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The Honorable Jay Clayton
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: SEC Proposed Amendments to Municipal Securities Disclosure
File No. S7-01-17

May 15, 2017
Dear Chairman Clayton:

WPPI Energy appreciates the opportunity to comment on the proposal by the Securities and Exchange Commission (“SEC”) to amend Exchange Act Rule 15c2-12 (“Rule 15c2-12”). WPPI Energy is a regional power company serving 51 locally owned, not-for-profit electric utilities. Through WPPI Energy, these public power utilities share resources and own generation facilities to provide reliable, affordable electricity to more than 200,000 homes and businesses in Wisconsin, Upper Michigan and Iowa. WPPI Energy finances electric system investments by issuing municipal securities, and, therefore, is concerned about the effect of this proposed rule.

WPPI Energy recognizes the importance of information disclosure to holders of municipal securities and supports the SEC’s recent initiatives to ensure that material information is available to them. However, the SEC should be aware of the considerable amount of time and costs associated with adopting the multiple changes to Rule 15c2-12 as proposed. These changes would be burdensome, add complication for investors and the general public, and ultimately increase costs (with little to no additional benefit) to utility customers and investors.

As political subdivisions of state and local government entities, public power utilities already disclose all of the information proposed in this amendment to Rule 15c2-12 in annual disclosure filings and comprehensive annual financial reports (CAFRs). If the goal of this amendment is to provide quality information to investors (as opposed to sheer volume of information), then we believe the focus should be on improving investor access to information through improvements to the Municipal Security Rulemaking Board’s Electronic Municipal Market Access (“EMMA”) and through existing resources on an issuer’s publicly available web site.

Proposed Rule

The proposed rule requires a municipal issuer, or other “obligated person,” to disclose information within ten days of the “[i]ncurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material.” The proposal broadly defines “financial obligation” to mean “a (i) debt obligation, (ii) lease, (iii) guarantee, (iv) derivative instrument, or (v) monetary obligation resulting from a judicial, administrative, or arbitration proceeding.”

Additionally, the proposal requires such disclosure of a “[d]efault, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.”

The required quick determination of “materiality” coupled with the vast definition proposed for “financial obligation;” uncertainty about the defined scope of “leases,” “guarantees,” and “derivative instruments;” and the lack of a definition for “financial difficulties” would impose significant burdens and costs on WPPI Energy.

Incurrence of a “Financial Obligation”

Establishing materiality is important to ensure that relevant information is passed along to investors. That decision is best made by an issuer on a case by case basis, along with advice of counsel. While the proposed wording includes an “if material” qualification, the rule does not establish key parameters – in rulemaking or guidance – for helping issuers determining materiality. The issue of materiality for issuers in this regard will also be further complicated by needing to consider issues of impact to a single security or aggregate securities and the nature of counter-party risk related to derivative debt instruments or multi-agency agreements.

Likewise, we believe that the expansive list of “financial obligations” as proposed would require reporting of information that is both superfluous to investors and costly for issuers to adopt. “Leases” for example, are transactions that take place many times per year in many public power utilities and are commonly related to the ongoing operations of a utility. Likewise, it remains unclear whether the language refers to capital or operating leases (or both). Similarly, the term “guarantees” needs to be better defined. The concept of derivatives as obligations also needs clarification. Of particular note, in the normal course of operations, public power utilities enter physical commodity derivatives and we would strongly oppose the inclusion of these lengthy contracts as a material event. If an issuer determines their derivative contracts are material to investors, then only specific information of interest to investors – and not all aspects of these voluminous contracts – should be disclosed.

Suggested Revisions

We strongly suggest that the SEC consider modifying its proposed rule change in at least the following ways:

1. Provide meaningful guidance for issuers and their officials to determine materiality for the obligations addressed in this proposal;
2. Define the term *financial difficulties*;
3. Better and more precisely define key terms used in the definition of “financial obligation,” including *lease*, *guarantee*, and *derivative instruments*, to avoid superfluous and costly reporting; and
4. Allow issuers to report information specifically material to investors and not all aspects of voluminous contracts.

Conclusion

Again, while WPPI Energy supports activities to ensure that investors have appropriate information about municipal securities, we believe that the SEC should provide meaningful guidance for issuers and their officials to determine materiality for the obligations addressed in this proposal and carefully – and narrowly – define the terms included in financial obligation, especially including guarantees, leases and derivatives.

In finalizing these rules, WPPI Energy strongly suggests that the SEC weigh the cost of compliance to the issuer – costs ultimately borne by residents of the issuing state or local jurisdiction – with the benefit to the investor.

Sincerely,



Marty Dreischmeier
Chief Financial Officer