

**North American Energy Standards Board  
Wholesale Gas Quadrant – Request No. 15007**

**Comments of WEC Energy Group, Inc. Utilities<sup>1</sup> (“WEC Energy Utilities”)**

**Re: Wholesale Gas Quadrant; Request No. R15007**

The North American Energy Standards Board, on October 27, 2015, opened an industry comment period on Request No. R15007. WEC Energy Utilities submit the following comments on that request. Request No. 15007 proposed adding a “Party CFTC Classification” to the Base Contract for Sale and Purchase of Natural Gas (Standard 6.3.1). Specifically, the request is to add to the cover page a section for each party to indicate if “Party is a producer, processor, fabricator, refiner, commercial user, or merchandiser of the Gas under this contract.” Each party would indicate “yes,” “no” or “not selected.”

The requesting party, the Tennessee Valley Authority, stated that “this self-identification provision on the Cover Page would help any end-users determine whether counterparties are commercial market participants for purposes of the CFTC’s volumetric optionality test.”

The WEC Energy Utilities reviewed the materials related to this request and do not support it. Given the still evolving Commodity Futures Trading Commission (“CFTC”) rules and interpretations and the multiple types of entity identification that may apply to a market participant, the WEC Energy Utilities see little value in singling out this item and prefer that parties address CFTC requirements, if at all, through special provisions, addenda to the contract, or separate agreements tailored to their circumstances and the information that is relevant to their obligations and concerns.

First, it is difficult to discern from the recommendation the basis for the specific proposed language. It appears to be a combination of language from the CFTC rule related to trade option exceptions (17 CFR Sec. 32.3) and language from other CFTC authority (e.g., the “Brent Interpretation”). The rule (17 CFR Sec. 32.3) provides, in part, that certain otherwise applicable rules do not apply to trade options when the offeror and offeree are “a producer, processor, or commercial user of, or a merchant handling the commodity that is the subject of the commodity option transaction, or the products or by-products thereof, and” the offeror or offeree is “entering into the commodity option transaction solely for purposes related to its business as such.” It is not evident to the WEC Energy Utilities why the proposed contract election varies from the rule.

Second, the proposal does not include “eligible contract participant,” which, for Sec. 32.3(a)(1)(i) purposes, is relevant to the offeror.

Third, the proposal includes “not selected” as an alternative. It is not evident what information this choice conveys. The WEC Energy Utilities speculate that it is a choice

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<sup>1</sup> WEC Energy Group, Inc. is a holding company and the following gas utilities or combination gas and electric utilities are wholly-owned subsidiaries: Michigan Gas Utilities Corporation; Minnesota Energy Resources Corporation; North Shore Gas Company; The Peoples Gas Light and Coke Company; Wisconsin Electric Power Company; Wisconsin Gas LLC; and Wisconsin Public Service Corporation.

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that a party may make to show that not selecting “yes” or “no” was intentional and not an oversight. However, the usefulness to the parties of “not selected” as an option is limited, at best.

The WEC Energy Utilities do not support the proposed addition to the contract. They prefer that CFTC matters be handled through contract negotiations as special provisions or addenda to the contract or through separate agreements.

Respectfully submitted,  
WEC Energy Group, Inc. Utilities

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