House Energy and Commerce Committee Holds Hearing on Energy Market Manipulation

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NEWS RELEASE
Committee on Energy and Commerce

Rep. John D. Dingell, Chairman

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House Energy and Commerce Committee Holds Hearing on Energy Market Manipulation

Washington, D.C. – Government regulators and energy industry participants told a key Congressional Committee on Wednesday that manipulation is occurring in energy markets and legislation is needed to prevent excess speculation in currently unregulated energy markets. Some witnesses added that if loopholes in current law were closed, pressures on energy markets could be relieved.

The hearing, held by the House Energy and Commerce Committee’s Subcommittee on Oversight and Investigations, examined the effects of manipulation and speculation in futures markets and considered whether additional regulation is necessary to prevent market manipulation.

“Speculative excess in the energy markets has cost consumers billions of dollars in unnecessary energy costs,” said Rep. John D. Dingell (D-MI), Chairman of the Committee on Energy and Commerce. “It is time to close the loopholes that have allowed this unscrupulous consumer exploitation.”

“We need to close the Enron loophole, to close the foreign market loophole, and we need additional enforcement by the Commodity Futures Trading Commission and the Federal Energy Regulatory Commission to clamp down on the fear and speculation that lead to greed and market manipulation,” said Rep. Bart Stupak (D-MI), Chairman of the Oversight and Investigations Subcommittee.

Futures contracts for energy are traded on the New York Mercantile Exchange (NYMEX), which is regulated by the Commodity Futures Trading Commission (CFTC). Due to the so-called “Enron loophole,” which was included in the Commodity Futures Modernization Act of 2000, large energy traders—those with at least $10 million in net worth—can trade economically-linked contracts on largely unregulated “exempt commercial markets,” most notably the Atlanta-based Intercontinental Exchange (ICE).

By trading on unregulated “dark markets,” traders can avoid CFTC’s rules, which are in place to prevent price distortions or supply squeezes. This makes it difficult for regulators to detect excessively large positions, which could lead to price manipulation.

The issue of how excess speculation in energy derivatives markets can affect the prices consumers pay for energy recently gained attention following the collapse of the Amaranth hedge fund. Over several months in 2006, Amaranth, a $9 billion hedge fund, dominated trading in U.S. natural gas contracts and intentionally drove down the price of natural gas futures on NYMEX so that it could make tens of millions of dollars on its undisclosed holdings in the so-called “dark markets.”

“This was not a victimless crime. In summer 2006, Amaranth took enormous positions, which appear to have inflated the price of natural gas for delivery the following winter,” Dingell added. “Businesses, utilities, schools, and hospitals, as well as individual consumers, wound up paying abnormally high rates as a result.”

During the hearing, lawmakers heard from the heads of the CFTC and the Federal Energy Regulatory Commission (FERC) as well the Chief Regulatory Officer at the New York Mercantile Exchange. Lawmakers in the hearing overwhelmingly made clear their desire that FERC continue to have jurisdiction over manipulation in energy markets. Recently, Amaranth and others have argued that CFTC should have exclusive jurisdiction over manipulation in the futures markets.

“Another tool in addressing manipulation is ensuring FERC’s authority to police price manipulation trades that impact delivery of energy. Legislative intent on the part of this Committee is clear,” Stupak said. “We fully expect that the authority granted to FERC through the Energy Policy Act of 2005 will be upheld. We question whether CFTC, in trying to block FERC from enforcing its anti-manipulation authority, is circumventing Congressional intent. Consumers could pay dearly if CFTC prevails, and this Committee is unlikely to be a bystander should that unlikely event occur.”

The Committee revealed today that the unregulated markets have grown to be as large or larger than regulated markets, bringing into question the integrity of the entire energy derivatives market. Stupak and other lawmakers have indicated that they would like to move legislation to close the “Enron loophole” and bring greater transparency and oversight to energy derivatives markets.

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Prepared by the Committee on Energy and Commerce

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