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**Testimony before the  
Commodity Futures Trading Commission**

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Honorable Acting Chairman Lukken and Commissioners Dunn, Sommers and Chilton, thank you for the invitation to testify before you today. I appreciate the opportunity to provide insight as both a petroleum marketer and on behalf of two trade groups representing motor vehicle and heating fuel dealers nationwide.

First, we would like to congratulate both Ms. Sommers and Mr. Chilton on their recent Senate confirmations. Congratulations are also in order in light of Mr. Lukken's recent nomination as Chairman of the Commission. We are encouraged by recent enforcement activities and by this hearing, and we look forward to working with you all as the Commission and the United States Congress continue to evaluate the need for new oversight and new partnerships with key market players, from the energy trader down to the American consumer.

I currently serve the Petroleum Marketers Association of America (PMAA) as its Northeast Regional Chair. PMAA is a national federation of 45 states and regional associations representing some 8,000 independent fuel marketers that collectively

account for approximately half of the gasoline and almost all of the distillate fuel consumed by motor vehicles and heating equipment in the United States.

I am also President of the New England Fuel Institute (NEFI), a 60-year-old regional trade association located just outside Boston, and as such, I am here representing over 1,000 fuel dealers and related services companies located throughout Northeastern United States. NEFI member companies deliver over 40 percent of the nation's home heating oil, and many market biodiesel, bioheat, propane, kerosene, jet fuel, diesel fuel and gasoline.

I am Co-Owner and President of one of those companies, Cota &Cota, Inc. of Bellows Falls, Vermont. Cota & Cota is a third generation family-owned and operated home heating fuel provider in southern Vermont and western New Hampshire. Unlike larger energy companies, most fuel dealers like me are small, second and third generation family-run businesses. Also unlike larger energy companies, heating fuel dealers deliver *directly* to American homes and small businesses, and therefore have developed close relationships with our customers, their families, and our local communities.

The average full service heating fuel provider has approximately 30 employees and 4,000 heating oil customers, delivers approximately 3.3 million gallons of heating oil per year, and those selling propane average about 2,000 customers and deliver 800,000 gallons per year.<sup>1</sup>

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<sup>1</sup> Information courtesy the "2006 Oilheat Survey," Gray Gray & Gray,LLP, Westwood, MA, 2006.

In a survey of NEFI and PMAA member companies earlier this year, excessive volatility and the need for greater transparency and accountability in the energy commodity markets ranked as a top public policy concern for our member companies. This issue resonates with them so strongly due to the fact that many of these companies, including mine, hedge for the benefit of the consumer.

Because of our hedging activities, we strongly support the exchange of commodity futures on open, transparent and well-managed exchanges subject to the rule of law. In fact, it is essential to businesses like mine. In an effort to protect my customers against roller-coaster-like price volatility on the energy commodity markets, I must resort to hedging programs.

My company began offering fixed price programs to our customers twenty years ago. It is commonplace at my company, and many others, to enter into New York Mercantile Exchange (NYMEX) based futures contracts with our suppliers, who purchase contracts for future delivery and resell these contracts to me for a profit. In this way, companies like mine are able to financially hedge heating fuels for the benefit of our customers, and help protect them against uncertainty and volatility.

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 (or 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.

In a letter to Congress earlier this month, the Energy Market Oversight Coalition, which represents over 70 national, regional and state consumer and trade groups, including NEFI, PMAA and their member states, said that recent allegations against Amaranth Advisors, LLC and other large hedge funds “have put to rest the notion that the market is too big and too complex to be manipulated.” The letter pointed to a broad array of actions that Congress can take to strengthen the Commission, aid in its enforcement efforts and create a more stable trading environment.

In addition to reiterating the need for reform as called for in that letter, we specifically urge that the Commission to:

- (1) Revisit the use of “no-action” letters and reevaluate the need to withdraw existing no-action letters held by foreign boards of trade that perform price discovery functions for U.S. destined energy commodities;
- (2) Ensure that current and future regulation of ECMs is sufficient to regulate trades of all energy commodities essential to the health and welfare of American citizens and the American economy; and

- (3) Include in its Advisory Committees interests and perspectives not currently represented, including those of small businesses, consumers, energy distributors, storage companies, and noteworthy academics.

Finally and perhaps most importantly, we ask that in these deliberations and in evaluating the need for additional oversight, the Commission consider the well-being of American small businesses, struggling families and the economy at-large. We ask that you vigorously enforce existing regulations and that you work closely with Congress, key market players and groups like those represented on today's panels to establish new oversight requirements that would provide a level regulatory "playing field" for all market participants. We ask you take all measures necessary to rein in excessive speculation, to minimize market volatility, to prevent market manipulation *before it occurs* and to close the door to those that would otherwise artificially inflate prices for their own personal gain.

I thank you again, Mr. Chairman, and to your colleagues for this opportunity to share my insight on this issue. I am open to any questions that you might have.