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U.S. House of Representatives
Committee on Agriculture
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June 23, 2016

The Honorable Timothy G. Massad
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Massad:

We are writing to express our concern with the Commodity Futures Trading Commission's (CFTC) proposed exemptive order for the Southwest Power Pool, Inc. (SPP) and the proposed amendment to the 2013 final order regarding six Regional Transmission Organizations (RTO) and Independent System Operators (ISO) (RTO-ISO order).

Specifically, we are concerned that these proposals would create a private right of action under Section 22 of the Commodity Exchange Act (CEA), because inconsistent judicial interpretations of the CEA resulting from private suits could create uncertainty for the nation's electricity markets and their participants. This uncertainty was something Congress specifically sought to avoid in the Dodd-Frank Act and could ultimately inhibit the Federal Energy Regulatory Commission (FERC) and the CFTC's efforts to effectively and cooperatively oversee the electricity markets.

Given the already heavily regulated nature of electricity markets, and the shared regulatory expertise of these two agencies, Congress required FERC and the CFTC to enter into a Memorandum of Understanding (MOU) to provide a consistent, efficient, and effective framework for energy producers and market participants. We are concerned that a private right of action will undermine the carefully negotiated MOU by opening market rules to judicial interpretation that will likely result in inconsistent determinations across the country.

We recognize the harm to consumers of fraud and market manipulation in electricity markets, and value the CFTC's vigorous work to police these shared markets. However, to uphold the Congressional intent expressed in Section 720(a) of the Dodd-Frank Act, and to ensure that

FERC and the CFTC are able to continue their effective and cooperative monitoring of the energy markets, we urge you to consider the possibility that the proposals will result in widespread, inconsistent judicial interpretations of the CEA. Such an outcome is something Congress specifically sought to avoid in requiring an MOU between FERC and the CFTC.

Sincerely,

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K. Michael Conaway
Chairman

A handwritten signature in blue ink, appearing to read "Collin C. Peterson", with a long, sweeping horizontal stroke at the end.

Collin C. Peterson
Ranking Member

A handwritten signature in blue ink, appearing to read "Austin Scott", with a long, sweeping horizontal stroke at the end.

Austin Scott
Chairman
Subcommittee on Commodity
Exchanges, Energy, and Credit

A handwritten signature in blue ink, appearing to read "David Scott", with a long, sweeping horizontal stroke at the end.

David Scott
Ranking Member
Subcommittee on Commodity
Exchanges, Energy, and Credit