



BP Energy Company
201 Helios Way
Houston, TX 77079

May 17, 2024

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission (CFTC)
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Submitted via email to <https://comments.cftc.gov>.

Re: Comments of BP Energy Company and BP Products North America Inc. on Notice of Intent to Renew Collection 3038–0095; Large Trader Reporting for Physical Commodity Swaps

Dear Secretary Kirkpatrick:

Please accept these comments on behalf of BP Energy Company (“BPEC”) and BP Products North America Inc. (“BPPNA” and jointly with BPEC “bp”) in furtherance of the Commodity Futures Trading Commission’s (“CFTC” or “Commission”) Notice of Intent to Renew Collection 3038–0095; Large Trader Reporting for Physical Commodity Swaps.¹ BPEC is a marketer of natural gas and electric power with operations throughout the continental United States, and is a registered swap dealer (“SD”) with the CFTC. BPPNA is a marketer of low carbon energy as well as crude oil and associated products, including gasoline, kerosene, distillate fuel oils and residual fuel oils.

As an SD, BPEC is a reporting entity that is currently required to file part 20 Large Trader Reporting for Physical Commodity Swaps (“Swaps LTR”). Also, BPPNA has a Large Trader Reporting obligation as a clearing member of CME

¹ *Notice of Intent to Renew Collection 3038–0095; Large Trader Reporting for Physical Commodity Swaps*, 89 FR 19298 (Mar. 18, 2024) (“Renewal Notice”).

NYMEX.² bp supports the goal of ensuring the accuracy of reporting data and we aim to be an industry leader in the transparency of our reporting. bp, however, also supports efficiency in reporting to reduce unnecessary duplication. The Commission should sunset the part 20 Large Trader Reporting obligation given that it has become duplicative of the swap data collected by Swap Data Repositories (SDRs) and, therefore, is no longer necessary to ensure transparency. Additionally, the conditions set forth in §20.9 for effecting the sunset provision have been met and the Swaps LTR is no longer providing an additional benefit to the CFTC, yet the industry continues to expend resources on the Swaps LTR. These resources can be better utilized on improvements to existing processes to ensure compliance with the Amendments to the Swap Data Recordkeeping and Reporting Requirements that became final in November of 2020.

Part 20 of the Commission's regulations contains a "sunset provision" in §20.9 that would take effect upon a Commission finding that "operating swap data repositories are processing positional data and that such processing will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets."³ In 2020, in response to a Proposed Rulemaking on Swap Data Recordkeeping and Reporting Requirements,⁴ commenters including bp, the Commercial Energy Working Group and FIA filed in support of sunseting part 20 since the provisions in §20.9 have been met. The Commission responded,

² Under part 20, "reporting parties are required to submit data on positions on a futures equivalent basis so as to allow the Commission to assess a trader's market impact across differently structured but linked derivatives instruments and markets." Renewal Notice, 89 FR at 19299.

³ 17 CFR §20.9 Sunset provision.

(a) Except as otherwise provided in paragraph (b) of this section, the sections of this part shall become ineffective and unenforceable upon a Commission finding that, through the issuance of an order, operating swap data repositories are processing positional data and that such processing will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets.

(b) The Commission may determine, in its discretion, to maintain the effectiveness and enforceability of any section of this part, or any requirement therein, in an order issued under paragraph (a) of this section, upon finding that such sections, or requirements therein, provide the Commission with positional data or data elements that materially improves the accuracy and surveillance utility of the positional data processed by swap data repositories.

⁴ *Amendments to the Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 21,578 (Feb. 20, 2020).

Since part 20 data is reported directly to the Commission and not to SDRs, the Commission did not propose any changes to part 20 in the Roadmap or in the Proposal, and therefore, the Commission is taking no action on part 20 in this release. The Commission nonetheless acknowledges the commenters' responses to the question. The Commission may address part 20 reporting at a future date after implementation of the Roadmap rules.⁵

Now is the appropriate time to address sunseting the part 20 Swaps LTR since the Roadmap rules have been implemented and the issue is squarely before the CFTC in this Renewal Notice. As bp stated in its earlier comments, the CFTC's Swaps LTR obligation was initially designed as a stop-gap mechanism to collect swap data before SDRs came online. The regulatory landscape today is significantly different from 2011, when the Swaps LTR was adopted. SDRs have been operational and receiving swap data for over ten years and Regulation 49.9 requires SDRs to provide the Commission with detailed open swaps reports. In addition, Regulation 49.17 requires SDRs to provide CFTC with electronic access to SDR data, including open swaps; therefore, the CFTC can now analyze swap data from the SDRs for various purposes, such as re-evaluating the current swap categories and determining appropriate minimum block and cap sizes. Since the CFTC Reporting Rewrite was implemented in December 2022, the CFTC is now receiving swap data in an automated and standardized way that can be integrated with CFTC's existing analytics.

In addition, the swaps data collected under Swaps LTR is no longer consistent with the data the Commission needs for monitoring position limits on economically equivalent swaps because the definition of economically equivalent swap adopted in Regulation 150.1 is different from the definition of "paired swap or paired swaption" in Regulation 20.1.⁶ While the Swaps LTR data no longer meets this purpose, the data provided by SDRs is equivalent and enables the Commission to monitor position limits on economically equivalent swaps.

⁵ *Final Rule, Swap Data Recordkeeping and Reporting Requirements*, 85 CFR 75503 at 75545 (Nov. 25, 2020).

⁶ An economically equivalent swap is, "any swap that has *identical material contractual specifications, terms, and conditions* to such referenced contract." (Emphasis added). In contrast, a paired swap or paired swaption is "an open swap or swaption that is: (1) *Directly or indirectly linked*, including being *partially* or fully settled on, or priced at a differential to, the price of any commodity futures contract listed in § 20.2; or (2) *Directly or indirectly linked*, including being *partially* or fully settled on, or priced at a differential to, the price of the same commodity for delivery at the same location or locations." (Emphasis added).

Finally, as FIA pointed out in their comments in 2018, LTR reporting is not only a significant burden on the industry, but also a burden on the CFTC to maintain the Swaps LTR, as evidenced by DMO Staff having to revise the guidance document many times to address interpretive issues. Accordingly, the CFTC should sunset its part 20 Large Trader Reporting for Physical Commodity Swaps, rather than having the CFTC and the industry continue to expend unnecessary resources on this reporting obligation.

Conclusion

Thank you for allowing bp this opportunity to comment on this Renewal Notice. Please feel free to contact me at Jennifer.Minnis@bp.com if you would like to discuss these comments further.

Sincerely,

/s/ Jennifer Minnis

Jennifer Minnis
Managing Counsel
Gas and Power Trading Americas
BP Energy Company