



ENERGY MARKET OVERSIGHT COALITION

TIME TO REIN IN EXCESSIVE ENERGY MARKET SPECULATION AND CLOSE THE DOOR TO MANIPULATION

CO-SPONSOR THE “CLOSE THE ENRON LOOPHOLE ACT”

October 25, 2007

United States Senate
Washington, DC 20510

Dear Senator:

The Energy Market Oversight Coalition and its more than 80 national, regional and state agricultural, motor vehicle and home heating fuel, public power and consumer groups strongly urge you to cosponsor the “Close the Enron Loophole Act” (S.2058), recently introduced by Senator Carl Levin of Michigan. In light of unprecedented speculation and volatility in the energy commodity markets, it is time to close the gaps in federal law that allow energy profiteers to distort the price of energy for personal gain.

American Consumers are losing Confidence in the Energy Markets

Energy consumers across the country are concerned about the rising cost of energy, especially small businesses and American families struggling to make ends meet with ever shrinking budgets. There is a growing recognition by the American public that the dramatic rise in energy prices may not be caused exclusively by supply and demand, but rather by speculative trading conducted on unregulated energy commodity markets, or “dark markets,” where a majority of energy trades now occur. As financial speculators engage in wanton abuse of these opaque markets for personal profit, there is a growing lack of consumer confidence in the market’s ability to set a price for energy based on economic fundamentals. To restore public confidence, all energy commodity markets must be fair, orderly and transparent so the prices paid by consumers reflect supply and demand forces; and are not the result of excessive speculation, manipulation, fraud or other abusive conduct now allowed by the “Enron Loophole.”

The “Enron Loophole” has opened the Door to Abusive Trading Practices

Congress passed the “Enron Loophole” as part of the Commodity Futures Modernization Act (P.L.106-554) during a lame duck session in December of 2000. The loophole allows electronic exchanges set up for large traders to operate without any federal oversight or regulation. Originally designed to deregulate energy futures trading on the now defunct trading facility “Enron Online,” the exemption has allowed the growth of unregulated and opaque “dark markets.” Some experts estimate as much as 75 percent of trading is conducted on these “dark markets,” encouraging excessive speculation and opening wide the door to manipulation. The result is the artificial inflation of energy commodity prices without the market fundamentals to support that behavior.

Bipartisan and Non-partisan Reports have Called for Change

Senator Levin, primary sponsor of the Close the Enron Loophole Act and Chairman of the Senate Permanent Subcommittee on Investigations, has held a series of hearings that shed light on the severe lack of federal oversight in the “dark markets.” On June 25, 2007, the Senate Permanent Subcommittee on Investigations held a hearing and released a bipartisan report entitled *Excessive Speculation in the Natural Gas Market*. The report concluded that price distortions in the natural gas market resulting from Amaranth’s excessive speculation evidenced “a broken regulatory system that has left our energy markets vulnerable to any trader with sufficient resources to alter energy prices for all market participants.”

In June of 2006, the Senator also co-authored the bipartisan report, *The Role of Market Speculation in Rising Oil and Gas Prices: A Need to Put the Cop Back on the Beat*, which showed how lacking federal oversight has helped shift billions of dollars in energy trades from traditional trading platforms to unregulated trading environments. According to the report, experts estimate that more than 25 percent of the cost of a barrel of crude oil may be the result of speculation. The New England Fuel Institute estimates that amount to be as much as 50 cents to one dollar for every gallon of gasoline, diesel fuel or home heating oil.

And last week, the Government Accountability Office (GAO) released a long-awaited report of its own, *Commodity Futures Trading Commission: Trends in Energy Derivatives Markets Raise Questions about CFTC’s Oversight* (GAO-08-25, October 2007). The report supports many findings and policy recommendations found by the Senate Permanent Subcommittee on Investigations and calls on Congress “to consider further exploring the scope of the [CFTC’s] authority over energy derivatives trading, in particular for trading in the exempt commercial markets.”

If you (or your staff) have not yet read these reports, we encourage you to do so – they are both authoritative and compelling.

The Close the Enron Loophole Act would shed Light on the ‘Dark Exchanges’

S.2058, the Close the Enron Loophole Act, would arm the principal regulator of energy commodity markets, the Commodity Futures Trading Commission (CFTC) with the tools needed to subject “dark markets” to the same oversight as traditional contract markets, such as the NYMEX and the CME. Specifically, the bill would:

- **Close the Enron Loophole.** All energy exchanges would be subject to Commodity Futures Trading Commission (CFTC) oversight to prevent price manipulation and excessive speculation. The bill also directs the CFTC to ensure that a trader is prevented from distorting prices through positions on multiple exchanges.
- **Provide consistent regulatory standards.** Exempt energy exchanges would be made subject to the same standards as traditional contract markets regarding position limits, large trader reporting, and transparency requirements. If a facility for trading energy commodities looks like a futures exchange and acts like a futures exchange, then it should be regulated like a futures exchange.

- **Cover energy commodities and carbon emissions.** In addition to trading of crude, natural gas, heating oil, gasoline, and other energy commodities, the bill would place futures trades in energy emissions, such as carbon and sulfur dioxide, under CFTC oversight and impose rules designed to moderate speculation and prevent manipulation.
- **Require large-trader reporting for domestic trades on foreign exchanges.** Finally, S.2058 would apply large trader reporting requirements to all trades of U.S. destined energy commodities taking place from within the country but occurring on foreign boards of trade that allow U.S. access to their trading platforms

Support for S.2058 would send the message to your constituents that you are committed to change and to putting “the cop back on the beat” in the unregulated energy commodity markets. **Please contact Senator Levin’s office and get on-board this vital legislation today.**

Thank you for your consideration.

Sincerely,

(National & Regional)

Agricultural Retailers Association	www.aradc.org
American Public Gas Association	www.apga.org
American Public Power Association	www.appanet.org
Consumer Federation of America	www.consumerfed.org
Industrial Energy Consumers of America	www.ieca-us.com
Independent Oil Marketers Association of New England	www.iomane.com
Mid-Atlantic Petroleum Distributor’s Association	www.mapda.com
National Association of Convenience Stores	www.nacsonline.com
National Association of Truck Stop Operators	www.natso.com
National Association of Wheat Growers	www.wheatworld.org
National Barley Growers Association	www.nationalbarley.org
National Farmers Union	www.nfu.org
National Grange	www.nationalgrange.org
New England Fuel Institute	www.nefi.com
Pacific Northwest Oilheat Council	www.pnwoilheat.com
Petroleum Marketers Association of America	www.pmaa.org
Petroleum Transportation and Storage Association	mmorganpts@cox.net
Public Citizen	www.citizen.org
Society of Independent Gasoline Marketers of America	www.sigma.org
Steel Manufacturers Association	www.steelnet.org
Western Petroleum Marketers Association	www.wpma.com

Michael Greenberger (Formerly Director, Division of Trading and Markets, CFTC)
Law School Professor, University of Maryland School of Law

More...

(State Groups & Affiliates)

ALABAMA

Petroleum & Convenience Marketers of Alabama

www.pcmala.org

ARKANSAS

Arkansas Oil Marketers Association

www.aoma.org

Arkansas Electric Energy Consumers, Inc.

www.aeec-agc.org

Arkansas Gas Consumers, Inc.

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West Central Arkansas Gas Consumers, Inc.

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CALIFORNIA

California Independent Oil Marketers Association

www.cioma.com

CONNECTICUT

Independent Connecticut Petroleum Association

www.icpa.org

COLORADO

Colorado Petroleum Marketers Association

www.cwpma.org

FLORIDA

Florida Petroleum Marketers & Convenience Store Association

www.fpma.org

GEORGIA

Georgia Oilmen's Association

www.georgiaoilmensassoc.com

HAWAII

Hawaii Petroleum Marketers Association

www.wpma.com

IDAHO

Idaho Petroleum Marketers Association

www.wpma.com

INDIANA

Indiana Petroleum Marketers & Convenience Store Association

www.ipca.org

IOWA

Iowa Association of Municipal Utilities

www.iamu.org

Petroleum Marketers & Convenience Stores of Iowa

www.pmcofiowa.com

ILLINOIS

Illinois Petroleum Marketers Association

www.ipma-iacs.org

Illinois Association of Convenience Stores

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KANSAS

Petroleum Marketers & Convenience Store Association of Kansas

www.pmcaofks.org

Kansas Municipal Utilities

www.kmunet.org

KENTUCKY

Kentucky Petroleum Marketers Association

www.kpma.net

LOUISIANA

Louisiana Oil Marketers & Convenience Store Association

www.lomcsa.com

(State Groups & Affiliates, continued)

MASSACHUSETTS

Massachusetts Oilheat Council

www.massoilheat.org

MAINE

Maine Oil Dealers Association

www.meoil.com

MICHIGAN

Michigan Agri-Business Association

www.miagbiz.org

Michigan Bean Shippers Association

www.miagbiz.org/mbsa

Michigan Association of Convenience Stores

www.mpamacs.org

Michigan Petroleum Association

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MINNESOTA

Minnesota Crop Production Retailers Association

www.mcpr-cca.org

MONTANA

Montana Petroleum Marketers & Convenience Store Association

www.wpma.com

NEBRASKA

Nebraska Petroleum Marketers & Convenience Store Association

www.npcainc.com

NEVADA

Nevada Petroleum Marketers & Convenience Store Association

nvfuels.homestead.com

NEW HAMPSHIRE

Oil Heat Council of New Hampshire

www.nhoilheat.com

NEW JERSEY

Fuel Merchants Association of New Jersey

www.fmanj.org

Public Power Association of New Jersey

www.ppanj.net

NEW YORK

Empire State Petroleum Association

www.espa.net

New York Oil Heating Association

www.nyoha.org

Oil Heat Institute of Long Island

www.ohili.org

NEW MEXICO

New Mexico Petroleum Marketers Association

www.wpma.com

NEVADA

Nevada Petroleum Marketers Association

www.wpma.com

NORTH DAKOTA

North Dakota Petroleum Marketers Association

www.ndpetroleum.org

OHIO

Ohio Agribusiness Association

www.oaba.net

Ohio Petroleum Marketers & Convenience Store Association

www.opmca.org

OKLAHOMA

Municipal Electric Systems of Oklahoma

www.meso.org

(State Groups & Affiliates, continued)

OREGON

Oregon Petroleum Association

www.opma.net

PENNSYLVANIA

Pennsylvania Petroleum Marketers & Convenience Store Association

www.ppmcsa.org

RHODE ISLAND

Oil Heat Institute of Rhode Island

SOUTH DAKOTA

South Dakota Petroleum & Propane Marketers Association

www.sdp2ma-sdacs.com

South Dakota Association of Convenience Stores

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SOUTH CAROLINA

South Carolina Fertilizer & Agrichemical Association

www.scfaa.org

TENNESSEE

Tennessee Oil Marketers Association

www.toma.org

UTAH

Utah Petroleum Marketers & Retailers Association

www.wpma.com

VERMONT

Vermont Fuel Dealers Association

www.vermontfuel.com

VIRGINIA

Virginia Petroleum, Convenience & Grocery Association

www.vpcga.com

WASHINGTON (STATE)

Washington Oil Marketers Association

www.wpma.com

WEST VIRGINIA

West Virginia Oil Marketers and Grocers Association

www.omegawv.com

WISCONSIN

Wisconsin Crop Production Association

www.wicrops.org

Municipal Electric Utilities of Wisconsin

www.meuw.org

Wisconsin Industrial Energy Group

www.wieg.org

Wisconsin Petroleum Marketers & Convenience Store Association

www.pmawwacs.org

WYOMING

Wyoming Petroleum Marketers Association

www.cwpma.org
