



ENERGY TRANSFER

July 13, 2016

Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

***Re: Supplemental Notice of Proposed Rulemaking – Position Limits for Derivatives:
Certain Exemptions and Guidance (RIN 3038-AD99)***

Energy Transfer Partners, L.P. (“ETP”), on behalf itself and Energy Transfer Equity, L.P. (“ETE”) (ETP and ETE are referred to in this letter as “Energy Transfer”), respectfully submits these comments in response to the U.S. Commodity Futures Trading Commission’s (the “CFTC’s” or “Commission’s”) Supplemental Notice of Proposed Rulemaking, *Position Limits for Derivatives: Certain Exemptions and Guidance; Proposed Rule*, 81 Fed. Reg. 38,458 (June 13, 2016) (“2016 Supplement”).¹ Energy Transfer commends the Commission for providing processes for designated contract markets (“DCMs”) and swap execution facilities (“SEFs”) to recognize certain positions in commodity derivative contracts as non-enumerated bona fide hedges (“NEBFH”) or enumerated anticipatory bona fide hedges, as well as to exempt from federal position limits certain spread positions. Energy Transfer submits that the 2016 Supplement should be revised to eliminate, to the maximum extent possible, the overly prescriptive rules governing what DCMs must collect from NEBFH applicants and instead give the DCMs more discretion and flexibility to fashion NEBFH rules that are more closely aligned with their current DCM hedge approval processes. Toward that end, DCMs should be authorized to pass rules regarding NEBFH applications that are flexible enough to accommodate real-world risk mitigation strategies and which do not unduly burden hedge applicants.

While Energy Transfer supports workable and not overly-restrictive NEBFH processes at the DCMs, we comment that the current status of the position limit rulemaking process makes it difficult for market participants to understand what the rules are or will be, thus hindering the public’s ability to provide fulsome comments. The initial position limits proposals have been in the proposal stage since 2013, as supplemented with respect to aggregation in 2015² and now again through this 2016 Supplement. In addition to the 2015 and 2016 supplements, many written comments and Energy and Environmental Markets Advisory Committee (“EEMAC”) meeting participants have offered constructive, and in many cases, unopposed, improvements to the rules. Indeed, the Commission has reopened the records in these proceedings numerous times to elicit further comments based on various suggested improvements to the proposed aggregation and position limit rules. Moreover, it is still not certain how the Commission intends to consider and

¹ The 2016 Supplement modifies the December 2013 proposed rulemaking, which is still pending. *Position Limits for Derivatives*, 78 Fed. Reg. 75,680 (Dec. 12, 2013).

² *Aggregation of Positions*, 78 Fed. Reg. 68,946 (Nov. 15, 2013), at 68961 (“2013 Aggregation Rulemaking”); *Aggregation of Positions*, 80 Fed. Reg. 58,365 (Sept. 29, 2015) (“2015 Aggregation Supplement”) (supplementing the 2013 Aggregation Rulemaking). Both of these proposals are still pending.

incorporate revised DCM deliverable supply estimates in the position limit rules, which will impact the size of the position limits and hence the scope of their application to market participants. The Commission's adoption or lack of adoption of the 2015 Supplement, the various suggested improvements to the rules in both the aggregation and position limits proceedings, and the revised deliverable supply estimates, all will greatly impact the significance of the NEBFH process proposed in the 2016 Supplement to end users such as Energy Transfer.

Because of the many uncertainties in the aggregation and position limit proposals, Energy Transfer respectfully asks the Commission to phase its adoption of any final position limits rules as follows: (1) issue final, or at least interim final, rules on the 2013 Aggregation Rulemaking, including the 2015 Aggregation Supplement; and (2) at the same time or after ruling on the aggregation proposal, issue a revised and restated position limits proposal, incorporating all pending modifications and comments, including deliverable supply estimates, and setting forth clearly what the position limits and hedge exemption regime will look like, before issuing final position limit rules. As an alternative to step 2, the Commission should consider issuing interim final position limit rules that will not become effective until the public is given a final opportunity to review and comment on the rules and make any final changes. There are sound reasons for this phased approach. First, because the aggregation proposals are more discrete and self-contained, those proposals can be resolved more quickly than the position limits proposals.³ Resolving those proceedings first will help market participants better understand the impact of the position limits proposals on their business units. Second, because the Commodity Exchange Act mandates that any Commission position limits rules must include exemptions for bona fide hedges and must ensure sufficient market liquidity for bona fide hedgers, it is important that the Commission get the final rules "right" and not unduly burden hedge applicants.⁴ Market participants will be better able to assess the 2016 Supplement once they understand how they will be impacted by the aggregation proposal and by the adoption of the numerous improvements to the position limits proposals suggested thus far, and thus such a phased approach will better allow the Commission to adopt position limit rules that satisfy the statutory mandate.

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We appreciate your consideration of our comments. We stand ready to provide any additional information or assistance that the Commission might find useful.

Sincerely,



Gregory Brazaitis
Chief Compliance Officer
Energy Transfer Partners, L.P.

³ Energy Transfer filed comments on August 14, 2014 and November 13, 2015, which it incorporates herein by reference, supporting a procedure for disaggregating positions of affiliates in a corporate family, including a partnership.

⁴ Commodity Exchange Act, Section 4a(a)(2) and (3)(B)(iii), 7 U.S.C. § 6a(a)(2) and (3)(B)(iii).