

April 1, 2009 APR 2 AM 11 14

VIA E-MAIL

Mr. David Stawick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #09.56: Notification of New Incentive Programs for Certain Natural Gas Contracts

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying new incentive programs (attached herewith) for certain natural gas contracts.

As background, NYMEX is replacing the third-party reference used in connection with its determination of final settlement of ten cash-settled natural gas contracts from *Natural Gas Intelligence* ("NGI") to *Platts Inside F.E.R.C.* ("IFERC") beginning with the May 2009 contract months, as per the Exchange's submission #09-13, filed with the Commission on February 5, 2009. The ten contracts affected are: NYMEX Chicago Basis Swap, NYMEX SoCal Basis Swap, Malin Basis Swap, PG&E Citygate Basis Swap, PG&E Citygate Natural Gas Index, SoCal Natural Gas Index, Chicago Natural Gas Index, PGE CityGate Pipe Option, Chicago CityGate Pipe Option, and SoCal Pipe Option. These contracts are all listed only on the CME ClearPort[®] Trading and Clearing systems.

Three distinct incentive programs are part of this business effort in order to maintain open interest in the existing futures contracts that will be affected by the change in the final settlement mechanism: (1) a basis risk program; (2) enhanced OTC broker rebate; and (3) a fee rebate program for increased open interest in the back contract months. The rebate program is specific to each participant that increases its own open interest. These programs are intended to have a pro-competitive effect. By maintaining or enhancing existing open interest, these programs will facilitate the applicable NYMEX contracts to continue to be a viable competitive alternative to contracts listed by other exchanges or markets.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached NYMEX incentive programs comply with the Act, including regulations under the Act. These programs will be made effective on April 3, 2009.

Should you have any questions concerning the above, please contact Brian Regan at (212) 299-2207, or the undersigned at (202) 638-3838.

Sincerely,

A handwritten signature in black ink, appearing to read "De'Ana H. Dow". The signature is written in a cursive style with a large initial "D".

De'Ana H. Dow
Managing Director
Government Relations

Attachment

Open Interest Incentive Programs for Certain Natural Gas Basis Swaps, Index Swaps and Pipeline Options Contracts

1. **Basis Risk Program:** The specific purpose of this program is to incentivize market participants to maintain open interest in these contracts by mitigating the financial impact of potential basis risk for customers concerning a possible differential between final settlement prices under the old settlement mechanism and final settlement under the new settlement mechanism that will be based on references from the Platts IFERC Gas Market Report.

Under this program, we are offering rebates to customers who can demonstrate a negative financial impact due to the difference between the new basis value to be used to settle the NGI/NGX contracts, versus the indices we previously used. In the event that customer losses are incurred due to a basis difference ("Basis Risk") in excess of one penny at settlement, we would rebate the customer the aggregate amount of their losses incurred strictly due to the demonstrated difference between the contrasting indices. As part of this demonstration, we would require customers to submit to us the relevant final settlement prices applicable under the former final settlement mechanism.

This rebate program is strictly limited to this specific potential cost, and the Exchange will not provide any manner of rebate or financial adjustment for any ordinary trading losses. The rebate program's intention is to limit the potential downside for customers exposed to basis risk. The program is as follows:

1. The initial program will be for a one-year term, May 2009 through April 2010.
2. All Basis, Index and Pipe Option positions at Chicago (NB, IS, PY), Malin (PB), PG&E Citygate (PC, IK, CW) and SoCal Citygate (NS, IF, ZN) will be factored into the rebate program.
3. All cash settled positions with a loss differential greater than 1 penny in downside exposure will be eligible for rebate.
4. All client positions will be aggregated against one another, so positions that have cash settled in a customer's favor will be factored against positions for that customer that have settled as a loss.
5. The rebate program is only focused on mitigating the downside impact of the potential basis differential for our customers. By contrast, at the end of the one-year term, April 2010, if the customer could potentially have "gained" money as a result of the index basis differential, the Exchange of course would not seek to collect any upside obtained by the customers from the basis differential.
6. The program will be reassessed for possible term extension for an additional 6 months.
7. The program will be open to all participants with positions in the applicable contracts that exceeded 100 lots in open interest (aggregated across all applicable contracts) as of a final settlement date for an expiring contract month.

2. **Broker Rebate Program:** To encourage open interest ("OI") to remain in these products at NYMEX, we are launching an enhanced OTC broker rebate program. Overview of the program:
- Program to commence shortly and run through December 31, 2009. OI calibration date is January 15, 2009.
 - An enhanced OTC broker rebate of 50% applies if OI for trading activity submitted by a particular OTC broker at quarter end is higher than the calibration date. A rebate of 75% applies if OI at quarter end for trading activity submitted by a particular OTC broker is 25% higher than the calibration date level.
 - The enhanced OTC rebates are only paid with increases in OI and this program will further reinforce to OTC brokers our commitment to these products at NYMEX.
3. **Building Deferred Open Interest Program:** Finally, we are also commencing a fee rebate to all customers that add open interest in the July 2010 contract month and beyond. Specifically, we are launching a fee rebate of \$0.10 per contract if open interest increases in these contract months. This fee rebate will run through December 31, 2009. The Exchange will re-evaluate an extension of this rebate at the end of 2009. This fee rebate will be made public in a notice to members to be issued shortly.
- The analysis would be conducted on a quarterly basis.
 - The date on which the analysis is conducted will not be disclosed to the trading community.