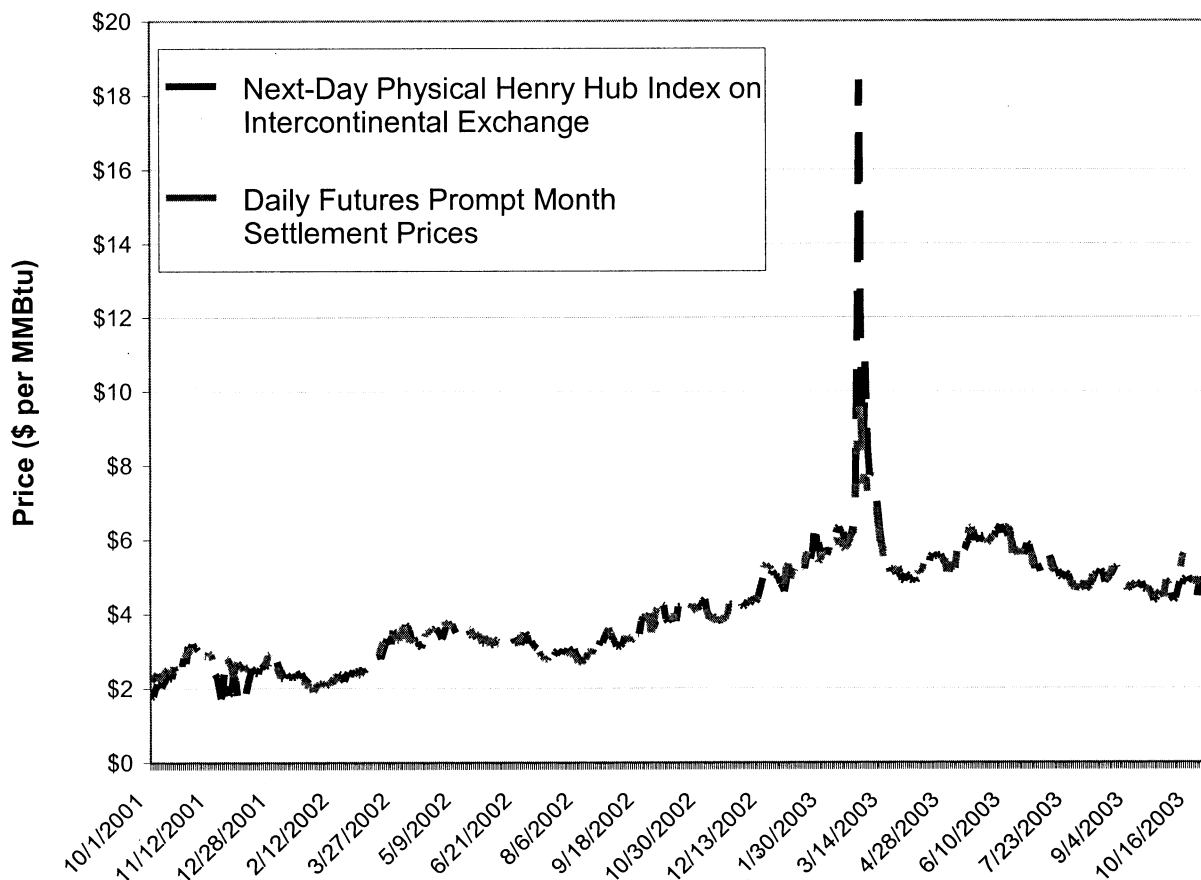


Next-Day Physical Henry Hub Indices and NYMEX Prompt Month Futures Settlement Prices October 1, 2001 through October 31, 2003



Sources: www.theice.com, Bloomberg, L.P.

BILLING CODE 6717-01-C

48. The financial natural gas markets are so interconnected with the natural gas physical markets and the transmission market, that a Transmission Provider has the ability to operate its transmission system in a manner so as to give a trading affiliate an undue preference or to provide the trading affiliate with unduly preferential information. Therefore, the definition of Energy Affiliates in the Final Rule incorporates trading and financial affiliates to the extent they are engaged in transactions in the U.S. energy or gas commodity or transmission markets.

3. Affiliated Transmission Providers

49. Twenty-seven entities, the majority of which are in the interstate natural gas pipeline industry, pointed out that the definition of Energy Affiliate would appear to require Transmission Providers to treat affiliated Transmission Providers as Energy Affiliates. Many argued that such a broad definition of Energy

Affiliate would restrict the joint operations of jurisdictional transmission facilities and would mandate unnecessary duplication of jointly operated facilities. INGAA and others pointed out that putting limitations on the relationship between affiliated Transmission Providers would be inconsistent with recent Commission policy. They cited the Commission's orders that required Dominion Transmission, Inc. to apply the gas standards of conduct to its Energy Affiliates as a merger condition.²⁹ There, the Commission specifically excluded affiliated Transmission Providers from the definition of Energy Affiliates because they are already

²⁹ Dominion Resources, Inc. and Consolidated Natural Gas Co., 89 FERC ¶ 61,162 (1999), order on compliance filing, 91 FERC ¶ 61,140 (2000), order denying reh'g, 93 FERC ¶ 61,214 (2000), vacated and remanded, (D.C. Cir. No. 01-1169 Slip. Op. issued on April 19, 2002), order on remand pending.

subject to the non-discrimination provisions of the standards of conduct.

50. The Major Issues Analysis proposed an exemption that would exclude FERC-jurisdictional Transmission Providers from the definition of Energy Affiliate and provided draft regulatory text for comment. Numerous follow-up comments supported this proposed revision, including those filed Cinergy, Entergy, First Energy, NiSource, INGAA, and KM Interstate.

51. The Commission agrees; FERC-jurisdictional interstate natural gas pipelines coordinating transactions with affiliated FERC-jurisdictional interstate natural gas pipelines should be permitted to share transmission function employees and information, since both are bound by the standards of conduct requirements and are prohibited from sharing transmission, customer or market information with their Energy Affiliates. Similarly, a public utility Transmission Provider