UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Actions Regarding the Commission’s Policy on

Price Index Formation and Transparency, and Docket No. PL20-3

Indices Referenced in Natural Gas and Electric Tariffs

**Comment of Public Citizen, Inc.**

The Commission’s policy statement on natural gas price index formation and transparency, unfortunately, remains inadequate to address fundamental shortcomings of voluntarily-reported natural gas price indices to reflect prices that accurately reflect market fundamentals. We ask the Commission to consider three improvements:

* Aggregate the data collected in the Form 552 Annual Report of Natural Gas Transactions into a Microsoft Excel (or similarly compatible database program) to be made available to the public. Having the Commission compile and publish all of the data reported in these forms in a spreadsheet will vastly improve public accessibility of the data, and aggregating such data would likely present minimal burdens upon Commission staff. Currently, the public is forced to manually compile data reported in the Form 552 reports, which is cumbersome and time-consuming.
* Ensure that Form 552 reports include reference to any affiliates filing separate Form 552 reports. At present, there are repeated instances of affiliates filing separate Form 552 reports that present challenges to the public (and possibly the Commission) to comprehensively identify physical gas trading by affiliates.
* Initiate a rulemaking to “establish an electronic information system” pursuant to 15 USC § 717t–2(a)(4) in order to replace or supplement current price indices―sort of akin to the Commission establishing a type of RTO for natural gas.[[1]](#footnote-1)

A natural gas index price is derived from trades within specific geographical boundaries that market participants voluntarily report to a price index developer. Price index developers are private, for-profit companies that classify most of the voluntarily-reported data as proprietary, that the index developers then commodify and sell only to those that can afford the very expensive subscription fees.

These voluntarily-reported transactions determine the price of natural gas for millions of households and businesses across the country, as market participants reference index prices in their physical and financial transactions: natural gas pipelines and Regional Transmission Organizations feature natural gas indices in their FERC-jurisdictional tariffs for various terms and conditions of service; state utility commissions rely on natural gas indices as benchmarks when setting rates; and many natural gas financial derivative contracts used in hedging and speculation settle against the natural gas price indices.[[2]](#footnote-2) In a way, hundreds of billions of dollars of energy transactions rely upon voluntarily-reported price indexes—a 21st century version of a smoke-filled, price-fixing establishment.

Federal law requires the Commission to ensure that spot natural gas price indices feature adequate price discovery and market transparency. Spot natural gas price indices are structurally non-competitive and the voluntary nature of reporting trades renders them susceptible to market manipulation. The rest of the world has been replacing voluntary price indices for benchmarks with far larger economic impacts that U.S. natural gas spot prices (such as replacing the London Interbank Offered Rate (LIBOR) with the Secured Overnight Financing Rate (SOFR)). The Commission should therefore establish an electronic information system, as authorized by 15 USC § 717t–2(a)(4), which states that “the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services . . . ***The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing*** ***price discovery or market transparency***” [emphasis added]. Such “an electronic information system” could be based on actual transactions, and not limited to those voluntarily reported, and would be freely available to all interested parties through a platform hosted by the Commission, rather than the proprietary, commodified data model of the index publishers.

Indeed, FERC conceived of the idea of having authority to create its own electronic natural gas price reporting system. In testimony before the House Committee on Energy and Commerce on February 10, 2005, FERC's general counsel Cynthia A. Marlette included in her prepared testimony a section entitled Price Transparency in Natural Gas and Electric Markets, where she declared:

*It would be helpful if the Congress clarified the Commission’s authority to require the development of an electronic price reporting system, and if the Congress gave the Commission the ability to require all electric market participants to participate in such a reporting system . . . and make it publicly available.*[[3]](#footnote-3)

Finally, S&P Global―the company that operates Platts, the most widely-used natural gas price index reporting system―last month was forced to pay a $2.5 million penalty to the U.S. Securities and Exchange Commission for a variety of conflict of interest violations.[[4]](#footnote-4) It is problematic for the integrity of natural gas price reporting that a for-profit corporation that controls natural gas price indices violates conflict of interest standards.

Respectfully submitted,

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1. See Public Citizen's June 1, 2021 comments in Docket RM20-7, www.citizen.org/article/natural-gas-spot-prices-in-need-of-reform/ [↑](#footnote-ref-1)
2. NOPR, at 4. [↑](#footnote-ref-2)
3. At pages 28-29, www.govinfo.gov/content/pkg/CHRG-109hhrg99906/pdf/CHRG-109hhrg99906.pdf [↑](#footnote-ref-3)
4. www.sec.gov/news/press-release/2022-205 [↑](#footnote-ref-4)