February 10, 2014

VIA CFTC website: http://comments.cftc.gov

Melissa D. Jurgens
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Re: "Position Limits for Derivatives," 78 *Fed. Reg*. 75680 (December 12, 2013). *RIN Number* 3038-AD99

Dear Ms. Jurgens:

The American Public Gas Association ("APGA") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("Commission") "Position Limits for Derivatives," 78 *Fed. Reg*. 75680 (December 12, 2013) ("Notice"). The Notice proposes to implement speculative position limits under the new authority provided by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"). The Commission proposes to establish speculative position limits for 28 exempt and agricultural commodity futures and option contracts, and economically equivalent physical commodity swaps; revise various exemptions from speculative position limits, including for bona fide hedging; remove a current procedure for case-by-case exemptions of hedging transactions, extend various reporting requirements, and update the requirements that apply to speculative position limits or position accountability requirements applicable to designated contract markets and swap execution facilities.

APGA

APGA is the national association for publicly-owned natural gas distribution systems. There are approximately 1,000 public gas systems in 37 states and over 700 of these systems are APGA members. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

Proposed rules in general

The Commission proposed to set speculative position limits on energy commodities that would apply to all referenced contracts, including economically equivalent swaps. These speculative position limits would be applied across all trading venues subject to the Commission's jurisdiction. Section 4a(a)(1) of the Commodity Exchange Act, 7 U.S.C. §1 et seq. ("Act"), as amended by the Dodd-Frank Act, authorizes the Commission to extend position limits beyond futures and option contracts to swaps traded on a DCM or swap execution facility ("SEF"), swaps that are economically equivalent to DCM futures and option contracts with position limits, and swaps not traded on a DCM or SEF that perform or affect a significant price discovery function with respect to regulated entities.[1] New Sections 4a(a)(2)(B) and 4a(a)(3) of the Act empower the Commission to set spot-month, single-month and all-months-combined limits for DCM futures and option contracts on "exempt" and "agricultural" commodities.

The Commission is proposing to establish position limits using a phased approach. Initially, the Commission is proposing to apply speculative position limits to 28 core referenced commodities and to expand the application of such limits to additional commodities subsequently. Natural gas is one of the initial 28 core referenced commodities. Speculative position limits are proposed to apply to the spot month of a referenced futures contract and to a single month and all-months-combined. The level for single month and all-months-combined would be the same.

The Commission is proposing to set the spot month limit level in natural gas based upon the current spot month level set by the New York Mercantile Exchange ("NYMEX") or according to NYMEX's estimate of one-quarter of deliverable supply provided to the Commission in a comment. The alternate limit is approximately 4 times larger than the current NYMEX limit (1,000 and 3,900 contracts respectively).

The Commission proposes to establish non-spot-month limits based on open interest levels, which would be adjusted every two years. The formula that the Commission is proposing to use for setting the non-spot-month position levels is derived from current rules that apply to agricultural commodities. The initial proposed speculative position limit in natural gas for the non-spot month would be 149,600 futures contract equivalents. The Commission notes that 177 persons would have exceeded the proposed physical delivery spot month level, 221 persons would have exceeded the proposed cash-settled spot month level and 5 persons would have exceeded the proposed non-spot limit.

In Section 4a of the Act, Congress recognized that "[e]xcessive speculation in any commodity under contracts of sale of such commodity for future delivery…causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity is an undue and unnecessary burden on interstate commerce in such commodity." Congress thus instructed the Commission to fix speculative position limits as "necessary to diminish, eliminate or prevent such burden." In the Notice, the Commission reiterates its own findings that large speculative positions "can result in sudden changes to commodity prices that would otherwise not prevail if traders' positions were more evenly distributed among market participants." Based on these

[1] Specifically, new Section 4a(a)(6) of the Act requires the Commission to apply position limits on an aggregate basis to contracts based on the same underlying commodity across: 1) DCMs; 2) foreign boards of trade, if the contracts are price-linked to a DCM or SEF contract and made available from within the United States via direct access; and 3) significant price discovery function swaps.

findings, the Commission has proposed aggregate speculative position limits that apply across all markets subject to the Commission's jurisdiction.

APGA notes that these proposed speculative position limit levels were considered and published for comment following vacatur of the Commission's prior adoption of speculative position limits.[2] APGA recognizes that the Commission has brought a high degree of transparency and public involvement to the discussion of the contentious issue of speculative position limits. APGA agrees that the application of an aggregate limit across markets on which contracts on the same commodity are traded is necessary to reduce or diminish the recent unwarranted price volatility in the futures and option markets for natural gas, and concurs with Congress's findings and with the Commission's proposal to adopt Commission-set aggregate speculative position limits. APGA does not object to the Commission's proposal to base non-spot speculative position limits on open interest, but as explained in greater detail below, believes that the non-spot month limits being proposed by the Commission are too high to be effective. Moreover, APGA questions whether in light of the very high non-spot limits, the Commission should propose a single month limit level less than the all-months level.[3]

APGA further believes that the Commission should reconsider its application of speculative position limits to trade options. Unless modified, this is likely to increase burdens on commercial end-users with no attendant regulatory benefit. APGA is similarly concerned that the re-definition of "bona fide hedging" and certain associated reporting provisions, particularly those related to anticipatory hedges, potentially creates unnecessary restrictions on commercial end-users. APGA is concerned that such requirements would place burdens on end-users with no commensurate regulatory benefit.

History of speculative position limits under the Commodity Exchange Act

Systemized trading in contracts for the future delivery of agricultural commodities developed in the United States in the mid to late 1800s from an economic need for risk shifting. Glaring abuses were attendant with the advantages of trading; these included price manipulations, market corners and extreme and sudden price fluctuations on the organized exchanges. These abuses stirred repeated demands for legislative action to prohibit or comprehensively regulate futures trading. Section 3 of the Act as adopted in 1936[4] explained the statute's purpose in relevant part as follows:

> Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as 'futures' are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the

[2] International Swaps and Derivatives Association v. United States Commodity Futures Trading Commission, 887 F.Supp. 259 (D.D.C. 2012).
[3] In this regard, the Commission has previously proposed such single month limits. *See* Federal Speculative Position Limits for Referenced Energy Contracts and Associated Regulations, 75 Fed. Reg. 4144 (Jan. 26, 2010), *withdrawn* 75 Fed. Reg. 50950 (Aug. 18, 2010).
[4] Section 3 was amended by the Commodity Futures Modernization Act of 2000.

> products and byproducts thereof. . . . The prices involved in such transactions are generally quoted and disseminated through the United States and in foreign countries as a basis for determining the prices to the producer and the consumer. . . . The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer. . . .

The Commission in 1981 adopted a rule requiring all futures exchanges to impose speculative position limits for all commodities that were not subject to a Federal speculative position limit.[5] In so doing, the Commission explained the danger that unchecked speculative positions can pose to the markets, saying:

> It appears that the capacity of any contract market to absorb the establishment and liquidation of large speculative positions in an orderly manner is related to the relative size of such positions, i.e., the capacity of the market is not unlimited. Recent events in the silver market would support a finding that the capacity of a liquid futures market to absorb large speculative positions is not unlimited, notwithstanding mitigating characteristics of the underlying cash market.[6]

Subsequently, the Commission permitted a number of contracts to be exempt from the requirement that the exchange impose a speculative position limit, permitting instead that the exchange impose a "position accountability rule."[7] These exemptions were based on the liquidity of the futures and cash markets for such commodities. Tangible commodities, such as energy, were permitted to have a position accountability rule only for the back months; spot-month speculative position limits were still required. The position accountability exemptions were codified by the Commission at 17 C.F.R. §150.5(e).

The new authority provided to the Commission in the Dodd-Frank Act and the Commission's proposed rules pursuant to that new authority continue to build upon the foundation of these prior actions.

Necessity for Commission speculative position limits

As hedgers using both the exchange and the OTC energy markets, APGA's members value the role of speculators in the markets. We also value the different needs served by the futures exchanges and the swaps markets. As hedgers, public gas systems depend upon liquid and deep markets in which to manage our risk. Speculators provide needed liquidity and depth to the markets.

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[5] The Commission subsequently modified this requirement, permitting contract markets to impose "position accountability rules" in lieu of speculative position limits for certain contracts, including energy contracts.
[6] Establishment of Speculative Position Limits, 46 Fed. Reg. 50938, 50940 (Oct. 16, 1981).
[7] *See* Revision of Federal Speculative Position Limits and Associated Rules, 63 Fed. Reg. 38525 (July 17, 1998), for an explanation of the position accountability exemptions.

However, speculative trading strategies may not always have a benign effect on the markets. As the Commission recognizes in the Notice at page 75691-75693, the dramatic collapse of Amaranth Advisors LLC and the impact it had upon prices exemplifies the adverse impact that speculative trading interests can have on natural gas supply contracts for local distribution companies ("LDCs"). Amaranth Advisors LLC was a hedge fund based in Greenwich, Connecticut, with over $9.2 billion under management. Although Amaranth classified itself as a diversified multi-strategy fund, the majority of its market exposure and risk was held by a single Amaranth trader in the OTC derivatives market for natural gas.

Amaranth reportedly accumulated excessively large long positions and complex spread strategies far into the future. Amaranth's speculative trading wagered that the relative relationship in the price of natural gas between summer and winter months would change as a result of shortages which might develop in the future and a limited amount of storage capacity. Because natural gas cannot be readily transported about the globe to offset local shortages, the way for example oil can be, the market for natural gas is particularly susceptible to localized supply and demand imbalances.[8] A report by the U.S. Senate Permanent Committee on Investigations affirmed that "Amaranth's massive trading distorted natural gas prices and increased price volatility."[9]

Many natural gas distributors locked in prices prior to the period Amaranth collapsed at prices that were elevated due to the accumulation of Amaranth's positions. They did so because their risk management policies require that they hedge part of their winter natural gas in the spring and summer. Accordingly, even though natural gas prices were high at that time, it would have been irresponsible (and contrary to their risk-management policies) to not hedge a portion of their winter gas in the hope that prices would eventually drop. Thus, the elevated prices which were a result of the excess speculation in the market by Amaranth and others significantly increased the cost of natural gas for many of APGA's members and ultimately for their customer rate payers.[10]

APGA believes that the proposed rules will provide enhanced protections to the markets and that the proposed Commission-set speculative position limits are important additional tools to assure the price integrity of these important markets. Nevertheless, APGA believes that several modifications to the rules as proposed would enhance their effectiveness and more completely achieve the intended goals of Section 4a of the Act. APGA recommends that the Commission reconsider the following aspects of the rules as proposed. These are:

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[8] Amaranth's strategy was reportedly based upon a presumption that hurricanes during the summer of 2006 would make natural gas more expensive in 2007, similar to the impact that hurricanes Katrina and Rita had had on prices the previous year. As reported in the press, Amaranth held open positions to buy or sell tens of billions of dollars of natural gas. As the hurricane season proceeded with very little activity, the price of natural gas declined, and Amaranth lost approximately $6 billion, most of it during a single week in September 2006. The unwinding of these excessively large positions and that of another previously failed $430 million hedge fund—MotherRock—further contributed to the extreme volatility in the price of natural gas.

[9] *See* Excessive Speculation in the Natural Gas Market, Report of the U.S. Senate Permanent Subcommittee on Investigations (June 25, 2007) ("PSI Report") at p. 119.

[10] One APGA member has quantified its loss due to this unwarranted price fluctuation as $18 million.

1) Reduce the proposed levels of the non-spot month speculative position limits. In this regard, APGA strongly believes that the Notice proposes to set the levels so high that the speculative position limits would be largely ineffective in achieving their purpose of reducing or diminishing excessive speculation and the unwarranted price movements caused thereby.

2) Provide for an individual-month speculative position limit that is less than the all-months-combined limit. This will limit the ability of a speculator through the use of inter-month spreads to establish excessively large positions in the month nearby the spot-month.

3) Adopt a limit to the over-all size of the position in the physical commodity that a person may hold if it claims the conditional exemption from spot month limits for a cash-settled contract to no more than one-quarter the deliverable supply.

APGA further believes that the Commission should reconsider the application of speculative position limits to trade options, its approach to defining "bona fide hedging;" and the reporting obligations associated with certain hedge exemptions. Unless modified, these proposed rules are likely to increase burdens on commercial end-users with no attendant regulatory benefit. Finally, APGA believes that the Commission should consider appropriate action to address the issue of passive long-only traders.

With this in mind, APGA offers the following specific comments on the proposed rules.

Proposed levels are too high

The Commission itself notes that the proposed "formula would result in levels for non-spot month position limits that are high in comparison to the size of positions typically held in futures contracts."[11] Indeed, as noted above, the Commission's data reveals that only 5 persons would have exceeded the non-spot limits.[12] Thus, the Commission's own analysis points to the fact that the proposed limit levels will have next to no constraining effect on even the largest speculative traders in the natural gas markets in non-spot months, demonstrating that the limits as proposed will be ineffective in carrying out the Congressional mandate of Section 4a of the Act.

Given that the proposed formula-based approach to speculative position limits on its face would not yield a meaningful result in respect to the non-spot limits for natural gas, the Commission should consider customary position sizes held by speculative traders as a factor in moderating the limit levels proposed by the Commission.[13] APGA's members believe that it is absolutely necessary that the Commission moderate the limits proposed if they are to have any effect whatsoever. Customary position size is a method for setting speculative position limits which has been used by the Commission in the past as an alternative to the formula-based

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[11] *See* Notice at 75731.
[12] Id. at 75732.
[13] The Commission inquired whether this approach would be beneficial when proposing rules for speculative position limits for referenced energy contracts in 2010. *See* Question 6, 75 Fed. Reg. 4144, 4162 (Jan. 26, 2010).

approach of the proposed rules. The Commission has available to it large trader futures and swap data through which it is possible to observe the distribution of traders in a market ranked by the size of their positions. Using this approach, it is possible for the Commission to determine the size of positions customarily held in the market and to set a speculative position limit that is effective in constraining traders that are unduly large relative to most traders in the market. Such an approach is an effective means for ensuring that the speculative position limit will not be set at a level that degrades the market's liquidity, but which is effective in curtailing excessively large speculative positions.

Provide for an individual-month speculative position limit level less than the all-months-combined limit level

The Commission has proposed that the single month speculative position limit be at the same level as the all-months-combined level. This is contrary to prior Commission proposals and raises particular concerns. The lack of a lower, separate single month limit level would enable a speculator to amass a position in the next-to-deliver month equal to the all-months-combined level.[14] The next-to-expire is the most actively traded month and is used in setting prices for other contracts. It is therefore particularly worrisome that a speculator could amass such a large outright position in this critically important trading month. And, the fact that position limits are net-long or net-short means that a speculator could hold an even larger position in the next-to-expire month if it is off-set with positions in the more distant months. These strategies would enable a speculator to put undue pressure on the spot month and may lead to problems of market congestion as traders are required to exit or roll larger positions out of the next-to-expire month going into the spot month. This is a critical concern in light of the admitted fact that the all-months-combined limit is so large that it will affect an exceedingly few number of traders.

There is an additional cause for concern in not specifying a lower single month limit. As discussed below, concerns remain relating to the role of passive long traders in the market. Having a single month limit that is equal to the all-months-combined levels may increase the effect on the market that this style of trading may exert. The Commission should take a more cautious approach in setting the single-month limit until it gains a better understanding of the possible influence on market prices that this trading style may entail.

For the above reasons, APGA's members urge the Commission to adopt the single month limit at 2/3s the all-month-combined limit level as the Commission proposed in its 2010 speculative position limits.

Spot-month conditional exemption

The Commission has proposed a conditional spot month limit for contracts that are cash settled based upon a physical delivery contract at 5 times the physical delivery limit level so long

[14] The Commission's 2010 proposal provided for a single month limit at 2/3s the level of the all-months-combined limit.

as the trader taking advantage of the exemption refrains from trading in the physical delivery contract and files reports of its cash market position. As the Commission explains:

> As proposed, this broad conditional spot month limit exemption for cash settled contracts would be similar to the conditional spot month limit for cash settled contracts in proposed §151.4. However, unlike proposed §151.4, proposed §150.3(c) would not require a trader to hold physical commodity inventory of less than or equal to 25 percent of the estimated deliverable supply in order to qualify for the conditional spot month limit exemption. Rather, the Commission proposes to require enhanced reporting of cash market holdings of traders availing themselves of the conditional spot month limit exemption.[15]

APGA is of the view that the very high non-spot limit levels puts additional focus and importance on the adequacy of spot month limit levels in curtailing the effects of excessive speculation. The Commission proposes not only to permit higher levels for cash settled contracts in the spot month through this proposed exemption, but at the same time to remove the important limitation that a trader taking advantage of the exemption must limit its physical holdings to no more than one quarter of the deliverable supply. As the Commission notes,

> [c]oncerns regarding corners and squeezes are most acute in the markets for physical contracts in the spot month, which is why speculative limits in physical delivery markets are generally set at levels that are stricter during the spot month.[16]

The Commission has proposed that traders taking advantage of the spot month exemption for cash-settled contracts be precluded from also trading in the physical delivery contract, in order to protect

> the price discovery process in the physical delivery contract from the risk that traders with leveraged positions in cash settled contracts (in comparison to the level of the limit in the physical delivery contract) would otherwise attempt to mark the close or distort physical-delivery prices to benefit their leveraged cash-settled positions.[17]

However, as the Commission recognized in former rule 151.4 this danger also exists with respect to a trader holding excessively large physical delivery inventories. Accordingly, that rule precluded a trader taking advantage of the spot month exemption from holding more than one-quarter of the deliverable supply in physical inventory. APGA believes that that approach was, and is, sound. The effect of the Commission's current proposal is to permit a single speculator to amass a position in cash-settled contracts that is well in excess of the limit that would be applicable to a physically-settled contract *and* to amass an inventory equal to total deliverable supplies. Simply requiring speculators to report on their physical inventories does not sufficiently address this concern.

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[15] Notice at 75737.
[16] *Id*.
[17] *Id*.

Speculative position limits are a prophylactic tool to diminish and discourage manipulative and other abusive market activities. Experience tells us that there is never a shortage of individuals or interests who believe that they can, and will attempt to, affect the market or manipulate price movements to favor their market position. The significant penalties assessed by the Commission and the settlements it has accepted relating to abuse of the energy markets affirms this. However, it must be borne in mind that catching and punishing those that manipulate markets after a manipulation has occurred does not remedy the harm suffered by our members and their customers caused by manipulated natural gas prices. Thus, APGA sees no reason for the Commission to relax the prior limitation on a speculator that makes use of the spot month exemption from holding greater than 25% of the deliverable supply.

Exempt trade options from the application of speculative position limits

The Commission requested comment on a number of alternative treatments of trade options.[18] APGA is of the view that trade options should be treated the same as forward contracts. That is, trade options themselves should be excluded from the application of speculative position limits but may be the basis against which a hedge exemption applies.

As the Commission notes, trade options are only available to an offeree that is a producer, processor, or commercial user of or a merchant handling, the commodity that is the subject of the option and is related to the offeree's business. In light of these restrictions, it is an exceedingly remote possibility that trade options would be part of any manipulative activity by a trader. Because trade options are often difficult to distinguish from certain types of forward contracts, often used for the same purposes and in conjunction with forward contracts, it is reasonable to treat them the same as forward contracts for the purpose of speculative position limits. Taking this step would remove a significant difference in regulatory treatment between forward contracts and trade options, deemphasizing the need, and the incentives, to be able to distinguish between the two with precision. This would assist commercial end users in their compliance programs, removing a possible trap for the unwary. These benefits far outweigh the relatively slight risk that applying speculative position limits to trade options will reduce any manipulative or other threat to orderly trading.

Bona fide hedging definition and associated reporting requirements

The Commission's approach to defining "bona fide hedging" and related reporting requirements will likely have an adverse impact on commercial end-users. A number of the proposals will erect practical obstacles to the ability of commercials to use the markets for long-standing and accepted risk reducing techniques. For example, the Commission in interpreting the "economically appropriate test" of the hedging definition has stated that an "enterprise generally should take into account all inventory or products that the enterprise owns or controls."[19] However, commercials may hedge on a gross basis for a variety of accepted

[18] Notice at 75711.
[19] Id. at 75709.

reasons, including operation of the enterprise through a number of decentralized separate lines of business.

Moreover, the Commission's proposed quantitative test for cross-commodity hedging will be unduly restrictive in certain circumstances. It may be that a stable and acceptable cross-commodity hedging relationship can be demonstrated through a quantitative analysis other than that which the Commission is proposing to mandate. And, it may be that a commercial end-user is willing to accept a wider basis risk than the Commission's quantitative test would permit in a cross-commodity hedge if there is no other available hedging vehicle.

Finally, the Commission is proposing that commercials that engage in anticipatory hedging strategies submit reports using a new Form 704 to replace the reporting requirements under current rule 1.48. However, the Commission also is proposing an additional annual and monthly reporting requirement under proposed rules 150.7(f) and 150.7(g), respectively. These additional reports would require the hedger to provide detailed information relating its cash market activities to the anticipatory hedge exemption that it claimed. APGA believes that these reports will impose significant additional regulatory and compliance burdens on commercials and believes that the Commission should consider alternatives, including targeted special calls when appropriate.

As discussed above, APGA supports the use of speculative position limits as a tool to help ensure that markets are able to perform their function of providing a means for managing price risk.[20] However, as illustrated by the above examples, in practice many of the proposed rules will discourage commercial end-users from using the markets. We urge the Commission to reconsider the proposed rules relating to the exemptions for bona fide hedging transactions and associated reporting requirements with respect to their effect on commercial end-users.

Passive, long-only traders

Finally, APGA notes that additional concerns have been raised with respect to the size of positions related to, and the role of, passively managed long-only index funds. These concerns are unaddressed by the Notice. APGA's concern is not whether the positions held through this style of trading are being taken in order intentionally to drive the price higher, but rather whether the unintended effect of the cumulative size of these positions has been to push market prices higher than the fundamental supply and demand situation would justify. A similar concern arises from futures positions in natural gas that are held in connection with investment instruments traded on securities exchanges through Exchange Traded Funds or issues of Exchange Traded Notes which overlie those futures contracts.

The Commission has not proposed rules that would apply particular speculative position limits to passive, long-only traders.[21] APGA notes that passive, long-only traders are a relatively

[20] See Section 3 of the Act.
[21] APGA recognizes that the Commission has proposed to revoke prior rulings recognizing transactions related to index trading as either hedges or subject to a risk management exemption. Notice at 75740.

new, but increasingly significant, category of trader.[22] Concerns have been raised with respect to the size of positions related to, and the role of, passively managed long-only index funds. In this instance, the concern is not whether the positions are being taken in order to intentionally drive the price higher, but rather whether the unintended effect of the cumulative size of these positions, has been to push market prices higher than the fundamental supply and demand situation would justify. Such long-only traders may trade directly in the futures markets or in the swaps markets. Investment instruments which overlie contracts on natural gas may also be traded on securities exchanges through Exchange Traded Funds or issues of Exchange Traded Notes.

The concerns raised with respect to these passive, long-only traders is that the additional inflows of speculative capital are creating greater demand than the market can absorb, thereby increasing buy-side pressure which results in advancing prices. As noted above, the Commission in its initial adoption of the requirement that exchanges implement speculative position limits, reasoned that

> the capacity of any contract market to absorb the establishment and liquidation of large speculative positions in an orderly manner is related to the relative size of such positions, i.e., the capacity of the market is not unlimited.[23]

APGA believes that although the Commission has not proposed a specific limit that would apply to passive, long-only investors, these issues are critically important and merit close examination and consideration by the Commission.[24] Passive, long-only trading strategies raise critical market structure issues and question of whether the markets are able to perform their important price discovery function as intended. APGA urges the Commission to address these issues in the coming months.

Conclusion

Natural gas is a lifeblood of our economy and millions of consumers depend on natural gas every day to meet their daily needs. It is critical that the price those consumers are paying for natural gas comes about through the operation of fair and orderly markets and through appropriate market mechanisms that establish a fair and transparent marketplace. As noted above, as hedgers, public gas systems rely on speculative traders to provide liquidity and depth to the markets. Thus, APGA does not wish to see steps taken that would discourage speculators from participating in these markets using bona fide trading strategies. But more importantly,

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[22] At least one commentator has observed that as of the middle of 2009, passive, long only traders had substantially increased their crude oil holdings over the previous year.. Hearing on Speculative Position Limits in Energy Markets, http://www.cftc.gov/newsroom/cftcevents/2009/oeaevent072809.html (July 28, 2009) (testimony of Sean Cota (citing Moming Zhou, "As Oil Rallies, Passive Investors Increase Their Holdings," in MarketWatch, http:///wwww.marketwatch.com).
[23] Establishment of Speculative Position Limits, 45 Fed. Reg. 50938, 50940 (Oct. 16, 1981).
[24] APGA notes that the Commission has been compiling and making available information on positions of certain index traders. See, http://www.cftc.gov/ucm/groups/public/@marketreports/documents/file/indexinvestment1213.pdf

APGA's members rely upon the prices generated by the futures to accurately reflect the true value of natural gas.

For these reasons, APGA supports the Commission's proposal to adopt speculative position limits on exempt commodities. APGA strongly encourages the Commission to take strong remedial action by: 1) modifying its proposal to reduce the proposed levels of the speculative position limits; 2) applying an individual month limit of 2/3s the all-months-combined limit; 3) restoring the condition that a speculator seeking exemption from the spot month limit for cash settled contracts limit its related physical inventory to no more than one-quarter the deliverable supply; 4) exempt trade options from speculative position limits on the same basis as forward contracts; 5) reconsider the effect of the proposed rules on bona fide hedging on commercial end-users; and 6) undertake a process to consider and address the issues raised by passive, long-only trading activity.

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APGA applauds the Commission's proposed speculative position limit rules and urges it to incorporate the enhancements that we have identified in this letter in the final rules in order to ensure that the Commission has the fullest panoply of tools possible.

We would be happy to discuss our comments or any of the issues raised by the proposed rules at greater length with the staff. Please feel free to contact Bert Kalisch, President and CEO of APGA, or David Schryver, Executive Vice President of APGA.

Respectfully submitted,

Bert Kalisch
President & CEO

cc: Acting Chairman Wetjen
Commissioner Chilton
Commissioner O'Malia
Vincent McGonagle, Director DMO
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