FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

In Reply Refer To:
Office of Enforcement
Docket No. FA14-6-000
October 24, 2014

Cargill, Inc.
Attn: Ms. Valerie Ege
Compliance Manager
9350 Excelsior Boulevard MS 150
Hopkins, MN 55343

Dear Ms. Ege:

1. The Division of Audits and Accounting within the Office of Enforcement (OE) has completed an audit of Cargill, Inc. (Cargill) for the period January 1, 2012 through December 31, 2013. The audit evaluated Cargill's compliance with Commission filing requirements for the annual report of natural gas transactions under 18 C.F.R. § 260.401 (2014) and the FERC Form No. 552 (Form 552) instructions.[1] The audit also included select tests of Cargill's physical natural gas transactions to validate the accuracy of the information filed with the Commission in its Form 552 report. The enclosed audit report explains our audit finding and recommendations.

2. On September 19, 2014, you notified the Division of Audits and Accounting that Cargill fully agrees with the finding and all recommendations. Cargill also stated it has put in place corrective actions to comply with the recommendations as proposed in the audit report, including revising and refiling the 2012 Form 552. The appendix to the audit report includes a copy of Cargill's response. I hereby approve the audit report.

3. The Commission delegated authority to act on this matter to the Director of OE under 18 C.F.R. § 375.311 (2014). This letter order constitutes final agency action. You may file a request for rehearing with the Commission within 30 days of the date of this order under 18 C.F.R. § 385.713 (2014).

[1] *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, 121 FERC ¶ 61,295 (2007), *order on reh'g*, Order No. 704-A, 124 FERC ¶ 61,269 (2008), *order on reh'g*, Order No. 704-B, 125 FERC ¶ 61,302 (2008), *order on reh'g*, Order No. 704-C, 131 FERC ¶ 61,246 (2010).

4. This letter order is without prejudice to the Commission's right to require hereafter any adjustments it may consider proper from additional information that may come to its attention. In addition, any instance of noncompliance not addressed herein or that may occur in the future may also be subject to investigation and appropriate remedies.

5. I appreciate the courtesies extended to the auditors. If you have any questions, please contact Mr. Bryan K. Craig, Director and Chief Accountant, Division of Audits and Accounting at (202) 502-8741.

Sincerely,

Larry D. Gasteiger
Acting Director
Office of Enforcement

Enclosure

Federal Energy Regulatory Commission

Audit of FERC Form No. 552 Reporting Requirements for Cargill Inc.

Docket No. FA14-6-000
October 24, 2014

Office of Enforcement
Division of Audits and Accounting

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I. Executive Summary

A. Overview

The Division of Audits and Accounting within the Office of Enforcement has completed an audit of Cargill Incorporated (Cargill). The audit evaluated Cargill's compliance with Commission filing requirements for the annual report of natural gas transactions under 18 C.F.R. Part 260.401 (2014) and FERC Form No. 552 (Form 552) instructions.[1] The audit covered the period January 1, 2012 through December 31, 2013.

B. Cargill Inc.

Cargill Inc. is a privately held, multinational corporation based in Minnetonka, MN. Founded in 1865, it is now one of the largest private corporations in the United States in terms of revenue. Cargill's major businesses include the trading, purchase, and distribution of grain and other agricultural commodities; trading in energy and steel; transportation; raising of livestock and production of feed; and production of food ingredients for processed foods and industrial use. Cargill also operates a large financial services arm, which manages financial risk in commodity markets for the company. Cargill employs more than 140,000 people in 66 countries.

Cargill Energy, Transportation, and Metals (Cargill ETM), a division of Cargill, specializes in energy, transportation, and metals, and brings a combination of commercial knowhow to the management of supply chains. Headquartered in Geneva, Switzerland, Cargill ETM brings together more than 1,000 energy, transportation, and metals specialists. The company operates regional hubs in the Americas (Minneapolis, Houston, New Jersey, Calgary, and Sao Paulo), Asia, Africa, Europe, and the Middle East. It manages commodity supply chain prices for more than 30 of Cargill's businesses.

Cargill ETM buys and delivers energy sources and related commodities, including natural gas, electricity, refined and nonrefined oil products, petrochemicals, and emission allowances/carbon credits. Cargill reported physical natural gas transactions to the Commission in its annual Form 552 filing, but has elected not to report transactions to index publishers. In its original 2012 Form 552, Cargill reported physical natural gas purchase volumes of 374.8 trillion British thermal units (TBtu) and sales volumes of 375.4 TBtu.

[1] *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, 121 FERC ¶ 61,295 (2007), *order on reh'g*, Order No. 704-A, 124 FERC ¶ 61,269 (2008), *order on reh'g*, Order No. 704-B, 125 FERC ¶ 61,302 (2008), *order on reh'g*, Order No. 704-C, 131 FERC ¶ 61,246 (2010).

C. Summary of Compliance Finding

Audit staff identified one area of noncompliance in Cargill's Form 552 report filed with the Commission. Audit staff based its findings on material Cargill provided in response to data requests, employee interviews, and a review of publicly available documents. Audit staff's compliance finding is summarized below. Details of the finding are in section IV of this report.

- *Nonreportable Purchases and Sales Volumes* - Cargill incorrectly reported certain nonreportable purchase and sales volumes as transactions contracted: at fixed prices, at prices that refer to published daily and monthly indices, and at prices set upon a physical basis transaction value. This resulted in Cargill over-reporting purchase and sales volumes by 202.2 TBtu and 218.6 TBtu, respectively, in its 2012 Form 552.

D. Summary of Recommendations and Corrective Actions Taken

Audit staff's recommendations to remedy the finding in this report are summarized below and detailed in section IV of this report. Audit staff recommends that Cargill:

- Update its procedures to ensure physical natural gas volumes reported in the Form 552 do not include any of the nonreportable transactions described in the Form 552 instructions.

- Revise and refile its 2012 Form 552 to exclude all natural gas volumes determined to be nonreportable transactions for that year.

- Train employees to ensure they properly include reportable transactions and exclude nonreportable transactions from the company's Form 552.

E. Compliance and Implementation of Recommendations

Cargill has implemented corrective actions to address the three recommendations prior to the issuance of this report. No further corrective action is required.

II. Background Information

A. Regulatory Overview

On December 26, 2007, the Commission issued a final rule in Order No. 704, which amended part 260 of its regulations to require annual submission of a new form, the Form 552.[2] The order is derived from the Energy Policy Act of 2005, which added section 23 of the Natural Gas Act (NGA).[3] Section 23, among other mandates, directs the Commission "to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, and the protection of consumers."[4]

Accordingly, Order No. 704 required natural gas wholesale market participants, including several entities that may not otherwise be subject to traditional Commission NGA jurisdiction, to report certain information about their natural gas sales and purchases annually to the Commission. Order No. 704 requires certain natural gas buyers and sellers to report whether or not they reported transactions to index publishers and the volumes of relevant transactions for the previous calendar year.[5] This requirement allows the Commission and the public to assess the importance of index pricing in natural gas markets, and determine the size of fixed-price transactions that can or may contribute to formation of price indexes.

B. FERC Form No. 552

The Commission requires natural gas market participants subject to Commission reporting requirements to file the Form 552 annually, unless the Commission has exempted a participant or granted it a waiver. Specifically, 18 C.F.R. § 260.401(a)(2014) required participants to file the Form 552 for the 2008 calendar year, and each calendar year thereafter. Under 18 C.F.R. § 260.401(b)(1)(2014), unless the Commission has exempted a participant or granted it a waiver by rule or order, each participant (i.e., any buyer or seller active in physical natural gas transactions the previous calendar year) must prepare and file with the Commission a Form 552, under the form's definitions and general instructions. However, when this audit was conducted, a participant was exempted from this requirement if it bought or sold reportable physical natural gas of less than 2.2 TBtu for the previous calendar year. Also, 18 C.F.R. § 260.401(b)(2)(2014) requires participants to file the Form 552 by May 1 of each year, unless the Commission

[2] Order No. 704, FERC Stats. & Regs. ¶ 31,260 (2007).
[3] Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).
[4] 15 U.S.C. § 717t-2(a)(1) (2006).
[5] Order No. 704, FERC, Stats. & Regs. ¶ 32, 614 (2007).

has instructed otherwise, and prepare it so it conforms with Commission software and guidance posted on FERC's web site.

The basic purpose of reporting physical natural gas sales and purchases is to provide greater transparency of the indexes used to price physical natural gas. Form 552 also informs the Commission and the public on what volumes can or may contribute to the formation of a price index during a calendar year. Many market participants rely on daily and monthly indexes as a reference to market prices without assuming the risk of active trading. During the audit period, Order Nos. 704, 704-A, 704-B, and 704-C required market participants to report physical natural gas purchases or sales that used a natural gas index and contributed to, or could contribute to, formation of a price index. The purchases and sales volumes reflected below should be reported in the Form 552, page 4, lines 1-9.[6]

1. Total volume of the respondent's reportable physical sales and purchases.
2. Quantities contracted at fixed prices for next-day delivery.
3. Quantities contracted at prices in published daily gas price indices.
4. Quantities contracted at fixed prices for next-month delivery.
5. Quantities contracted at prices in published monthly gas price indices.
6. Quantities contracted under trigger agreements (e.g., NYMEX Plus contracts).
7. Quantities contracted as physical basis transactions.
8. Difference between respondent's purchases reported on line 1 and the sums on lines 2, 3, 4, 5, 6, and 7.
9. Difference between respondent's sales reported on line 1 and the sums on lines 2, 3, 4, 5, 6, and 7.

Besides this information, the Form 552 permits the aggregation of information of affiliates. The respondent must complete the "Schedule of Reporting Companies" on page 3 of the Form 552, which lists those affiliates. Further, this schedule requires the respondent to say whether it or any affiliate listed reported any transaction information to price index publishers during the report year.

[6] *See supra* note 1.

III. Introduction

A. Objectives

The audit evaluated Cargill's compliance with Commission filing requirements for the annual report of natural gas transactions under 18 C.F.R. pt. 260.401 (2014) and Form 552 instructions. The audit covered January 1, 2012 through December 31, 2013.

B. Scope and Methodology

Audit staff performed several specific actions to conduct this audit. Audit staff first identified standards and criteria, including Commission rules, regulations, and other requirements, to evaluate Cargill's compliance with audit objectives. Audit staff then reviewed publicly available information to understand Cargill's corporate environment, business operations, customer activity, and regulatory history relevant to the Form 552. Audit staff conducted substantive testing to determine whether Cargill reported sales and purchase volumes in its Form 552, consistent with definitions and general instructions in that form.

Audit staff performed the actions below to facilitate its testing and evaluation of Cargill's compliance with requirements relevant to the audit scope:

- *Gathered Relevant Data* - Issued data requests to Cargill seeking internal policies and procedures, transactional data and contracts, internal and external reports, and other information relevant to audit objectives. Audit staff used this information as support for testing and evaluating Cargill's compliance with the Form 552 requirements. Reponses to data requests also provided information about the structure and operation of Cargill's regulatory compliance program.

- *Conducted Interviews and Teleconferences* - Interviewed Cargill employees and spoke with them via teleconference to discuss administrative and technical matters, and assist in evaluating company compliance with audit objectives.

- *Met with Commission Staff* - Met with Commission staff to discuss audit developments, potential compliance issues, and ensure audit report findings were consistent with Commission precedent and policy.

Audit staff performed the actions below to evaluate Cargill's compliance with requirements relevant to the audit scope:

- *Reporting Oversight* - Reviewed Cargill's processes, procedures, and controls over Form 552 to identify reporting strengths and weaknesses. Audit staff also interviewed employees and managers responsible for Form 552 completion to ensure actual practices aligned with Cargill's processes and procedures, and that controls could not be circumvented.

- *Reporting of Affiliates* - Reviewed corporate organizational charts and held discussions with Cargill to identify all affiliates that bought or sold physical natural gas subject to Form 552 reporting requirements.

- *Reporting to Price Index Publishers* - Requested supporting documentation and held discussions with employees to determine whether Cargill reported transaction data to price index publishers.

- *Total Transaction Volumes* - Reviewed total reportable physical natural gas purchases and sales volumes to verify the accuracy and completeness of the company's Form 552. This required audit staff to compare Cargill's Form 552 reported volumes to transactional data the company provided to support the accuracy of purchases and sales for those volumes. Cargill provided monthly data for January 1, 2012 through December 31, 2012.

- *Classification of Transaction Volumes* - Evaluated physical natural gas purchases and sales volumes reported in the Form 552 to verify the accuracy of each transaction category. For example, for the "fixed-price, next-day delivery" category, audit staff requested and evaluated transactional data to ensure that transactions were completed before the North American Energy Standards Board (NAESB) nomination deadline (11:30 a.m., Central time) and were for uniform delivery over the next pipeline day. Also, for the "fixed-price, next-month delivery" category, evaluated transactional data to ensure that transactions were completed in the last five business days of the month (during bid week) and were for uniform physical delivery over the next month.

- *Reportable and Nonreportable Transactions* - Analyzed physical natural gas transactions to ensure Cargill reported only required volumes in the Form 552. Specifically, audit staff selected a one-month sample of all physical natural gas transactions from the company's trade capture system. Reviewed these transactions to ensure Cargill did not reflect nonreportable transactions, such as cash-out and imbalance makeup, unprocessed gas, international transportation, and affiliate transactions, as reportable purchase and sales volumes in its Form 552. This step also ensured that Cargill correctly reflected all reportable transaction volumes as required by Form 552 instructions.

Besides these actions, audit staff reviewed Cargill's regulatory compliance program. Audit staff assessed Cargill's program in audit scope areas for consistency with factors and criteria in the Commission's Order on Enforcement of Statutes, Orders, Rules, and Regulations.[7] Specifically, audit staff:

- Reviewed Cargill's regulatory compliance program structure, including its authority and responsibilities for overseeing corporate compliance and the delegation of compliance responsibilities at the department level.

- Reviewed Cargill's Internal Audit department structure, including chain-of-command and access to the company's Board of Directors through its Audit Committee to assess the effectiveness and independence of its compliance process. Also, reviewed Cargill's Internal Audit department's annual audit plan and reports to understand its oversight of physical natural gas purchase and sales transactions and Form 552 reporting.

- Examined compliance procedures and controls in audit scope areas to determine if they were adequate to ensure compliance with FERC requirements. Evaluated whether areas of noncompliance could have been reduced by more effective compliance procedures, controls, and oversight.

- Interviewed executives, managers, and operational employees to evaluate their knowledge and application of Cargill's compliance program to achieve compliance with audit scope areas.

[7] *Enforcement of Statutes, Orders, Rules, and Regulations*, Revised Policy Statement on Penalty Guidelines, 132 FERC 61,216 (2010).

IV. Finding and Recommendations

1. Nonreportable Purchase and Sales Volumes

Cargill incorrectly reported certain nonreportable purchase and sales volumes as transactions contracted: at fixed prices, at prices that refer to published daily and monthly indices, and at prices set upon a physical basis transaction value. This resulted in Cargill over-reporting purchase and sales volumes by 202.2 TBtu and 218.6 TBtu, respectively, in its 2012 Form 552.

Pertinent Guidance

The Commission requires a natural gas market participant to report transactions defined in Form 552's instructions. Specifically,

> Form 552 Instructions, Definition III, states:
>
> Fixed Price – A "Physical Natural Gas Transaction" price determined by agreement between buyer and seller and not benchmarked to any other source of information. Generally these transactions are not reportable except for Fixed Price Next-Day or Next-Month Delivery transactions.
>
> Form 552 Instructions, Definition IV, states:
>
> Physical Natural Gas Transaction – For purposes of Form 552, Physical natural gas transactions are only those transactions that either use an index, or that contribute to, or may contribute to the formation of a gas index during the calendar year. These transactions are generally included in line 2 through 7 of page 4 of the form and are referred to as "*reportable*" transactions.
>
> Reportable Physical Natural Gas Transactions are only those transactions that refer to an index, or that contribute to, or could contribute to the formation of a gas index during the calendar year. The following physical natural gas volumes should be included in volumetric data submitted in Form 552:
>
> Reportable physical natural gas transactions that use an Index are as follows:
>
> a. Transactions that Use Daily Indices (line 3 of page 4) – delivery of natural gas pursuant to a transaction that refers to published daily index, which is used to price natural gas. The index is usually a gas index, but other indices such coal, petroleum, LNG, inflation, etc. or a basket of indices may be used.

b. Transactions that Use Monthly indices (line 5 of page 4) – delivery of natural gas pursuant to a transaction that refers to a published monthly index, which is used to price natural gas. The index is usually a gas index, but other indices such as coal, petroleum, LNG, inflation, etc. or a basket of indices may be used.

Reportable transactions that can or may contribute to gas index formation are as follows:

a. Fixed Price Next-Day Delivery (line 2 of page 4) – delivery of natural gas pursuant to a transaction executed prior to NAESB nomination deadline (11:30 am Central Prevailing Time) on one day for uniform physical delivery over the next pipeline day. Transactions executed on Friday are usually for flow on Saturday, Sunday, and Monday inclusive. Trading patterns may vary in the case of holidays or the end of a month that occurs on a weekend.

b. Fixed Price Next-Month Delivery (line 4 of page 4) – delivery of natural gas pursuant to a transaction executed during the last five (5) business days of one month (bidweek) for uniform physical delivery over the next month.

e. Physical Basis Transactions (line 7 of page 4) – transactions in which the basis value is negotiated on one of the first three days of bidweek and the price is set by the final closing value of the near-month NYMEX Natural Gas Futures contract plus or minus the negotiated basis. These transactions are for uniform physical delivery over the next month.

Not Reportable Transactions – notwithstanding the above, the following volumes are not reportable and should, in all cases, be excluded in volumetric data submitted in Form 552:

a. Cash-out and imbalance makeup volumes.

k. Fixed Price transaction volumes that are *not* Next-Day Delivery or Next-Month Delivery.

Background

Audit staff reviewed transactions supporting purchase and sales volumes reported in Cargill's original 2012 Form 552 to verify the accuracy and completeness of these volumes. This review found that Cargill mistakenly reported certain nonreportable purchase and sales volumes for gas contracted at: fixed prices, at prices that refer to published daily and monthly indices, and at prices set upon a physical basis transaction value. As shown in the table below, in its original 2012 form submission, Cargill reported physical natural gas purchase volumes of 374.8 TBtu and sales volumes of 375.4 TBtu. However, excluding nonreportable volumes, Cargill should have reported physical natural gas purchase volumes of 172.6 TBtu and sales volumes of 156.8 TBtu, respectively.

Page 4 Line	Description	Purchases			Sales		
		Original	Correct	Variance	Original	Correct	Variance
1	Total volume of physical natural gas transactions	374.8	172.6	202.2	375.4	156.8	218.6
2	Fixed prices for next-day delivery	94.8	83.3	11.5	75.8	66.2	9.6
3	Prices that refer to published daily indices	45.2	24.3	20.9	47.6	32.3	15.3
4	Fixed prices for next-month delivery	19.4	12.8	6.6	39.5	10.7	28.8
5	Prices that refer to published monthly indices	149.6	35.6	114	136.3	31.3	105
6	Trigger agreements	0.0	0.0	0.0	0.0	0.0	0.0
7	Physical basis	65.8	16.6	49.2	76.2	16.3	59.9

Cargill discovered these nonreportable gas volumes as a result of audit staff's questions. Cargill explained that an employee did not use a software filter that identified reportable and nonreportable volumes for Form 552 reporting. Specifically, Cargill queried transactional data, sorted that data into different categories, and then filtered the data to generate the lines to include or exclude from the Form 552 report. However, by not checking the filter, Cargill erroneously selected all trades (items flagged as reportable and nonreportable). As a result, Cargill included these types of nonreportable gas volumes in its 2012 Form 552, which overstated reported sales and purchase volumes:

- Fixed-price transaction volumes contracted during bid week that were not for next-day or next-month delivery;
- Index price transaction volumes contracted during bid week that were not for next-day or next-month delivery;
- Physical basis transaction volumes that were not for next-month delivery; and
- Cash-out and imbalance volumes.

The Form 552 excludes nonreportable transactions like these because they are irrelevant to the use and formation of natural gas price indices. Given Cargill does not report physical transactions to a price publisher, this reporting error only affected the Form 552 report filed with the Commission. This problem did not recur in the 2013 Form 552 as the audit had commenced and audit staff provided necessary guidance to Cargill before it filed the report for that year. Audit staff also confirmed this problem did not occur in years before 2012.

Recommendations

Audit staff recommends Cargill:

1. Update its procedures to ensure physical natural gas volumes reported in the Form 552 do not include any of the nonreportable transactions described in the Form 552 instructions.

2. Revise and refile its 2012 Form 552 to exclude all natural gas volumes determined to be nonreportable transactions for that year.

3. Train employees to ensure they properly include reportable transactions and exclude nonreportable transactions from the company's Form 552.

V. Appendix – Company Response to Report

Cargill

September 19, 2014

Bryan K. Craig
Director and Chief Accountant
Division of Audits and Accounting
Office of Enforcement
Federal Energy Regulatory Commission
888 First Street, N.E., Room 5K-13
Washington DC 20426

Re: Docket No. FA14-6-000 Cargill, Inc.

Dear Mr. Craig:

This is my formal response to your later dated, September 15, 2014 re the above referenced Docket.

Per FERC Staff's final report, I fully agree with all findings and recommendations. Corrective actions have been put in place as of the date of this letter in response to Staff's three recommendations as listed below:

1. Update procedures to ensure physical natural gas volumes reported in the Form 552 do not include any of the nonreportable transactions described in the Form 552 instructions.
    - Attachment A- Updated procedures

2. Revise and refile 2012 Form 552 to exclude all natural gas volumes determined to be nonreportable transactions for that year.
    - The revised 2012 Form 552 was submitted on March 5, 2014

3. Train employees to ensure they properly include reportable transactions and exclude nonreportable transactions from the company's Form 552.
    - Attached B- Training Guidance for Form 552

If you have any comments or questions, please contact me via email, Valerie_Ege_Kalstabakken@cargill.com or (952)984-3071.

Thank you.

Valerie E. Kalstabakken

Valerie E. Kalstabakken
North America Compliance Manager
Cargill North America Power and Gas Markets

Attachments omitted