

**Testimony of
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Independent Connecticut Petroleum Association
and the New England Fuel Institute**

**Before the
United States House of Representatives
Committee on Appropriations
Subcommittee for Agriculture, Rural Development, Food and Drug Administration, and
Related Agencies**

**Washington, DC
July 10, 2008**

Madam Chairperson DeLauro, and distinguished members of the committee, thank you for the invitation to testify before you today on the issue of excessive speculation and inadequate oversight of the energy commodities markets, and its impact on independent, small business energy distributors and their customers.

About Devine Bros., Inc.

I feel that as a full service biofuel and heating fuel dealer in southwestern Connecticut, I am well suited to addressing these issues and any questions you may have on the subject. My company, Devine Bros., Inc, serves the home heating needs of people who reside in lower Fairfield County. The company is a third generation, 90 year old business located in Norwalk, CT. Our fuel oil terminal is located on the Norwalk River; we house the largest fuel oil terminal between Stamford, CT and Bridgeport, CT along the Long Island Sound Coast Line. Devine Bros. employs some 50 full time employees for our retail heating fuel department and a ready-mix concrete, building supply departments. I serve the family company as Corporate Secretary of the company, and I manage the day-to-day operations of the heating fuels department. This includes

management of our oil price hedging operations, product pricing, accounts receivable, and customer relations.

About NEFI & ICPA

I testify before you today as a board member and Legislative Chair of the Independent Connecticut Petroleum Association¹. Our association was formed in 1950 and represents 549 independent, locally owned and operated motor fuels and heating fuels distributors in Connecticut that serve 682,000 heating consumers.

I also testify on behalf of the New England Fuel Institute (NEFI)² as a board member and Chair of its Government Affairs Committee. NEFI is a 60-year-old trade group and public policy advocate representing well over 1,000 heating fuel dealers and related services companies in the Northeastern United States. NEFI member companies market heating oil, bioheat, propane, kerosene, biodiesel, jet fuel, off-road diesel and motor vehicle fuels.

“Black Friday” Proves Excessive Speculation No Longer A Myth

On Friday, June 6th, the day that my industry is now calling oil trading “Black Friday,” crude oil hit an all-time record of \$139.12. Heating oil and gasoline closed at new highs of \$3.98 and \$3.55, respectively. Trading that day was at unprecedented volumes as well as prices. 1.09 billion barrels of crude oil were traded that day, 53 times daily U.S. consumption. Also that day, 99 million barrels of heating oil were traded, *half of total U.S. consumption per year*. Madame Chairperson, we are no longer confident that the markets are doing their job of providing our

¹ Official website www.icpa.org

² Official website www.nefi.com.

industry and consumers with a benchmark for pricing product that is based on economic dynamics of supply and demand, and they no longer function as a risk management tool. They have become completely disconnected from reality. Is excessive speculation a reality? The events of June 6th have shattered all doubt. Today the price of crude oil is hitting closer to \$145.00, translating to roughly \$5.00 a gallon to the homeowner, almost double what it was for them last year at this time.

The media has missed the essential fact of these market moves – the December 2008 natural gas contract has increased in price 86% between January and July – so oil isn't the only issue. Our natural gas prices are skyrocketing, our diesel and gasoline prices are rising, our heating oil prices are increasing and because New England is disproportionately reliant on natural gas in electricity generation – our electric rates are going to increase as well. There is no refuge for our customers. Especially for the low-income and the elderly, who are sometimes faced with the awful choice of buying groceries, paying for prescription clothes or paying their fuel or natural gas bills.

Devine Bros. will try to provide some refuge to our customers through a locked- or capped-price program. [DETAILS ON COMPANY PRICING PROGRAMS]

Our customers are searching for an answer to what they see as a sudden and abrupt run-up in the price of energy, and consequently, the goods and services they rely on to go about their day-to-day lives. How do you explain the 17- month near tripling of Crude oil and sky-high prices for nearly all other commodities? American consumers see no apparent shortages. There are not

lines at the gas station like those experienced during the oil crisis of the 1970s. My customers often ask, “Are you guys running out of product?” The answer is no. There is no supply shortage. There is no sudden up-side demand shock. Simply put, we and our customers are being forced to ride the speculative roller coaster in the futures markets. It is about time someone put some the breaks on this runaway train and brought the markets back to reality.

My fellow witnesses today will explain to you how much speculation is playing a role in the markets and whether or not traders are “gaming” or manipulating the system. I am no commodities trading expert, but as a small businesses heating fuel dealer, I am able offer you expertise on the effect that this speculative fervor has had on our company and our customers, as well as the industry I represent here today. Also what it could mean for home heating in the upcoming winter.

The Effect on Small Businesses Petroleum Marketers

Petroleum marketers, like other small businesses, are required to secure lines of credit with a bank and supplier in order to purchase the product their retail consumers’ demand. In the current environment, the doubling in price of motor and heating fuels over the last 17 months has forced these marketers to request a two-fold in their credit lines – and many are being denied. All the while, cash flow is slow to come in from customer receivables, especially from low income heating oil customers that have exhausted their fuel assistance money and are feeling the overall pressure of a slowing economy.

The average 2.5 million gallon heating oil company in Connecticut that had to capitalize \$1,150,000 for wholesale oil in 98/99 is looking at \$10,125,000 in 08/09. That same company sells 20% of their annual volume in January [500,000 gals], and will need \$2,025,000 in credit to purchase oil on 10 or 30 day terms and wait 30-45-60 days to be paid by consumers, or longer. Banks and Wholesalers are extremely concerned about extending credit due to the volatility and high pricing in the fuel oil market.

Small, family business like ours continue to hold out hope that government will act soon to mitigate the speculative bonanza in the futures markets, but they must also look to their public officials for a more immediate solution to the “credit crunch” they are currently experiencing. We need access to the credit required to purchase gasoline, heating oil and other essential fuels in order to meet the needs of our customers, and in the current environment we struggle to do so.

Public Policy Solutions

So what can Congress do to help solve the problem? Many policies currently being touted on both sides of the isle seek to address the unprecedented run-up in energy prices. But these proposed initiatives miss the mark because they assume that prices are tied to a shortage of supply and an increase in demand. They assume that by increasing supply or by moving to alternatives- thereby reducing demand- their proposals will have a real and tangible effect on the market and, consequently, consumer prices.

Proponents of alternative energy are using the current environment to justify a quick and progressive advance toward an array of “renewable” and “sustainable” energy sources. Our

industry agrees that alternatives must be developed in order to reduce our dependence on foreign oil and provide cost-effective alternatives to fossil fuels. However, to do so without correcting the opaque nature of the futures market could subject these emerging energy sources to the same volatility and speculation that today afflicts conventional fossil fuels and other commodities.

Alternatively, others on Capitol Hill have called for a quick lifting of the ban on off-shore drilling and in other areas with bans on oil recovery, such as the Arctic National Wildlife Refuge. Our industry supports and endorses proposals to increase domestic production of oil through both conventional means such as drilling and unconventional means such as coal-to-liquids technology. However, increasing domestic supply of oil will have little or no impact on the speculative price of a barrel of oil because these markets have become dislocated from supply and demand economics. For example, OPEC has repeatedly submitted that its attempts to increase production have fallen on the deaf ears of the speculator, and have thus translated to little or no global price relief.

Congress must move quickly and assertively to address dysfunction within the markets by:

1. implementing across-the-board transparency and accountability requirements on all energy trading environments, all market participants and for all sizes of positions held by closing the so-called “London,” “Dubai” and “Swap Trader” loopholes;
2. substantially reducing speculation limits and raising margin requirements for all energy commodities;
3. setting aggregate position limits based on positions held in all trading environments and mechanisms;

4. substantially reducing the role non-commercial energy complex investors play in buying paper contracts where these players cannot and do not ultimately accept delivery of the physical energy being traded on paper;
5. implementing tough new financial consequences and mandatory jail sentences for market manipulators;
6. pressuring the CFTC to aggressively enforce existing and future authorities; and
7. doubling CFTC funding in order to provide it with the personnel and resources it needs to effectively monitor the markets to insure they are stable, function and that all trading is subject to the rule of law.

The House of Representatives should also pass the “Small Business and Farm Energy Emergency Relief Act,” which has cleared the Senate and is currently pending before the Small Business Committee. This legislation would offer small business loan guarantees to heating fuel crises including the one we now find ourselves. It is essential to insure that heating fuel dealers have access to the credit they need to purchase the heating fuels so essential to the lives of millions of Americans.

Finally, we hope that Congress will take a look at the heating oil contract on the New York Mercantile Exchange, or NYMEX. When the contract was created by NYMEX in 1978, heating oil consumption was much greater than diesel consumption, and therefore was used as a principle proxy for diesel fuel and other distillates. Today, even though diesel fuel consumption volumes have well surpassed heating oil consumption volumes, diesel and jet fuel is still hedged off of the NYMEX heating oil contract. As a result, heating oil may be forced to ride the

increasing domestic and foreign demand for diesel fuel. This would explain the spring and early summer spikes in heating oil prices that our industry is seeing, despite a bottoming out of domestic heating oil demand. Congress should work with heating oil industry leaders and experts to determine whether or not diesel fuel and heating oil contracts should be separate NYMEX offerings.

Thank you again, Madam Chairperson, for this opportunity to share my insight on this issue. I commend you and your colleagues in this committee for looking hard at this issue, and for championing public policy solutions that will help to insure transparent, accountable and stable commodities futures markets. I am open to any questions that you might have.