



21 September 2012

David A. Stawick,
Secretary of the Commission,
Commodity Futures Trading Commission,
Three Lafayette Centre,
1155 21st Street N.W.,
Washington, DC 20581

Re: ISO / RTO Exemption

Dear Mr. Stawick,

We are writing in regards to the Commodity and Future Trading Commission's ("CFTC") proposed order regarding the Independent System Operators and Regional Transmission Organizations to Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Commission.

We understand that the draft order presents significant issues for market participants of ISOs / RTOs in that the proposed exemption would apply only to those ISO / RTO Market Participants that qualify as "appropriate persons" or "eligible contract participants" as defined by the CFTC in sections 1a(18) and 4(c)(3)(A) through (J) of the Commodity Exchange Act ("CEA"). We further understand that these "appropriate persons" are those with a net worth exceeding \$1,000,000 or total assets exceeding \$5,000,000. This threshold ignores all of the work implemented by the ISOs / RTOs regarding minimum financial criteria for participation in the very distinctive electricity markets. We believe these thresholds are arbitrary and have no basis of fact unlike the requirements already implemented by the ISO's / RTO's under the auspices of the Federal Energy Regulatory Commission ("FERC").

We therefore urge the CFTC to exercise its discretion and expand the definition of "appropriate person," for purposes of the exemption sought by the ISO/RTO joint request, to include all Market Participants that satisfy the eligibility requirements established by the ISOs/RTOs to participate in the markets they administer.

Background

AB Energy has been a market participant of the NYISO market since 2006 as well as market participants in both ISO-NE and PJM in the past. We trade in the niche virtual energy or incremental and decremental energy market. Virtual trading in the electricity markets provides liquidity to the day-ahead market and reduces the price difference between the day-ahead and real time markets. Prior to the global financial crisis, AB had traded in NYISO and either ISO-NE or PJM with approximately \$100,000 in cash collateral. We have traded over 80,000 MWh per annum and have never been in default of our financial obligations or requirements.

Following the global financial crisis, the Federal Energy Regulatory Commission ("FERC") implemented new financial requirements for the various ISOs and RTOs. Our collateral requirements increased significantly even though the electricity financial instruments have never been considered a culprit to the swaps and options at the root of the financial crisis (in particular the credit default swaps and other mortgage related financial instruments).

Since the revised collateral requirements, we currently only trade in the NYISO market with \$220,000 of cash collateral, more than double the level of our previous collateral requirements. Our new collateral requirement is more than 10 times the collateral requirements required for the positions we take in the market.

While our collateral has more than doubled, the risks and volatility in the market has diminished significantly in the past several years. This has been attributed to the smaller number of market participants resulting from FERC's revised collateral requirements as well as dramatic decreases in natural gas prices, a significant feedstock to the electricity industry. Both of these events have reduced the volatility and therefore the returns from the market while the collateral increases are now more than double our previous requirements.

There is further little risk of financial defaults in the various RTO / ISO spreading through to the rest of the US economy. First, the ISO / RTO have implemented stringent new collateral requirements on all of its members, reducing the risk of default in the first instance. One can argue that these markets are already excessively over-collateralized. Second, all of the market participants are responsible for the default risk of the member participants. If one market participant fails in its obligations and their existing credit requirements are unable to match their liabilities, the other market participants are responsible share the cost of the difference. As such, the risk of default is limited to the ISO / RTO and not the greater financial community.

To date, there has not been any event, including the collapse of Enron in 2002 nor the collapse of Lehman Brothers in 2008, which has even posed direct threat to the financial health of the ISO / RTOs or their member market participants. This is a tribute to the outstanding work by both the ISO / RTO themselves in establishing clear and definitive market rules and credit requirements as well as the various bodies which currently regulate these markets. To duplicate those efforts with additional regulation by the CFTC is not only unnecessary but burdensome.

There are direct impacts on this current proposal by the CFTC. Countless small businesses, such as ours, would cease operation. This would eliminate good paying jobs to employees and business owners; reduce tax revenues to local, state and federal jurisdictions; and removing vital components to the efficient and effective electricity markets. All of these changes would take place without any outstanding benefit to the U.S. economy as the risks associated with the electricity markets have already been well considered and developed in the current financial requirements.

Conclusion

We therefore reiterate that the CFTC should exercise its discretion and expand the definition of "appropriate person," for purposes of the exemption sought by the ISO/RTO joint request, to include all Market Participants that satisfy the eligibility requirements established by the ISOs/RTOs to participate in the markets they administer.

Regards,

A handwritten signature in blue ink, appearing to read "Andrew Bachert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Andrew Bachert
AB Energy