



THE COMMERCIAL ENERGY
WORKING GROUP

February 9, 2016

RE: Support for Senator Roberts' S.Amdt.3077 to S.2012, the Energy Policy Modernization Act of 2015, and Request to Ensure That the Agriculture Committee Retains Its Jurisdiction Over Matters That Impact Markets Regulated by the CFTC

Dear Senator:

The Commercial Energy Working Group (“Working Group”), the Commodity Markets Council (“CMC”), the Futures Industry Association (“FIA”), and the American Petroleum Institute (“API”) collectively represent American manufacturers, producers, farmers, ranchers, energy companies, their employees and families, as well as the market infrastructure that supports their risk management needs. We are contacting you to: (i) urge you to support Senator Pat Roberts’ S.Amdt.3077 to S.2012, the Energy Policy Modernization Act of 2015, when it is considered; and (ii) ensure that the Agriculture Committee retains its jurisdiction over matters that impact markets regulated by the Commodity Futures Trading Commission (“CFTC”).

CMC is a trade association that brings together exchanges and their industry counterparts. Its members include commercial end-users that utilize the futures and swaps markets for agriculture, energy, metal, and soft commodities. Its industry member firms also include regular users and members of designated contract markets, such as the Chicago Board of Trade, the Chicago Mercantile Exchange, ICE Futures U.S., the Minneapolis Grain Exchange, and the New York Mercantile Exchange. Along with these market participants, CMC members also include regulated derivatives exchanges that trade, among other things, agriculture and energy contracts.

The Working Group is a diverse group of commercial firms in the energy industry whose primary business activity is the physical delivery of one or more energy commodities to others, including industrial, commercial, and residential consumers. Members of the Working Group are producers, processors, merchandisers, and owners of energy commodities. Among the members of the Working Group are some of the largest users of energy derivatives in the United States and globally.

FIA is the leading global trade organization for the futures, options, and centrally cleared derivatives markets. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms, and commodities specialists from more than 48 countries.

API is the only national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API’s more than 650 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation’s energy and are backed by a growing grassroots movement of more than 30 million Americans.

Given our collective representation and experience, we are well-positioned to provide a consensus view of commercial end-users and energy derivatives market participants generally.

We support Senator Roberts’ S.Amdt.3077 because the proposed changes in Sections 4501, 4502, and 4503 of S.2012 to the oversight of America’s energy markets would, in effect, create a new layer of bureaucracy with respect to regulation of the energy and commodity markets. Specifically, these sections would: (i) unnecessarily establish a regulatory body (the Working Group on Energy Markets) akin to the Financial Stability Oversight Council created under the Dodd-Frank Wall Street Reform and Consumer Protection Act; (ii) create duplicative regulatory authority over matters in the purview of existing regulatory agencies; and

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(iii) potentially add an inappropriate level of intervention by new regulators into regulatory areas assigned to existing regulatory agencies, such as the CFTC and the Federal Energy Regulatory Commission.

Further, the issues contemplated by Sections 4501, 4502, and 4503 of S.2012 are too important and consequential to not have a full airing in the relevant Committees of jurisdiction. As these provisions pertain to the markets regulated by the CFTC, the Agriculture Committee should have jurisdiction, and the Agriculture Committee has not had the opportunity to consider and evaluate the implications of these provisions.

We note that Senator Maria Cantwell has, in response to Senator Roberts' amendment and under the guise of compromise, offered a new amendment – S.Amdt.3280. S.Amdt.3280 does not in any way address the concerns discussed herein and does not in any way alleviate the need for S.Amdt.3077.

We respectfully urge your support for S.Amdt.3077 and encourage you to secure appropriate Committee oversight by ensuring that the Agriculture Committee oversees matters pertaining to markets regulated by the CFTC.

Sincerely,

**Sutherland Asbill & Brennan LLP on behalf of The Commercial Energy Working Group
Commodity Markets Council
Futures Industry Association
American Petroleum Institute**