



Industrial Energy Consumers of America
The Voice of the Industrial Energy Consumers

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STATEMENT OF PAUL N. CICIO

PRESIDENT

INDUSTRIAL ENERGY CONSUMERS OF AMERICA

ON

THE DERIVATIVES MARKETS TRANSPARENCY AND ACCOUNTABILITY
ACT OF 2009

BEFORE THE

COMMITTEE ON AGRICULTURE

U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2009

Mr. Chairman, Ranking Member Lucas, and Members of the Committee, my name is Paul N. Cicio. I am president of the Industrial Energy Consumers of America (IECA). Thank you for the opportunity to testify before you on the draft legislation entitled "Derivatives Markets Transparency and Accountability Act of 2009".

IECA is a 501 (C) (6) national non-profit non-partisan cross-industry trade association whose membership is exclusively from the manufacturing sector. IECA promotes the interests of manufacturing companies for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: fertilizer, steel, plastics, cement, paper, food processing, aluminum, chemicals, brick, rubber, insulation, glass, industrial gases, pharmaceutical, construction products, foundry resins, automotive products, and brewing.

For those on Wall Street who still do not acknowledge that excessive speculation is a problem, let me briefly describe what happened to natural gas prices in the time period of January to August of 2008.

During the first half of 2008, excessive speculation drove the NYMEX price of natural gas from \$7.17/ mm Btu in January to a high of \$13.60/ mm Btu in July before prices began to recede. During that same time period, the Energy Information Administration reports that domestic production increased by 8.6 percent; demand was essentially unchanged from the previous year and that national inventories were in the normal 5 year average range for that time of the year. These facts prove that the price spike was not driven by supply versus demand fundamentals. Unfortunately for homeowners, farmers and manufacturers, the net increase in the price of natural gas cost consumers over \$40.4 billion from January to August 2008 when compared to the same time period in 2007.

It is also important to highlight to the Committee that natural gas was specifically targeted by traders for manipulation more than any other commodity during that same time period by a significant margin. This information comes from the Commodity Futures Trading Commission (CFTC) September, 2008 report entitled "Staff Report on Commodity Swap Dealers & Index Traders with Commission Recommendations." The report highlights that more noncommercial traders exceeded the speculative limit or exchange accountability levels for trading natural gas than any other commodity and by a very high margin.

The below paragraph is from the report.

Exceeding Position Limits or Accountability Levels:

On June 30, 2008, of the 550 clients identified in the more than 30 markets analyzed, the survey data shows 18 noncommercial traders in 13 markets who appeared to have an aggregate position (all on-exchange futures positions plus all OTC equivalent futures combined) that would have been above a speculative limit or an exchange accountability level if all the positions were on-exchange. These 18 noncommercial traders were responsible for 35 instances that would have exceeded either a speculative limit or an exchange accountability level through their aggregate on-exchange and OTC trading that day. Of these instances: 8 were above the NYMEX accountability levels in the natural gas market; 6 were above the NYMEX accountability levels in the crude oil market; 6 were above the speculative limit on the CBOT wheat market; 3 were above the speculative limit on the CBOT soybean market; and 12 were in the remaining 9 markets.

Mr. Chairman, we are very grateful for the attention this committee is giving this incredibly important issue and this legislation is an excellent start to addressing excessive speculation in commodity markets.

IECA strongly supports: Section 3 that establishes speculative limits and transparency of offshore trading; Section 4 that requires increased transparency thru detailed reporting and disaggregation of market data that includes index funds and other passive, long-only and short-only investors in all regulated markets and data on speculative positions; Section 5 that increases transparency and recordkeeping to the CFTC and includes over-the-counter (OTC) contracts; Section 6 that establishes trading limits to prevent excessive speculation and creates a Energy and Agriculture Position Limit Advisory Group that would provide recommendations on setting position limits; Section 7 that provides for at least 200 additional fulltime CFTC employees; Section 8 that ensures that prior CFTC actions are consistent with this Act;

IECA areas of concern and recommended improvements are as follows:

More Transparency in CFTC processes

We encourage the legislation to reflect a change in culture at CFTC to one that has more transparency and public input into their decision making processes. We prefer the Federal Energy Regulatory Commission (FERC) model. The FERC frequently have rule making processes that allow for public comment and organize sessions that are similar to your Congressional hearings in which entities are solicited for comment. At FERC, there are ample opportunities for written public input as well.

Section 13: Clearing of Over-the-Counter Transactions

We do not support requiring commercial hedgers such as ourselves to be required to clear their transactions. The problem of market speculation is not caused by commercial hedgers and they are a relatively small portion of the market. The problem is non-hedgers or speculators. For this reason, only speculator bilateral OTC transactions should be cleared. We believe that requiring commercial hedgers to clear their transactions will potentially decrease our competitiveness through increased complexity and cost creating a disincentive for industrial users to manage risk.

We also urge the Chairman to add provisions to Section 13 that will increase transparency to the CFTC decision making process and with a public comment period.

Section 6: Trading Limits to Prevent Excessive Speculation – Establishment of Advisory Groups

We strongly support the establishment of a Position Limit Advisory Group for both agricultural and energy commodities. However, we recommend an additional step in the process by requiring that a public comment period be added to further increase transparency of the process. We further recommend that the governance of this advisory group favor the consumer perspective to ensure the best interest of those paying the bills.

Section 14: Treatment of Emission Allowances and Offset Credits

We have concerns including this provision. Including carbon emissions as a tradable commodity in this legislation is premature to federal policy making. The Congress has

not decided how it will regulate greenhouse gas emissions and we are concerned that this legislation would pre-empt that decision.

U.S. manufacturing companies that have been studying cap and trade and our colleagues in Europe believe that carbon trading will be the next Sub-Prime Crisis. Attached is a copy of a recent article from the Guardian, a UK newspaper dated January 30, 2009 entitled "Carbon Trading: The Next Sub-Prime. We encourage the committee to read it. (Attachment A)

Carbon cap and trade is only one of several policy approaches to regulating carbon and alternatives would not require trading carbon. Other alternatives include a carbon tax, sector approaches (example: CAFE); energy efficiency or ghg intensity mandates for the manufacturing sector or setting energy efficiency standards on every major energy consuming device thereby reducing energy consumption (example: appliance standards) and building codes for homes and commercial buildings.

In general, manufacturers have raised serious concerns regarding cap and trade because it is not transparent; offsets are easily subject to manipulation; it cannot be effectively border adjusted which means importers who are not burdened with equivalent higher costs will take business away from domestic producers and will result in lost jobs; it raises energy costs that manufacturers cannot pass-on because of international competition.

The Industrial Energy Consumers of America welcomes the opportunity to work with the Committee on Agriculture as it moves forward with this legislation.

Paul N. Cicio



President

February 4, 2009

Attachment A
House Committee on Agriculture
Hearing on Derivatives Markets Transparency and Accountability Act of 2009
February 4, 2009

Carbon Trading: The Next Sub-Prime

January 30, 2009

Climate and Capitalism has long argued that carbon trading is a scam to boost profits without reducing emissions. Here's confirmation from an unexpected source: the CEO of a major European energy company.

By Terry Macalister

The Guardian, Friday 30 January 2009

The row over the working of the European Union's emissions trading scheme intensified last night when EDF Energy warned that speculators risked turning carbon into a new category of sub-prime investment.

Vincent de Rivaz, the chief executive of the UK arm of the French-owned gas and electricity group, said politicians and regulators needed to revisit the way the ETS was working and whether it was bringing the results they wanted. "We like certainty about a carbon price," he said. "[But] the carbon price has to become simple and not become a new type of sub-prime tool which will be diverted from what is its initial purpose: to encourage real investment in real low-carbon technology."

Green campaigners have long been critical of the way the emissions trading scheme was set up, but it is unusual for a leading industry figure to cast doubt on it, as power companies lobbied hard for a market mechanism to deal with global warming.

"We are at the tipping point where we ... should wonder if we have in place the right balance between government policy, regulator responsibility and the market mechanism which will deliver the carbon price," said de Rivaz.

De Rivaz's comments came as Tony Hayward, chief executive of BP, emphasised that a predictable global carbon price was important because it would make "vast numbers of alternative energy sources competitive". He told the World Economic Forum in Davos that certainty over carbon emissions would help "solve the world's energy problems".

Their comments came days after the Guardian revealed that steelmakers and hedge funds were cashing in ETS carbon credits obtained for free, causing the price of carbon to plunge. The price of carbon has slumped from €30 a tonne to below €12, leading to a tail-off in clean-technology offset projects in the developing world.

The EU's emissions trading scheme was set up as a market solution to cut greenhouse gas pollution from industry. Polluters were issued with permits that can be traded between companies and countries as a way of encouraging an overall reduction in carbon output.

However, companies are now cashing them in. Up to €1bn-worth of permits are said to have been sold off in recent months as companies see an opportunity to bring in funds at a time when their carbon output is expected to fall due to lower production.

De Rivaz said an over-reliance on markets without tougher safeguards was responsible for the financial turmoil that has sent banks into administration or forced sale. He believed there had been a "lost sense of values" and he was anxious that this should not extend into the energy sector, but was not prepared yet to call for a carbon tax to replace the ETS.

Point Carbon, an information provider and consultancy, claims the sell-offs are only one of a number of factors influencing carbon prices and argues it is "rational" for them to be selling off credits.

"Recession in Europe is bringing a slowdown in manufacturing, meaning less production and less emissions," said Henrik Hasselknippe, global head of carbon at Point Carbon. "Companies are doing exactly the rational thing in these circumstances, which is to sell if they are long on

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credits. If they are emitting less then they do not need the credits so much and the price of carbon will fall."

However, Bryony Worthington, an expert on climate change and founder of sandbag.org.uk, said: "What should have been a way to kick-start investment in much needed low-carbon, efficient technologies is now a cash redistribution exercise."

A study commissioned by the WWF environmental organisation from Point Carbon, published in March last year, estimated that "windfall profits" of between €23bn and €71bn (£20.9bn-£64.4bn) would be made under the ETS between 2008 and 2012, on the basis that the price of carbon would be between €21 and €32. Up to €15bn could be made by British companies that were given credits they did not need.



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Paul N. Cicio President Industrial Energy Consumers of America

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Mr. Cicio is a well known consumer advocate for the industrial sector on issues related to energy and the environment and is recognized for his efforts within national and international circles. He has testified five times before the U.S. House of Representatives; three times before the U.S. Senate; and twice before the Federal Energy Regulatory Commission on issues regarding natural gas supply; natural gas market oversight; climate policy and energy efficiency. He has also intervened at the Commodity Futures Trading Commission.

In 2008, the Chairman of the Commodity Futures Trading Commission appointed Mr. Cicio to the newly created Energy Markets Advisory Committee (EMAC) representing industrial energy consumers.

In 2006 and again in 2008, the Secretary of the Interior appointed Mr. Cicio to the U.S. Department of Interior Outer Continental Shelf Policy Advisory Committee. In 2007, the Secretary of Energy appointed him to the National Coal Council, an advisory council to the Secretary. In both appointments, Mr. Cicio became the first energy consumer advocate.

Mr. Cicio moved to Washington DC from Houston, Texas in 1991. Since that time he has served in several leadership positions within a host of trade associations that include the National Association of Manufacturers, the American Chemistry Council, the Electricity Consumers Resource Council and the International Federation of Industrial Energy Consumers. Leadership positions in European trade associations include the International Chamber of Commerce; the Business and Industry Advisory Committee to the OECD; and the International Federation of Industrial Energy Consumers – World.

Previous to IECA, Mr. Cicio was employed by The Dow Chemical Company where he held a number of diverse responsibilities including: hydrocarbons and energy global issues management and federal government affairs, hydrocarbons and energy senior commercial manager, marketing manager, district sales manager, product sales manager. He retired from Dow Chemical with almost 30 years of service.

Mr. Cicio graduated from Youngstown State University with a BS in Business Administration and Economics.