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STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



COMMENT

October 23, 2009

VIA EMAIL

David A. Stawick, Secretary
Commodity Futures Trading Commission,
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581
secretary@cftc.gov

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OFFICE OF THE SECRETARIAT
C.F.T.C.

Re: CFTC Notice of Intent to Determine Whether Seven Electricity SP/NP Contracts (SP-15 Financial Day-Ahead LMP Peak Contract; SP-15 Financial Day-Ahead LMP Peak Daily Contract; SP-15 Financial Day-Ahead LMP Off-Peak Daily Contract; SP-15 Financial Swap Real Time LMP Peak Daily Contract; SP-15 Financial Day-Ahead LMP Off-Peak Contract; NP-15 Financial Day-Ahead LMP Peak Daily Contract; and NP-15 Financial Day-Ahead LMP Off-Peak Daily Contract) Offered for Trading on the Intercontinental Exchange, Inc., Perform Significant Price Discovery Functions. (Federal Register /Vol. 74. No. 192 October 6, 2009)

Dear Mr. Stawick:

The California Public Utilities Commission staff (CPUC staff) appreciates the opportunity to comment on the Commodity Future Trading Commission's (CFTC) Notice of Intent to determine whether seven power contracts¹ (collectively, the "SP/NP 15 contracts") traded on the Intercontinental Exchange (ICE) perform significant price discovery functions under Sections 2(h)(3)-(5) of the Commodity Exchange Act. While the due date for comments was noticed in the Federal Register as October 21, 2009, the CPUC staff respectfully requests that the CFTC accept these comments two days late.

The CPUC is a constitutionally established agency charged with the responsibility for regulating electric corporations within the State of California. In addition, the CPUC has a statutory

¹ For contract details see, CFTC Notice of Intent to Determine Whether Seven Contracts Offered for Trading on the Intercontinental Exchange, Inc., Perform Significant Price Discovery Functions. (Federal Register/Vol. 74. No. 192 October 6, 2009).

mandate to represent the interests of electric consumers throughout California in proceedings before federal agencies. Since the California energy crisis of 2000 the CPUC staff has supported greater oversight and transparency of California's energy markets and in particular over-the-counter (OTC) and online energy trading. The CPUC staff supports the CFTC in exercising its regulatory authority over the SP/NP 15 contracts and believes that they qualify as significant price discovery contracts (SPDCs).

The SP/NP 15 contracts traded on the ICE have significant price linkages to energy prices in California. In April of 2009 the California Independent System Operator (CAISO) launched newly designed, centrally cleared day-ahead and real-time wholesale energy markets with locational marginal pricing (LMP) at over 3,000 nodes. California's investor-owned utilities hedge some of the risks associated with these markets through OTC trading of the SP/NP 15 contracts. Further, the CPUC is currently developing a price-benchmark and review process for short-term and bilateral renewable energy contracts. The proposed price benchmark methodology compares the levelized renewable contract price to the forward market prices from the ICE afternoon power settlement report for the west coast.²

CFTC oversight of the SP/NP 15 contracts may discourage market manipulation that could impact California's energy markets. The CPUC staff supports CFTC regulatory oversight of these seven contracts as in the best interest of California's ratepayers.

The names and addresses of persons to whom communications should be addressed are:

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Respectfully submitted,

/s/ CHRISTOPHER CLAY

CHRISTOPHER CLAY
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California Public Utilities Commission Staff

² CPUC Decision 09-06-050, June 18, 2009.