



OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

CIVIL INVESTIGATIVE DEMAND

TO: Intercontinental Exchange Holdings, Inc. *via CMRRR: 7008 0500 0001 2488 9679*
c/o United Agent Group, Inc. *Return Date: March 12, 2021*
5444 Westheimer, #1100
Houston, Texas 77056

Intercontinental Exchange, Inc. *via CMRRR: 7008 0500 0001 2488 9662*
5660 New Northside Drive, 3rd Floor *and email: compliance-us@theice.com*
Atlanta, Georgia 30328 *Return Date: March 12, 2021*

Pursuant to this office's specific authority under article IV, section 22 of the Texas Constitution and section 17.61 of the Texas Deceptive Trade Practices – Consumer Protection Act, sections 17.41-.63, Texas Business and Commerce Code ("DTPA"), Intercontinental Exchange Holdings, Inc. and Intercontinental Exchange, Inc. are hereby directed to produce the items listed in Exhibit "A" attached hereto. Such production is governed by the instructions and definitions on this page and subsequent pages.

You are to make available the documentary material described in Exhibit "A" to the undersigned Assistant Attorney General or other authorized agent(s) identified by the Consumer Protection Division ("Division"). This documentary material shall be produced for inspection and copying during normal business hours at your principal office or place of business, or may be sent electronically or by certified mail to the Office of Attorney General, 112 E. Pecan St., Ste 735, San Antonio, Texas 78205 and is due on March 12, 2021. If providing documents electronically, please provide them to Steven Robinson at steven.robinson@oag.texas.gov. **Please contact one of the persons listed below upon receipt in order to discuss the return date and the logistics of producing the requested documents to the Consumer Protection Division.**

Pursuant to this office's specific authority under article IV, section 22 of the Texas Constitution and section 17.61 of the Texas Deceptive Trade Practices – Consumer Protection Act, sections 17.41-.63, Texas Business and Commerce Code, the Division believes that Intercontinental Exchange, Inc. may be in possession, custody, or control of documentary material relevant to an investigation of possible violations of DTPA sections 17.46(a) and/or 17.46(b) with respect to possible price gouging in the natural gas industry in the State of Texas during the month of February 2021.

TAKE NOTICE THAT pursuant to section 17.62, Texas Business and Commerce Code, any person who attempts to avoid, evade, or prevent compliance, in whole or in part, with this directive by removing, concealing, withholding, destroying, mutilating, altering, or by any other means falsifying any documentary material may be guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$5,000.00 or by confinement in the county jail for not more than one year, or both.

ISSUED THIS 5th day of March, 2021.

/s/ Steven Robinson
Steven Robinson
Assistant Attorney General

Other Authorized Agents:
Stephanie Eberhardt
Assistant Attorney General

Consumer Protection Division
T: (210) 270-1110 | F: (214) 969-7615
Email: Steven.Robinson@oag.texas.gov

T: (512) 463-1308 / Email: stephanie.eberhardt@oag.texas.gov
Rozanne Lopez, Investigator
T: (210) 270-1118 / Email: Rozanne.Lopez@oag.texas.gov

Instructions

1. **Read These Instructions/Definitions Carefully.** Your production must comply with these instructions and definitions.
2. **Duty to Preserve Documents.** All documents and/or other data which relate to the subject matter or requests of this Civil Investigative Demand must be preserved. *Any ongoing, scheduled or other process of document or data destruction involving such documents or data must cease even if it is your normal or routine course of business for you to delete or destroy such documents or data and even if you believe such documents or data are protected from discovery by privilege or otherwise.* Failure to preserve such documents or data may result in legal action and may be regarded as spoliation of evidence under applicable law.
3. **Relevant Dates.** Unless otherwise noted, the requests in this Civil Investigative Demand require production of documents from February 8, 2021, to the date of delivery of this Civil Investigative Demand, herein called “the relevant time period.”
4. **Custody and Control.** In responding to this Civil Investigative Demand, you are required to produce not only all requested documents in your physical possession, but also all requested documents within your custody and control. A document is in your custody and control if it is the possession of another person and you have a right to possess that document that is equal or superior to that other person’s right of possession. On the rare occasion that you cannot obtain the document, you must provide an explanation as to why you cannot obtain the document which includes the following information:
 - a. The name of each author, sender, creator, and initiator of such document;
 - b. the name of each recipient, addressee, or party for whom such document was intended;
 - c. the date the document was created;
 - d. the date(s) the document was in use;
 - e. a detailed description of the content of the document;
 - f. the reason it is no longer in your possession, custody or control; and
 - g. the document’s present whereabouts.

If the document is no longer in existence, in addition to providing the information indicated above, state on whose instructions the document was destroyed or otherwise disposed of, and the date and manner of the destruction or disposal.
5. **Non-identical Copies to be Produced.** Any copy of a document that differs in any manner, including but not limited to the presence of handwritten notations, different senders or recipients, etc. must be produced.
6. **No Redaction.** All materials or documents produced in response to this Civil Investigative Demand shall be produced in complete unabridged, unedited and unredacted form, even if portions may contain information not explicitly requested, or might include interim or final editions of a document.
7. **Document Organization.** Each document and other tangible thing produced shall be clearly designated as to which request, and each sub-part of a request, that it satisfies. The documents produced shall be identified and segregated to correspond with the number and subsection of the request.

8. **Production of Documents.** You may submit photocopies (with color photocopies where necessary to interpret the document) in lieu of original hard-copy documents if the photocopies provided are true, correct and complete copies of the original documents. If the requested information is electronically stored information, it shall be produced in electronic form. Electronically stored information shall be produced with the accompanying metadata, codes and programs necessary for translating it into usable form, or the information shall be produced in a finished usable form. For any questions related to the production of documents you may consult with the Office of the Attorney General representatives above.

Definitions

1. **“You,” “your,” “the business,” “Intercontinental Exchange Holdings, Inc.,” “Intercontinental Exchange, Inc.”** means the entities named on page one of this Civil Investigative Demand and includes their past and present officers, employees, agents and representatives, parents and predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all persons and entities acting or purporting to act under the guidance or on behalf of any of the above. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any firm in which there is total or partial ownership (25 percent or more) or control between the company and any other person or entity.
2. **“Document”** means the original and all non-identical copies (whether different from the original because of notes, underlining, attachments, or otherwise) of all computer files, and all written, printed, graphic or recorded material of every kind, regardless of authorship. It includes communications in words, symbols, pictures, photographs, sounds, films, and tapes, as well as electronically stored information, computer files, together with all codes and/or programming instructions and other materials necessary to understand and use such systems.
3. **“Communication”** is to be broadly construed and includes but is not limited to e-mails, notes, faxes, memos, text messages, social media posts, letters, notes of conversations and meetings and recordings of conversations and meetings, whether in text or audio form.
4. **“Identify”** for an individual means providing the individual’s name and all contact information. For an entity it means providing the entity’s name and all contact information. For any other tangible thing it means providing a reasonably detailed description of the item and all contact information for the custodian or person who has possession, custody or control thereof.
5. **“Including”** means including, but not limited to.
6. **“Person”** includes you and means any entity or natural person.
7. **“Any”** means any and all.
8. **“Relate,” “related,” and “relating”** mean being in any way legally, logically, or factually connected with the subject matter of the request at issue.
9. The words **“and”** and **“or”** shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of the request, any document(s) that might be deemed outside its scope by another construction.
10. Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.
11. **“Relevant Trades”** means a trade of physical gas on any of your trading platforms in which the buyer or the seller is either based in Texas or supplies natural gas to Texas. Relevant trades include natural gas delivered through hubs based in Texas (including but not limited to the Houston Ship Channel, NGPL, Banquete Hub) but also includes hubs based outside of Texas delivering gas into Texas (including but not limited to the Henry Hub). Relevant Trades include Same Day, Next Day, NxDay Intra, Balance of the Month gas trades, but expressly excludes trades in gas futures or other non-physical investing.

EXHIBIT A: DOCUMENTS TO BE PRODUCED

1. Documents sufficient to identify the sellers and purchasers (“participants”) in all Relevant Trades during the Relevant Time Period. If the documents identify the entity with a trading code number, produce a key sufficient to identify the corporate entity by name.
2. For each of the participant entities identified in response to Request #1, produce documents sufficient to identify the following for each transaction:
 - a. The date and time of the transaction;
 - b. The relevant trade type;
 - c. The dollar amount of the completed transaction;
 - d. The volume of natural gas traded in that transaction; and
 - e. The relevant hub.
3. All communications with any state, local, or federal governmental entity regarding the investigation of rapidly escalating natural gas prices in Texas during the Relevant Time Period.
4. All communications with participants regarding the rapidly escalating natural gas prices in Texas during the Relevant Time Period.