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Industrial Energy Consumers of America
The Voice of the Industrial Energy Consumers

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OFFICE OF THE SECRETARIAT

October 21, 2009

COMMENT

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: CFTC Seeks Public Comment on Notice of Intent to Determine Whether 17 Contracts Offered for Trading on the Intercontinental Exchange, Inc., Perform Significant Price Discovery Functions

Received CFTC Records Section
10/26/09

On behalf of the Industrial Energy Consumers of America (IECA), I am responding the October 5, 2009, U.S. Commodity Futures Trading Commission (CFTC) Notice of Intent, pursuant to the authority in Section 2(h)(7) of the Commodity Exchange Act (Act) and Commission Rule 36.3(c)(3), to undertake a determination whether 17 contracts offered for trading on the Intercontinental Exchange, Inc. (ICE) perform significant price discovery functions. Our evaluation has concluded that all of the contracts perform a significant price discovery function.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $900 billion in annual sales and with more than 850,000 employees nationwide. It is an organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, cement, paper, food processing, brick, chemicals, fertilizer, insulation, steel, glass, industrial gases, pharmaceutical, aluminum and brewing. Each of these industries is either significant consumers of natural gas or electricity or both.

The IECA Board of Directors is largely comprised of individuals who are responsible for energy purchasing and risk management function of natural gas and electricity. Combined, they have facilities in every state and are qualified to make judgments concerning the significant price discovery function of each contract.

The natural gas contracts include: PG&E Citygate Financial Basis Contract; Waha Financial Basis Contract; Malin Financial Basis Contract; HSC Financial Basis Contract; Dominion-South Financial Basis Contract; AECO Financial Basis contract; Permian Financial Basis Contract; TCO Financial Basis Contract; San Juan Financial Basis Contract; TETCO-M3 Financial Basis Contract; Zone 6-NY Financial Basis Contract; Chicago Financial Basis Contract; NGPL TxOk Financial Basis Contract. The electricity contracts include: Mid-C Financial Peak Contract; Mid-C Financial Peak Daily Contract; Mid-C Financial Off-Peak Contract and Mid-C Financial Off-Peak Daily Contract.

Given our conclusion, we believe that Intercontinental Exchange, Inc. contracts should be required to come into compliance with core principles mandated by Section 2(h)(7) of the Act and with other statutory provisions applicable to registered entities. These contracts should be subject to the Commission's position limit authority, emergency authority and large trader reporting requirements, among others.

IECA would be happy to meet with you and others if necessary. Thank you for your diligence in support of transparency and oversight of these important contracts and markets.

Sincerely,

Paul N. Cicio
President