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November 3, 2009

Via Electronic Mail: Secretary@cftc.gov

Mr. David Stawick, Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: ICE Waha Financial Basis (WAH) Contract
ICE TCO Financial Basis (TCO) Contract
ICE PG&E Citygate Financial Basis (PGE) Contract
ICE Permian Financial Basis (PER) Contract
ICE NGPL TxOk Financial Basis (NTO) Contract
ICE Malin Financial Basis (MLN) Contract
ICE HSC Financial Basis (HSC) Contract
ICE Dominion- South Financial Basis (DOM) Contract
ICE Chicago Financial Basis (DGD) Contract
ICE AECO Financial Basis (AEC) Contract
ICE Zone 6–NY Financial Basis (TZS) Contract
ICE TETCO–M3 Financial Basis (TMT) Contract
ICE San Juan Financial Basis (SNJ) Contract
(Collectively, the "ICE Contracts.")

Mr. Stawick,

The Financial Institutions Energy Group ("FIEG") is comprised of investment and commercial banks that provide a broad range of financial services to all segments of the U.S. and global economy. Its Members and their affiliates play a number of roles in the wholesale power and natural gas markets, including acting as marketers, lenders, underwriters of debt and equity securities, and proprietary investors. FIEG Members are active participants in all aspects of the natural gas markets.

FIEG respectfully requests that the Commodity Futures Trading Commission (the "Commission") carefully consider whether the ICE Contracts meet the significant price discovery contract ("SPDC") determination, set forth in the Commission's SPDC Orders. While the Commission submits that the ICE Contracts may satisfy the material liquidity, price linkage, and material price reference factors needed for SPDC determination, we have concerns.

While FIEG appreciates the opportunity to share its views on the Commission's determination with regard to the ICE Contracts, we would like to note at the outset that neither the Commission nor market participants have any experience with the actual implications of an SPDC designation on one contract, let alone many, with regard to the price of natural gas contracts or their related physical transactions, which set the price of such contracts. In addition, the electronic markets have not fully implemented the infrastructure required to regulate contracts that have already been designated SPDCs. We urge the Commission to move forward carefully, to prevent an adverse impact on the natural gas market or market participants through its designations of SPDCs.

In addition, given the unknown repercussions of SPDC designations, FIEG believes that the Commission should allow additional time for public comment to allow and encourage all natural gas market participants to contemplate the effect of such designation, given the large number of contracts that would be designated as SPDCs. Additional time for public comment will ensure that the Commission designates SPDCs in such a way as to minimize the impact on the market, and provide additional transparency into these contracts. To impose the designation without allowing all affected market participants the opportunity to evaluate the impact on their market exposure will cause unnecessary market volatility.

We recognize that the ICE Contracts that the Commission has identified as possible SPDCs are spreads and that one leg settles against the NYMEX physically-delivered Henry Hub natural gas contract. However, we question the significance of this insofar as all of these contracts trade as locational spreads and a key component of the contract is the non-NYMEX leg. Also, since these ICE Contracts are all cash settled, we submit that the relevant price that people look to is not the ICE Contract but the underlying physical contract (e.g. Platts) that is the price against which the ICE Contract settles. This is particularly true for these basis contacts, which rely on prices set by actual physical trades in various locations. The bids, offers, or transactions in natural gas in physical locations are not "based on" or "determined by referencing, the prices generated by" any of the ICE Contracts. In fact, the ICE Contracts are priced based on the results of physical demand and supply in the natural gas markets. The ICE markets do not, and cannot, influence the physical demand for natural gas, therefore, the only factors that influence the price of natural gas is the available supply of natural gas and the demand for natural gas.

The second basis for the Commission's determination is that the ICE Contracts serve as a material price reference, recognizing that the Commission may consider either direct or indirect evidence that the contract is a material price reference. There is no direct evidence or even any indication that the NYMEX or any other cash markets quote the ICE Contracts for prices. Furthermore, other than its own publications, no third-party publications reference ICE prices for cash settled contracts. Therefore, the ICE Contracts do not appear to serve as a material price reference to the NYMEX Contracts.

To establish material liquidity, the Commission must consider whether the trading volume of the ICE Contracts is "sufficient to have a material effect on other agreements, contracts, or transactions listed for trading...on a designated contract market." Since these basis contracts trade on a differential, they cannot have a material effect on NYMEX contracts, while only representing one leg (and not the relevant leg) of the locational spread.

Furthermore, in the context of the overall natural gas market, the trading average for the ICE contracts was only a small part of the overall number of transactions closed each day for natural gas. Indeed, some of the ICE Contracts, recognizing they are spread out over months, do not even meet the Commission's minimum reporting thresholds. Moreover, as the Commission must recognize, a minimum low threshold for reporting should not be the same as the threshold for material liquidity. The Commission stated that "[l]iquidity is a broad concept that captures the ability to transact immediately with little or no price concession," also noting that a continuous stream of prices can be observed in markets with material liquidity. Therefore, the Commission should not aggregate trades that occur over many months to determine whether a contract has met the threshold for material liquidity. Since other natural gas contracts, either listed on an exchange or traded in the over-the-counter market, do not reference, directly or indirectly, the ICE Contracts, even if only a few trades per trading period constituted adequate liquidity, the ICE Contracts do not have a material effect on natural gas contracts.

FIEG respectfully requests that the Commission carefully consider the ramifications of designating the ICE Contracts as SPDCs, as well as give natural gas market participants more time to fully analyze the impact of the designation of these ICE Contracts as SPDCs. To do so, we strongly urge the Commission to delay its determination as to whether the ICE Contracts are SPDCs, until the Commission has fully reviewed the effects of such a determination on the natural gas market and natural gas market participants.

While we recognize that comments were to be submitted by October 26, 2009, FIEG appreciates the opportunity to provide these comments and requests that the Commission include our comments as part of the record for the Commission's consideration.

Sincerely,

/s/ Kenneth M. Raisler

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