposure to market volatility in natural gas prices and to keep their energy bills as low and stable as possible. The purpose of this gas cost hedging is always to protect their ultimate customers, and not to speculate. Similarly, Muni Utilities cannot share the burden of increased costs with partners and shareholders. Instead, Muni Utilities serve their communities on a nonprofit basis, reducing bills through energy savings and passing through all energy costs, returning any excess over those carefully managed costs to the citizens and ratepayers in the form of economical and reliable energy supply and other public benefits. The Gas Authority, on behalf of its Muni Utilities, is already in essence and effect the end user that the proposed rulemakings are designed to protect, and the increased margin and risk capital requirements will have a material adverse impact on the ultimate consumers of Muni Utilities.

Additionally, based on the strength of the essential service provided by the Gas Authority and the nature of the revenue pledges and other payment mechanisms of its Muni Utilities, the Gas Authority is highly rated, as well as motivated specifically, integrally, and statutorily, to manage risks on behalf of its customer Muni Utilities' end users. Many of the Gas Authority's Muni Utilities are also highly rated, and municipal utilities as an industry group have a much lower default rate than corporate exposures. In fact, Moody's Investors Service recently compared cumulative default rates over the period 1970-2022 of municipal investment grade debt versus global corporates. The comparison shows an average default rate over 10 years of only 0.09% for investment-grade municipals as compared to a 2.23% default rate for investment-grade global corporates.

While the Basel III Endgame Proposal provides for a preferential 65% risk weight for investment grade corporate exposures based on a large banking organization's internal assessment of creditworthiness, it only allows the preferential risk weight to be applied if the counterparty or its parent has outstanding shares that are publicly traded on a national securities exchange or foreign equivalent. The Gas Authority and other municipally owned utilities, although highly rated and a significant presence in the market delivering essential, reliable utility services at the lowest possible costs to communities across the country, including otherwise under-served markets, cannot qualify for this narrowly drawn exception because they are passing on all savings to ultimate consumers and not reserving them as profits for shareholders in a publicly traded for profit structure. This condition on its own imposes costs directly on the ultimate consumers of Muni Utilities, potentially making risk management itself unaffordable, which introduces potentially catastrophic price risk to ultimate consumers.

We believe that the proposed regulations were intended to stabilize capital and protect participants in the derivatives markets. However, we are concerned that the proposed rules will instead require Muni Utilities to pass on increased costs to their customers in the form of higher utility bills and make hedging unaffordable, thereby exposing these same Muni Utilities and their customers to catastrophic risk. We are also concerned that additional burdensome regulations will cause large financial institutions to exit or limit their participation in the derivatives markets as they become less competitive than other possibly less creditworthy counterparties. This ultimate unintended outcome will reduce market liquidity and efficiency and thereby increase, rather than decrease, overall market risk. These regulations, if finalized without amendments, will burden consumers with higher utility bills due to costs of upstream regulatory compliance obligations and make their energy costs less stable, instead of managing both cost and risk.

Finally, we are a proud member of the American Public Gas Association (APGA), which also submitted comments on this proposal. APGA also signed onto two other comment letters: one from a coalition of energy traders, which highlights the negative impacts these rulemakings will likely have on the energy industry[2] and one from the Coalition for Derivatives End-Users[3], which looks at the broader commercial and consumer impacts these rules will have, if finalized.

Thank you for your consideration of our comments.

Sincerely,

Chief Financial Officer
Municipal Gas Authority of Georgia

[2] Comment letter from Energy Trading Institute, Electric Power Supply Association, et al. (Dec. 11, 2023).
[3] Comment letter from Coalition for Derivatives End-Users (Jan. 16, 2023).

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