



September 27, 2012

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

Re: Proposed Order and Request for Comment on a Petition From Certain Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) To Exempt Specified Transactions From Certain Provisions of the Commodity Exchange Act

Dear Mr. Stawick:

DC Energy, LLC ("DC Energy") appreciates the opportunity to submit comments to the Commodity Futures Trading Commission ("Commission") August 21, 2012 Notice of Proposed Order on the February 7, 2012 consolidated petition of the ISO/RTOs requesting exemption of specified transactions from provisions of the Commodity Exchange Act and Commission regulations, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank").

Overall, DC Energy supports the proposed exemption. We believe that it will provide greater regulatory certainty to market participants that engage in contracts, agreements or transactions in markets administered by the RTOs or ISOs.

DC Energy

DC Energy is a Delaware limited liability company that operates under a Federal Energy Regulatory Commission ("FERC") approved market-based rate tariff. DC Energy or its affiliates are active in the electricity and related financial markets administered by the California Independent System Operator Corporation ("CAISO"), ISO-New England, Inc. ("ISO-NE"), Midwest Independent Transmission System Operator, Inc. ("MISO"), New York Independent System Operator, Inc. ("NYISO"), PJM Interconnection, L.L.C. ("PJM") as well as the Electric Reliability Council of Texas ("ERCOT"). DC Energy and its affiliates have engaged in the purchase and sale of financial transmission rights ("FTRs"), RTO/ISO energy transactions, and cross-control area energy transactions. DC Energy has made a considerable investment in the electricity market infrastructure through extensive involvement in ISO/RTO market stakeholder processes, including market development initiatives and clearing infrastructure developments. DC Energy is a proponent of open, transparent and competitive markets and supports data availability and reduced barriers for all participants (including retail customers) as well as accurate ISO/RTO modeling of Day-Ahead and Real-Time markets.

Comments

DC Energy Supports the ISO/RTO Exemption Request

DC Energy supports the proposed exemption of the ISO/RTO financial transmission rights (“FTR”) transactions, energy transactions, forward capacity transactions and reserve or regulation transactions. DC Energy further requests that a Final Order be issued as soon as practical, and preferably prior to the swap definition become effective or at least before the swap reporting and recordkeeping requirements become effective. As the Commission is well aware, regulatory uncertainty is contrary to efficient markets and it is with this thought in mind that DC Energy respectfully requests the Commission issue a Final Order as soon as practical in 2012. In the alternative, if a Final Order cannot be issued shortly, DC Energy requests that an interim or temporary order be issued to make it clear that the above ISO/RTO transactions are at least temporarily exempt and that such transactions are not subject to the Commission’s regulations at least until a Final Order is issued.

ISO/RTO Virtual Energy Transactions Should Explicitly be Included in the Final Order as Exempt Energy Transactions

The Proposed Order stated: “The Commission notes that such transactions would be included within the scope of the exemption if they would qualify as the financial transmission rights, energy transactions, forward capacity transactions or reserve or regulation transactions for which relief is explicitly provided within the exemption.”¹ In order to avoid any ambiguity, virtual energy transactions² should be specifically included as an exempt ISO/RTO energy transaction in the Commission’s Final Order. Virtual energy bidding and transactions are an important risk management tool for market participants because they, among other things, provide an important hedging mechanism for both those who own generation and serve load. In addition, virtual energy transactions also serve to converge the Day-Ahead and Real-Time markets as well as provide liquidity and price discovery, all of which are inextricably linked to the physical capabilities of an efficient electricity market and grid.

Other Specific Questions Contained in the Proposed Order

- 1- Should Petitioners be required to have the ability to obtain market data and other related information from their participants with respect to contracts, agreements or transactions in markets for, or related to, the contracts, agreements or transactions that are the subject of the Proposed Exemption?

DC Energy believes that Petitioners currently have the ability to obtain all market data and other related information relevant to all aspects of their markets. DC Energy would also suggest that it is beyond the appropriate scope of the ISO/RTOs to be able to

¹ Proposed Order at 97.

² We use the term “virtual energy” in this filing as a generic term. The term also refers to convergence bidding in CAISO and energy only in ERCOT.

request market data or other information that is not related to the applicable ISO/RTO market.

- 2- The Commission specifically seeks comment on whether the Petitioners should be capable of re-creating the Day-Ahead Market and Real-Time prices.

If the Commission's question is asking whether the ISO/RTO Petitioners should have the ability to retroactively re-create, re-state or in any way change prices, DC Energy strongly opposes such an ability. In all commodity markets, prices should stand as stated and posted. Market participants make investment decisions based on prices and cannot go back and change their decisions afterwards. Retroactively recreating prices would have a significant and perhaps debilitating effect on electricity markets.

- 3- What is the basis for the conclusion that Petitioners, or their participants, should, or should not, be required to satisfy position limit requirements with respect to any of the contracts, agreements or transactions that are the subject of the Proposed Exemption? Specifically, what is the basis for the conclusion that it is, or is not, possible for Petitioners, or their participants, to violate position limits with FTRs or Virtual Bids? What is the basis for the conclusion that the nature of FTRs or Virtual Bids do, or do not, inherently limit the ability of market participants to engage in manipulative conduct?

DC Energy opposes position limits being applied to FTRs and Virtual Bids at this time. Position limits are likely to lower liquidity in the electricity markets. Furthermore, there does not appear to be any basis at this time to impose position limits on FTRs or Virtual Bids. To the contrary, the ISO/RTO markets appear to have by their design natural position-like limits because FTRs and Virtual Bids are related to the deliverable capacity of each ISO/RTO system.

Respectfully submitted,

DC ENERGY, LLC

September 27, 2012

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