

July 19, 2005

The Honorable Pete Domenici  
Chairman  
364 Dirksen Senate Office Building  
US Senate  
Washington, DC 20510

The Honorable Jeff Bingaman  
Ranking Democratic Member  
364 Dirksen Senate Office Building  
US Senate  
Washington, DC 20510

The Honorable Joe Barton  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
US House of Representatives  
Washington, DC 20515

The Honorable John Dingell  
Ranking Democratic Member  
Committee on Energy and Commerce  
2322 Rayburn House Office Building  
US House of Representatives  
Washington, DC 20515

**RE: “Energy Policy Act of 2005” – Electricity and Natural Gas  
Transparency Provisions**

Dear Messieurs Chairmen and Ranking Members:

As you continue your work on the Energy Conference, we wanted to weigh in on one provision – market transparency – that could have far-reaching consequences for the nation’s natural gas and electric power markets. Before endorsing another new reporting system, we hope you will take note of the truly unique cooperative industry and government price reporting system that has been developed over the last three years, which has brought a 400% increase in price survey participation and reestablished confidence in natural gas and electric market transparency.

Since the market crisis of 2000-2001, FERC, the Commodity Futures Trading Commission (CFTC), New York Mercantile Exchange (NYMEX), the IntercontinentalExchange (ICE), Platts, Natural Gas Intelligence, the entire energy industry and others all have been actively working to restore confidence in wholesale prices, as well as to increase transparency and liquidity. In particular these actions have included:

- The FERC Policy Statement on Natural Gas and Electric Price Indices, which established new reporting standards for index developers and market participants alike;
- Industry-wide participation in technical conferences and workshops on price reporting practices and standards;
- The successful prosecution of individuals and companies for fraudulent reporting, resulting in the collection of hundreds of millions of dollars in fines and penalties;
- Price publishers requiring senior company personnel to certify the accuracy and completeness of the data (similar to the Sarbanes-Oxley requirements); and
- Price publishers requiring information be reported on a transaction-specific rather than an aggregated basis and that such information be reported by a centralized, non-commercial company source.

As a result of these and other actions, confidence in the marketplace has increased. For example:

- More than 90 percent of respondents to a 2004 FERC conducted survey indicated they now rely on the natural gas indices for physical transactions.
- Among producer and industrial users, 100 percent of those surveyed reported the use of indices.
- FERC reported a positive confidence “composite” of 7 on a scale of 1-10.

Additionally, in an order issued in November 2004, FERC found “a steady increase in the number of companies reporting their transactions, and a substantial improvement in the systems by which prices are reported”. (PL03-3-005) The Commission also said it would take no action toward a mandatory price reporting system or centralized data collection, but instead would continue to monitor the voluntary reporting system. Finally, just this month, new FERC Chairman Kelliher stated that he felt “[b]y and large, voluntary price reporting is working,” . . . and that he did not “see a need to go beyond that and mandate price reporting.” The Chairman also noted that he sees little value in the creation of a data hub.

In light of the progress in the reporting system and protections afforded by the increased penalty provisions and clarification of FERC’s jurisdiction over false price reporting in the House and Senate Energy bills, we believe a new mandated and subsidized reporting system is not now the best approach to addressing this issue, and could, in fact, prove to be counterproductive.

As you begin your negotiations with respect to price reporting and transparency, we encourage you to involve the various market participants and companies that are already performing these services to ensure the best possible, most efficient result for the nation’s energy consumers. Thank you for hearing our concerns and considering this request.

Respectfully,

American Gas Association  
American Petroleum Institute  
Electric Power Supply Association  
IntercontinentalExchange, Inc. (ICE)  
Natural Gas Intelligence (NGI)  
Natural Gas Supply Association  
New York Mercantile Exchange  
Platts  
The Process Gas Consumers Group (PGC)

cc: Energy Conferees