

goals of the Administration, NTIA is working with the Federal Communications Commission (FCC), the Department of Agriculture's Rural Utilities Service (RUS), and other stakeholders to develop and implement economic and regulatory policies that foster broadband Internet access deployment and adoption. Current and detailed data on broadband Internet use and access by U.S. households is critical to allow policymakers not only to gauge progress made to date, but to identify problem areas.

The purpose of the public meeting is to provide information to the research community regarding the type and availability of broadband data that may be made publicly available for use by the research community, and to hear from this research community with respect to their data needs. NTIA is authorized to conduct studies and evaluations concerning communications research and development and for 15 years, has developed and analyzed Internet data (including more recently the high-speed variety). These activities have provided essential data for prudent policymaking in this area, including fueling the needs of the research community whose work could be invaluable inputs for sound policies. NTIA currently collects broadband related data from several sources. Pursuant to the American Recovery and Reinvestment Act of 2009 (Recovery Act) and the Broadband Data Improvement Act (BDIA), two broadband initiatives within NTIA, the Broadband Technology Opportunities Program (BTOP) and the State Broadband Data and Development Grant Program (State Broadband Data Program), are accumulating a variety of data.<sup>2</sup> Under the State Broadband Data Program in particular, this includes data that will populate a comprehensive, interactive, and searchable nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed, available, and adopted from a commercial or public provider throughout each State.<sup>3</sup>

In October 2009, the Census Bureau collected through the Current Population Survey (CPS) data based on questions that NTIA sponsored and developed to provide up-to-date information on the extent of U.S.

broadband adoption and the major reasons why current non-users choose not to adopt. Data have been generated by several demographic and geographic categories and must be weighted and appropriately aggregated before release. Census periodically releases public use files containing the raw data collected.

These various data may be made publicly available for use by the research community to conduct economic, financial, demographic, and other studies. Such release, however, may be limited by such Federal disclosure laws as the Freedom of Information Act and the Trade Secrets Act.

Specific information regarding the status of and data from specific applications for the Broadband Technology Opportunities Program (BTOP) and the State Broadband Data and Development Grant Program (State Broadband Data Program) will not be discussed at the meeting.

*Matters to Be Considered:* The meeting will include a discussion of the following topics:

1. The types and frequency of broadband Internet access data that NTIA can compile through its ongoing programs and research that will be useful to the research community. For example, NTIA has categories of data from the BTOP and State Broadband Data Program and is gathering information through the next CPS that may be useful to the research community;

2. The current sources of data available to the research community for research related to broadband Internet access;

3. The economic, social, policy, or other areas that research related to broadband Internet access can inform;

4. The emergent themes, trends, and new directions within the research community regarding broadband Internet access data;

5. The data format preferred by researchers including those for distributing broadband-related data on the Web to promote maximum transparency for researchers and the interested public; and

6. The legal requirements regarding the agency's collection of and dissemination of data from third parties.

*Time and Date:* The meeting will be held on October 30, 2009, from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time. The times and the agenda topics are subject to change. The meeting may be webcast. Please refer to NTIA's web site, <http://www.ntia.doc.gov>, for the most up-to-date meeting agenda and webcast information.

*Place:* The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Room 4830, Washington, DC 20230. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. Attendees should bring a photo ID and arrive early to clear security. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. McConnaughey at (202) 482-1880 or [JMcConnaughey@ntia.doc.gov](mailto:JMcConnaughey@ntia.doc.gov), at least five (5) business days before the meeting.

Dated: October 19, 2009.

**Kathy D. Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

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## COMMODITY FUTURES TRADING COMMISSION

### Notice of Intent, Pursuant to the Authority in Section 2(h)(7) of the Commodity Exchange Act and Commission Rule 36.3(c)(3), To Undertake a Determination Whether the NWP Rockies Financial Basis Contract, Offered for Trading on the IntercontinentalExchange, Inc., Performs a Significant Price Discovery Function

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of action and request for comment.

**SUMMARY:** The Commodity Futures Trading Commission ("CFTC" or "Commission") is undertaking a review to determine whether the NWP<sup>1</sup> Rockies Financial Basis ("NWR") contract, offered for trading on the IntercontinentalExchange, Inc. ("ICE"), an exempt commercial market ("ECM") under Sections 2(h)(3)-(5) of the Commodity Exchange Act ("CEA" or the "Act"), performs a significant price discovery function. Authority for this action is found in section 2(h)(7) of the CEA and Commission rule 36.3(c) promulgated thereunder. In connection with this evaluation, the Commission invites comment from interested parties.

**DATES:** Comments must be received on or before November 6, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

<sup>1</sup> The acronym "NWP" indicates the Northwest Pipeline.

<sup>2</sup> Broadband Data Improvement Act, Pub. Law No. 110-385, 122 Stat. 4096, section 106(b) (2008). The Secretary delegated his authority to meet the obligations of section 106 of the BDIA to the Assistant Secretary for Communications and Information on April 9, 2009.

<sup>3</sup> Recovery Act, section 6001(l), 123 Stat. at 516.

- Follow the instructions for submitting comments. *Federal eRulemaking Portal*: <http://www.regulations.gov>.

- *E-mail*: [secretary@cftc.gov](mailto:secretary@cftc.gov). Include NWP Rockies Financial Basis (NWR) Contract in the subject line of the message.

- *Fax*: (202) 418-5521.

- *Mail*: Send to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

- *Courier*: Same as mail above.

All comments received will be posted without change to <http://www.CFTC.gov/>.

#### FOR FURTHER INFORMATION CONTACT:

Gregory K. Price, Industry Economist, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5515. Email: [gprice@cftc.gov](mailto:gprice@cftc.gov); or Susan Nathan, Senior Special Counsel, Division of Market Oversight, same address. Telephone: (202) 418-5133. E-mail: [snathan@cftc.gov](mailto:snathan@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

On March 16, 2009, the CFTC promulgated final rules implementing provisions of the CFTC Reauthorization Act of 2008 ("Reauthorization Act")<sup>2</sup> which subjects ECMs with significant price discovery contracts ("SPDCs") to self-regulatory and reporting requirements, as well as certain Commission oversight authorities, with respect to those contracts. Among other things, these rules and rule amendments revise the information-submission requirements applicable to ECMs, establish procedures and standards by which the Commission will determine whether an ECM contract performs a significant price discovery function, and provide guidance with respect to compliance with nine statutory core principles applicable to ECMs with SPDCs. These rules became effective on April 22, 2009.

In determining whether an ECM's contract is or is not a SPDC, the Commission will evaluate the contract's material liquidity, price linkage to other contracts, potential for arbitrage with other contracts traded on designated contract markets or derivatives transaction execution facilities, use of the ECM contract's prices to execute or settle other transactions, and other factors.

In order to facilitate the Commission's identification of possible SPDCs, Commission rule 36.3(c)(2) requires that an ECM operating in reliance on section 2(h)(3) promptly notify the Commission and provide supporting information or data concerning any contract: (i) that averaged five trades per day or more over the most recent calendar quarter; and (ii) (A) for which the ECM sells price information regarding the contract to market participants or industry publications; or (B) whose daily closing or settlement prices on 95 percent or more of the days in the most recent quarter were within 2.5 percent of the contemporaneously determined closing, settlement, or other daily price of another agreement.

##### II. Determination of a SPDC

###### A. The SPDC Determination Process

Commission rule 36.3(c)(3) establishes the procedures by which the Commission makes and announces its determination on whether a specific ECM contract serves a significant price discovery function. Under those procedures, the Commission will publish a notice in the **Federal Register** that it intends to undertake a determination as to whether the specified agreement, contract, or transaction performs a significant price discovery function and to receive written data, views, and arguments relevant to its determination from the ECM and other interested persons.<sup>3</sup> After prompt consideration of all relevant information,<sup>4</sup> the Commission will, within a reasonable period of time after the close of the comment period, issue an order explaining its determination. Following the issuance of an order by the Commission that the ECM executes or trades an agreement, contract, or transaction that performs a significant price discovery function, the ECM must demonstrate, with respect to that agreement, contract, or transaction, compliance with the core principles under section 2(h)(7)(C) of the CEA<sup>5</sup> and the applicable provisions of Part 36.

<sup>3</sup> The Commission may commence this process on its own initiative or on the basis of information provided to it by an ECM pursuant to the notification provisions of Commission rule 36.3(c)(2).

<sup>4</sup> Where appropriate, the Commission may choose to interview market participants regarding their impressions of a particular contract. Further, while they may not provide direct evidentiary support with respect to a particular contract, the Commission may rely for background and context on resources such as its October 2007 *Report on the Oversight of Trading on Regulated Futures Exchanges and Exempt Commercial Markets* ("ECM Study"). [http://www.cftc.gov/stellent/groups/public/@newsroom/documents/file/pr5403-07\\_ecmreport.pdf](http://www.cftc.gov/stellent/groups/public/@newsroom/documents/file/pr5403-07_ecmreport.pdf).

<sup>5</sup> U.S.C. 2(h)(7)(C).

If the Commission's order represents the first time it has determined that one of the ECM's contracts performs a significant price discovery function, the ECM must submit a written demonstration of its compliance with the core principles within 90 calendar days of the date of the Commission's order. For each subsequent determination by the Commission that the ECM has an additional SPDC, the ECM must submit a written demonstration of its compliance with the core principles within 30 calendar days of the Commission's order.

###### B. NWP Rockies Financial Basis Contract

The NWR contract is cash settled based on the difference between the bidweek price index for a particular calendar month at the NWP, Rockies hub, as published by Platts in its *Inside IFERC's Gas Market Report*, and the final settlement price of the New York Mercantile Exchange's (NYMEX's) physically-delivered Henry Hub natural gas futures contract for the same calendar month. The Platts bidweek price is computed from fixed-price, bilateral transactions executed during the last five business days of a given month, where the transactions specify the delivery of natural gas at the NWP, Rockies hub, during the following calendar month. The price index is computed as the volume-weighted average of the applicable natural gas transactions. Bidweek prices are published on the first business day of the month in which the gas flows. The size of the NWR contract is 2,500 mmBtu, and the unit of trading is any multiple of 2,500 mmBtu. The NWR contract is listed for up to 120 calendar months commencing with the next calendar month.

Based upon a required quarterly notification filed on July 27, 2009 (mandatory under Rule 36.3(c)(2)), the ICE reported that, with respect to its NWR contract, the total number of trades was 3,013 in the second quarter of 2009, resulting in a daily average of 47.1 trades. During the same period, the NWR contract had a total trading volume of 276,187 contracts and an average daily trading volume of 4,315.4 contracts. Moreover, the open interest as of June 30, 2009, was 349,931 contracts.

It appears that the NWR contract may satisfy the material liquidity, price linkage, and material price reference factors for SPDC determination. With respect to material liquidity, trading in the NWR contract averaged more than 4,000 contracts on a daily basis, with nearly 50 separate transactions each day. In addition, the open interest in the

<sup>2</sup> 74 FR 12178 (Mar. 23, 2009); these rules became effective on April 22, 2009.

subject contract was substantial. In regard to price linkage, the final settlement of the NWR contract is based, in part, on the final settlement price of the NYMEX's physically-delivered natural gas contract, where the NYMEX is registered with the Commission as a designated contract market ("DCM"). In regard to material price reference, while it did not specifically address the natural gas contracts under review, the ECM Study stated that, in general, market participants view the ICE as a price discovery market for certain natural gas contracts. Natural gas contracts based on actively-traded hubs are transacted on the ICE's electronic trading platform, with the remainder being completed over-the-counter and potentially submitted for clearing by voice brokers. In addition, the ICE sells its price data to market participants in a number of different packages which vary in terms of the hubs covered, time periods, and whether the data are daily only or historical. For example, the ICE offers the "West Gas End of Day" and "OTC Gas End of Day" data packages with access to all price data or just 12, 24, 36, or 48 months of historical data.

### III. Request for Comment

In evaluating whether an ECM's agreement, contract, or transaction performs a significant price discovery function, section 2(h)(7) of the CEA directs the Commission to consider, as appropriate, four specific criteria: Price linkage, arbitrage, material price reference, and material liquidity. As it explained in Appendix A to the Part 36 rules,<sup>6</sup> the Commission, in making SPDC determinations, will apply and weigh each factor, as appropriate, to the specific contract and circumstances under consideration.

As part of its evaluation, the Commission will consider the written data, views, and arguments from any ECM that lists the potential SPDC and from any other interested parties. Accordingly, the Commission requests comment on whether the ICE's NWR contract performs a significant price discovery function. Commenters' attention is directed particularly to Appendix A of the Commission's Part 36 rules for a detailed discussion of the factors relevant to a SPDC determination. The Commission notes that comments which analyze the contracts in terms of these factors will be especially helpful to the determination process. In order to determine the relevance of comments received, the Commission requests that commenters explain in what capacity

are they knowledgeable about one or several of the subject contracts.

### IV. Related Matters

#### A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")<sup>7</sup> imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. Certain provisions of final Commission rule 36.3 impose new regulatory and reporting requirements on ECMs, resulting in information collection requirements within the meaning of the PRA; OMB previously has approved and assigned OMB control number 3038-0060 to this collection of information.

#### B. Cost-Benefit Analysis

Section 15(a) of the CEA<sup>8</sup> requires the Commission to consider the costs and benefits of its actions before issuing an order under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of such an order or to determine whether the benefits of such an order outweigh its costs; rather, it requires that the Commission "consider" the costs and benefits of its action. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The bulk of the costs imposed by the requirements of Commission Rule 36.3 relate to significant and increased information-submission and reporting requirements adopted in response to the Reauthorization Act's directive that the Commission take an active role in determining whether contracts listed by ECMs qualify as SPDCs. The enhanced requirements for ECMs will permit the Commission to acquire the information it needs to discharge its newly-mandated responsibilities and to ensure that ECMs with SPDCs are identified as entities with the elevated status of registered entity under the CEA and are in compliance with the statutory terms of the core principles of section 2(h)(7)(C) of the Act. The primary benefit to the public is to enable the Commission to discharge its statutory obligation to monitor for the presence of SPDCs and extend its oversight to the trading of SPDCs.

Issued in Washington, DC, on October 14, 2009 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### Establishment of a Public Consumer Product Safety Incident Database; Notice of Hearing

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties on Section 212 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Establishment of a Public Consumer Product Safety Incident Database. Participation by members of the public is invited. Oral presentations concerning the Commission's implementation of Section 212 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Establishment of a Public Consumer Product Safety Incident Database, will become part of the public record.

**DATES:** The hearing will begin at 9 a.m. on November 10, 2009. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Standard Time (EST) on November 3, 2009.

**ADDRESSES:** The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East West Highway, Bethesda, Maryland 20814. Requests to make oral presentations can be made online at <http://www.cpsc.gov/cgibin/dbmeeting.aspx> or, send an e-mail, call, or write Todd A. Stevenson, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail [cpssc-os@cpssc.gov](mailto:cpssc-os@cpssc.gov); telephone (301) 504-7923; facsimile (301) 504-0127 not later than 5 p.m. EST on November 3, 2009. Texts of oral presentations should be captioned "Establishment of a Public Consumer Product Safety Incident Database" and sent by electronic mail (e-mail) to [cpssc-os@cpssc.gov](mailto:cpssc-os@cpssc.gov), or mailed or delivered to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814, not later than 5 p.m. EST on November 3, 2009.

<sup>6</sup> 17 CFR 36, Appendix A.

<sup>7</sup> 44 U.S.C. 3507(d).

<sup>8</sup> 7 U.S.C. 19(a).