



September 11, 2014

**VIA ELECTRONIC MAIL**

Wholesale Gas Quadrant Executive Committee  
North American Energy Standards Board  
801 Travis, Suite 1675  
Houston, TX 77002

To whom it may concern:

The Natural Gas Supply Association (NGSA) appreciates the opportunity to comment on NAESB's Wholesale Gas Quadrant's Annual Plan Item 6 concerning the impact of Dodd-Frank Act regulations on NAESB contracts. NGSA agrees with the Wholesale Gas Quadrant subcommittee recommendation that NAESB not make any changes to its contracts in response to Commodity Futures Trading Commission (CFTC or Commission) regulations under the Dodd-Frank Act.

One of the more pressing issues stemming from the Commission's implementation of the Dodd-Frank Act is the definition of the term "swap" and the seven element interpretation regarding the exclusion from swap regulation of forward contracts with embedded volumetric optionality. Ambiguity regarding the definition of the term "swap" has made it challenging, if not impossible, for market participants to consistently determine whether certain transactions are swaps or exempt physical forwards.

The uncertainty surrounding the seven element interpretation, and in particular the seventh element, has created real problems for market participants who use forward contracts with volumetric optionality to efficiently manage natural gas production and supply needs. For instance, there is a lack of consistency among market participants in the way they analyze forward contracts with volumetric optionality to determine whether or not they classify such transactions as "swaps." The definition of swap also impacts other pending rulemakings before the Commission, including position limits and what transactions will be subject to federally imposed limits on commodity contracts.

NGSA and other end user groups have pending requests before the CFTC seeking clarification of the seven element interpretation. NGSA has also supported legislation that would clarify the swap definition and we remain hopeful that this legislation will be taken up by the Senate in the coming months after passing in the House of Representatives in July.

NGSA supports the no action recommendation of the Wholesale Gas Quadrant's subcommittee regarding Annual Plan Item 6. While the CFTC's treatment of forward contracts with volumetric optionality has created significant uncertainties affecting everyday transactions



in the natural gas market, modifying standard NAESB contracts would be premature before pending clarifications are resolved, and the subcommittee's no action recommendation recognizes this. Further, several other rulemakings are under consideration by the CFTC, including position limits and margin rules, and the natural gas market will have to account for these new regulations as they are implemented. Market participants will need time to adjust to the new regulatory landscape before considering modifications to standard industry contracts and any modifications before this time could amplify market uncertainties.

NGSA thanks NAESB for the opportunity to comment. Please feel free to contact NGSA with any questions.

Sincerely,

/s/ Ryan Barry

Ryan Barry  
Manager, Markets  
Natural Gas Supply Association  
1620 Eye Street, N.W., Suite 700  
Washington, D.C. 20006  
[ryan.barry@ngsa.org](mailto:ryan.barry@ngsa.org)  
202-326-9300