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Loretta I. Mabinton
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October 12, 2012

VIA ELECTRONIC MAIL AND FACSIMILE

Ms. Stacy Yochum, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581
Facsimile: (202) 418-5521 and
Email to secretary@cftc.gov and electronically to <http://comments.cftc.gov>

RE: *Public Comments on the Commission's Interpretation Regarding Forwards with Embedded Volumetric Options*

Dear Secretary Stawick:

I. INTRODUCTION.

In accordance with the Commodity Futures Trading Commission's (the "Commission") Joint Final Rules¹ and Interpretations Further Defining "swap," and particularly the Commission's statutory interpretation regarding forwards with embedded volumetric optionality, Portland General Electric Company ("PGE") hereby respectfully submits comments in support of those filed by ConocoPhillips in its August 23, 2012 letter² to the Commission and the joint comments filed by the Edison Electric Institute and Electric Power Supply Association³, as stated herein. Additionally, PGE shares the statutory reasoning and concerns about unintended negative consequences as discussed in the ConocoPhillips letter.

PGE regularly, individually or as a member of other industry groups, considers and responds to requests for public comment regarding regulatory developments with respect to the

¹ CFTC and SEC, Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement," Mixed Swaps; Security-Based Swap Recordkeeping, 77 Fed. Reg. 48208 (August 13, 2012).

² Letter from ConocoPhillips Senior Vice President, Legal General Counsel and Corporate Secretary, Janet Langford Kelly dated August 23, 2012.

³ EEI and EPSA Comments on Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement," Mixed Swaps; Security-Based Swap Agreement Recordkeeping dated October 12, 2012.

trading of energy commodities, including derivatives and other contracts that reference energy commodities.

PGE is a vertically integrated electric utility organized under the laws of Oregon, and is headquartered in Portland, Oregon. Its principal office is located at 121 SW Salmon Street, Portland, Oregon 97204. PGE is located in the Western Electricity Coordinating Council and provides electric service to over 815,000 residential, industrial and commercial customers in Oregon. PGE owns generation, transmission, and distribution facilities for service to wholesale and retail customers and it buys and sells power in the Western energy market. PGE enters into financial transactions to hedge its commercial risks. PGE is not a financial entity. And PGE is subject to regulation by the Oregon Public Utility Commission and the Federal Energy Regulatory Commission.

II. COMMENTS.

A. GENERAL COMMENTS.

PGE appreciates the opportunity to submit these comments on the Final Rules and Interpretation and supports the Commission's desire to provide clarity in its rules. We specifically support the comments filed by ConocoPhillips regarding part-seven of the seven-part test of the Commission's interpretation regarding forwards with embedded volumetric options. Additionally, we generally support the comments of EEI and EPSA on the Commission's rules.

B. PART-SEVEN OF THE TEST WILL HAVE UNINTENDED NEGATIVE CONSEQUENCES.

PGE supports the intent of the Commission's interpretation to provide better guidance to the industry regarding when a forward with embedded volumetric options will be deemed a commodity option and therefore a swap under the Commission's implementing regulations of the Dodd Frank Act. However, PGE is concerned that, as currently proposed, the Commission's seven-part test will, contrary to the intent of the Dodd Frank Act, classify as "swaps" many transactions entered into by end users to mitigate commercial risks.

C. THE COMMISSION SHOULD REMOVE PART SEVEN OF THE TEST FROM THE INTERPRETATION.

PGE does not believe that utilizing the Brent Interpretation⁴ test furthers the Commission's goal to provide clear guidance to the industry, and at a minimum the Commission should remove part-seven of the test to eliminate the unintended negative consequences on the underlying energy commodities markets as described in the ConocoPhillips letter.

If the Commission retains part-seven of the test, the Commission's utilization of the Brent Interpretation test in a market that relies heavily on agreements used to facilitate the

⁴ Statutory Interpretation Concerning Forward Transactions, 55 FR 39188, 39192 Sept. 25, 1990, ("Brent Interpretation").

delivery of nonfinancial commodities such as natural gas and electricity will be disruptive to the energy market without advancing the Commission's stated goals. Conversely, removing part-seven of the test will provide better clarity to the industry and enable companies to comply with the Commission's rules.

III. CONCLUSION.

In summary, PGE supports the Commission's desire to provide clarity in its rules and regulations, but believes that by including part-seven of the Brent Interpretation test in its interpretation, the Commission has created confusion rather than provide clarity. If you have any questions, or if we may be of further assistance, please contact the undersigned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Loretta Mabinton". The signature is written in black ink and is positioned above a horizontal line.

Name: Loretta Mabinton

Title: Associate General Counsel, Portland General Electric
Company