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

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STATEMENT OF PAUL N. CICIO

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ON

THE DERIVATIVES MARKETS TRANSPARENCY AND ACCOUNTABILITY ACT OF 2009

BEFORE THE

COMMITTEE ON AGRICULTURE

U.S. HOUSE OF REPRESENTATIVES

FEBUARY 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