

ICE NGX CANADA INC.
Rule Amendment Submission
April 8, 2020

1. The text of the amended provisions to the ICE NGX Canada Inc. (“ICE NGX”) Contracting Party Agreement (“CPA”) is attached as Attachment A to this submission. The text of the amended provisions of the ICE NGX Margin Methodology Guide is attached as Attachment B to this submission. The CPA and Margin Methodology Guide are part of ICE NGX’s rulebook. Additions to the text are underlined and deletions are struck through.
2. The date of intended implementation for these amendments is May 11, 2020 or such later date as determined by ICE NGX.
3. Attached, please find a certification that: (a) these rule amendments comply with the Commodity Exchange Act (the “Act”), and the Commission’s regulations thereunder; and (b) concurrent with this submission, ICE NGX posted on its website: (i) a notice of pending certification of the amendments with the Commission; and (ii) a copy of this submission.
4. A concise explanation and analysis of the operation, purpose, and effect of the amendments appears below.
5. There were no opposing views expressed regarding these amendments.
6. Confidential treatment is not requested.

**CONCISE EXPLANATION AND ANALYSIS OF THE OPERATION, PURPOSE, AND EFFECT OF THE
RULE AMENDMENT AND ITS COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ACT,
INCLUDING CORE PRINCIPLES AND THE COMMISSION’S REGULATIONS THEREUNDER**

Pursuant to Commission Rule 40.6(a)(7)(vi), the following is a concise explanation and analysis of the operation, purpose, and effect of the amendments to the ICE NGX CPA and Margin Methodology Guide.¹

- (a) add two required agreements of the Contracting Party into the CPA;
- (b) repeal the CPA provisions relating to the Federal Fuel Charge Levy (“Carbon Tax”);
- (c) remove references to the Carbon Tax in the Margin Methodology Guide; and
- (d) make certain non-significant amendments and corrections to the Margin Methodology Guide

collectively, the “Amendments”. The text of the amended CPA provisions is attached as Attachment A and the text of the amended Margin Methodology Guide provisions is attached as Attachment B. ICE NGX intends to implement the Amendments on May 4, 2020 (or on such later date as may be designated by ICE NGX).

Agreements of the Contracting Party

As part of the CPA, both the Contracting Party and ICE NGX agree to a number of respective obligations. ICE NGX is adding two additional required agreements of the Contracting Party.

¹ As a registered FBOT, ICE NGX has submitted contemporaneously with this 40.6 rule amendment self-certification a notification under Commission Rule 48.8(b)(ii)(A) of a material change to its rules (i.e., the CPA).

The amendments will require a Contracting Party to provide advance notice of a corporate transaction or name change in respect of the Contracting Party. This is intended to facilitate ICE NGX's management of its first priority liens over cash collateral.

These amendments comply with Core Principle D - Risk Management and Core Principle O - Legal Risk Considerations, as these amendments enhance ICE NGX's ability to manage its legal risks relating to Contracting Parties and cash collateral accounts, and the risks associated with discharging ICE NGX's responsibilities as derivatives clearing organization.

The amendments will also require a Contracting Party, in respect of each contract for physical delivery of natural gas whether making delivery or taking delivery, to rank ICE NGX as "last-to-be-cut" or "first-to-be-delivered", as applicable, for each nomination cycle. This is intended to improve the reliability of deliveries of physical natural gas. We note that this amendment makes explicit what is already an implicit requirement in the CPA.

These amendments comply with Core Principle D - Risk Management, as these amendments enhance ICE NGX's ability to manage the risks associated with discharging ICE NGX's responsibilities as derivatives clearing organization. Specifically, the amendments facilitate ICE NGX's physical settlement processes.

Repealing provisions relating to the Federal Fuel Charge Levy ("Carbon Tax")

ICE NGX is repealing the CPA provisions relating to the Federal Fuel Charge Levy (referred to as the "Carbon Tax" in the CPA). These provisions are no longer necessary as a result of the position of the Canada Revenue Agency ("CRA") that the Federal Fuel Charge Levy does not apply to trading of natural gas at a hub, within the pipeline, including trading on an exchange. See FCN11 Marketable Natural Gas and Non-Marketable Natural Gas Distributed Through Pipelines, available on the CRA's website at: <https://secure.ice/?https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/fcn11/marketable-natural-gas-non-marketable-natural-gas-distributed-pipelines.html>

For the reasons set out above, ICE NGX is removing references to the Carbon Tax in the Margin Methodology Methodology Guide.

These amendments comply with Core Principle D - Risk Management and Core Principle O - Legal Risk Considerations, as these amendments reflect the revised administrative position regarding statutory tax requirements in Canada and thereby reduce legal and tax-related risks to ICE NGX of CPA requirements that may conflict with statutory requirements.

**CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY EXCHANGE ACT, 7 U.S.C. §7A-2
AND COMMODITY FUTURES TRADING COMMISSION RULE 40.6, 17 C.F.R. §40.6**

I hereby certify that:

- (1) the amended provisions of the Contracting Party Agreement comply with the Commodity Exchange Act, and the Commodity Futures Trading Commission's regulations thereunder; and
- (2) concurrent with this submission, ICE NGX Canada Inc. posted on its website: (a) a notice of pending certification of these rules with the Commission; and (b) a copy of this submission.



Greg Abbott (Apr 8, 2020)

By: Greg Abbott
Title: President & COO
Date: April 8, 2020

ATTACHMENT A

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

[Note: Insertions are underlined, deletions are struck through.]

AMENDMENTS TO THE TERMS AND CONDITIONS

1.2 Definitions

...

p. ~~“Carbon Tax” means the tax imposed under the Carbon Tax Act;~~

q. ~~“Carbon Tax Act” means the Greenhouse Gas Pollution Pricing Act (Canada);~~

...

jjjj. ~~“Fuel Charge Exemption Certificate” means a certificate evidencing registration under the Carbon Tax Act in the form of Form L401 E available on the website of the Canada Revenue Agency, as that Form L401 E may be amended, modified or replaced from time to time by the Canada Revenue Agency;~~

[Note: The numbering of paragraphs in section 1.2 will be updated to reflect the amendments above.]

2.6 Additional Representations of the Contracting Party

Each Contracting Party represents and warrants that:

...

i. ~~**Carbon Tax Registration.** The Contracting Party represents and warrants that the information contained in each Fuel Charge Exemption Certificate it delivers to Exchange is true as at the time of each delivery of natural gas by Exchange to the Contracting Party.~~

...

3.2 Agreements of the Contracting Party

g. Prior Notice of Corporate Transaction or Name Change – Contracting Party will provide Exchange 30 days’ prior written notice of any name change, merger, amalgamation, division, consolidation or similar non-recurring transaction, arrangement or agreement in respect of the Contracting Party. In connection with any such name change, merger, amalgamation, division, consolidation, or other non-recurring transaction, arrangement or agreement, Contracting Party will execute any further instruments and take further action as Exchange reasonably requests to perfect or continue Exchange’s first ranking Lien on the Collateral.

r. Ranking Requirements – In respect of each contract for physical delivery of natural gas, whether making delivery or taking delivery, Contracting Party will rank Exchange as “last-to-be-cut” or “first-to-be-delivered”, as applicable, for each nomination cycle.

...

7.2 ~~Reserved.~~ **Carbon Tax**

~~a.~~ **Delivery by Exchange to the Contracting Party.**

- ~~(i) Exchange, to the extent that it is required or permitted under the Carbon Tax Act to register as a “registered distributor” or in any other category of registration under the Carbon Tax Act, shall so register and shall, promptly upon confirmation of such registration, make available its Fuel Charge Exemption Certificate to each Contracting Party.~~
- ~~(ii) The Contracting Party acknowledges that Exchange will be liable to pay the Carbon Tax applicable on each delivery, as that term is defined and interpreted in the Carbon Tax Act, of natural gas to the Contracting Party unless the Contracting Party has provided its Fuel Charge Exemption Certificate (“Certificate”) to Exchange and such Certificate is applicable to each delivery. The Contracting Party agrees that any Carbon Tax amount for which Exchange is liable in respect of a delivery to the Contracting Party, shall be payable by the Contracting Party and shall be subject to the Margin Requirement in accordance with the Agreement.~~
- ~~(iii) Once Exchange’s registration has been confirmed, Contracting Parties will be notified of that fact and Exchange’s Fuel Charge Exemption Certificate will be posted on Exchange’s website. Exchange’s Fuel Charge Exemption Certificate will be available to Contracting Parties upon request.~~
- ~~(iv) Exchange’s Fuel Charge Exemption Certificate is deemed to be delivered to all Contracting Parties once posted on Exchange’s website and the Contracting Party acknowledges receipt of Exchange’s Fuel Charge Certificate from Exchange on the earlier of the Fuel Charge Certificate being posted on Exchange’s website and the Contracting Party receiving Exchange’s Fuel Charge Certificate by email from Exchange.~~

~~b.~~ **Delivery by the Contracting Party to Exchange**

- ~~(i) The Contracting Party, to the extent that it is required or permitted under the Carbon Tax Act to register as a registered distributor, emitter or user of fuel, or in any other category of registration under the Carbon Tax Act, shall so register and shall promptly upon confirmation of such registration, provide its Fuel Charge Exemption Certificate to Exchange.~~
- ~~(ii) Exchange acknowledges that the Contracting Party will be liable to pay the Carbon Tax applicable on each delivery, as that term is defined in the Carbon Tax Act, of natural gas to Exchange unless Exchange has provided the Contracting Party with a Fuel Charge Exemption Certificate.~~
- ~~(iii) Delivery by the Contracting Party of its Fuel Charge Exemption Certificate to Exchange is effective upon acknowledgement of receipt by Exchange.~~

7.3 Tax Legislation

...

- ~~c. Notwithstanding paragraphs a. and b., Exchange is registered as a “registered distributor” under the Carbon Tax Act.~~

AMENDMENTS TO SCHEDULE "C" - RISK MANAGEMENT POLICY

1. DEFINITIONS

...

d. "Current Month Accounts Net Payable" means

- i. for a Contracting Party entering into Physically Settled Gas Futures Transactions and/or Physically Settled Power Futures Transactions, the accounts payable owing by Exchange to such Contracting Party less the accounts receivable owing by such Contracting Party to Exchange pursuant to all Physically Settled Gas Futures Transactions and/or Physically Settled Power Futures Transactions, as applicable, delivered to date during that current month, including, with respect to Physically Settled Gas Futures Transactions, Post-Settlement Delivery Adjustments, ~~and Carbon Tax~~, as applicable; and
- ii. for a Contracting Party entering into Physically Settled Oil Futures Transactions or Physically Settled Gas Futures Transactions with assigned delivery (as set out in Schedule "J"), up to 100% of the Discretionary Delivery Credit, ~~and Carbon Tax~~, as applicable;

...

s. "Previous Month Accounts Net Payable" means, for a Contracting Party, the accounts payable owing by Exchange to such Contracting Party less the accounts receivable owing by such Contracting Party to Exchange pursuant to all Physical Transactions, ~~and Carbon Tax~~, as applicable, delivered during the previous calendar month;

AMENDMENTS TO SCHEDULE "F" – PHYSICALLY SETTLED GAS FUTURES – CANADIAN DELIVERY POINTS

4. DELIVERY PROCEDURES

...

B. EMPRESS AND EASTERN CANADA DELIVERY POINTS

...

d. Any Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the applicable Delivery Point will (i) acknowledge the Title Transfers Nominations submitted by Exchange before the NAESB Timely Nomination Deadline via NRG Highway, and (ii) rank Exchange as "last-to-be-cut" or "first-to-be-delivered", as applicable, for each nomination cycle.

AMENDMENTS TO SCHEDULE "G" – PHYSICALLY SETTLED GAS FUTURES CONTRACTS – U.S. DELIVERY POINTS

4. DELIVERY PROCEDURES

...

- e. Any Contracting Party with net Daily Contract Quantities to be delivered to or to be taken from Exchange at the U.S. Delivery Points will submit rankings to the U.S. Delivery Point Operator (i) in accordance with the Transportation General Terms and Conditions published by the applicable U.S. Delivery Point Operator Gas Tariff, and (ii) that rank Exchange as "last-to-be-cut" or "first-to-be-delivered", as applicable, for each nomination cycle.

AMENDMENTS TO SCHEDULE "J" – PHYSICALLY SETTLED GAS FUTURES CONTRACTS WITH ASSIGNED DELIVERY – U.S. DELIVERY POINTS

4. DELIVERY PROCEDURES

...

- e. any Contracting Party with net Daily Contract Quantities to be delivered to or to be taken from Exchange at the U.S. Delivery Points will submit rankings to the U.S. Delivery Point Operator (i) in accordance with the Transportation General Terms and Conditions published by the applicable U.S. Delivery Point Operator Gas Tariff, and (ii) that rank Exchange as "last-to-be-cut" or "first-to-be-delivered", as applicable, for each nomination cycle.

ATTACHMENT B

AMENDMENTS TO THE MARGIN METHODOLOGY GUIDE

[Note: Insertions are underlined, deletions are struck through.]

1. Introduction

ICE NGX Canada Inc.

... In this role, ICE NGX maintains a secure and efficient clearing operation, managing various risks across market participants and products.

...

Since each Contracting Party agrees to make ICE NGX the counterparty to the transaction, the Contracting Parties look to ICE NGX to manage risks to the ongoing operation of the clearinghouse.

...

Legal and Regulatory

... The order was subsequently varied on: (i) April 9, 2009 to allow ICE NGX to also offer crude oil commodity contracts; (ii) on July 11, 2012, in connection with the acquisition of ICE NGX's then parent company, TMX Group Inc., by Maple Group Acquisition Corporation (renamed TMX Group Limited); (iii) on December 19, 2013 to require ICE NGX to comply with the PFMI's; (iv) on March 31, 2017 to incorporate compliance with National Instrument 24-102; and (v) on December 17, 2018 to reflect the acquisition of ICE NGX by Intercontinental Exchange, Inc. ...

...The CFTC registered ICE NGX as a DCO on December 12, 2008, which registration order was amended on March 20, 2013 following the implementation of *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

...

Each ICE NGX Contracting Party is required to enter into the Contracting Party's Agreement ("CPA") which sets out the rules of the ICE NGX clearing system. ...

...

2. Clearing Operations

Introduction

...

As each Contracting Party agrees to make ICE NGX the CCP to all cleared transactions...

ICE NGX manages clearing risks using a combination of the following items which are explored in further detail in this document:

...

CCP Clearing Benefits

CCP clearing facilitates anonymous trading by placing ICE NGX between the buyers and sellers as a common counterparty. In addition to anonymity, CCP clearing affords the following key benefits:

...

Performance Risks

Failure to Make/Take Delivery



... In this event ICE NGX is responsible for procuring alternate gas supplies or alternate gas markets to rectify such an imbalance and prevent the default from affecting any other Contracting Parties.

...

Failure to Deposit Collateral

The failure by a Contracting Party to deposit collateral with ICE NGX, in the form prescribed by, and acceptable to, ICE NGX...

...

Clearing Capital and Settlement Structure

...

Settlement Banking Credit Facility

...

TD Bank has authorized a daylight overdraft facility for the ICE NGX settlement account...

...

ICE NGX Liquid Resources

ICE NGX maintains sufficient liquid resources to cover 12 months of operating costs along with...

ICE NGX Guarantee Fund

...

Stress testing

... ICE NGX conducts stress testing across 20 scenarios on a daily basis. ...

3. Collateral Provisions

...

Return of Collateral

... ICE NGX agrees to return any such excess collateral...

4. Margin Requirement

Margin Requirement

...

The Margin Requirement is made up of the sum of the following three components:

- 1. Accounts Receivable ("A/R") Risk** - the value of gas/power/crude already delivered that generates a net amount owing to ICE NGX ~~plus the federal carbon levy (the "Carbon Tax") imposed under the Greenhouse Gas Pollution Pricing Act on each delivery of natural gas, as applicable~~

...

Calculating Accounts Receivable Risk

...

1. Physical Natural Gas A/R Cycle

...

Total Physical Natural Gas A/R = ((Purchase Quantity – Sales Quantity) x Weighted Average Price x Duration (# days)) + Carbon Tax, as applicable

...

Calculating Variation Margin (mark-to-market)

... ICE NGX's variation margin is: *a measurement of the price at which a future position could be instantaneously liquidated given current market prices.*

...

Calculating Initial Margin (Liquidation Risk)

... This can be defined as the liquidation risk, or market price risk, that ICE NGX faces during the liquidation of a position.

...

Margin Example 1 (Natural Gas)

The following example illustrates how ICE NGX's margin model applies to a specific set of trades. ~~For ease of illustration, the Carbon Tax that may be applicable to certain natural gas deliveries is not calculated in this example.~~

Example Trade – Fixed Price Contract

- On March 27, 2017, BUYCO (buyer) purchases 5,000 GJ/Day of the ICE NGX AB-NIT month of April 2017 physical contract from SELLCO (seller) at a price of CAD \$3.000/GJ.

...

Margin Example 2 (Power – Daily-Settle Financial)

...

Position Management

...

- Conversely, SELLCO shows a net short position of 50 MW per hour for each day from April 1 to April 30, 2017, thus a total net ~~long~~ short position of 36,000 MWh (50 MW x 24 hours/day x 30 days).