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VIA EMAIL AND OVERNIGHT COURIER

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Complementary Activities, Merchant Banking Activities, and Other Activities of Financial Holding Companies related to Physical Commodities (Docket No. R-1479, RIN 7100-AE-10)

Dear Sir:

We are writing in connection with the advance notice of proposed rulemaking on the physical commodities activities of financial holding companies (together with their affiliates, "FHCs") that the Board of Governors of the Federal Reserve System (the "Federal Reserve") published on January 21, 2014 (the "ANPR"). NRG Energy, Inc. ("NRG") welcomes the opportunity to comment on this important issue.

It is NRG's position that many of the products and services (the "Products") that FHCs offer as a result of their activities in the physical commodities space do not pose material risk either to the safety and soundness of FHCs themselves or to the financial system. NRG believes that FHCs should be able to continue to provide these Products and that these Products, along with other FHC activities that have manageable risk profiles, should not be subject to further regulation.

Below we have described in more detail the nature of the Products as well as some of the key market and other advantages gained through permitting FHCs to continue to offer them.

Background

NRG is a leading competitive power company with a significant presence in major U.S. power markets and is a major retail electricity provider through Reliant Energy, Green Mountain Energy Company and other affiliates. The business activities of NRG include the ownership, development and operation of electric power generation facilities, the trading of energy, commodities and derivatives, and the supply of cleaner energy and carbon offset products to retail electricity customers. NRG uses physical commodities like natural gas, coal and fuel oil to fuel its power plants and uses various commodity-based derivative products to manage the commercial risks associated with owning those commodities and the power NRG generates.

NRG supports the efforts that the Federal Reserve, the Congress, the Commodity Futures Trading Commission, the Federal Energy Regulatory Commission and others have made in the past few years to promote greater stability, reliability and transparency in the commodity and derivatives markets (the "Markets"). NRG also believes in, and is dependent on, dynamic, competitive and efficient Markets where many actors participate, including FHCs.

As an active participant in the Markets and an end-user of several Products that FHCs provide in this space, we are concerned that, if overall financial regulation drives these entities away from the Markets, then liquidity and critical products and services might evaporate and competition could diminish. Of equal importance is the fact that any such reductions in liquidity and competition are likely to result in higher commodity prices for both commercial and residential consumers.

<u>Many Products That FHCs Derive from Their Physical Commodities Activities Do Not Pose Safety and Soundness Risk or Systemic Risk and Should Not Be Subject to Further Regulation</u>

At least two Products important to the electric power industry -- first-lien hedging arrangements and project financing -- do not pose material safety and soundness risk to FHCs or material risk to the financial system. FHCs are able to offer these Products with competitive pricing because of their in-depth knowledge of the physical power, oil refining and other commodities industries and their real-time knowledge of both physical commodities and financial derivatives markets. FHCs, of course, derive this knowledge from their active participation in physical commodity markets.

In the case of first-lien hedging arrangements, FHCs enter into customized derivatives transactions with end-users for the purpose of helping end-users to hedge their physical commodity risk. Instead of pledging cash collateral to support their obligations to FHCs, end-users pledge their physical assets (i.e., plants, equipment) as collateral in first-lien arrangements. These arrangements, which are used by many competitive power companies and utilities, permit electricity providers to manage their costs and commodity price risks as well as alleviate the constraints on working capital that they would otherwise experience if they were instead required to pledge cash collateral to FHCs. Additionally, first-lien hedging arrangements allow electric power producers to use their free working capital for many productive purposes, including creating jobs and growing their businesses.

The key risk that FHCs face in these transactions is credit risk from power generating counterparties. However, FHCs that enter into these transactions are adept at managing credit risk in particular and risk generally, have keen understandings of the physical power industry and related markets, and must comply with existing regulatory requirements such as those related to capital allocation. As a result, FHCs have successfully managed the risks posed by these transactions just as they have successfully managed risk in cases where they have provided secured financing in the physical commodities space. Further, these transactions have not produced the sorts of adverse safety and soundness and systemic financial outcomes that are described in the ANPR. We strongly believe that there is no sound basis for subjecting these transactions to further regulation, and doing so carries the potential of exposing the many electric power producers that use first-lien hedging arrangements to greater risk and costs and exposing their customers to higher power prices.

The same is true of project financing. Competitive power producers, utilities, refiners and other companies regularly rely on project financing to construct and operate the plants and facilities that are at the core of their businesses. Just as they do in the case of first-lien hedging, FHCs often rely on the non-cash assets of a project owner as collateral for obligations when they extend long-term credit in connection with a project, which provides the project owner with flexibility when it comes to working capital. FHCs also provide project owners with fixed priced commodities and hedges to manage costs and price risks. Further, FHCs frequently structure for project owners long-term packages of credit, hedging and fixed price commodities Products. Their active participation in the physical commodities and financial markets provides FHCs with the expertise that they need to provide these Products. Moreover, FHCs are required to adhere to existing regulatory requirements, and have the risk management tools needed, to ensure that providing these Products does not adversely affect safety and soundness or the stability of the financial system.

There are many other activities and Products that relate to, or result from, FHCs' participation in physical commodities markets and that do not pose safety and soundness risk to FHCs themselves or threaten the financial system. They include, without limitation:

- Making markets in physical commodities and derivatives and thereby providing liquidity to the Markets
- Developing and offering customized hedging and risk management solutions like working capital / inventory intermediation facilities and volumetric production payment structures
- Entering into long-term physical commodity transactions
- Standing ready to deliver and off-take physical commodities
- Generally acting as intermediary between producers, consumers and investors in physical commodities
- Intermediating between physical commodity buyers and sellers as to timing, geography and commodity grade
- Providing credit intermediation
- Offering competitive quotes as a result of having real-time knowledge of Markets

The above list is intended to be illustrative and not exhaustive. FHCs are capable of managing, and have successfully managed, the key risks associated with each of the foregoing Products since these risks can be addressed through credit analysis, adherence to existing regulatory requirements, commodities and derivatives hedging activities and other risk management efforts that FHCs normally perform and adhere to in the ordinary course of their businesses.

FHCs Are Desirable Counterparties for Many End-Users

In addition to the varied and specialized Products that FHCs offer is the fact that FHCs, when compared with some of their Market peers, can often be seen by end-users as reliable, desirable counterparties for the following reasons:

- They are often regulated and supervised by multiple governmental agencies and self-regulatory organizations
- They tend to be well-capitalized
- They have the financial strength to enter into long-term relationships
- They tend to be transparent as a result of likely being publicly traded companies
- They have superior access to capital markets
- They often develop long-term relationships with, and provide multiple products and services to, counterparties as opposed to acting as counterparties on individual transactions from time to time

Since many FHCs have all of the foregoing characteristics, their participation in the Markets adds to market stability and transparency in ways that participation from other market participants that don't have these characteristics cannot.

Furthermore, non-FHC participants in the Markets have not offered customized products like first-lien hedging arrangements, project financing, volumetric production payment structures or working capital facilities, and non-FHCs rarely provide credit intermediation services, on the same scale as FHCs.

Conclusion

Accordingly, NRG respectfully requests the Federal Reserve to carefully examine all aspects of the impact that further regulation can have on the Markets and the FHCs that participate in them and consider that many physical commodities activities of FHCs have been and are being carefully and appropriately managed. These activities do not present material safety and soundness risk to FHCs or threaten the financial system. Moreover, further regulation is likely to drive FHCs out of the Markets.

NRG would appreciate the opportunity to continue to offer its perspectives on the Markets and additional information to you and your colleagues as the Federal Reserve proceeds to shape policy in connection with the ANPR. You can contact me by email at Mauricio.Gutierrez@NRGEnergy.com or my colleague Herbert Thornhill at Herbert.Thornhill@NRGEnergy.com or (609) 423-3440.

Very truly yours,

Mauricio Gutierrez
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