00-23

34

RECEIVED
C.F.T.C.

'00 AUG 22 AM 8 10

OFFICE OF THE SECRETARIAT

Oxy Energy Services, Inc.
5 Greenway Plaza, Suite 2400
P.O. Box 27570, Houston, TX 77227-7570

COMMENT

'00 AUG 23 AM 7 44
RECEIVED C.F.T.C.
RECORDS SECTION

RECEIVED
C.F.T.C.

August 21, 2000

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Attention: Office of the Secretariat

Re: ***Regulatory Reinvention; Exemption for Bilateral Contracts; and Clearing Organization Reinvention***

Ladies and Gentlemen:

Oxy Energy Services, Inc. ("OXY"), is pleased to submit these comments in response to the Commodity Futures Trading Commission's rulemaking proposals. (OXY is part of an informal association of large energy companies and financial institutions that anticipates formal incorporation during September 2000.)

OXY, as part of this group, anticipates creating an Internet-based business-to-business electronic platform for the trading of oil, gas, electricity and other energy-related products. Although OXY anticipates that the bulk of the trading on the platform will involve contracts for physical delivery of commodities, the platform will also include trading in energy-related risk management products, such as energy price swaps. In effect OXY proposes to offer a platform for Internet-based trading that will perform more efficiently the functions that are currently being performed by participants in over-the-counter markets. These market participants are large companies that engage in trading of physical commodities and risk management products for business purposes by use of the telephone, fax and other mechanisms that are less efficient than the Internet.

OXY urges that the proposed Exemption for Bilateral Transactions be modified to allow transactions meeting the following criteria to qualify for the exemption, regardless of the procedural steps that are taken by the parties in entering into the transactions:

- the transaction is entered into on a transaction execution facility whose participants consist solely of commercial entities and financial intermediaries;
- the commercial entities use the facility solely to purchase or sell products or services in connection with their businesses, or to obtain risk management services for purposes related to their businesses.

OXY has no objection to the adoption of a requirement that any clearinghouse that provides a financial clearing function for such a facility must be a recognized clearing organization, a bank or bank subsidiary or other such entity that conforms to Commission rules.

OXY also urges that the definition of a "clearing organization" in Section 39.1(a)(1) of the proposed rules be modified so that organizations that handle scheduling and netting of physical delivery obligations or computation and netting of payment obligations are not required to be regulated as recognized clearing organizations. The proposed rules purport to be based on Commission concerns about concentration of financial and credit risk, and the performance of the physical clearing and bookkeeping functions raise no such concerns. Indeed, the clearing organization definition is so broad that if it is adopted in its current form it may create enormous confusion (for example, is the operator of a major oil or gas pipeline delivery point operating a facility for the netting of obligations and payments?). The rule as proposed prohibits "clearing" of transactions under Part 35 by an entity that is not a recognized clearing organization, a bank, a foreign clearing organization or other listed organization. Yet the Part 35 exemption is broad enough to cover any contract, whether or not it is within the CFTC's jurisdiction. At a minimum, the clearing organization definition should be confined to parties that perform financial clearing functions involving credit risk.

The proposed rules are in part a response to the President's Working Group on Financial Markets' report focusing on promoting innovation, competition, efficiency and transparency in OTC derivatives markets and in reducing systemic risk (the "PWG Report"). Yet the rules, as proposed, are in some respects a barrier to the use of the Internet, which itself promises to promote efficiency, transparency and competition. Thus, in order to avoid CFTC regulation many over-the-counter participants will avoid using the Internet, or go off-line to complete trades, in each case in a manner that promises to be less efficient and less certain than Internet-based trading. The Internet should be viewed as a tool that can be used to create efficiencies in the over-the-counter markets, not an evil that should be regulated. Over-the-counter business-to-business markets do not need to be regulated because participation is limited to sophisticated, commercial parties, and regulation of the financial clearing function should be sufficient to guard against systemic risk.

If the Commission is reluctant to adopt our suggestion that commercial trading platforms be unregulated, we urge that oil, gas, electricity and other energy-related products be included in the list of commodities in Section 36.2(b) of the proposed rules so that they may be traded on exempt MTEFs. The permitted commodities of Section 36.2(b) are those commodities the Commission has determined are unlikely to be susceptible to manipulation. Trading of energy products has occurred in the OTC markets for decades with very few and isolated abuses of the type the Commission is concerned may occur on MTEFs not subject to regulation.

OXY strongly encourages the Commission to adopt the recommendations described above.

Sincerely,

Gordon Goodman
Vice President
Oxy Energy Services, Inc.
713/215-7105