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Eric
Tim
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GDF SUEZ

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OFFICE OF THE SECRETARIAT
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September 21, 2010

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

Dear Chairman Gensler:

We have, under a separate cover offered comments with respect to the definitions embedded in the Dodd-Frank Act. We are interested in many aspects of the law, and therefore wanted to augment our comments with additional thoughts on reporting and position limits. These comments go beyond the immediate pending request in the Federal Register, and we ask that they be considered when and in a manner most appropriate.

Before proceeding to our specific comments, it might be helpful to understand something about GDF SUEZ Energy North America. We are involved in electricity generation, retail electricity sales, and liquefied natural gas. Corporate subsidiaries exist to focus on each of those business lines. Each subsidiary has its own strategies, profit targets, and suite of customers. That means that we have a complex portfolio with large natural gas and power exposures.

For purposes of this effort, it might be useful to note that we have many power purchase agreements that will expire in the next 5 years that will significantly increase price risk. Wherever possible, we desire to hedge longer-term if liquidity and economics are attractive. We have some concentrated large positions in markets with limited liquidity including natural gas basis.

It is probably also important to note that the primary purposes of our trading desk are in providing a "window to the market", competitive pricing for our products, information to our business units, insight into best placement/implementation of hedge programs, and execution of hedges for implementation of the asset risk management program.

As you know, Congress passed the Dodd-Frank Act "*to promote the financial stability of the United States by improving accountability and transparency in the financial system...and for other purposes.*" Throughout the legislative process it was recognized that commercial end-

GDF SUEZ Energy Marketing NA, Inc.
1990 Post Oak Blvd., Suite 1900
Houston, Texas 77056

users who have an underlying physical business generally speaking do not create systemic risk to the economy and should be able to continue to manage their commercial risks in over the counter markets. We believe that this understanding should inform the Commission's approach to implementing the legislation.

Reporting

- The Commission should use existing CME product codes since they have a more established limits coding structure so each relevant contract is uniform across DCOs and DCMs to the extent possible. Common industry-wide data monitoring standards will improve efficiency and reduce the cost of implementation to market participants.
- The Commission should also remain cognizant of the reporting logic associated with the exempt bilateral transactions, as isolating these transactions (tagging system etc) via the data repository will become very complex for companies like GDF SUEZ Energy North America.
- It is important that appropriate safeguards regarding the confidentiality of individual company position (trade direction) reports and overall hedging and trading strategies be established and maintained.

Position Limits

The Commission had, prior to passage of the Dodd-Frank Act, issued a proposed rule related to position limits. As the Commission considers the definitional and other challenges posed by the law, including those posed by position limits, we encourage you to keep several things under consideration.

Specific recommendations on position limits are difficult to make without a better understanding of the delineation between a major swap participant and a commercial end-user. However, in general, we offer that position limits are a single tool in the toolbox and can serve as a useful "last-resort" safeguard. Caution should be taken to avoid excessively constraining limits that reduce the ability to efficiently transfer risk, distort the price of risk, reduce market liquidity and lead to more volatile markets. Many of the markets we operate in are illiquid and we need more counterparties with larger capacity to take risk in order to improve the efficiency of our asset hedging programs.

Similarly, the Commission should be clear on the purpose for position limits; they are simply one of the tools available to limit the potential for market manipulation if there is good evidence that the market is not supplying sufficient diversity of market views, or a dominant concentrated position is being created that disrupts the natural workings of supply/demand fundamentals in a market or creates potential for systemic risk.

In other words, the Commission needs to be careful to use good causal reasoning and empirical support showing that a market supply demand distortion is being artificially created and is not

In other words, the Commission needs to be careful to use good causal reasoning and empirical support showing that a market supply demand distortion is being artificially created and is not simply result of a readjustment of supply and demand dynamics. Speculators are needed to and increase the number of counterparties and underlying liquidity. Improved liquidity increases the ability to transfer risk to those who can bear it at lower cost.

More specifically:

- Position limits that allow flexibility to manage large hedge positions are crucial; limits large enough to accommodate the commercial scope of operations and potential unplanned operational risks of the assets are essential.

- Position limits and rebalancing/unwinding of hedge positions to meet limit requirements should balance market liquidity risk especially in illiquid markets as well as provide sufficient time to get back in balance.

- Position limits should accommodate corporate structures where a trading entity executes hedge transactions on behalf of its corporate affiliates, without complicated/expensive implementation of position management policies.

- Position limits should take into account the stochastic nature of the hedging requirements, as well as the operational characteristics and operational range of assets.

- Position limits should reflect current practices to some degree and allow for net present value hedging of the portfolio (e.g., hedging 10 years of NYMEX Henry Hub exposure with first 5-years of NYMEX Henry Hub natural gas).

- Position limits that adjust to reflect impact of market volatility and changes in liquidity are essential.

- A number of our assets have embedded "real-options" where the exposure can vary significantly based on market conditions. Limits should allow for changes in the net hedge exposure of the assets resulting from changes in market conditions (power plant dispatch projections, LNG cargo diversions, etc.).

- We also employ option strategies, primarily purchase of puts or collars to control price downside. Any limits on options should take into account the net delta exposure of the position being hedged and potential variability to market prices changes. The methodology needs to be straightforward and transparent and well-understood. Perhaps a simple stress scenario test would be sufficient for commercial companies with real-option portfolios that are very difficult to model.

- Aggregate limits should not hinder ability of companies to manage commercial risk or for business entities to pursue their economic optimization strategies without getting caught up in complicated rules for coordinating/monitoring limit violations. The Commission should consider consolidated reporting at the consolidated company level (rather than the individual business-entity level).

- Because complicated lines of business oftentimes hedge in different directions (retail buying, assets selling) it is important that the language for exemptions be sufficiently broad. It is also important that companies that have assets, customer, and proprietary trading books be given the opportunity to run each of its businesses without worrying about inappropriately written exemptions.

- Aggregation of positions should only be required for companies/partnerships in which the company in question has more than a 51% interest, or in which it represents 10 percent or more of the total marketplace.

- "Bona-fide" hedging definition should provide for discretion to do proxy-hedging, diversification of risk, and portfolio level tests on whether risks are better controlled especially as relates to illiquid markets. For example, for a number of assets, GDF SUEZ Energy North America employs NYMEX natural gas proxy hedges or take into account internal asset offsets prior to going to market. (Additionally, on an individual basis some of our assets may appear over-hedged but these hedges help to reduce overall portfolio risk.) Perhaps a review of overall risk-management strategy and demonstration of appropriate governance would be a mechanism for testing for bona-fide hedging.

Finally, we want to reiterate a comment we offered in our comments with respect to definitions. Given the complexity and relative novelty of the regulatory regime to be created, we strongly encourage the Commission to provide written guidance (in addition to regulations) to the regulated community outlining how it plans to implement the regulatory regime on a day-to-day basis. Moreover, it may be prudent and useful for the Commission to expand its use of no-action letters when confronted with a unique, idiosyncratic, and specific set of facts in a particular situation.

If you have any questions, please do not hesitate to contact me.

Sam C. Henry
President and CEO

GDF SUEZ Energy Marketing NA, Inc.
1990 Post Oak Blvd., Suite 1900
Houston, Texas 77056

cc: Commissioner Chilton
Commissioner Dunn
Commissioner O'Malia
Commissioner Sommers
Mr. David A. Stawick, Secretary