



Senate, CFTC Hold Hearings on Energy Market Manipulations

The heat continues to build on Congress to figure out what is going on in commodity trading. September saw a release of some of the tension over what many in the propane and fueloil industries say is an increase in manipulation of energy markets that has made energy prices more unstable.

In mid-September, Sean Cota, co-owner and president of Cota & Cota Inc. (Bellows Falls, Vt.), testified before the Commodity Futures Trading Commission on the effects of the influence of under-regulated markets on consumer energy prices. Representing the Petroleum Marketers Association of America as a northeast regional chair and as president of the New England Fuels Institute (NEFI), Cota explained at the hearing that members of these two groups believe excessive volatility and the need for greater transparency and accountability in the energy market commodity markets ranked as a top public policy concern.

“The issue resonates with them so strongly due to the fact that many of these companies, including, mine,” said Cota, “hedge for the benefit for the consumer... In an effort to protect my customers against roller coaster-like price volatility on the energy commodity markets, I must resort to hedging programs...”

“However, as the influence of price setting functions on unregulated or under-regulated markets continues to grow, and as trading on over-the-counter and foreign-based exchanges continues to become the norm, American consumers are forced to ride the same roller coaster as the energy trader. Because the Commodity Futures Modernization Act (CFMA) created a new breed of markets—the exempt commercial market (ECM), and deregulated over-the-counter markets as a whole, this roller coaster has become more unstable and the volumes of products controlled by one market player alone can determine the direction of the ride.”

Cota, whose firm sells fueloil and propane in the Northeast, was one of

several who provided testimony at CFTC’s hearings Sept. 18. Also on the panel was James E. Newsome of the New York Mercantile Exchange (NYMEX), who also supports additional oversight.

A group of more than 70 national and regional consumer and trade groups, including the National Propane Gas Association, have been pressing the commission and congress to take action by modifying CFMA to ensure that current and future regulation of ECMs is sufficient to regulate trades of all energy commodities. These groups formed the Energy Market Oversight Coalition to promote greater transparency and accountability in the unregulated commodity markets, which many call the “dark market.”

Among the actions, the group wants is to close the “Enron Loophole Act” through the passage of S. 2058. Since the loophole amended the CFMA in 2002, NEFI says CFTC has charged a historical all-time high of 38 companies and 25 individuals in the energy sector for manipulation, attempted manipula-

ation in the letter to congress. “Large banks, hedge funds, and private speculators take home huge profits from trading malpractices while American families must struggle to make end meets.”

In July, NEFI’s vice president of government affairs, James Collura, provided an op-ed piece to the Boston Globe titled, “How Traders Gamble with Your Energy Dollars.” Collura called excessive speculation and alleged manipulation of energy commodities “the most significant source of volatile energy prices.” He explained that a series of legislative and regulatory loopholes passed in congress since 2000 have created an array of unregulated futures markets where the majority of energy trades occur. These markets allow traders and hedge funds to operate with little or no oversight or accountability—at the expense of the American consumer. This is where “real price gouging” is taking place, he explained.

Collura’s statements followed a June 25 hearing by the Senate’s Permanent Subcommittee on Investigations on natural gas market manipulation by Ama-

Energy prices are on a roller coaster ride, says fueloil/propane marketer.

tion, false reporting, and wash trading violations. In a letter to Sen. Carl Levin, chairman of the subcommittee on Investigations, NEFI, PMAA, and the coalition continued to urge the senator to close the loophole through the amendment, S. 2058, he introduced Sept. 18 and to fully fund CFTC in the upcoming budget. The group also sent a letter in September to every member of congress also asking for their support on the amendment and providing details on the need for market oversight.

The September hearings followed intense lobbying by the coalition to get congress and the agency to curb market speculation “and unlawful trading practices; practices hidden from federal regulators because of the opaqueness caused by the loophole...” said the co-

ranth Advisors (Greenwich, Conn.), a hedge fund that collapsed in September 2006 after losing more than \$6 billion in natural gas trades. The committee spent time reviewing a senate investigation, which released the Levin-Coleman report, and blamed last year’s high natural gas prices on the company’s trades.

The report was the culmination of a nine-month investigation following Amaranth’s collapse. The investigation examined millions of trading records from the NYMEX and the InterContinental Exchange (ICE) in an effort to track gas price movements. What was found was the company at some point held 100,000 natural gas contracts in a single month and 40% or more of the outstanding contracts on NYMEX for 2006. The report said this heavy vol-

ume of activity was enough to directly impact natural gas prices as well as increase volatility.

One recommendation in the report is for Congress to give more powers to CFTC to police markets. Specifically, it calls for increased scrutiny in the over-the-counter markets, which are believed to make up 75% of U.S. energy trading, but are not covered by CFTC.

One speaker at the hearing was Cota, who explained how high fueloil prices during the 2005/2006 winter didn't make sense based on ample inventory levels and warm weather. He said that efforts to find the cause were stymied by the 2000 Commodity Exchange Act because data on OTC trades could not be gathered: CFTC is not allowed to track such information. A majority of price-setting activity occurs utilizing such data, he added.

Daily Moves Sharpen

Cota also addressed market volatility on NYMEX, which his company uses to purchase monthly contracts. He said that in "the past few years we have seen the difference between summer months and the winter months ['con-tango' or 'carry'] be as high as 23 cents/gal." Cota continued, saying, "Up until about four years ago, it would have been abnormal to have a daily move in the market of larger than one half of a cent. Today it is typical to see five-cent daily moves and moves as high as 12 cents." His conclusion is that consumers are hurt by "huge financial players speculating on the market."

Of note to propane dealers is Cota's comment that in June ICE purchased ChemConnect, and as a result propane, butane, and other NGL contracts

are part of ICE's portfolio. He said, "A potential increase in futures prices and volatility for propane, as a result of this transaction, is of concern to me because propane constitutes a significant portion of my business."

While investigations and hearings continue over the controversy, CFTC and the Federal Energy Regulatory Commission (FERC) have been bickering over who has authority to fight manipulation in natural gas markets. Both agencies have brought separate cases against Amaranth, which has asked a federal court to rule that CFTC, not FERC, has the sole authority. In a broad energy bill passed by Congress, FERC was given authority to pursue energy market manipulation cases and impose fines.

—Ann Rey