

1 U.S. COMMODITY FUTURES TRADING COMMISSION (CFTC)
2 ENERGY and ENVIRONMENTAL MARKETS ADVISORY COMMITTEE
3 (EEMAC)

4

5 Wednesday, September 15, 2021

6 9:00 a.m.

7

8 Virtual

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11

12 BEFORE:

13 Dan M. Berkovitz, EEMAC Sponsor, Commissioner, CFTC

14 Rostin Behnam, Acting Chairman, CFTC

15 Dawn D. Stump, Commissioner, CFTC

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P R O C E E D I N G S

MS. KNAUFF: Good morning. As the Secretary of the Energy and Environmental Markets Advisory Committee, it is my pleasure to call this meeting to order. Welcome to the second EEMAC meeting of 2021 and this marks the seventh meeting with Commissioner Berkovitz as the sponsor of the committee.

In light of the global response to COVID-19, we are holding today's meeting by videoconference to continue to protect the safety of agency personnel, the EEMAC Members, the EEMAC Associate Members, and the public.

To ensure that today's virtual meeting goes as smoothly as possible and the recording of the meeting is complete and accurate, please identify yourself before you begin speaking and signal when you are done speaking. Please speak directly into your phone for optimal audio quality on the webcast.

Please unmute your phone and your WebEx video before you speak and mute both after you speak. Please only turn on your camera when you are presenting or engaging in the Q&A after the panel. If you would like

1 to be recognized during the discussions for a question
2 or a comment or you need technical assistance, please
3 message me within the WebEx chat. I will alert EEMAC
4 Chair Dena Wiggins that you would like to speak during
5 the Q&A that follows prepared remarks and presentations.
6 If you are disconnected from WebEX, please close your
7 browser and enter WebEx again using the link that I
8 previously provided for today's meeting.

9 Before we begin this morning's discussion, I
10 would like to turn to Commissioner Berkovitz for his
11 opening remarks.

12 COMMISSIONER BERKOVITZ: Good morning, and
13 welcome to the Energy and Environmental Markets Advisory
14 Committee meeting. I am very pleased to see you all by
15 video today.

16 Last month, a panel of scientists convened by
17 the United Nations issued a landmark report warning of
18 the dire effects of climate change. The report
19 unequivocally linked the earth's warming to human
20 activities and called for urgent actions to
21 significantly reduce emissions of carbon dioxide and
22 other greenhouse gases.

1 Derivatives markets, and particularly those
2 for carbon allowances and offsets, have an important
3 role to play in achieving these reductions. They can
4 help companies optimize emission reductions, protect
5 against the financial risks associated with global
6 climate change, and manage the risks arising from the
7 transition to a carbon-neutral economy.

8 This past June, this Committee met to examine
9 the role of carbon markets in the transition to a
10 carbon-neutral economy. We heard from leaders of cap-
11 and-trade programs in the United States and abroad, from
12 our U.S.-based exchanges that offer carbon-derivative
13 products, and from market participants and other
14 stakeholders with experience in carbon markets.

15 At our June meeting, EEMAC Associate Member
16 Matt Picardi, on behalf of the Commercial Energy Working
17 Group, proposed that the EEMAC take a closer look at how
18 the Commission can support this energy transition by
19 examining the design of carbon markets. Mr. Picardi
20 recommended that the Commission establish a subcommittee
21 of this Committee to examine the interplay between
22 secondary cash markets for carbon allowances and offsets

1 and the derivative markets for those products, with the
2 goal of promoting uniformity across the various markets
3 and enhancing liquidity. The Committee is meeting today
4 to discuss this proposal, and we will call for a vote at
5 the end of the meeting.

6 Should Members recommend the establishment of
7 a subcommittee and the recommendation is approved by the
8 Commission, the CFTC would then publish a request in the
9 Federal Register for subcommittee nominations. As we do
10 with our EEMAC Membership, we would strive for a
11 subcommittee comprised of a broad and diverse range of
12 viewpoints. Membership on the subcommittee would not be
13 limited to those who are already Members or Associate
14 Members of the EEMAC. So I urge all interested
15 stakeholders with expertise in and experience with these
16 issues to submit a nomination.

17 Subcommittee members would be tasked with
18 defining the mission of the subcommittee and ultimately
19 preparing a report to the EEMAC setting forth guiding
20 principles for the design of carbon markets as well as
21 addressing any other topics that the subcommittee deems
22 relevant to its mission.

1 I am very much looking forward to a robust
2 discussion today and to any further action recommended
3 by the EEMAC Members.

4 As I announced last week, I will be leaving
5 the Commission next month. One of the things I'll miss
6 the most about my time as a Commissioner is sponsoring
7 this Advisory Committee and working with each of you in
8 your capacity as Members and Associate Members of the
9 EEMAC. Some of you I have known for decades and others
10 I have been fortunate to meet when you were nominated to
11 the EEMAC, and I have gotten to know you over the months
12 and years since. And I am grateful for each of these
13 relationships.

14 I would like to thank all of you for the
15 contributions you have made over the years to educate
16 and inform the Commission and the public about issues
17 important to our energy and environmental markets. I
18 never cease to be impressed with your dedication and
19 enthusiasm and the wealth of knowledge and experience
20 you bring to this Committee on a voluntary basis. I
21 wish we could be together in Washington today so I could
22 speak to each of you individually, but I look forward to

1 continuing to stay in touch.

2 I would like to thank all of the people who
3 have made these meetings such a success. First, thank
4 you to Acting Chair Behnam and Commissioner Stump for
5 participating in today's meeting, as well as your
6 ongoing and unwavering support to the EEMAC throughout
7 my tenure. My relationships with both of you over the
8 past three years have only strengthened, and the public
9 is fortunate to have such dedicated public servants
10 overseeing our financial markets.

11 I would also like to thank Dena Wiggins, who
12 has chaired this Committee for the full three years of
13 my sponsorship. She brings her deep experience in the
14 energy markets to her role as Chair, and the EEMAC has
15 greatly benefitted from her leadership.

16 I am very grateful to Abigail Knauff for her
17 exceptional work as Secretary of the EEMAC. Abigail
18 volunteered for this role in addition to her day job in
19 the Division of Clearing and Risk and has planned
20 thoughtful and informative meetings and has worked
21 individually with each of you on issues vital to our
22 energy and environmental markets.

1 I also have deepest thanks for Lucy Hynes on
2 my staff for all of her staff working with the
3 membership on behalf of my office and supporting Abigail
4 in planning these meetings. And finally, many thanks to
5 Michelle Ghim in the Legal Division for her counsel to
6 the Committee over the years, and to our IT and
7 facilities staff who have made these remote meetings
8 appear so seamless. Much work has gone into these
9 meetings that is not visible. I just would like to
10 thank everybody for participating and contributing,
11 again on a voluntary basis, above and beyond the call of
12 your ordinary duties and responsibilities to the
13 Commission and your interests in the private sector.

14 With that, I'll turn it back to you, Abigail.

15 MS. KNAUFF: Thank you, Commissioner
16 Berkovitz.

17 I now recognize Acting Chairman Behnam to give
18 his opening remarks.

19 ACTING CHAIRMAN BEHNAM: Thank you, Abigail.
20 And good morning to everybody on the EEMAC. It is great
21 to be here. First off, I want to thank Abigail for her
22 leadership and Dena Wiggins as well. And, of course, to

1 Commissioner Berkovitz, you thank Commissioner Stump and
2 I, but we need to thank you, more importantly. Your
3 leadership on this Committee has been outstanding for
4 the past three years, but in many respects, the issues
5 that you have elevated and raised since you have taken
6 over the EEMAC have been issues that you have cared
7 deeply about for many, many years. And your time in
8 public service has stretched several decades, but your
9 commitment to the CFTC has also been sort of ever
10 present for the past almost 15 to 20 years. And, in
11 many respects, as you depart, your legacy and your role
12 in developing and shaping and lifting up the CFTC and
13 its success, most notably since the financial crisis and
14 Dodd-Frank, will remain for decades. So we thank you
15 for your integrity, for your fight, for helping draft
16 laws that have become a part of the CEA, for defending
17 laws as general counsel, and for shaping policy as a
18 Commissioner for the past three years. You have pushed
19 everyone at the agency, but, most notably, I think Dawn
20 and I can say that you have made each of us better,
21 forced us to think harder, and forced us to think about
22 things that we probably typically don't. And I'm pretty

1 sure that everyone on the EEMAC can say the same.

2 So looking forward to today's meeting, looking
3 forward to the continued success of EEMAC. And in many
4 respects, it's your last meeting today, but you're also
5 kicking off a very important project in examining carbon
6 markets and the role the CFTC is going to play. So we
7 will be sure to make sure we shepherd that forward and
8 see that its success is gone through over the next
9 couple of months as this issue is critically important
10 to the success of our markets but also to the safety of
11 the globe as we're seeing so many different changes with
12 climate change.

13 So thank you again for all of your service.
14 Looking forward to the meeting today. And, again,
15 thanks to the EEMAC Members for their participation.
16 Thanks, Abigail.

17 MS. KNAUFF: Thank you, Acting Chairman
18 Behnam.

19 I now recognize Commissioner Stump to give her
20 opening remarks.

21 COMMISSIONER STUMP: Thank you, Abigail.

22 I, too, am looking forward to today's

1 Committee discussion. I think we all recognize that as
2 investor demand and private sector responses lead to
3 more voluntary carbon-reducing efforts outside of the
4 CFTC's purview, our markets, as Commissioner Berkovitz
5 already pointed out, must assist those industries that
6 provide these essential resources, such as student
7 energy providers, as they manage these new transitional
8 risks.

9 And so I, too, very much look forward to the
10 meeting. I thank all of those who were involved in
11 putting it together. This is something the agency must
12 -- it is our job to do our part in helping to smooth
13 this transition. If, in fact, that's where investors
14 and the private sector take this, they're going to need
15 our help in achieving the outcomes that they're seeking.

16 A special thanks to the sponsor of this
17 Committee, Commissioner Berkovitz. And just a brief
18 word about his impending departure from the agency.
19 When Commissioner Berkovitz announced last week at a
20 division director meeting that he was planning to leave,
21 I became a bit emotional at the idea of his leaving the
22 agency. I, in fact, never worked at this agency without

1 Commissioner Berkovitz.

2 And for all of the reporters who called to ask
3 me what I think the agency is going to look like going
4 forward, I thought that perhaps humor was the best way
5 for me to avoid the emotion today. So I have a few
6 predictions for the reporters who may be listening in.
7 For one, I predict that our open meetings will be much
8 shorter. Maybe we can retire the stopwatch recently
9 employed. And, while I wouldn't want the Division of
10 Enforcement to be disappointed, I expect the seven- to
11 eight-hour closed meetings will also be a thing of the
12 past. Though I commit to Commissioner Berkovitz that I
13 will continue to have a lot of questions surrounding
14 enforcement matters, just perhaps without the benefit of
15 our banter, and I'm also guessing the general counsel
16 may breathe a sigh of relief that he or she may no
17 longer have to face one of their predecessors on a daily
18 basis, Dan, I expect the list of books and podcasts I
19 download will dwindle once you are gone. And I may
20 actually have to employ a therapist who will take my
21 calls on Saturday, when I have to vent about something
22 that has bothered me process-related.

1 But I look forward to seeing what the new
2 challenges that you will encounter. And I look forward
3 to working with those who will carry on your legacy at
4 the agency here at the CFTC.

5 Thank you so much.

6 MS. KNAUFF: Thank you, Commissioner Stump.

7 Dena, I am going to turn the meeting over to
8 you now.

9 CHAIR WIGGINS: Thank you, Abigail. And thank
10 you, Commissioner Berkovitz, Mr. Chairman, and
11 Commissioner Stump. I am honored to be a Member of the
12 EEMAC and to continue serving as the Chair of the EEMAC.

13 I want to take a few minutes before we jump
14 into today's discussion to also add my thanks to
15 Commissioner Berkovitz. We really appreciate everything
16 that you have done in serving as EEMAC sponsor and also
17 for your many years of service to the CFTC. We
18 appreciate your leadership, your willingness to devote
19 time and attention to the issues being discussed here,
20 and your thoughtful consideration of all points of view.
21 I think I can speak for all of us on EEMAC in saying
22 thank you and wishing you well in the next chapter of

1 your professional life. And hopefully, sometime sooner,
2 rather than later, we can all gather in a room and we
3 can express our thanks to you personally, but I think
4 for now, we will have to stick to the virtual thing.
5 But we really appreciate your service and your
6 leadership.

7 As we discussed before, this Committee serves
8 as an important vehicle to discuss matters of concern to
9 hedgers, consumers, exchanges, firms, and end-users
10 within our energy and environmental markets as well as
11 the Commission's regulation of these markets. Today's
12 meeting serves as an opportunity to pick up on the EEMAC
13 discussion from June 3rd and to vote on the
14 recommendation for the Commission to form an EEMAC
15 subcommittee that can delve deeper into this issue and
16 provide recommendations to the Committee in a future
17 report.

18 As Chair, I look forward to facilitating the
19 discussion of the Associate Members' perspectives to the
20 EEMAC and working with the EEMAC Members to provide the
21 Commission with feedback and recommendations that
22 hopefully can assist the agency in its oversight of our

1 markets.

2 To ensure that today's discussion is
3 consistent with the EEMAC charter, which prohibits
4 Associate Members from providing reports and
5 recommendations directly to the Commission, we will
6 first take questions and comments from the EEMAC
7 Associate Members after the panelists have shared their
8 prepared remarks. And then we will then turn to EEMAC
9 Members for their questions and comments on the prepared
10 remarks and the feedback provided by the Associate
11 Members.

12 As Abigail mentioned, please use the chat
13 function to alert her if you have a question or a
14 comment. And we will recognize you as a speaker after
15 receiving your notification.

16 Before we begin our panel today, we would like
17 to do a roll call of the Members and Associate Members
18 so we have your attendance on the record.

19 Abigail, would you lead the roll call?

20 MS. KNAUFF: Thank you, Dena.

21 EEMAC Members, after I say your name and
22 organization, please indicate that you are present.

1 Please make sure your phone is not muted. If we are
2 unable to hear your response, please send me a message
3 via the WebEx chat to confirm that you are present on
4 today's call so that I can correct the record.

5 Trabue Bland, ICE Futures U.S.?

6 MR. BLAND: I'm here.

7 MS. KNAUFF: Thank you, Trabue.

8 Rob Creamer, FIA PTG?

9 MR. CREAMER: Present.

10 MS. KNAUFF: Thank you, Rob.

11 Demetri Karousos, Nodal Exchange, LLC?

12 MR. KAROUSOS: Hi. Here. Good morning,

13 Abigail.

14 MS. KNAUFF: Thank you, Demetri.

15 Bill McCoy, Morgan Stanley?

16 MR. McCOY: I'm present. Thank you.

17 MS. KNAUFF: Thank you, Bill.

18 Lopa Parikh, Edison Electric Institute?

19 MS. PARIKH: I'm here. Thank you.

20 MS. KNAUFF: Thank you, Lopa.

21 Jackie Roberts, Public Service Commission of
22 West Virginia?

1 MS. ROBERTS: I'm here. Thank you.

2 MS. KNAUFF: Excellent. Thank you, Jackie.

3 Derek Sammann, CME Group?

4 (No response.)

5 MS. KNAUFF: Tyson Slocum, Public Citizen?

6 MR. SLOCUM: Good morning. I'm here.

7 MS. KNAUFF: Thank you, Tyson.

8 And Dena Wiggins of Natural Gas Supply

9 Association.

10 CHAIR WIGGINS: Yes, I'm here.

11 MS. KNAUFF: Thank you.

12 EEMAC Associate Members, after I say your

13 name, please indicate that you are present.

14 Matt Agen, American Gas Association?

15 MR. AGEN: Good morning. I'm here.

16 MS. KNAUFF: Thank you, Matt.

17 Susan Bergles, Exelon Corporation?

18 MS. BERGLES: Good morning. Present.

19 MS. KNAUFF: Thank you, Susan.

20 Jessica Bowden, Millennium Management, LLC?

21 MS. BOWDEN: Good morning. I'm present as

22 well.

1 MS. KNAUFF: Thank you, Jessica.
2 Paul Cicio, Industrial Energy Consumers of
3 America?
4 (No response.)
5 MS. KNAUFF: Daniel Dunleavy, Ingevity
6 Corporation?
7 MR. DUNLEAVY: I'm present. Good morning.
8 MS. KNAUFF: Thank you, Dan.
9 Kate Delp, the DTCC Data Repository?
10 MS. DELP: Good morning. I'm present.
11 MS. KNAUFF: Thank you, Kate.
12 Erik Heinle, Office of the People's Counsel in
13 the District of Columbia?
14 MR. HEINLE: Good morning, Abigail.
15 MS. KNAUFF: Thank you, Eric.
16 Paul Hughes, the Southern Company?
17 MR. HUGHES: Good morning, Abigail. I'm here.
18 MS. KNAUFF: Thank you, Paul.
19 Jeff Hume, Continental Resources?
20 (No response.)
21 MS. KNAUFF: Kaiser Malik, Calpine
22 Corporation?

1 (No response.)

2 MS. KNAUFF: Dr. John Parsons, Special
3 Government Employee?

4 DR. PARSONS: Good morning. I'm present.

5 MS. KNAUFF: Thank you, Dr. Parsons.

6 Delia Patterson, American Public Power
7 Association?

8 MS. PATTERSON: Good morning, Abigail. I'm
9 here.

10 MS. KNAUFF: Thank you, Delia.

11 Matt Picardi, Commercial Energy Working Group?

12 MR. PICARDI: Good morning, Abigail. I am
13 present.

14 MS. KNAUFF: Thank you, Matt.

15 Malinda Prudencio, The Energy Authority?

16 MS. PRUDENCIO: Good morning. Present.

17 MS. KNAUFF: Thank you, Malinda.

18 Dr. Richard Sandor, Environmental Financial
19 Products, LLC?

20 (No response.)

21 MS. KNAUFF: Dr. Sandor, we can't hear you,
22 but I believe I see you on camera.

1 Noha Sidhom, Energy Trading Institute?

2 (No response.)

3 MS. KNAUFF: Sarah Tomalty, BP Energy Company?

4 MS. TOMALTY: Good morning. I'm, present.

5 MS. KNAUFF: Thank you, Sarah.

6 And Jeff Walker of ACES?

7 (No response.)

8 MS. KNAUFF: Okay. Just again as a reminder,
9 if I called your name and we did not hear your response,
10 please email me or contact me via WebEx in the chat.
11 Thank you.

12 I will now turn the meeting back over to Dena.

13 CHAIR WIGGINS: Thank you, Abigail.

14 Our panel today will discuss further the
15 proposal to form an EEMAC subcommittee for the EEMAC on
16 the guiding principles for the design of the derivatives
17 and underlying cash markets for environmental products,
18 such as carbon allowance and offsets that are used to
19 address greenhouse gas emissions. We will hear prepared
20 remarks from Tyson Slocum, Public Citizen; Dr. John
21 Parsons, a special government employee; and Matt Picardi
22 on behalf of the Commercial Energy Working Group.

1 Tyson, please go ahead.

2 MR. SLOCUM: Dena, thank you so much.

3 And, first, I just want to express my profound
4 appreciation and thanks for the great service of
5 Commissioner Berkovitz. I first had the pleasure of
6 working with Commissioner Berkovitz when he was a Senate
7 staffer, where he produced pioneering research on the
8 role of excessive speculation in markets and then as
9 general counsel on the CFTC and now as Commissioner. As
10 a public interest advocate, Commissioner Berkovitz has
11 really exemplified what a regulator should do in terms
12 of prioritizing the public interest. And so I just want
13 to say thank you so much for your leadership over the
14 years. I really admire it.

15 On the proposal to create a subcommittee, I am
16 in support of forming a subcommittee to explore carbon
17 markets. I do think that there are some considerations
18 that the Commission and this Advisory Committee should
19 have in putting together this subcommittee. And so,
20 first, I think it needs to be acknowledged that
21 legislative and regulatory policy mandates have been the
22 primary drivers of emissions with options, rather than

1 market-based carbon-trading schemes. Emissions trading
2 can in limited and well-regulated circumstances assist
3 with cost-effective compliance of these regulatory
4 programs. So, it really serves as a supplement to these
5 regulated mandates. And this orientation could be a
6 frame for the subcommittee's work.

7 Second, it's really important that this
8 subcommittee's membership feature a robust
9 representation of public interest stakeholders,
10 including environmental justice perspectives. As you
11 know, President Biden has announced a series of
12 initiatives to prioritize environmental justice and
13 energy justice in a number of the Federal Government's
14 programs and evaluations. And when it comes to market-
15 based emissions programs, this has been a thorny issue
16 within the environmental justice community for decades.
17 And if the Commission is going to formally explore this,
18 we really need to ensure that we have got representation
19 from the environmental justice community so that their
20 perspectives are considered in the subcommittee's work.

21 Third, the stakeholder interest of any
22 subcommittee member has to be transparent so the public

1 has a clear understanding of who exactly is seeking to
2 influence and inform Commission policy. For example,
3 the entity that proposed the subcommittee's creation,
4 the Commercial Energy Working Group, is not an actual
5 company or trade association, but, rather, it's a
6 lobbying vehicle operating out of a law firm that
7 doesn't publicly release its membership. And, adding to
8 the confusion, some of the members that we do know of,
9 such as the trader Vitol, operate more as a financial
10 speculator than as a commercial interest. And so to
11 avoid this kind of confusion, I think it is important
12 that subcommittee members be as transparent as possible
13 when it comes to their membership interests.

14 Fourth, I think the subcommittee needs to
15 scrutinize the problematic role of offsets in emission
16 reduction compliance and seek to strengthen verification
17 standards of offset. Given the challenges that offset
18 have in delivering real emission reductions, the
19 subcommittee could, instead, encourage mechanisms that
20 product direct emission avoidance from point and mobile
21 sources.

22 And, finally, the subcommittee should assess

1 whether carbon markets' intrinsic volatility limits the
2 efficiency of emission reduction data. A mission of the
3 subcommittee should be to explore whether carbon markets
4 should be considered a benefit or a barrier to effective
5 emission mitigation.

6 I really appreciate the opportunity to give
7 these remarks. Thank you so much.

8 CHAIR WIGGINS: Dr. Parsons?

9 DR. PARSONS: Thank you very much. I am happy
10 to be here and provide three suggestions for this
11 subcommittee. But before I do, I would just like to
12 briefly add my appreciation for Commissioner Berkovitz.
13 It has been a pleasure to get to know you through this
14 EEMAC, and I really appreciate all of the service you
15 have provided. So, thank you very much for that
16 opportunity to connect. And I wish you well.

17 So, the three comments. I will label my first
18 one the cart and the horse. A carbon market can be an
19 important component of a larger government mandate to
20 reduce emissions. A market can often find cheaper ways
21 to accomplish the goal, marshalling an enormous set of
22 businesses, engineers, and others to pitch in and find

1 better means to the end. But my worry is that some
2 people focus almost exclusively on the market and the
3 trading and overlook the larger government mandate.
4 They put the cart before the horse.

5 This Committee has a very clear example of
6 this mistaken focus. Back in 2019, at our November 7th
7 meeting, we heard a panel presenting information on
8 environmental derivative contracts. And we were
9 presented with this slide. If I can ask that the slides
10 be shown? So, this slide was from one of the
11 presentations that we received one of the panels
12 presented. It shows the dramatic decline of sulfate
13 deposition across North America between the 3-year
14 period of 1989 and 1991, shown on the left, and the
15 later 3-year period of 2014 to 2016, shown on the right.
16 The slide closes with the takeaway "MARKET-BASED
17 SOLUTION FOR U.S. ACID RAIN," presumably referring to
18 the SO₂ allowance trading program instituted by the
19 Clean Air Act amendments of 1990. And this was
20 presented to us as a representation of existing
21 environmental markets.

22 But I have to point out, at the time this was

1 presented, and even before the chart on the right, the
2 years relevant there, 2014 to 2016, the bad news is the
3 SO₂ allowance trading program was long dead. There is no
4 real trading. The price is approximately zero. The
5 market is dead. It was killed by a series of political
6 decisions, regulatory actions, and court rulings
7 beginning in the 2000s.

8 Can I have the next slide? So, this slide is
9 a figure that is excerpted from an article in the
10 economics journal, the Journal of Economic Perspectives,
11 authored by two of the leading researchers on emissions
12 markets and one of whom was on the Council of Economic
13 Advisers when the SO₂ market was created. And it charts
14 the events leading up to the death -- the last date on
15 there is in 2012 -- leading up to the death of that
16 market. And that is the reality that we had, not what
17 was described in that first slide. The first slide
18 creates the false impression that the market is the
19 reason for the drop in sulfate deposition. It was not.
20 Although the market was dead, the Clean Air Act was not.
21 The SO₂ trading program was always a component of the
22 larger emissions control legislation. It was never the

1 market on its own. Indeed, the market was a tool to
2 enable less expensive paths for achieving the overall
3 mandate. The market was not a substitute for the
4 mandate.

5 And when the market died in 2012, the larger
6 set of policies and frameworks did not die. Although
7 the SO₂ trading was no longer useful, polluters still had
8 to comply with the mandate for emission reductions. And
9 these mandates had grown tighter. It's the larger
10 framework that should be credited with making the second
11 map green.

12 So, if this Committee is going to create a
13 subcommittee to produce a report on carbon markets, it
14 is my hope that the subcommittee will focus not only on
15 the market, disembodied from the larger framework that
16 produces the emission reductions needed. It should
17 address the governmental authority and the supervisory
18 capacity needed, both to enable the market and to
19 generally assure reductions, no matter how the market
20 functions. It should also include relevant scientific
21 expertise essential to guiding real emission reductions.

22 Point number 2 is about privately organized

1 offset markets. They are precarious. So voluntary
2 offset markets are a familiar tool for carbon emission
3 reductions with both good and bad lessons to be learned
4 from efforts in the past. Within a larger state-
5 mandated and -supervised system, offsets may perhaps
6 play a useful role. Offsets by their nature are
7 inherently voluntary, even when they're enabled through
8 a state-mandated and -supervised system. For example,
9 California's cap-and-trade program has offset. But
10 recently, the talk in the financial community and in
11 some parts of industry has been for voluntary offsets
12 created outside of any state-mandated and -supervised
13 system organized exclusively by private actors. That is
14 a horse of an entirely different color.

15 Outside of a state-mandated emission regime,
16 offsets cannot provide a foundation for a market that is
17 well-grounded to fundamentals in providing reliable
18 price discovery and sound risk management. One main
19 danger is that the private sector actors responsible for
20 the market have interests that are not coincident with
21 the long-run purpose of reducing emissions. The word
22 "manipulation" is a touchstone here. The CFTC has

1 already once confronted the problem of private actors
2 manipulating the market in the credit to false swaths
3 market. Getting a hold of this problem will be an order
4 of magnitude more difficult in a purely voluntary offset
5 market, a private voluntary offset market for carbon.

6 A second danger is the possibility of a
7 disruptive asset bubble. The state has many capacities
8 that are essential to providing the needed social
9 license as well as the economic reliability offset
10 developers themselves need. Without state involvement,
11 for-profit actors are incentivized to exploit hype and
12 fashion, instead of realism. In the long run, that
13 undermines the success of the offset market and, worse,
14 undermines the goal of reducing emissions and protecting
15 the plan itself.

16 I recommend that the subcommittee carefully
17 distinguish between privately organized voluntary offset
18 markets and those operated within state-mandated and -
19 supervised emission reductions programs. It should
20 consider carefully the dangers of manipulation and
21 whether the voluntary markets outside of state
22 supervision can assure the price is reliable and

1 reflective of fundamentals. It should ask whether the
2 CFTC's statutory responsibilities can be faithfully
3 executed with respect to such privately organized
4 markets. It should address the potential benefits that
5 voluntary offset markets could -- the benefits they
6 could gain from being organized within state-mandated
7 and -supervised programs.

8 And the third and last point is don't be
9 myopic. Think beyond smokestack and tailpipe CO₂
10 emissions. The greenhouse gas problem is fundamentally
11 different from other emission problems. It encompasses
12 vast swaths of industry and agriculture. Creating a
13 low-carbon economy involves not just reducing CO₂ and
14 other GHG emissions. It also involves finding
15 substitutes for the various energy and agricultural and
16 land use practices that we currently rely on. Industry
17 and agricultural practices have to be reshaped in many
18 ways. New commodities will become important parts of
19 the low-carbon economy. In the circles currently
20 struggling to make these changes, hydrogen is currently
21 of the fashion. There is lots of talk about renewable
22 natural gas, synthetic natural gas. We don't just need

1 a market for carbon. We need markets for some of these
2 new commodities.

3 My own crystal ball is broken and currently in
4 the shop. So I won't try to make any firm predictions
5 about which of these commodities will actually turn out
6 to be important and which not, but we need to be
7 thinking about it. We need industry to be working with
8 government on these new markets.

9 If the CFTC is going to have a subcommittee,
10 let its mandate extend beyond trading carbon. Let's
11 think about a positive future. How do we get to this
12 low-carbon economy? The problems are large. The CFTC
13 has great expertise and could be a useful convener and
14 engager on this.

15 For example, this current administration has
16 made assuring competitive markets a priority. A
17 competitive market for the underlying commodity is a
18 prerequisite for a derivative market in the commodities.
19 How can we assure vibrant competition in these new
20 commodity markets?

21 For another example, land use is an important
22 source of greenhouse gas emissions. Reducing emissions

1 in land use is a really tough nut to crack. What is
2 going to be the place of markets in regulating land use
3 emissions? I don't know, but we need to find people who
4 are thinking about this and start working on the
5 problem.

6 The key to cracking this nut is science, both
7 about the carbon cycle and about agricultural practices.
8 This is another example of why it is essential that the
9 subcommittee include members able to provide necessary
10 scientific expertise.

11 Thank you very much.

12 CHAIR WIGGINS: Thank you.

13 Matt, over to you.

14 MR. PICARDI: Good morning. Thank you, Dena.

15 And I would like to add my appreciation to
16 Commissioner Berkovitz for his leadership, especially
17 around this Committee. It's been very enjoyable to join
18 it. And we have had a lot of great discussions on
19 critical issues related to the energy and environmental
20 markets. And I will certainly mention and acknowledge
21 when I first started, Commissioner Berkovitz was general
22 counsel during the days of Dodd-Frank implementation

1 rules and always thought and admired his expertise, both
2 in the law but as well as about the markets and
3 certainly support and hope (audio loss) the next phase
4 to whatever he's moving on.

5 I would like to turn to my remarks now. The
6 Commercial Energy Working Group appreciates EEMAC's
7 consideration of the proposal to establish a committee
8 to develop a report on guiding principles for carbon
9 market design. We strongly believe that this effort
10 should go forward and look forward to actively
11 participating.

12 Mandatory and voluntary carbon reduction
13 programs that utilize trading emissions allowances,
14 offsets, and renewable energy credits continue to grow
15 in the United States and globally. Importantly, these
16 programs - which in the United States range from local
17 to regional in scope - continue to set the stage for the
18 growth of tradeable secondary markets for these
19 instruments as well as markets for related derivatives
20 products directly subject to the CFTC's jurisdiction.

21 In the absence of federal legislation in the
22 United States establishing a national carbon policy,

1 these markets will continue to evolve organically and in
2 piecemeal fashion. Further, given the increasing
3 reliance by the United States and other sovereign
4 jurisdictions on these types of programs to contribute
5 to achieving carbon emission reduction targets, the
6 CFTC, in its role as market regulator, should clearly
7 understand, first, carbon market fundamentals and how
8 the development of liquid secondary carbon markets and
9 related carbon derivatives markets will support market
10 participants' compliance efforts, including, but not
11 limited to, the ability to attract investment to finance
12 emission reduction technologies, such as renewable
13 resources in the electricity sector.

14 The transcript from the June 3rd EEMAC meeting
15 supports the need for this effort. At the June 3rd
16 meeting, presentations were made about international
17 cap-and-trade carbon emission programs. The momentum
18 behind these markets continues to grow and the influx of
19 capital into these markets is substantial. However, for
20 these markets and related derivatives markets, to
21 function and flourish in a global environment, further
22 standardization is necessary and formal regulatory

1 oversight may be required.

2 As noted at the June 3rd meeting, the European
3 Union's carbon emission market is the world's largest
4 market. It continues to grow and covers about 40
5 percent of the EU greenhouse gas emissions. The
6 transcript reflects that the development and
7 implementation of the EU's Emissions Trading System has
8 attracted capital that has contributed to the financing
9 of renewable energy resources across Europe. In the
10 United States, Pennsylvania, and more recently, North
11 Carolina have been considering joining the Regional
12 Greenhouse Gas Initiative, RGGI, which would
13 significantly increase the large, regional footprint of
14 this program in the eastern United States and trading in
15 related carbon derivatives markets.

16 The transcript of the June 3rd meeting also
17 includes a report on other efforts to promote voluntary
18 carbon markets and the use of carbon emission credits
19 and offsets to support net-zero emission goals. The
20 Task Force on Scaling Voluntary Carbon Markets has
21 examined and published its findings with respect to how
22 to scale markets. A critical component in scaling these

1 markets is market design.

2 In sum, as the primary compliance markets for
3 carbon emissions grow, secondary and derivatives markets
4 will follow, and the CFTC needs to be prepared as this
5 dynamic unfolds. Not only will the Commission need to
6 ensure that carbon derivatives markets are properly
7 regulated and monitored, but the Commission's resources
8 and expertise may be helpful to primary market
9 regulators, many of whom have little to no experience
10 regulating trading markets.

11 The Working Group's Statement of Purpose proposes
12 certain guiding principles for an EEMAC subcommittee to
13 consider, discuss, and refine as part of the preparation
14 of a report intended to address carbon market designs
15 that will attract liquidity, in part, through the use of
16 carbon derivatives and protect the integrity of such
17 markets. Fully understanding the link between the
18 secondary markets for emission allowances and offsets in
19 derivatives markets will be critical in helping the CFTC
20 execute certain of its core statutory missions -
21 promoting fair and orderly trading in commodity
22 derivative markets and protecting the sale of

1 commodities in interstate commerce from fraud and
2 manipulation.

3 I would be happy to review the principles that
4 were included in the Working Group's proposal if
5 necessary, which focus on ensuring market integrity,
6 attracting liquidity, promoting price discovery, as well
7 as addressing cross-border coordination, which will
8 become more important as other sovereign jurisdictions
9 develop and implement cap-and-trade style carbon
10 emission programs.

11 I would like to add just a few brief comments
12 on what was presented already. I think many of the
13 proposals that were mentioned (audio loss) helpful. And
14 one thing we just need to be concerned about is not
15 getting too far into mission creep because the role of
16 our Commission -- sorry?

17 MS. KNAUFF: If you could just speak a little
18 bit louder? We're having some problems hearing you.

19 MR. PICARDI: I apologize. I'm a little bit
20 far from the phone.

21 No. I just wanted to voice my support for
22 some of the suggestions the previous speakers'

1 suggestions about the role of the subcommittee and the
2 things it should examine. And I just want to make sure
3 that the issues that we talk about remain somewhat
4 focused on our primary mission, which is looking at the
5 markets to -- one of the core principles we had when we
6 set up this proposal was to avoid kind of mission creep
7 in terms of telling other regulators what they should be
8 doing. But, with that said, I do think some very good
9 comments were provided by the previous speakers, and we
10 support many of them.

11 Thank you.

12 CHAIR WIGGINS: Thank you very much. I want
13 to thank our presenters this morning: Tyson and John
14 and Matt. Thank you very much for your comments.

15 And at this time, I would like to open the
16 floor to questions and comments from the Associate
17 Members on these remarks. Abigail, has anyone asked to
18 speak?

19 MS. KNAUFF: I've not seen anything in the
20 chat. If anyone has a question, please let me know.

21 CHAIR WIGGINS: I believe we have an
22 indication that Paul Hughes would like to. Paul, please

1 go ahead.

2 MR. HUGHES: Hey. Thanks. Sorry. I'm a
3 little slow on mute buttons.

4 I would just like to confirm and clarify that
5 we have a very specific -- or I guess my question is a
6 very specific outcome that we're desiring from the
7 subcommittee. And so I know that the Commercial Energy
8 Working Group, has framed this, has coming up with a
9 list of fundamentals.

10 MS. KNAUFF: One moment. Can someone mute
11 their line? We're getting an echo.

12 Paul, go ahead. Thank you.

13 MR. HUGHES: All right. Oh, that's much
14 better.

15 I just want to make sure that we all really
16 have -- I'm a little concerned. I think Matt maybe used
17 the phrase "scope creep." I guess I just want to make
18 sure we have a very, very clear picture of what the
19 EEMAC would expect at the end of this. Is it a list of
20 primary fundamentals framework that should exist for any
21 development of a larger carbon market or as a list of
22 suggestions that is to be considered if there is a

1 growing carbon market? There's lots of things that
2 we've kind of thrown out there. So I guess I would
3 really appreciate -- and maybe this is just me because
4 I'm a little slow -- that we really pinpoint what the
5 desired outcome is. What do we expect to be a final
6 report or a final deliverable because I feel like right
7 now, it still feels like a little bit broad.

8 So that's kind of my question/statement, is to
9 make sure before we go down this road, we really know
10 what we want the deliverable to kind of look like and
11 include. And I will just leave it at that.

12 MR. PICARDI: Abigail, I wasn't sure if you
13 wanted me to make a comment on that if that is
14 appropriate.

15 MS. KNAUFF: Go ahead.

16 MR. PICARDI: Yes. I think that a lot of this
17 discussion can happen at the subcommittee level. I
18 think that the idea of assessing what the primary
19 markets look like was within the scope of what we were
20 thinking because the idea was to make sure we understood
21 how they functioned, they relate to the secondary
22 markets, and the derivatives that they ultimately get

1 jurisdiction over. My concern would be if we used this
2 -- I don't think it was intended discussion necessarily
3 the best way to achieve kind of policy goals because I
4 don't think that's necessarily what is the focus of this
5 particular project and other regulators and folks
6 expressed that in a larger way. But that was our
7 thinking. We do think, though, that some discussion of
8 what those markets look like is important, the primary
9 markets, because they do affect the derivatives markets.

10 MR. HUGHES: So, Matt, maybe let me ask again.
11 I hope I'm not stepping out of line here. So is the
12 thought that the deliverable would be a report on kind
13 of a general assessment from this EEMAC of things to
14 consider or is it that the subcommittee would come forth
15 with a recommendation? I'm with you. I'm not opposing
16 you. I'm just making sure. I just want to understand
17 what we think would be the result.

18 MR. PICARDI: I could foresee things to
19 consider in, for example, what we think good primary
20 market designs would look like that would make for
21 markets that derivative markets that the Commission
22 could provide liquidity and price discovery and the

1 things that we like. In terms of recommendations, it
2 would more focus on what the derivatives market design,
3 and the secondary market should look like. So the
4 report may contain recommendations about the markets
5 that we see the CFTC having jurisdiction over and more
6 reviewing what's going on in the primary markets. And
7 that's at least what was intended by the Working Group.

8 MR. HUGHES: Okay. Thank you.

9 CHAIR WIGGINS: I believe Paul Cicio indicated
10 that he would like to speak. Paul?

11 MR. CICIO: Yes. Good morning. Paul Cicio
12 with Industrial Energy Consumers of America. Can you
13 hear me okay? Okay.

14 We are concerned about the initiative because
15 it means potentially so much to energy-intensive, trade-
16 exposed industries. If you know anything about these
17 industries, they are energy-intensive. They use lots of
18 natural gas and electricity. Competitiveness is
19 determined by the consumption of energy. And we compete
20 on a global basis.

21 Now, in regards to -- I need to give a little
22 bit of a preface so that my remarks are in the proper

1 context. For those who do not know, since 1990,
2 manufacturing in the U.S. has reduced CO₂ emissions by
3 23 percent. That is more than any other sector of the
4 U.S. economy. In fact, we are using, EIA data says that
5 we are using, about the same amount of energy on a BTU
6 basis now that we did 50 years ago. And we have
7 increased our manufacturing gross output by 112 percent.
8 When you think about that, we have increased output by
9 112 percent using the same amount of BTUs, that is a
10 tremendous success story. But that success story is
11 underpinned by a very fundamental element is that these
12 industries compete globally. They have tough subsidized
13 global competition from countries all over the world.
14 And because energy is a cost, then we are self-motivated
15 to reduce our energy costs. And, therefore, we have
16 succeeded in what we did. But we are very limited by
17 our ability to decarbonize.

18 And so one of the questions I have in CFTC and
19 the subcommittee taking this on is how big the scope of
20 this is. And when I say we do not have the technology
21 to decarbonize, I am going to read something that was
22 written by Chairman Frank Pallone from the House Energy

1 and Commerce Committee in January of 2020. And he says
2 that "The industrial sector is the most challenging
3 sectors to decarbonize, one of the most technically and
4 economically challenging sectors to decarbonize. In
5 some cases, greenhouse gas emissions are unavoidable
6 byproducts of industrial processes. In others, low-
7 carbon alternatives are either prohibitively expensive
8 or underdeveloped. Several industrial subsectors also
9 compete in highly competitive markets, and manufacturers
10 may choose to relocate production overseas, rather than
11 invest in emissions mitigation technologies. These
12 energy-intensive and trade-exposed industries
13 consequently face steep barriers to deep
14 decarbonization. The Committee believes that industrial
15 decarbonization will require both industry- and process-
16 specific solutions, as well as cross-cutting measures.
17 It is imperative that" the "Congress and the Executive
18 Branch put in place policy measures across all committee
19 and agency jurisdictions to preserve the global
20 competitiveness of energy-intensive, trade-exposed
21 industries and" manufacturing "in the United States."
22 Chairman Pallone has got it right.

1 And so when you talk about carbon policies, if
2 we do not have the technology to decarbonize and we have
3 carbon pricing, carbon pricing just becomes a cost. And
4 you can talk about the benefits of hedging and so forth,
5 but to establish carbon and cap-and-trade, you've got to
6 have a border adjustment. Border adjustments raises all
7 kinds of trade issues. And imported product to make
8 this work, you would have to determine the embodied
9 energy, carbon, that are in each of the products that
10 are imported. Just think about how complex that is.
11 Those imported products would need to be third party-
12 validated as to their carbon-embodied energy. You would
13 need governments to enforce the determination of that
14 embodied energy.

15 Our experience in the real world, the
16 competitive world that we exist, in dealing with
17 countries like China but also many other countries,
18 that, cheat, they subsidize their energy in lots of
19 different ways that is really creative. And I question
20 the ability of border adjustments to work effectively
21 given these challenges. We are a long, long way from
22 having global governments join hands with this cross-

1 border-type acknowledgement and verification.

2 So what I'm saying is our manufacturing
3 sector, we represent a large part of the economy, \$2.2
4 trillion of the economy. And my point is we can't mess
5 that up. We want to reduce greenhouse gas emissions,
6 but it's got to be done cost-effectively. Arbitrary
7 carbon costs, we've got to be very sensitive to this
8 international competition as we go forward.

9 So I am concerned. I am questioning whether
10 this is going to be a good thing. I'm open to
11 suggestions, but here I am. I'm concerned about moving
12 forward.

13 Thank you.

14 CHAIR WIGGINS: Thank you, Paul.

15 Is there anyone else of the Associate Members,
16 Abigail, who has indicated a desire to speak?

17 MS. KNAUFF: I've not seen anything in the
18 chat, but if there are any other Associate Members,
19 please feel free to go forward.

20 (No response.)

21 CHAIR WIGGINS: Hearing none, thank you to the
22 EEMAC Associate Members. And at this time, I would like

1 to open the floor to questions and comments from the
2 EEMAC Members on the prepared remarks. Are there any of
3 the EEMAC Members who wish to speak?

4 MS. KNAUFF: Yes. We have a comment from
5 Jackie Roberts.

6 CHAIR WIGGINS: Please go ahead.

7 MS. ROBERTS: Hello. I am trying to adjust
8 here.

9 Thank you for taking up this topic. I want to
10 say thank you, Commissioner Berkovitz, for your service,
11 leadership. You always made state regulators -- and I
12 don't know if I'm the first person that's an advocate
13 for a state regulator. You have always made us welcome,
14 even though this is a very deep subject to address.

15 I do have some comments. First of all, I --

16 CHAIR WIGGINS: Jackie, let me interrupt here
17 for just two seconds. We're getting an echo. If you're
18 not speaking, could you please make sure that your
19 microphone is muted? Thank you.

20 MS. ROBERTS: Is that better? Is that better?
21 Okay. So we're good. So let me reiterate.

22 Thank you, Commissioner Berkovitz. Thank you

1 for including the state perspective as a consumer
2 advocate and a state commission -- is what I am now
3 representing -- in these conversations.

4 The West Virginia Commission agrees with Ty
5 Slocum regarding inclusion of diverse perspectives on
6 this subcommittee. And I think that including input
7 from the state regulators, who have such an important
8 role in formulating the policy of greenhouse gas
9 emissions is a wise thing to do.

10 I also agree with John Parsons and recommend
11 you think beyond the charge, the proposed charge of this
12 subcommittee. And I think we would, the West Virginia
13 Commission would, recommend that you revisit the
14 jurisdictional issues between the CFTC and the FERC.
15 The West Virginia Commission believes that it's
16 appropriate for energy and where applicable capacity
17 markets and they related markets exist in RTOs and ISOs
18 so that that is an appropriate area for FERC
19 jurisdiction. We believe that the financial markets,
20 environmental markets, FTRs, ARRs should be under the
21 jurisdiction of the CFTC. The CFTC is the expert in
22 financial markets. FERC, as good a job as it does, is

1 not an expert in that area. And we have seen recently
2 the problems in those areas, first, with ARRs, FTRs, and
3 PJM, and the debacle of GreenHat, which was completely
4 avoidable and I don't think either would have happened
5 under CFTC jurisdiction. And the effort by RTOs to try
6 to decide whether state actions in regulating greenhouse
7 gases should be -- a consideration of that should be
8 included in their energy and capacity markets.

9 So that's the recommendation of the West
10 Virginia Commission. And we really appreciate you
11 considering our comments. Thank you.

12 CHAIR WIGGINS: Thank you.

13 Are there any other EEMAC Members who would
14 like to speak? I think we have one.

15 DR. SANDOR: This is Richard Sandor. Can you
16 hear me?

17 CHAIR WIGGINS: Yes, we can. Please go ahead.

18 DR. SANDOR: Great. First of all, major
19 congratulations and thank you to Dan Berkovitz, who
20 unambiguously brings a sense of clarity and scholarship
21 to the Commission. Dan, I'll miss you sorely and look
22 forward to working with you in the future.

1 One quick comment just on the SO₂ map. And
2 the map is correct in one sense, but I think it's
3 important to understand that the levels of reductions in
4 the later years were not caused by the active trading of
5 SO₂ allowances, but that green area was caused by the
6 trading that existed early on. So, for example, we
7 financed the scrubber in 1993. And it reduced
8 emissions. And they'll show up later in a green area.
9 So many of the things that exist later were spurred on
10 at the outset, whether it was modification of boilers
11 for the Powder River coal, wind, turbine scrubbers, et
12 cetera. So the map is correct technically, but we
13 shouldn't forget that the pricing of SO₂ allowances
14 motivated scrubbers that were installed in the '90s but
15 were useful in keeping SO₂ out of the air. So I just
16 wanted to make that technical comment, then.

17 The other one is as a student of CFTC. And I
18 am 700 years old, as you guys know. So having been
19 involved in the creation of the Act and many of the
20 things in 1974 and '75 everybody said would be too
21 technical or complex, this agency throughout intelligent
22 regulation enabled. So in '74, nobody could ever trade

1 Treasury bond futures. That was too complicated. It
2 would never work. Nobody could ever trade crude oil.
3 That was too complicated. It would never work. Nobody
4 could trade stock index futures, too complicated. It
5 would never work. Nobody could trade SO₂, too
6 complicated. It would never work. Nobody could trade
7 carbon, too complicated. It would never work. Nobody
8 could trade cryptocurrencies, too complicated. It would
9 never work. This agency's ability, working with
10 independent advisory committees since its existence in
11 '75, over the last 45 years, has shown its ability to
12 effectively regulate and provide oversight to what is
13 now the entire industry between financials, energy, and
14 the environment, none of which existed. So please, all
15 of the fellow Members, be confident in this regulatory
16 agency's ability to adapt and creatively and
17 prudentially regulate new markets, which might not
18 exist.

19 Thank you, Abigail.

20 CHAIR WIGGINS: I think earlier I saw in the
21 chat that Derek Sammann had a comment. Derek?

22 MR. SAMMANN: Thank you.

1 MS. KNAUFF: I'm sorry. If we can just go
2 back, Julia Patterson, who is an Associate Member, has a
3 comment. And then we will turn back to the Members.

4 CHAIR WIGGINS: Oh, okay. Go ahead. Julia
5 Patterson, please.

6 MS. PATTERSON: Sure. I just wanted to also
7 wish Commissioner Berkovitz the best in the future. And
8 I, too, appreciated his service to the Commission. And
9 when he was general counsel, he even did a fantastic
10 job. I also remember him coming and speaking to my
11 members as general counsel at APPA and definitely wish
12 you the best in the future. Thank you for your service,
13 tirelessly your public service, so really appreciate
14 that.

15 As I was listening to Paul Cicio's comments, I
16 really think that they do bear listening to. And I
17 really would like to know if thoughts like that were
18 considered in terms of unintended consequences that may
19 result from us undertaking this effort. And so if there
20 had been any contemplation of those unintended
21 consequences, I would love to hear if that was
22 considered and there are things that are in place to

1 avoid the concerns that Paul raised. Then perhaps there
2 is nothing to be concerned about. And so maybe that
3 would put my concerns to rest. And so I just put that
4 question out there.

5 CHAIR WIGGINS: I think we have a couple of
6 other comments from the Associate Members. Sarah
7 Tomalty?

8 MS. TOMALTY: Thank you, Dena. I also want to
9 pile on and wish Commissioner Berkovitz well in his
10 future endeavors. We have appreciated your leadership.
11 And you will be sorely missed in this community.

12 I am interested in discussing the scope of
13 this effort. Dr. Parsons mentioned state-mandated
14 emissions regimes and discussed the difference in the
15 current level of supervision between voluntary markets
16 and state-mandated emissions regimes. And I'm hearing a
17 lot of complexity around the need to involve states in
18 this discussion given their current oversight of state-
19 mandated programs. Given the lower level of supervision
20 that currently exists around voluntary markets, should
21 the scope of this effort initially prioritize setting
22 guiding principles for voluntary markets?

1 CHAIR WIGGINS: If no one wants to respond to that
2 directly, we will go back to the EEMAC Members who had
3 requested a comment. And that would be Derek Sammann
4 and then Bill McCoy.

5 MS. KNAUFF: We have a comment now from Dan
6 Dunleavy, Associate Member.

7 CHAIR WIGGINS: Oh, okay. Dan, go ahead,
8 please.

9 MR. DUNLEAVY: I'm sorry. Yes. I just wanted
10 to comment quickly, again thanking Commissioner
11 Berkovitz and noting that he kind of opened up the scope
12 of the type of memberships to like Ingevity, who is an
13 industrial manufacturer end-user. So I just thank him
14 for that and for his foresight. And as we talk about
15 this effort underway with carbon markets generally, that
16 his vision to be inclusive and to hear the voice of the
17 industrial, the manufacturing end-user just be
18 considered in the discussion going forward.

19 Thank you.

20 CHAIR WIGGINS: Thank you, Dan.

21 I think, Abigail, now we will turn back to the
22 EEMAC Members. Right? Derek, did you have a comment?

1 MR. SAMMANN: I did. Just at the risk of
2 piling on, like so many others, I just wanted to take a
3 moment to thank Commissioner Berkovitz for the
4 incredible work, leadership, dedication, and drive to
5 make our derivatives markets the best regulated
6 derivatives markets in the world. I want to extend our
7 thanks on behalf of CME Group to Commissioner Berkovitz
8 for all he has done. I have a feeling we will be
9 working together and seeing Dan continue to be very
10 active in this market. So we look forward to working
11 with you again, Dan, in the future but congratulations.
12 Thank you for your leadership, particularly EEMAC as
13 well. It has been an honor to serve on this Committee,
14 and we look forward to this work continuing and all of
15 the work that you have done to set this Committee up for
16 success going forward. So thank you.

17 CHAIR WIGGINS: Thank you, Derek.

18 Bill McCoy, did you have a comment?

19 MR. McCOY: Yes. And, again, as I may echo
20 that of others, I would like to also thank Commissioner
21 Berkovitz for his many years of service and his
22 sponsorship of the EEMAC.

1 I have known you from the days you served as
2 general counsel and the impact you have had on the
3 Commission over these many years. I'm sure in some
4 future capacity, we will see you have a good impact in
5 terms of both the Commission and the markets and the
6 industry as well. So I look forward to hearing what
7 your future endeavors may be.

8 I had just a few comments. I think we have
9 heard a lot of interesting perspectives and points
10 regarding and concerns regarding what the ultimate
11 product of a subcommittee report can be. And it would
12 be difficult in a few minutes to pick a number of them,
13 but, as I mentioned during the June meeting, I think
14 there is a great benefit to the concept of being focused
15 on how these markets have been developing, both the
16 mandatory markets, the compliance market, and the
17 voluntary offset markets. I do think that the scope
18 should be looking at both because there is a type of
19 linkage where depending on the types of market
20 participants as to whether or not they are going to have
21 access to one or the other. So I do not think we should
22 just focus on one versus the other. But these markets

1 are by nature, by definition somewhat disjointed within
2 the U.S., obviously, with the different compliance
3 markets and just globally as well.

4 So, as I had mentioned in June, fine to
5 consider guiding principles that not only the Commission
6 but other policy-makers could observe to help reduce the
7 various barriers that made this that globalization and
8 harmonization are important. So that's why I would be
9 endorsing the information. And I'm sure that the
10 subcommittee can understand the scope so that, while it
11 may want to point to other issues, it should be focused
12 on the secondary markets and the derivatives markets, at
13 least in an initial report, in order to be able to
14 accomplish such a mission.

15 Thanks.

16 CHAIR WIGGINS: Thank you, Bill.

17 I think Tyson would like to make a comment and
18 then also Lopa. Tyson, would you go ahead, please?

19 MR. SLOCUM: Yes. Dena, thank you so much.
20 First, I've got a quick clarifying question and then a
21 comment.

22 So on the question, there have been a number

1 of good comments here by folks asking questions about
2 the scope of the subcommittee's charge. And so my
3 question is, are these details that we need to resolve
4 now when we vote to create the subcommittee? Do we have
5 to have sort of a concrete idea about what that
6 subcommittee charge is or is that something that the
7 subcommittee works on or is it a combination thereof?

8 And, second, I just wanted to quickly respond
9 to Jackie Roberts. She made a number of comments. And
10 one comment she made was on the State of West Virginia's
11 supporting an effort for the CFTC to be the lead entity
12 with jurisdiction over financial transition right in
13 FERC jurisdictional markets. I know that's a little
14 different from the carbon-pricing issue, but I just want
15 to applaud West Virginia regulators for taking this
16 position.

17 As the CFTC knows, we formally petitioned the
18 CFTC three years ago asking the CFTC to revoke the
19 exemptions it granted to these regional transmission
20 organizations because we documented clear and compelling
21 evidence that they were in violation of the terms of
22 that exemption. And the CFTC has not yet responded

1 formally to our petition. I'll drop it in the chat, but
2 I just wanted to thank Jackie Roberts and West Virginia
3 regulators for their leadership on this issue.

4 MS. KNAUFF: I just have a quick question
5 about the scope of the report just to provide some
6 clarity. So assuming the EEMAC can vote to recommend
7 that the Commission approve the formation of a
8 subcommittee, a Federal Register notice will go out. It
9 will have some bullet points, which will be pulled
10 basically from the discussion today as well as maybe
11 some of the comments made at the June 3rd meeting, but
12 it is up to the subcommittee when it meets, when it is
13 finally formed and meets, to determine the exact scope
14 of what the content will be in the report. So nothing
15 is being decided formally during this discussion at this
16 time.

17 Thank you.

18 CHAIR WIGGINS: Thank you, Abigail.

19 Lopa?

20 MS. PARIKH: Thank you all.

21 And thank you, Commissioner Berkovitz. I'm
22 obviously going to pile on. It has been wonderful

1 working with you during your entire tenure in all of
2 your capacities at the Commission. So hopefully we will
3 be continuing to work together in the future.

4 I just kind of want to reiterate a little bit
5 about what has already been said. As Bill indicated, I
6 don't think that we kind of opposed having the
7 subcommittee focus on secondary and derivative markets.
8 I would note, as others have indicated, that there is a
9 lot of activity currently around this space. EPA, FERC,
10 and Congress are all kind of dabbling in this area. And
11 there is a lot of activity happening and a lot of
12 different positions, as we noted before, about the
13 impact that it might have on various stakeholders.

14 So while I think this effort is probably a
15 good one, going forward, I would just encourage the
16 Commission to just be aware of everything else that is
17 happening in this space and to make sure that the scope
18 is appropriately confined to the jurisdiction of the
19 Commission so that we can continue to maintain
20 regulatory certainty in all of the other aspects.

21 Thank you.

22 CHAIR WIGGINS: Thank you, Lopa.

1 Are there any other EEMAC Members who have a
2 comment or a question? Abigail, I'm not seeing any on
3 the chat. Are you?

4 MS. KNAUFF: No, I'm not. Thank you.

5 CHAIR WIGGINS: Thank you.

6 How about the Commissioners? Does any
7 Commissioner wish to speak?

8 (No response.)

9 COMMISSIONER STUMP: I have a few comments if
10 this is the correct time, Abigail or Dena.

11 MS. KNAUFF: Okay.

12 COMMISSIONER STUMP: First of all, I wanted to
13 thank all of the commenters. It has been a really
14 interesting discussion. And I especially want to thank
15 Dr. Sandor for his vote of confidence.

16 Yes, the CFTC is quite capable of regulating
17 the varied and complex and derivatives markets we
18 oversee, ranging from physical commodities to modern
19 financial commodities and even digital assets related to
20 modern use. And so we are fortunate to have the benefit
21 of the assistance of these advisory committees. And we
22 rely upon you all so much.

1 Today, there seems to be some debate within
2 the Committee about the scope of any subcommittee. And
3 while that is certainly not a question for me to answer,
4 it is your committee, and I want you to devise any
5 subcommittee that should be set, I can tell you what is
6 helpful to me in doing my job with the benefit of your
7 input. And what is most helpful to me are
8 recommendations to the Commission about the
9 environmental markets regulated by the Commission. And
10 those are the derivatives markets.

11 The debates surrounding bigger-picture issues,
12 such as a preference for privately organized offset
13 markets versus mandated offset or even efforts to
14 reshape underlying physical commodity markets is simply
15 well beyond the CFTC's authority. So our role is to
16 ensure if and when these events occur, the requisite
17 derivatives markets are able to properly support and
18 perform their functions.

19 And I always leave this out. Not to be
20 critical of anything that has been said, but I rely upon
21 the information we receive from the advisory committees
22 heavily. And I think what is helpful to me is

1 recommendations related to properly functioning
2 derivatives markets.

3 And not to promote my own product at the end,
4 but I put out a piece in late August. It was specific
5 to digital assets, but I think this may apply here. We
6 continue to see new and emerging markets. And some of
7 the market participants are I think seemingly confused
8 about what the CFTC's authority is. So I won't pull it
9 up right now that I think it is really important that
10 the marketplace understand the agency's specific
11 authority and why we do care about the underlying
12 markets and what we regulate, which is the derivatives
13 market. So if anyone wants to read it, it is dated
14 August 23rd. It's on the CFTC's website. And I think
15 it is applicable here, just as it was to digital assets.

16 Thank you.

17 CHAIR WIGGINS: Thank you, Commissioner.

18 Does any other Commissioner wish to speak or
19 have a comment?

20 (No response.)

21 CHAIR WIGGINS: Abigail, I am not hearing that
22 any other Commissioner wishes to speak.

1 MS. KNAUFF: I don't have any other comments.

2 CHAIR WIGGINS: Okay. Well, I think it is
3 time for us to move to the matter at hand here. So,
4 with that in mind, I would like to move that the EEMAC
5 recommend to the Commission that it consider creating a
6 subcommittee to provide a report to the EEMAC on carbon
7 market design. Is there a second?

8 MR. McCOY: I would like to second it. This
9 is Bill McCoy of Morgan Stanley.

10 CHAIR WIGGINS: Thank you, Bill.

11 Are there any further questions or comments?
12 Abigail, do we have anything in chat?

13 MS. KNAUFF: I don't see anything.

14 CHAIR WIGGINS: Then, not seeing any
15 additional questions or comments, we will now take a
16 vote on the motion that the EEMAC recommend to the
17 Commission that it consider creating a subcommittee to
18 provide a report to the EEMAC on carbon market design.
19 As a matter of the point of order here, a simple
20 majority vote of the nine present EEMAC Members is
21 necessary. So I will turn this over to Abigail for the
22 vote.

1 MS. KNAUFF: Thank you, Dena.

2 EEMAC Members, when I call your name, please

3 indicate your agreement with aye, disagreement with nay,

4 or indicate your abstention from the vote. Please

5 remember to unmute your audio on WebEx and your phone to

6 indicate your vote and then mute your audio once you are

7 done voting.

8 Trabue Bland, ICE Futures U.S.?

9 MR. BLAND: I vote yes.

10 MS. KNAUFF: Trabue Bland votes yes.

11 Rob Creamer, FIA PTG?

12 MR. CREAMER: I vote yes as well. Thank you.

13 MS. KNAUFF: Rob Creamer votes yes.

14 Demetri Karousos, Nodal Exchange, LLC?

15 MR. KAROUSOS: Aye.

16 MS. KNAUFF: Demetri Karousos votes aye.

17 Bill McCoy, Morgan Stanley?

18 MR. McCOY: Aye. I vote yes.

19 MS. KNAUFF: Bill McCoy votes aye.

20 Lopa Parikh, Edison Electric Institute?

21 MS. PARIKH: I'm going to abstain.

22 MS. KNAUFF: Lopa Parikh abstains.

1 Jackie Roberts, Public Service Commission of
2 West Virginia?

3 MS. ROBERTS: Aye.

4 MS. KNAUFF: Jackie Roberts votes aye.

5 Derek Sammann, CME Group?

6 MR. SAMMANN: I vote aye.

7 MS. KNAUFF: Derek Sammann votes aye.

8 Tyson Slocum, Public Citizen?

9 MR. SLOCUM: I vote aye.

10 MS. KNAUFF: Tyson Slocum votes aye.

11 And Dena Wiggins, Natural Gas Supply
12 Association?

13 CHAIR WIGGINS: I vote aye.

14 MS. KNAUFF: Dena Wiggins votes aye.

15 Madam Chair, you have eight yes votes and one
16 abstention.

17 CHAIR WIGGINS: Thank you, Abigail.

18 The ayes have it, and the motion carries. The
19 recommendation to form an EEMAC subcommittee to provide
20 a report to EEMAC on carbon market design has been
21 adopted and will be submitted to the Commission for its
22 consideration.

1 I think this concludes the work of the EEMAC
2 today. Thank you to all of the Members and Associate
3 Members for your thoughtful participation today. We
4 look forward to the ongoing work of the EEMAC and our
5 next meeting on a date to be determined for next year.

6 I will turn it over to Abigail for closing
7 remarks.

8 MS. KNAUFF: Thank you, Dena.

9 I now recognize Acting Chair Behnam for his
10 closing remarks.

11 (No response.)

12 MS. KNAUFF: As he may be having some slight
13 difficulties, we will turn back to Acting Chairman
14 Behnam. I now recognize Commissioner Stump to give her
15 closing remarks.

16 COMMISSIONER STUMP: Thank you, Abigail. And
17 kudos to Dena for managing today's meeting. I know
18 Commissioner Berkovitz has already mentioned the host of
19 people that make these things happen. It is really
20 amazing how we have been able to adapt. So thanks to
21 everyone. Thanks to everyone who participated.

22 I thought the conversation was extremely

1 interesting. And I do look forward to seeing the
2 membership of the subcommittee and the potential for a
3 subsequent report. I think this is important work. I
4 think we are always challenged by new and exciting
5 things we get to consider, and this is no different. In
6 just the last year, we had really interesting
7 discussions about new and novel things. This is not
8 novel. It's just a matter of how we develop this
9 market, how the market develops in a way to support the
10 derivatives market. And I think that is always at the
11 front of the mind for the Commission. We are enabling
12 people or providing an opportunity for the listing of
13 derivatives products, we have certain principles that we
14 need to meet. And we expect those who provide these
15 products to meet. And it's very important to those
16 considerations is how the underlying market develops and
17 can support a derivatives market.

18 So I think everything that's been said today
19 has been extremely interesting. And I look forward to
20 conversations with the subcommittee and Committee (audio
21 loss). Thank you.

22 And thank you, Commissioner Berkovitz, for

1 everything. The Committee will miss you. The
2 Commission will miss you. And I will personally miss
3 you very much.

4 MS. KNAUFF: Thank you, Commissioner Stump.

5 We are now going to turn back to Acting
6 Chairman Behnam for his closing remarks.

7 ACTING CHAIRMAN BEHNAM: Thanks, Abigail. And
8 I apologize for that missed opportunity, but I am on the
9 train heading to New York. So we'll only do audio.

10 Having listened to the meeting, this is great.
11 I appreciate all of the comments, again, Commissioner
12 Berkovitz, for your leadership on these issues, Abigail,
13 and Dena. As the President has noted, an all-in-
14 government approach I think is the right way to think
15 about climate, climate change, and what we each can do
16 as individuals and collectively as agencies to support
17 the transition.

18 And, yes, we are bound by certain statutory
19 restrictions and different elements of expertise, but I
20 do believe very firmly that at the CFTC, we have a lot
21 of expertise in risk management, in price discovery, in
22 climate management, and our market symmetries that our

1 registrants have demonstrated. We heard from some
2 today.

3 So we certainly will work together with our
4 fellow agencies across the board, whether financial or
5 otherwise, but I do think we have a huge role to play in
6 this effort. And I'm looking forward to it and looking
7 forward to the role that EEMAC can play in contributing
8 to what the CFTC can do to support the larger global
9 effort.

10 So thanks again to the folks who participated
11 today and everyone who made it function so smoothly.
12 And one last shoutout to Dan for all of his leadership
13 and his time at the CFTC. We're going to miss you but,
14 obviously, keeping in touch for many, many years. So
15 thank you, Commissioner Berkovitz.

16 MS. KNAUFF: Thank you, Acting Chairman
17 Behnam.

18 I now turn to Commissioner Berkovitz to give
19 his closing remarks.

20 COMMISSIONER BERKOVITZ: Thank you, Abigail.
21 And I thank you, Russ. And thank you, Dawn, for your
22 kind remarks. And thanks to the Members and Associate

1 Members for their kind remarks, too.

2 I didn't really have prepared closing remarks.
3 I had a prepared opening statement. But a couple of the
4 comments prompted me to add some additional comments
5 here at the end. And in the limited time left while
6 I've got a platform, I will use the privilege, take
7 advantage of the privilege of speaking.

8 A couple of the Members and Associate Members
9 mentioned the diversity on the EEMAC and my interest in
10 support of the diversity. That is true. I really
11 believe that the strength of this Committee and all of
12 our advisory committees, really, lies in its diversity.
13 And it is a statutory requirement, but, really, I think
14 here at the Commission, I know all of us at the
15 Commission, and all of the sponsors of the committees,
16 various committees, -- and I share it -- support and
17 strive for that diversity. And it is really critical to
18 the success of these committees that we get the
19 expertise as well as the broad spectrum of views. So I
20 think each of your views is incredibly important.

21 In a broader sense, these advisory committees
22 and the voluntary spirit, you all are volunteering your

1 time. And the entities that you work for allow you to
2 do this. And so they support it as well. And I am very
3 appreciative of that. But, at the risk of overdoing it
4 and overhyping what I'm about to say, I really think
5 fundamentally, that what we're doing here really
6 embodies the spirit, that Jeffersonian democracy spirit,
7 where we really have a government informed by the people
8 out there who have jobs out in the real world who come
9 to advise the government or be the government. And we
10 don't have an aristocracy. We don't have an elite. We
11 don't have a permanent class governing the country. The
12 government really is of the people. And in our corner
13 of the world in the CFTC, I think that is embodied here
14 in what we are doing and what this Committee is about
15 today.

16 In a larger context in an era of great
17 cynicism and distrust of government, there has always
18 been distrust of American history. It is part of our
19 culture to distrust authority and going back to the
20 Revolution. And there has always been somewhat of an
21 anti-elite, anti-Washington feeling. But I really do
22 think it is stronger out there today in the country.

1 And I think the quantitative metrics about polls and
2 public opinion show that. So we are living in a
3 challenging time of great cynicism, great distrust of
4 government.

5 But my personal experience -- and I have seen
6 how the sausage is made. I mean, I was on Capitol Hill.
7 I've seen how laws are made. I have really been in the
8 sausage factory.

9 But, having been in that factory and working
10 at agencies like the CFTC and with my colleagues and
11 with people like you and with enterprises like this, I
12 really come away with optimism. I am very optimistic
13 for the future of this country. It is based on my daily
14 experience in the limited world of the CFTC. But it's
15 forums like this and experiences like this, and it's
16 working with people like you who really give me that
17 fundamental optimism about the American spirit and
18 American character that, despite everything that is
19 going on in our country today, the division and the
20 polarization and the cynicism and the challenges, we are
21 strong. And the people in this country are strong. And
22 our government is strong.

1 I have been so fortunate to come to work every
2 day at a place like the CFTC and working with folks like
3 you to improve our financial markets, which we have done
4 over the past two decades that I have been involved.
5 And you look where we are today and the progress we have
6 made. And it has been because of people at the CFTC and
7 folks like yourself in the market, who have worked on
8 this with us and then implemented the laws and made our
9 markets stronger.

10 I am optimistic. And I've just been fortunate
11 to work for this agency and sponsor the EEMAC. And I
12 thank you all so much for making that possible. So
13 thank you and good luck. And I will be following. I
14 look forward to reading the report someday. So thank
15 you very much.

16 MS. KNAUFF: Thank you, Commissioner
17 Berkovitz. It has been a pleasure serving as the EEMAC
18 Secretary under your sponsorship. Thank you for the
19 opportunity. It is unfortunate that we weren't able to
20 hold today's meeting in person, but I hope you can join
21 us once again when we are able to hold EEMAC meetings in
22 the Commission's headquarters in the future.

1 As an amendment to the roll call earlier in
2 the meeting, I would just like to note for the record
3 that EEMAC Member Derek Sammann of CME Group and
4 Associate Members Paul Cicio of the Industrial Energy
5 Consumers of America and Jeffrey Walker of ACES were in
6 attendance.

7 Thank you to all of the EEMAC Members and
8 Associate Members for your participation at today's
9 meeting. Please stay well and keep an eye out for
10 future communications on the formation of the EEMAC
11 subcommittee.

12 The meeting is now adjourned. Thank you.

13 (Whereupon, the meeting was adjourned.)

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