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

Re: *Solicitation of Comments regarding the ICE Futures U.S. Inc. Futures Contracts in New York Independent System Operator ("NYISO") Electric Power for Zone G*

Dear Secretary Kirkpatrick:

By this letter the Coalition of Physical Energy Companies ("COPE") responds to the Commodity Futures Trading Commission's ("CFTC" or the "Commission") request[1] dated July 7, 2015 for comment on ICE Futures U.S. Inc.'s ("ICE Futures") request[2] to increase position limits and accountability levels for eight cash settling futures contracts related to New York Independent System Operator ("NYISO") Zone G. COPE supports ICE Futures' request for a position limits increase.

The members of COPE are physical energy companies in the business of producing, processing, and merchandizing energy commodities at retail and wholesale.[3] Several COPE members engage in electricity transactions utilizing futures contracts to hedge the commercial risk of their physical businesses. As a general matter, COPE members are affected by CFTC actions concerning position limits.

[1] Commodity Futures Trading Commission, *Solicitation of Comments regarding the ICE Futures U.S. Inc. Futures Contracts in New York Independent System Operator ("NYISO") Electric Power for Zone G* (July 7, 2015) ("Solicitation").

[2] ICE Futures U.S., Inc., *Amendments to Resolution No. 2 of Chapter 18 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)*, Submission No. 15-101 (May 11, 2015); ICE Futures U.S., Inc., *Supplement to Amendments to Resolution No. 2 of Chapter 18 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a),* Submission No. 15-101s (June 23, 2015).

[3] The members are: Apache Corporation; EP Energy LLC; Iberdrola Renewables, LLC; Kinder Morgan, Inc.; MarkWest Energy Partners, L.P.; Shell Energy North America (US), L.P.; SouthStar Energy Services LLC; and Targa Resources.

As the Commission knows, its proposed federal position limits rule[4] has proven to be conceptually controversial and logistically problematic. The proposal has been the subject of multiple rounds of comments and two meetings of the Energy and Environmental Markets Advisory Committee ("EEMAC").

In contrast to the Commission's position limits proposal, commercial end-users have become comfortable with exchange position limits as such limits are focused on specific futures contracts and have been structured and administered based upon each exchange's understanding of cash markets, exchange issues (such as liquidity), and commercial end-users' businesses and hedging needs. COPE is concerned that the Commission's stay of ICE Futures' NYISO Zone G request may represent a new level of invasive oversight into this well-functioning marketplace. It is worth noting that this action relates to cash settling contracts that do not serve a price discovery function and settle based upon transparent NYISO indices. As such, these contracts are not susceptible to harm caused by excessive speculation.

The concern raised by the Commission relates to the proper determination of "deliverable supply" for NYISO Zone G.[5] COPE understands the term "deliverable supply" to be the same as that used by the Commission in its glossary.[6] Thus, the question in establishing deliverable supply is, what is the quantity of the commodity that can be provided as specified in the affected futures contract?

The main factors that impacts this analysis of deliverable supply for NYISO Zone G are transmission/transfer capability into the location, and generating capacity within the location. It appears to COPE that ICE Futures provided the Commission with this information.[7] Rather than accept the showing, the Commission stayed the position limits increase and asked a series of technical questions which appear to imply that deliverable supply must be based upon complex modeling of the commodity market, taking into account simultaneous demand for the commodity across the market under multiple market conditions.[8]

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[4] *Position Limits for Derivatives*, Notice of Proposed Rulemaking, 78 Fed. Reg. 75,680 (Dec. 12, 2013).

[5] As was raised by a representative of the Natural Gas Supply Association at the EEMAC meeting held July 29, 2015, COPE questions the value of establishing position limits for cash settling contracts on deliverable supply (particularly for a location with no physically settling contracts).

[6] "The total supply of a commodity that meets the delivery specifications of a futures contract." Commodity Futures Trading Commission Glossary, *available at* http://www.cftc.gov/ConsumerProtection/EducationCenter/CFTCGlossary/index.htm#D (last visited July 31, 2015).

[7] ICE Futures U.S., Inc., *Supplement to Amendments to Resolution No. 2 of Chapter 18 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)*, Submission No. 15-101s (June 23, 2015).

[8] Solicitation at 2-4.

Given the purpose of the deliverable supply estimate in this circumstance (position limits for a cash settling/non-price discovery contract), complex modeling would only result in "false precision", telling us no more than ICE Futures' reasonable analysis based upon reliable unbiased objective data.[9] ICE Futures has taken the proper data into account and analyzed it in a reasonable manner.

Accordingly, COPE recommends that the Commission grant ICE Futures' action to establish revised position limits for the affected NYISO Zone G contracts.

Respectfully Submitted,

/s/ David M. Perlman

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CC: COPE Members

[9] See Edison Electric Institute Comments at PP 11-13.