



P.O. Box 1960 • Edmond, Oklahoma 73083-1960
2701 West I-35 Frontage Road • Edmond, Oklahoma 73013
Telephone # (405) 359-2500 • Fax # (405) 359-1071 • www.ompa.com
“Building a brighter future”

RE: SEC REGISTRATION OF MUNICIPAL ADVISORS

ACTION: PROPOSED RULE

OKLAHOMA MUNICIPAL POWER AUTHORITY

a Joint Action Agency of the State of Oklahoma

Overview:

Oklahoma Municipal Power Authority was established by the Oklahoma Legislature in 1981 as a body politic and corporate for the purpose of providing adequate, reliable and economic sources of electric power and energy to Oklahoma municipalities and public trusts operating municipal electric systems. In addition to other powers, the Authority is established with the power, to (1) acquire, construct and operate generation and transmission facilities, (2) purchase, sell, exchange and transmit electric energy within and without the State of Oklahoma and (3) issue its obligations, including the Bonds, to carry out any of its corporate purposes and powers.

As an integral part of its efforts to control costs and to reduce volatility in rates, the Authority is authorized to enter into natural gas hedges. These transactions are to hedge our commercial risk associated with our business. As a not-for-profit provider the Authority uses this activity solely as a risk management tool to limit the cost of energy to the ultimate consumer.

Governance:

Each municipality and/or public trust which has declared its intention to participate with the Authority in the development of power supply resources has a representative on the Election Committee of the Authority. This committee meets at least once a year to elect directors for the Authority’s Board of Directors and conducts certain other affairs of the Authority. As of the date hereof, 42 municipalities and/or public trusts have representatives on the Election Committee. These electors are chosen by the elected governing body of the participating municipality.

The Authority is governed by an 11-member Board of Directors elected by the Election Committee. The bylaws of the Authority provide that the largest five Participating Trusts (based on the dollar amount of power purchases by eligible public agencies from the Authority during the next preceding fiscal year of the Authority) should have a seat on the Board of Directors. Under the Act and the bylaws of the Authority, the terms of directors are three (3) years and staggered, with approximately one-third of the Board elected each year. Directors must be residents of Oklahoma, and a representative on the Election Committee from an Eligible Public Agency with a long-term power sales contract having purchased power from the Authority for at least three years. Officers of the Authority include a Chairman, Vice Chairman, Treasurer, Secretary and one or more assistant secretaries and treasurers. Under the Act and the bylaws, the Board is broadly empowered to conduct the affairs of the Authority and to enter into agreements, contracts and obligations on behalf of the Authority.

Accountability:

The election of Directors according to currently adopted by-laws ensures that our Board of Directors (BOD) is accountable to the constituents (citizens) we serve in the following ways:

1. Rates – The rates that our constituents (citizens) are charged, are approved by our BOD which represents the constituents. These rates are paid by the Member Cities the BOD members who set these rates represent.
2. Supply – First and foremost, OMPA’s goal is to supply consistent power to our constituents at a reasonable price. Revenue paid by the Board member’s cities to OMPA pays for the power supply.
3. Board members stand for reelection every three years at the annual meeting of the Election Committee (electors).

The Dodd-Frank Act has amended the Securities Exchange Act by making it unlawful for a municipal advisor to provide advice to a municipal entity with respect to financial matters unless such advisor is registered with the Securities and Exchange Commission (SEC). An employee of a municipal entity is exempt from this requirement. The proposed rule goes on to further define who is a municipal employee by including “elected” governing bodies and excluding “appointed” governing bodies.

As you can see from the above information, it can become unclear as to whether some governing bodies are appointed or elected. However, it is not unclear that they are accountable to the municipal entity for which they represent. As example, with the Authority, its Board of Directors consists of representatives who are Mayors, City Council members, City Managers, and City Clerks. While these individuals may have been “appointed” as Electors by their municipalities (and later elected by the Authorities membership) they are truly accountable to the citizens they represent.

The Oklahoma Municipal Power Authority feels very strongly that, for municipal entities, elected and appointed boards are accountable to the constituents of their municipalities and that the SEC should include appointed boards in the definition of municipal employee.