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The Illinois Manufacturer

www.ima-net.org

Summer 2009

2009 Legislative and regulatory update — Increased emphasis on alternative, conservation and “green” policies

Washington prepares to act to curb greenhouse gasses

For less volatile energy costs, look to MVP

Managing your total rewards investment in an uncertain economy

This ad was provided by the Illinois Manufacturers' Association... people who still make things in this state, and would like to keep it that way.

Big Union Bosses think that she doesn't deserve the right to a secret ballot...

...and they want YOUR Congressman to help them take it away.

A secret ballot is one of the hallmarks of our democracy. But big union bosses are trying to pass legislation that could strip millions of American workers of their right to vote in private in workplace elections when decisions on union representation are made. Their initiative is called "Card Check," and it's only one of the many onerous elements of the so-called *Employee Free Choice Act*. Since some Illinois congressmen's campaigns received lots of help from big union bosses last fall, you can bet labor will be calling in their IOUs when it comes time to vote for Card Check later this year.

Call these Illinois Members of Congress and ask them to vote NO on "Card Check." And let them know that you're watching...

Dick Durbin
U.S. Senator
(312) 353-4952

Roland Burris
U.S. Senator
(312) 886-3506

Bill Foster
14th Cong. Dist.
(630) 406-1114

Debbie Halvorson
11th Cong. Dist.
(815) 726-4998

Melissa Bean
8th Cong. Dist.
(847) 517-2927

Summer 2009

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The Illinois Manufacturer **is underwritten by Constellation NewEnergy**

Mission Statement

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

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Share your company news with IMA . . .

News information, press releases and articles may be sent to Stefany Henson, Editor and Director of Publications, Illinois Manufacturers' Association (IMA), 220 East Adams Street, Springfield, IL 62701, or email: shenson@ima-net.org.

Smart businesses make the energy market work for them

In order to survive, many of today's most successful manufacturers are rethinking and employing smart new energy strategies.

For years, energy was understood to be the "invisible" commodity. Yet to call energy essential to both running and conducting business is an understatement of epic proportions. Still, given the scope of energy's role in virtually every manufacturing process we employ today, it is interesting to note that until recently, many companies signed energy contracts without even shopping around.

In light of today's economic climate and increasing emphasis on renewable energy sources, the days when businesses could simply sign off on energy costs are gone. Factors including climate change, ongoing unrest in oil producing countries, increased demand and volatility keep energy issues at the top of the list of state and federal policymakers.

So, it comes as no surprise that many Illinois manufacturers are paying close attention to the relationship between volatile energy prices and their bottom line. In order to survive, today's most successful manufacturers are rethinking and employing smart new energy strategies.

Even without a global recession to contend with, the volatility of commodity prices, pressure to implement sustainable practices and pending federal climate change and other energy legislation already create a challenging situation. However, savvy companies are translating these factors into "opportunities" to change business practices in ways that create competitive advantages. By making use of innovative energy solutions, companies not only can create competitive advantages but also make a positive contribution to the environment.

Consider the "Minimize Volatile Pricing" (MVP) program from Constellation NewEnergy, an IMA affinity program. Through the use of automated purchasing and systematic programs, daunting and risky activities like timing volatile energy markets and tracking energy prices are all but eradicated, leaving companies time to focus on what they know best, the needs of their business. *(Read more about MVP on page 9 of this issue of* The Illinois Manufacturer.*)*

Despite the multitude of challenges that surround the energy market, thanks to the successful competitive electric market in Illinois, Illinois businesses have a number of options to choose from to best meet their energy needs. Pricing programs that range from fixed to variable, as well as blended hedging strategies are being implemented every day by companies seeking to build energy procurement strategies that help stabilize budgets and better align with their risk profile and business model.

Today's companies also face enormous pressure to build more sustainable practices into their operations. Similar to the onslaught of products that help offset price challenges, we are witnessing rapid growth in energy options that help companies "green their energy portfolio." Many of these options can also improve the bottom line.

Some recent regulatory and policy developments in the energy industry have focused on programs that are designed to reward companies for becoming more energy efficient. In addition, businesses can participate in demand response programs that provide compensation for reduced energy usage at certain periods of high electric demand. Onsite generation has also become cheaper as more suppliers and service providers enter the market. Finally, companies can "green up" their energy profile by purchasing Renewable Energy Certificates (RECs), which can be obtained from most competitive retail energy providers.

Today's energy landscape, though rich with solutions, is anything but simple. But smart executives are realizing that their energy strategies can provide the edge they need to best their competition, and have a long-lasting impact on the future success of your company.

Look to this edition of *The Illinois Manufacturer* to help you understand today's energy landscape and how you can make your energy costs work for your business. ■

Gregory W. Baise is president and chief executive officer of the Illinois Manufacturers' Association. He may be reached at 630-368-5300, or via email at gbaise@ima-net.org.

MARK DENZLER

Help wanted: State Chief Executive Officer

WANTED: CEO

Enterprising organization with 57,000 employees and an annual revenue stream of $43 billion seeks chief executive officer to guide all facets of operation. Qualified applicants must be 25 years of age, a citizen of the United States, and a resident of Illinois for three years. Salary is $177,400 plus an excellent pension plan with housing, transportation and security provided.

An application from the Illinois State Board of Elections will be available in late summer and must be filled out properly and returned during the first week of December. The first interview will be held in February followed by the final interview on the first Tuesday of November, 2010. Selected candidate will begin full-time employment on the second Monday of January, 2011, for a period of four years at which time the contract may be renewed.

Executive experience preferred but not required. The successful applicant should have a background working in large complex organizations and demonstrate excellent leadership and communication skills. The successful candidate will need to foster a good working relationship with 177 members of the Board of Directors who have thousands of ideas that they would like implemented annually. He or she must also understand finances and budgeting. A forward-thinking strategy and strong leadership will help attract and retain key staff members to implement agenda.

Upon selection, the candidate will need to hit the ground running to deal with a wide variety of challenges including balancing the budget without the use of Enron-style accounting gimmicks. The enterprise faces extremely high costs for workers' compensation, unemployment insurance, and health care along with unaffordable compensation packages as the result of union contracts negotiated by a predecessor.

Finally, the successful candidate must undergo a rigorous year-long application process during which customers and the members of the press will have the ability to question your ability to hold the office. ***Good humor and a thick skin are imperative for the successful candidate.***

While this "help wanted ad" may seem like a little tongue-in-cheek humor, it reflects the serious lack of leadership that has enveloped Illinois and its governor's office for the better part of this decade. Simply put, former Governor Rod Blagojevich abdicated his responsibility and allegedly used it to personally bolster his finances. When it seemed that we may have turned a corner when the General Assembly impeached Blagojevich and removed him from office, Governor Patrick Quinn arrived on the scene. Thus far, Quinn has failed to exert the necessary leadership to move the state forward during these troubled economic times. The challenges were great but the opportunities were even greater — Pat Quinn had the opportunity to help rebuild Illinois' economic engine and remake its reputation after political scandals.

In his first few months in office, the Quinn administration proposed sweeping pension reforms supported by the business community only to roll over when confronted by public sector unions. He created an ethics reform commission that took on a life of its own and ultimately ended up opposing some of the reforms that were being publicly supported by Quinn. Finally, Governor Quinn proposed the largest income tax hike and elimination of key economic development incentives during the worst economic crisis since the Great Depression. Governor Quinn has been unable to get his arms around the state budget. We now stand at the start of the state's fiscal year in much the same position as we have in the past several years — no state budget and overtime pay accumulating to lawmakers who are still in session.

Candidates are now coming out in droves to test the gubernatorial waters. On the Democrat side, Governor Quinn will likely stand for election and could face challenges from Attorney General Lisa Madigan or Comptroller Dan Hynes. Both are long-time public servants who have won statewide elections and have large campaign war chests. Critics of Madigan question her independence from her father, powerful House Speaker Michael J. Madigan, but she has shown an independent streak during her tenure as the state's chief law enforcement officer. Hynes, as the state's financial watchdog, lost badly in the 2006 U.S. Senate primary. He recently faced turmoil due to a lack of oversight of cemetery trusts that has cost tens of millions of dollars. At this point, Madigan's decision whether to run for Governor or U.S. Senate will start a domino effect as other candidates react to her candidacy.

Republicans are anxious to return to the Governor's office after an eight-year absence and see blood in the water after the Democrat three-ring circus in Springfield. A top candidate emerging from the field is energetic State Senator Kirk Dillard who has both the resume and pedigree required of the state's top office. An attorney, Dillard was the top aide to former Governor Jim Edgar and former DuPage County Republican Chairman. Sen. Bill Brady, a real estate developer, is making another run for the office after finishing

see **HELP WANTED** *page 8*

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MIKE BOGHOSSIAN

Protect your company's assets with a video surveillance system

Today's economic climate has provided numerous, unprecedented challenges to factories and other manufacturing facilities. Video surveillance can provide solutions to many of these challenges.

With raw materials more valuable than ever, theft is at historic levels — especially at manufacturing and storage facilities. Also, many companies hold large assets in terms of manufacturing processes and other trade secrets that must be protected.

The world economic crisis has caused tough times for people throughout the world. These tough times can lead people to desperate measures. As a company, it is more vital than ever to protect your assets — your people, your inventory, your facilities, your company's reputation.

> A video surveillance system is a must-have in protecting your facilities, inventory, and employees — these are all vital in today's competitive market.

Benefits include:

- **Prevent inventory loss** — Security cameras can discourage theft when outwardly displayed, and if there is theft, the footage history can be viewed to identify and prosecute any offenders. A video surveillance system will pay for itself by reducing inventory write-downs due to 'unexplained missing inventory'.
- **Safety** — Cameras can be located in the riskier areas to ensure employees follow safety processes. Additionally, security cameras can help reduce workers' compensation claims against your company. Finally, cameras located at entrances and exists will guard against robbery and related events.
- **Quality control** — Video surveillance cameras can work as an additional measure to ensure your quality control processes are working. Video footage can be used in training exercises to show the correct, and at times, incorrect ways to complete assigned work.
- **Remote monitoring** — your surveillance system's digital video recorder can be connected to your network to be securely viewed and archived at any of your locations.
- **Financial management** — leasing a video surveillance system can provide significant cash flow and tax advantages. A leasing plan, with no money down, will let your company pay for a surveillance system out of existing cash flows — putting less stress on companies' finances.

The evolving industry of surveillance

Surveillance technology has significantly changed in the past 10 years, and continues to change with no end in sight. The CCTV industry has seen a major shift from analog to digital networking solutions. In the next few years we will see the adoption of High-Definition IP video into the industry. Digital surveillance has

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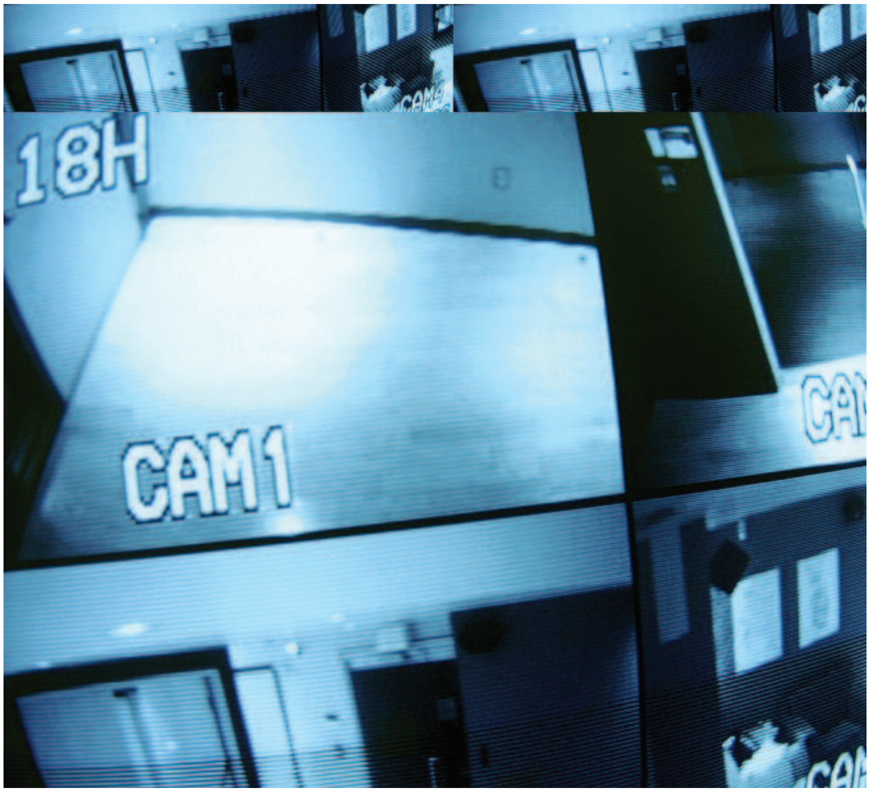

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HELP WANTED

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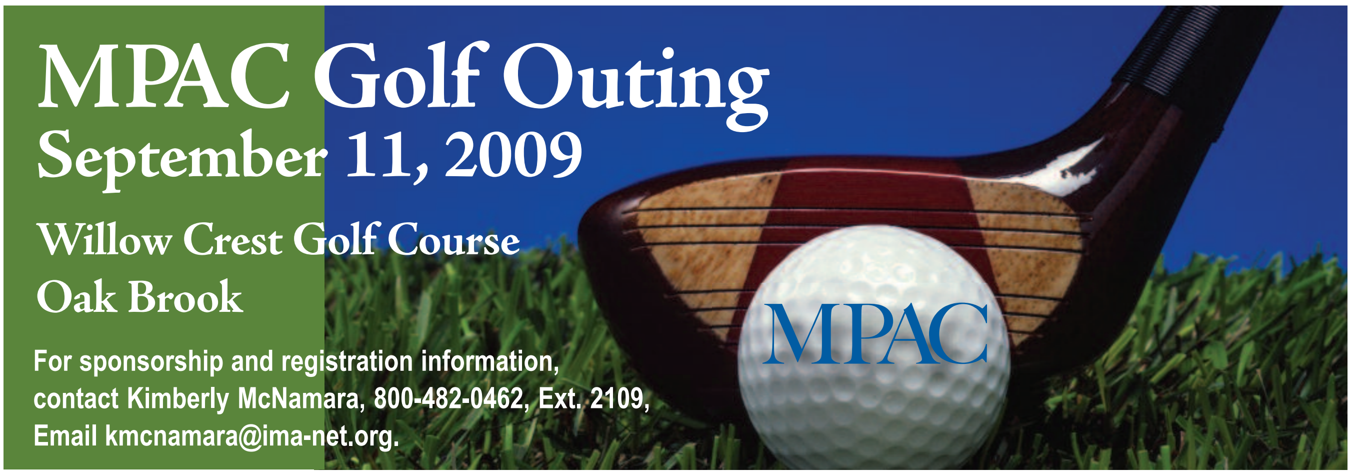
well out of first in 2006, while Sen. Matt Murphy is hoping his newness and lack of record will be helpful. Current Congressman Mark Kirk, who is reportedly contemplating the race, probably sealed his fate by voting with Speaker Pelosi and Democrats on the cap-and-trade program in Washington, D.C., that will raise taxes and significantly increase energy costs for businesses and individuals alike.

In the coming months, candidates will be traversing the state seeking your support. At the same time, the IMA's Manufacturers Political Action Committee will be reviewing their credentials and their support of our industry. I encourage you to ask the candidates how they will balance the budget and rebuild Illinois' economy. What specifically will they do to help employers build and expand in Illinois?

We will also be asking for your financial help so that we can elect the man or woman who will best support the manufacturing industry in coming years. Illinois manufacturers are at a crossroads and need a strong and disciplined leader who will help us emerge as a stronger state and better economy. I hope that you will consider attending the MPAC golf outing on Friday, September 11, in Oak Brook, or making a financial contribution. Time is of the essence. In the meantime, if you know of any job applicants, please let us know! ■



For less volatile energy costs, look to MVP

Anyone involved with buying electricity in Illinois — or nationwide — should know that volatile, unpredictable prices make it nearly impossible to know the right time to lock-in your electric power at a fixed price. While in theory, "locking-in" all your energy needs at once is a strategy designed to avoid price risk, it can open your company up to Opportunity Risk. Opportunity Risk is the risk that you buy your supply at a market high, missing out on opportunities to buy at lower prices as the market moves. And more importantly, Opportunity Risk can give your competitors an economic edge.

Purchasing power at a competitive price can be critical for business success and Constellation NewEnergy's "Minimize Volatile Pricing" (MVP) program offers purchasing managers a simple solution to ensure that their supply is not locked-in at a market high.

Minimize Volatile Pricing: The hands-off energy management solution

MVP is a fully automated, advanced energy solution that allows business customers to lock-in percentages of their electric prices over a defined purchasing period. However, unlike a basic cost-averaging approach that simply locks-in a fixed percentage of electric load at regular intervals regardless of market conditions, MVP acts as a prudent energy purchaser, locking-in greater percentages of electric load when prices are historically lower, further minimizing the opportunity risk, time and guesswork that comes with trying to time the market.

MVP "market timing" simplified

In addition to locking-in larger percentages of electric load when prices are low with respect to historical norms, MVP's purchasing algorithm is also designed to ensure that a customer is always buying over the time diversification period, protecting the customer from short-term spikes in market prices. And at the end of the customer designated purchasing period, the customer knows their fixed price for the service term. For even more flexibility, MVP also allows the customer to lock-in the remainder of their electric load at any time throughout the purchasing period, if the customer feels the price is right.

Tracking the results of MVP

Along with this truly unique, intuitive and customer-centric purchasing solution, the MVP program also generates transparent, easy to understand semi-monthly reports, enabling customers to track and see the results of using MVP for their electricity needs. A "Cost Report" provides the cost of each purchase and cost-to-date for all of their purchases so far, while a "Net Open Position Report" illustrates purchased and open positions. And conveniently for busy customers, these reports can be accessed 24 hours a day, seven days a week through Constellation NewEnergy Online, an exclusive online energy management tool for Constellation NewEnergy customers.

If you are interested in having year-to-year budget certainty while also reducing your exposure to opportunity risk, MVP is a solution to consider for your business' energy purchases. Not only does MVP allow you to designate the term of the purchasing period and specify the date by which 100 percent of your load is locked-in but MVP also operates automatically. Electricity purchases are made on your behalf on a consistent basis allowing you to focus on running your business rather than possibly making ill-timed or emotionally driven purchases.

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DAVID KOLAZ

Washington prepares to act to curb greenhouse gasses

The first half of this year has seen a flurry of activity directed in various ways toward the issue of greenhouse gas emission reduction. In part, this was an inevitable outcome of the presidential elections given the similar positions of both candidates on this issue. It now seems that a significant number of the nation's policy makers have determined that action to reduce greenhouse gasses is necessary and attention is now being focussed on the scope and breadth of the actions that the United States should take to address greenhouse gasses. Many in Congress and elsewhere see aggressive action on this topic as important to the social, economic, and political future of the country.

The most notable event in this regard is the passage in the House of the American Clean Energy and Security Act (HR 2454; Waxman-Markey). On Friday, June 27th, the House voted 219 to 212 to pass the American Clean Energy and Security (ACES) Act. There were 44 Democrats who voted against the bill and eight Republicans who voted for the bill. The 1,200+ page bill must now go before the Senate where opposition is greater. In the House, the bill had been expected to pass without difficulty but opposition has grown over concern about the economic impact, especially in regard to statements by China and India that indicate they will not be following suit. The Obama Administration is counting on this legislation to pass before the December 2009 United Nations Framework Convention on Climate Change in Copenhagen. This conference is being held to adopt a "Copenhagen Protocol" to replace the "Kyoto Protocol" that expires in 2012.

The National Manufacturers Association opposed the bill as did the U.S. Chamber of Commerce. However, some corporations such as Dow Chemical and Ford backed it. Greenpeace and Friends of the Earth opposed the bill as concessions were made to gain support for passage. Further concession will be needed for passage in the Senate where 60 votes will be needed rather than a simple majority.

The vote in the House came after intense negotiations with power plants, oil refineries, manufacturers and other businesses as well as House representatives from the Midwest and South who are concerned about the bill's impact. House Democrats made modifications to the bill that softened its impact giving this bill more momentum than any previous similar legislation. The revisions to the bill would initially give away 85 percent of the allowances rather than auction them all as President Obama had wanted. The bill provides substantial incentives and slowly escalating punishments to pursue the goal of shifting from the nation's reliance on fossil fuels to new sources such as wind, solar power and biomass fuels. The cap and trade provisions are intended to produce a 17 percent reduction in greenhouse-gas emissions over 2005 emissions by 2020 and an 83 percent reduction by 2050. The 1,200+ page bill contains numerous provisions that will have a substantial impact on

see **WASHINGTON** *page 29*

David Kolaz is the Illinois Manufacturers' Association's environmental consultant. David can be reached by email at dkolaz@ima-net.org.

Managing your total rewards investment in an uncertain economy

Current financial and market conditions are creating heavy liquidity and capital challenges for many organizations throughout the country. These conditions have profoundly changed the business operating environment for most companies. The diminishing value of company assets erodes borrowing power to sustain business continuity. Commercial banks and lenders are focusing more on cash generation than income when making decisions about extending credit or investing. Highly leveraged companies may not be able to obtain credit, and moderately leveraged companies, as well as those companies in industries at risk, are already finding financing difficult.

As companies strive to increase working capital to finance continued operations, compensation investments and costs, among the largest line item expenses, can be permanently or temporarily reallocated toward a business investment or to service debt, fund operations or build cash reserves.

Decisions about reallocating and reducing compensation dollars can be driven by careful consideration of four factors:

1) FINANCIAL — The anticipated severity and length of the recession's financial impact on a particular company will likely be the primary consideration, and should dictate an organization's current and anticipated "performance status" which falls into one of four categories:

- Healthy
- Underperforming
- Turnaround
- Crisis

The size or severity of the reallocation of compensation dollars is supported by reasonable projections identifying "how much is needed" and for "how long" based on the anticipated performance status.

2) STRATEGIC — Companies must re-validate their current compensation philosophy or strategy in order to prioritize potential compensation program adjustments (e.g., emphasis on direct versus indirect compensation, criticality of specific benefit programs, bonus plans, etc.).

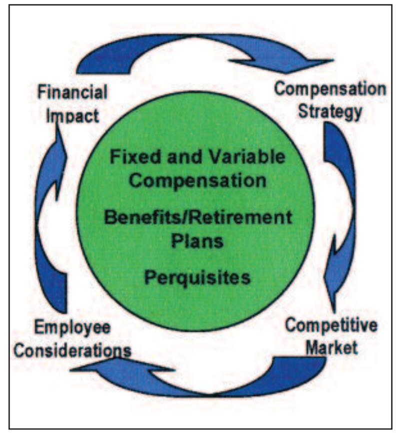
3) COMPETITIVE — Market competitiveness assessments of compensation and benefits programs should be reviewed (or conducted) to identify which components of total compensation are furthest above (or below) the market and can most (or least) withstand reallocation of compensation dollars.

4) EMPLOYEES — Specific employees (or categories of employees) may be key differentiators in a company's business model. The potential loss of mission-critical talent due to compensation reductions needs to be balanced against the savings. Loss of key staff may be unacceptable due to the following factors:

- Inability to execute key strategies
- Significant replacement costs
- Loss of intellectual capital
- Impact on customer relationships
- Poor morale among remaining workforce
- Creation of potential competitors

Companies considering reallocations of compensation investments should evaluate reallocation opportunities in the context of these four factors so that the resulting approach positions the company to respond most effectively to current and anticipated economic challenges (see illustration, top right column).

All components of a company's total compensation program should be evaluated as potential sources of reallocation:



- Base salary
- Short-term variable compensation
- Long-term variable compensation
- Health and welfare benefits
- Retirement benefits
- Perquisites

Companies will evaluate a wide variety of possible options (both temporary and permanent) within each component of their total rewards program in order to properly identify a specific approach or a number of approaches to reallocating capital. Each reallocation strategy carries implications for how severely employees will be impacted (and/or how they perceive being impacted), and for how long employees will be impacted (and/or how long they perceive being impacted).

Reallocations delivering considerable financial value and perceived as "severe" at some organizations may deliver low financial value and fall under employees' radar at other companies. While the following lists of program changes may not be considered exhaustive, many of the alternatives available to employers are provided.

BASE SALARY — Options include:

see **TOTAL REWARDS** *page 12*

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TOTAL REWARDS

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- Scale back planned increases
- Postpone increases
- Eliminate increases or "freeze" salaries
- Reduce work schedules
- Reduce salaries

Base salaries serve as the foundation of the basic employer/employee relationship; while reducing base pay costs across an entire workforce or by organizational level may yield considerable capital, employees' trust and their level of engagement may be threatened. Scaled back or postponed salary increases will yield fewer dollars in the long term; work schedule and salary reductions will yield more dollars in the short term.

SHORT-TERM VARIABLE COMPENSATION — Options include:

- Reduce fixed costs and enhance the value of plans by reallocating salary dollars to annual incentive opportunities
- Elevate/modify performance criteria to tighten the relationship between pay and performance, possibly reducing compensation costs and enhancing the return on the investment
- Move annual variable costs to future variable costs by reallocating annual incentive opportunities to long-term incentives and/or requiring employees to defer whole or partial planned annual incentive award payouts
- Eliminate compensation costs by requiring plan participants to forfeit their awards for a particular year or by permanently eliminating the incentive program

Companies should be cautious of changing annual incentive program design features or deferring/withholding earned awards due to contractual obligations and legal and tax (e.g., IRC 409A) obligations.

Existing plan metrics may no longer support the evolving business strategy (e.g., awards may still be driven by earnings while the company is now focused on working capital) and can, therefore, be modified. Preferred approaches still allow the earned dollars to be awarded, albeit under a different program and/or at a later date so plan participants understand that their elevated efforts will still be rewarded.

Moving fixed costs to variable and deferring awards will likely yield fewer dollars at a later date, and may still require accrual accounting for the awards during the deferral period. Incentive award forfeiture and/or program elimination may yield more dollars depending upon the number of plan participants, but the capital may not be available until a later date. That is, an incentive opportunity is not likely to be eliminated very late in the performance period but rather for a future performance period.

LONG-TERM VARIABLE COMPENSATION — Options include:

- Enhance the value of plans by moving annual incentives to long-term by reallocating short-term incentive dollars to long-term incentive opportunities
- Introduce/elevate performance-based grants and performance-based vesting schedules to tighten the relationship between performance and pay presumably reducing compensation costs and enhancing the return on the investment
- Move current costs to future costs by requiring employees to defer planned award distributions to future dates
- Eliminate compensation costs by requiring plan participants to forfeit their awards for a particular year or years or by permanently eliminating the incentive program

Prior to adopting any of these strategies, companies should carefully examine the implications of existing contractual agreements for the incentive plans or any currently enforceable employment and severance agreements, as well as all relevant tax regulations (e.g., IRC 409A) before:

- Requiring plan participants to defer full or partial awards
- Requiring plan participants to forfeit awards
- Eliminating plans

Long-term incentives are typically provided for senior executives; therefore, the adjustment of these plans may result in moderate savings. However, the adjustments will align with other employees facing pay reductions because "everyone is taking a hit."

Reallocating annual variable compensation to reward long-term results and deferring potential awards may only yield minimal dollars depending upon the variability of the plan, and this only at a later date. Budgeted awards will likely need to be carried as an accounting accrual during the deferral. Award forfeiture and plan elimination may yield more dollars but availability of compensation funds will depend upon the timing of anticipated awards.

HEALTH AND WELFARE BENEFITS — Options include:

- Review plan cost and coverage to identify inefficiencies
- Reduce employer contributions, modify eligibility, increase employee cost-sharing features, introduce consumer-driven health plans
- Significantly change benefit plan design (e.g., reduced level of coverage, eliminate low-value features or introduce health savings accounts)
- Eliminate plan or reduce benefits significantly

The employees' individual and family usage of company heath benefits will likely drive their perception of value and what they consider to be "affordable." Changes to program coverage and funding may yield very high dollars but the availability of dollars originally allocated to these plans will depend upon the timing of the company's contractual obligations.

RETIREMENT PROGRAMS — Options include:

- Review plan costs and reallocate coverage to key contributors
- Reduce employer matching formula and/or modify plan design
- Eliminate employer match and/or restructure retirement benefit arrangements
- Chart a path towards plan elimination

The employees' perception of the "value" of their retirement plan will determine the impact of plan modifications. Some employers have a considerable gap between their high level of investment and their employees' low perception of value; other employers provide a financial safety net that their employees value more than cash compensation.

Companies anticipating significant future capital needs should gradually migrate their plans towards those

see **TOTAL REWARDS** *page 14*

GERALD A. GOLDEN & AMY J. ZDRAVECKY

Getting ready for the Obama Board

Days after his inauguration, President Obama designated Wilma Liebman as Chairman of the National Labor Relations Board (the "Board"). During the Bush administration, when the Board was dominated by pro-employer Republican members, Liebman had often been the sole and strong dissenter on many Board decisions. With her elevation to Chairman, and now that President Obama has nominated union attorneys, Craig Becker and Mark S. Pearce, to fill two of the three Board vacancies, employers can expect reversals of many pro-employer decisions and principles established by the Bush Board. The most noteworthy anticipated changes are summarized below, along with some suggestions for employers to prepare for such changes.

Stricter scrutiny of employee handbooks, work rules and policies

Under existing Board decisions, employers are prohibited from maintaining work rules or policies that interfere with employees' statutory right to engage in union activity or conduct for their "mutual aid and protection." To date, Board decisions have found unlawful employer work rules that prohibit employees from: (1) discussing salaries or benefits with one another or third parties (like unions); (2) communicating with the news media or making press releases regarding terms and conditions of employment or regarding a labor dispute; (3) leaving work areas without authorization or before completion of their shifts (possibly prohibiting a protected mid-shift strike); and (4) loitering on company premises (possibly prohibiting employees from remaining on employers' premises to engage in protected conduct, such as discussing workplace concerns). However, the Bush Board upheld work rules prohibiting "harassment of other employees, supervisors or individuals in any way", or "verbally . . . abusing a . . . fellow employee or supervisor under any circumstance," explaining that employees are not likely to interpret these rules as prohibiting union or other protected activity. Liebman dissented to these decisions, arguing that these overly broad rules could reasonably cause employees to refrain from voicing disagreement with their conditions of employment or vigorously attempting to organize skeptical workers. With Liebman as Board Chairman, the Obama Board will likely strictly scrutinize and strike down any work rules it concludes are overly broad or could interfere with employees' rights to engage in protected concerted activity.

The Obama Board is also likely to strictly scrutinize employer solicitation and distribution policies, most notably those pertaining to email use. In *The Guard Publishing Co.* ("*Register Guard*"), the Bush Board ruled that employees have no statutory right to use an employer's email systems for union matters. The Board distinguished between personal, non-work-related postings or emails, such as for-sale notices and wedding announcements, and "group" or "organizational" postings, such as union materials, and ruled that an employer did not act unlawfully in prohibiting the use of its email system for non-job related solicitations and enforcing that policy against union solicitations, even though it had allowed solicitations for other non-job related matters. However, on July 7, 2009, the DC Circuit Court of Appeals rejected the Board's distinction between personal, non-work related email solicitations and "organizational" email solicitations, finding a violation for an employee's discipline for union-related email solicitations while the employer allowed other non-work related email solicitations. Following this decision and with the Obama Board, employers who do not have strictly enforced non-solicitation or business-use only email policies could face numerous charges with the Obama Board if they act to prevent union communications or solicitations via the employers' email systems.

More onerous Board remedies

Under the Obama Board, employers can expect that if they violate the law, they will be forced to post a notice of violation via email or on the employer's intranet to all employees, especially where the alleged violation concerns the employees' use of the employer's email system or the unlawful (discriminatory) prohibition against such use. Also, employers will likely face more onerous remedies when charged with unfair labor practice violations in bargaining first contracts. Currently, the Board may consider special remedies in first contract bargaining cases, including: setting a rigid bargaining schedule, requiring periodic bargaining reports, extending the certification

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allowing added flexibility. Changes also must conform to relevant IRS and Department of Labor requirements. While changes to 401K, pension and profit sharing plans may yield very high dollars, the availability of capital originally dedicated to those plans may be delayed due to the timing of planned program funding.

PERQUISITES — Options include:

- Enhance executive and employee perqs as a recruitment and retention tool
- Review perqs program participation and associated costs to reduce eligibility
- Reduce the value (and cost) of employer-provided perqs
- Eliminate perquisites entirely

Perquisite programs in general should be positioned and priced at a level commensurate with their overall total rewards program (e.g., if base salaries are positioned at the 40th percentile of the market with no variable pay opportunities, perqs should probably be non-existent or at least very minimal). The amount of capital that may be reallocated by reducing and eliminating perquisites may be minimal, while maintaining these programs sometimes enables employers to easily recruit and retain specific types or critical talent.

PRACTICAL IMPLICATIONS — Companies trying to survive a recession must balance the need for working capital with that of funding a long-term human resources strategy. Just as a company's need for a capital infusion may be immediate and/or long-range, the modifications and reductions they make to their compensation programs will have short- and/or long-term impact on recruitment, motivation and retention. Companies anticipating prolonged recessionary conditions or a significant industry downturn may be required to rethink their compensation philosophy to reflect more permanent or significant changes to their overall program.

Much of the way changes to compensation and benefits are perceived by employees is driven by presentation and optics. All planned changes should be clearly communicated to all affected employees in a straightforward manner, including the company's financial challenge and planned solutions. Those organizations considering changes or a reduction to workforce compensation programs should consider the same or similar reduction to the corresponding executive program(s). While the actual dollars re-channeled from executive programs may not be as significant as that from the workforce, reductions to executive programs may promote a perception of fairness among employees.

Reallocation or reduction efforts across multiple components of total compensation are recommended when feasible. The following example illustrates adjustments to multiple components of compensation and benefit programs:

- six month 10 percent workforce salary reduction
- six month 20 percent executive salary reduction
- one year elimination of executive bonuses
- one year 50 percent cut in 401K match
- one year elimination in profit-sharing contribution
- Implement consumer-driven health care program at next open enrollment

There is a threshold in the reduction of compensation levels and opportunities at which undesirable attrition becomes a sure outcome. The capital reallocated will not likely match the capital needed to recruit and replace critical talent. Reallocations across multiple forms of compensation is recommended as it allows companies to make smaller, possibly uniform reductions to a variety of programs, thereby preserving the integrity of the existing total compensation strategy, and hopefully the cultural and motivational status quo.

** For purposes of this article, total compensation is defined as base salaries or wages, employee benefits, annual and long-term incentives and perquisites.*

Bringing businesses to the table . . .

The City of Chicago's David Hanson speaks up for manufacturers

By Ingrid Gonçalves

Manufacturers should play a role in directing the use of government assistance for their industry — at least according to David Hanson, Executive Director of Business Development Services (BDS) in Chicago's Department of Community Development (DCD). Under Hanson's leadership, the City of Chicago has funded and implemented a number of programs geared explicitly toward meeting the needs of advanced manufacturers.

"We are undergoing an evolution," Hanson says, "a paradigm shift in workforce development: working together with businesses and developing programs that help workers by giving them the skills that they need to be employed in good jobs, which in turn grows the industry."

The transition began about five years ago. At the time, Hanson headed the Mayor's Office of Workforce Development (MOWD), which merged with other city departments earlier this year to form DCD. Unemployment was on the rise in Chicago, so the MOWD looked at industries where opportunities for growth, unmet needs, and middle skill job opportunities existed.

Hanson says they also looked at a 2003 report by the Center for Labor & Community Research (CLCR), *The State of Illinois Manufacturing,* which found that the industry was losing ground due to competition from low-wage producers in developing countries.

In order to survive and grow, Illinois manufacturers would need to add value to their products in order to justify higher prices — a transition that would require a robust workforce development infrastructure to train employees with the skills necessary to build complex, high-tech products like pacemakers and wind turbines.

Hanson took to heart the report's recommendation of a partnership between government, labor, and business in order to find universally beneficial solutions. "As a result of the report," he says, "we helped fund and develop the Chicago Manufacturing Renaissance Council (CMRC), which is an unusual partnership because it took people who were usually adversaries — management and labor — and brought them together under a common goal."

With the CMRC's support, Hanson spearheaded the creation of ManufacturingWorks, a human resource and workforce development program, in 2005. Just last year, ManufacturingWorks helped 394 local companies meet their workforce needs and placed 1,682 workers in jobs paying an average hourly wage of $12.31, up from $11.17 the previous year. The innovation behind ManufacturingWorks lies in its employer demand-driven strategy, a framework that today drives all BDS programs.

"We take a consultative approach to our work at companies," explains Javier Hernandez, a ManufacturingWorks account executive. "We work with them to help fix their problems and implement a real systems change in manufacturing, company by company. We feel that our work is really aligned with what the CMRC is trying to do. We want to take those big ideas, formalize them, and turn them into customized solutions that we can deliver to companies."

Individuals, on the other hand, benefit just as much from ManufacturingWorks' employer-driven strategy. Because of the partnership between ManufacturingWorks and Mayor Daley's WorkNet Chicago, job seekers have access to over 25 agencies around the area that can get them into training and bring them up to speed. The City funds much of this with federal Workforce Investment Act dollars.

David Hanson

The manufacturing industry faces growing challenges, but Hanson is optimistic that city policy is moving in the right direction. "We need to develop a lean manufacturing sector with succession planning and diversification, and that's hard to do with current funding," he says. "But now with DCD, we have a more holistic view of economic development that includes workforce development, which will be reflected in our use of competitive grants, if we get them, from the stimulus package."

One of DCD's competitive grant proposals requests funding for a manufacturing training center at Austin Polytechnical Academy, a small public high school on Chicago's West Side that prepares students for careers in advanced manufacturing. The training center would be used by high school students during the day and by adults on evenings and weekends.

How can manufacturers get their voices heard? "Join the Renaissance Council, get involved with Austin Polytech, reach out to ManufacturingWorks," Hanson says. "Take advantage of these demand-driven partnerships that already exist, and continue to strengthen them with your support and involvement."

2009 legislative and regulatory
Increased emphasis on alternative, con

The recent economic downturn has led to a decrease in competitive wholesale and retail energy prices and not surprisingly, policymakers appear less concerned about electric rates and market structure. Instead, energy, environmental and SmartGrid policies are one of the hottest topics on the minds of federal and state policymakers.

By David I. Fein, Vice President, Energy Policy-Midwest/ Director of Retail Energy Policy, Constellation NewEnergy

At the federal level, there is legislation pending in Congress that is designed to address climate change by fostering significant reductions in greenhouse gas emissions. There appears to be great momentum behind passing such legislation by the end of the year. Enactment of such legislation will come at a price that will ultimately be borne by electric consumers. In addition, as part of the nation's overall energy and environmental policy debate, there is a push to enact a federal renewable portfolio standard (RPS) that a certain percentage of all electricity consumed in the country come from renewable resources. As part of the recent federal stimulus package, significant dollars are being made available to support alternative and renewable energy, energy efficiency measures, advanced metering and SmartGrid technologies. In Illinois, over the past two years, we have witnessed a number of new renewable energy, demand response and energy efficiency measures enacted as part of our overall energy policy. Also, we have witnessed ComEd and Ameren unveil plans for SmartGrid technologies. This article will examine some of those new policies and how they will impact IMA members and the Illinois competitive electric industry.

Imposition of a renewable portfolio standard

In 2007, as part of a major rate relief settlement that saw the creation of the Illinois Power Agency (IPA) and changes to the manner in which ComEd and Ameren procure electricity, Illinois enacted legislation that required both ComEd and Ameren to comply with a RPS beginning June 1, 2008.

> Significantly, according to data compiled by the U.S. Department of Energy's Energy Information Administration, Illinois electric rates are now six percent lower than the national average.

Illinois joined a number of States in requiring that a certain portion of a supplier's electric portfolio come from renewable energy resources, such as solar, wind, geothermal and other sources of clean (green) energy sources. About half of the States in the U.S. today have similar requirements. The legislation was also designed as a means to stimulate the development of renewable energy and in particular Illinois wind generation by creating a market for developers of such projects to sell into the Illinois retail electric market. The initial June 2008 RPS percentage was two percent of electricity delivered and it doubles to four percent for the period of June 1, 2009–May 31, 2010. The procurement of renewable energy resources and/or renewable energy certificates (RECs) is managed and administered by the IPA for ComEd and Ameren. A competitive request for proposals (RFP) process is utilized by the IPA to satisfy this requirement.

In late 2008, a new law was passed that, among other things, extended the applicable RPS to include electric load served by alternative retail electric suppliers (ARES) such as Constellation NewEnergy. Beginning June 1, 2009, ARES were also required to have the same percentage of the electricity that they sell to retail customers come from renewable resources. Based upon concerns of many stakeholders, the new ARES RPS requirements were further amended to provide additional clarity on the rules and to ensure that customers of ARES received some of the similar cost protections that were afforded to customers of ComEd and Ameren. That legislation (SB 2150) was unanimously passed by the Illinois House and Senate and now awaits the signature of Governor Quinn.

Key facts about the Illinois renewable portfolio standard

1. The same percentage RPS requirements apply whether

update —
servation and "green" energy policies

you take service from an ARES like CNE or take service from ComEd or Ameren.

2. The RPS percentages increase at varying increments each year with a 25 percent target by 2025.
3. Contracts (or contract extensions) that have been entered into on or prior to March 15, 2009, are exempt from the RPS requirements for the current contract term.
4. RPS applies to all contracts that are executed (or extended) after March 15, 2009 for electric load that is delivered on or after June 1, 2009.
5. Depending on your supplier, RPS costs may be embedded within the price of electric power and energy on your electric bill (as is generally the case with Constellation NewEnergy), or it may be broken out as a separate line item.
6. Satisfaction of the Illinois RPS requirements is not part of the USGBC LEED certification program. The EPA recognizes only voluntary green power purchases that increase a company's green power use above mandatory requirements, such as state RPS.

How competitive markets enable "greener" energy profiles

Many Illinois businesses have employed green energy solutions for years. Due to the successful development of the Illinois competitive electric market, more and more Illinois businesses are able to embrace opportunities to employ green energy solutions, recognizing that this is not only an effective long-term strategy that's good for the environment, it also resonates well with consumers who are looking for environmentally sound practices. Plus, many of these solutions can actually help lower bottom-line energy costs.

Five clean and potentially profitable energy solutions for your business

1. **LOCALIZED POWER.** Construction of on-site renewable generation for businesses is a viable and potentially profitable means of limiting dependence on fossil fuels and ensuring reliability of power supplies.
2. **DEMAND RESPONSE.** Commercial and industrial customers that demonstrate an ability and commitment to curtailing at least 100 kilowatts of electricity can sign up to participate in the ISO (Independent System Operator) Demand Program. Businesses that participate in the program agree to reduce their output for a specific period of time to make more energy available on the regional grid. This helps prevent blackouts and failures. Once enrolled, businesses earn payment for participation and can earn additional payments for further reductions when the power grid is under stress.
3. **IMPROVED HVAC SYSTEMS.** Proper maintenance of heating, ventilating and air conditioning equipment can maximize system efficiency for the long term, saving valuable money in energy output as well as repairs.
4. **COMPACT FLUORESCENT LIGHTBULBS (CFLs).** Each CFL saves approximately 330kWh over its lifetime — a reduction of about 400 pounds of carbon dioxide and other pollutants. CFLs also generate 70 percent less heat than standard bulbs, reducing the need for air conditioning. In addition to CFLs, simple measures to reduce energy use caused by lighting include installing occupancy sensors for offices and corridors, and motion sensors on exterior parking lots and security lighting. *(Source: Previously published in* New England Hotel Magazine, *March/April 2008)*
5. **ENERGY STAR EQUIPMENT.** Energy Star offers several energy-efficient office equipment solutions that may qualify your business for tax breaks — in addition to saving on electricity costs. An Energy Star labeled computer, for example, uses 70 percent less electricity than a standard model, and in sleep mode, the same computer will use only four watts or less. Spending time in this low-power not only saves energy, but increases the life of the machine overall. *(Source: U.S. Department of Energy, Energy Efficiency and Renewal Energy website: www1.eere.energy.gov/consumer/tips/home_office.html)*

More ways to add green power to your Illinois energy portfolio

In addition to meeting the applicable RPS requirements, Illinois businesses may also purchase green power to offset traditional energy usage. Investing in RECs is the most common

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Common mistakes associated with a "Request for Proposal" process

Why bidding is most often not the best way to achieve the lowest natural gas cost

There is a trend in today's natural gas market to choose a supplier based solely upon the lowest fixed-priced bid, or the lowest adder (margin) associated with an index-based quote. Before following this trend to select your company's next natural gas supplier, ask yourself the following questions: Is the goal of the selection process to ensure your new energy partner earns as few dollars as possible, or is the goal to ensure your company spends as few dollars as possible? Would you like to obtain the lowest fixed price possible based upon one day out of the year, or achieve a lower price year after year? If your decision is based entirely upon the transparent adder associated with an index-based quote, are your future natural gas purchases based entirely upon that same index? Do you eventually purchase even a portion of your future supply utilizing a different method or fixed price than originally quoted, after the situation is no longer competitive and when price is less transparent? This article details the primary reasons why the low quote result from a "Request for Proposal" (RFP) process rarely achieves the lowest possible cost. It identifies the most common mistakes associated with the bid process, and then outlines the preferred alternative approaches being used today by leading companies.

Background — A shift in strategy

During the late 80's and for a good portion of the 90's, the focus for most manufacturers purchasing natural gas was cost savings over their regulated utility option. The cost savings were relatively easy to capture and year-over-year natural gas prices were fairly consistent. In the late 90's and into the new millennium there has been a significant shift in the both the frequency and magnitude of natural gas price volatility. Over recent years, manufacturers have realized that cost savings over their utility was not very meaningful if their cost for natural gas was significantly over budget. Therefore, today most manufacturers realize their first objective is risk management and utility savings is a secondary objective.

NYMEX price volatility

In terms of percentage fluctuations, natural gas is one of the most volatile traded commodities in the world. Over 90 percent of the cost associated with the purchase of natural gas supply in the United States is determined by the price of natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX) at any given point in time. A natural gas futures contract will trade hundreds of days prior to settling. The volatility during those days, not to mention on any given day, is tremendous. To illustrate the volatility, look closer at the Calendar 2010 Strip Price graph below. The volatility and chances of picking the one best day to buy gas is almost next to impossible to predict.

A second component of the total cost of natural gas supply is interstate pipeline transportation charges. This cost associated with transporting natural gas from the Henry Hub to any given utility — commonly referred to as basis — is also volatile and traded much like the commodity itself. In fact, the basis portion of your total burner tip cost for the city of Chicago can often be discounted, or be a negative number. When quoting a total 'City Gate' fixed price offer, every supplier utilizes the same NYMEX financial market and the identical pipeline transportation service. The only differentiator in price alone is supplier margin. The difference between supplier margins on most bids is one or two pennies ($.001 to $.002 per therm).

The most common mistakes

A focus on supplier margin

A typical natural gas bid will request a spot Index related offer, a fixed price offer, or both. Requests for bids with the simple goal of revealing supplier margin not only focus on the smallest component making up your total spend on natural gas (see Burner Tip Cost graph), but also create a perfect opportunity for the classic 'bait and switch' scenario. As detailed above, with any point-in-time related bid, the buyer is focusing only on the supplier margin. Supplier margin is typically less than one percent of the buyer's overall cost. This margin focus creates several potential problems. Foremost, the majority of today's natural gas

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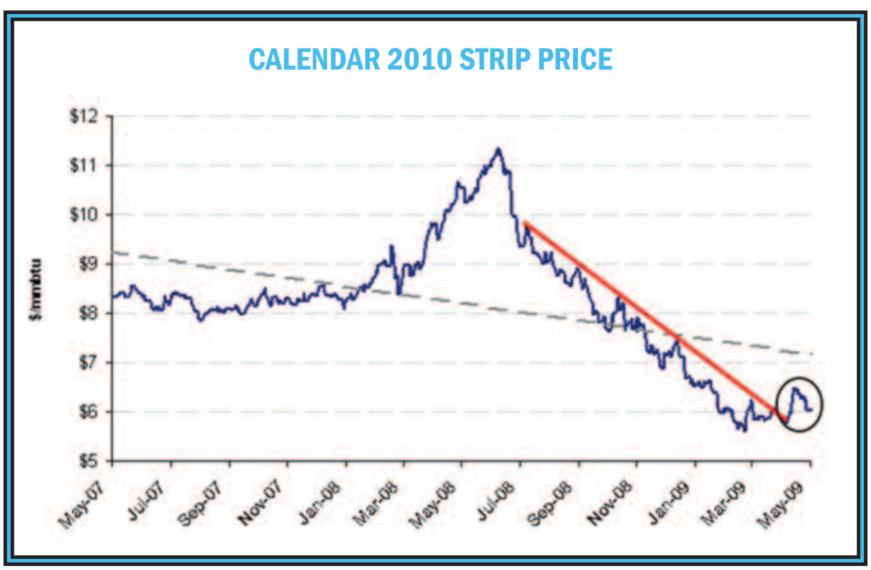

RFP PROCESS

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buyer's ultimately establish a fixed price for a large portion of their anticipated annual natural gas usage. Therefore, by definition, the index related bid (bait) that was the only factor in determining a supplier never gets utilized when a fixed price is eventually established. Once the lowest margin quote supplier is selected and has obtained exclusive fixed price negotiating rights, the opportunity exists to increase margin (switch) relative to the competitively bid index related offer. Since the request is no longer competitive, and it is more difficult for the buyer to determine the cost components of a fixed price, total transaction costs including supplier's margin become less transparent. If your company has the ability, or fortitude, to ride the tremendous peaks and valleys associated with the price curve for 100 percent of its annual usage, then perhaps a focus on low supplier's margin will result in the lowest possible cost. If your company historically fixes a price for a portion of their annual usage, is looking for a better way to manage the risks associated with the price curve, or trying to obtain the lowest cost, then shouldn't your RFP, and the ultimate decision regarding an energy partner, focus on those factors as well?

Ignoring market timing

As previously discussed, market changes of $1.00 per dekatherm ($.10 per therm) within a single day are possible. Even normal daily price volatility is more significant than a supplier's margin. A point-in-time fixed price bid ignores the important element of market timing. In fact, most bid requests for fixed price quotes do not even require a specific point in time on which to base requested quotes. This fact creates a scenario wherein quotes are not necessarily "apples-to-apples." The scenario also makes the quoted price only indicative, meaning it is rarely if ever the actual price eventually transacted, unless it contains excessive margin to cover minute-by-minute fluctuations. A bid focused on fixed price not only ignores this element, but any advantage of market timing benefits only the supplier and not the customer.

Service is not required

We have all heard the age old adage "you get what you pay for." Have you ever had an experience when you whispered it to yourself in regret? Lowest margin equals lowest service. A focus on lowest margin and not on a managed service often creates long-term problems. In the complex and volatile natural gas market, account management and service, reliability, utility administration and reporting can all impact your total energy cost and must be considered during the selection process. A decision based on the lowest margin supplier always neglects these service related components. Ignoring the components of a full service provider and focusing strictly on low margin can not only lead to headaches, but usually to higher costs as well.

Overlooking storage

For customers with facilities behind Nicor, the bidding approach often overlooks or underestimates the value and benefits associated with their utility storage asset. For the past seven storage seasons, customers who have retained their storage asset and injected gas in simple, even increments of their capacity over the course of injection season have averaged $1.20 per dekatherm ($0.12 per therm) in savings using storage gas.

I just want it to be over with until next year

For the majority of IMA members, choosing an energy partner and determining the best method to achieve the low cost is not their primary day-to-day responsibility. Often, for the sole purpose of being able to return to their core responsibilities, they set aside a single day to make this critical decision. As proven, it is impossible to time the market. This method clearly plays into all of the pitfalls of the bid process discussed above. Sometimes an agent or broker will even be hired to assist in the process in another effort to free more time. If this agent or broker is simply pointing out the low bid and not advising on how to manage the risk associated with the volatility of the biggest portion of the total spend, then you are simply adding to your total cost.

A focus on managed service

How do leading companies today plan ahead to minimize risk and put themselves in the best position to meet their objectives? They focus on the more effective approach of full service management to help with today's volatile and complex natural gas market. They focus on minimizing the largest component of their cost — the NYMEX natural gas futures contracts. They base their decision on evaluating which energy manager will work most actively in achieving this goal. Market timing can have a tremendous impact on overall cost. For example, for the better part of the first eight months

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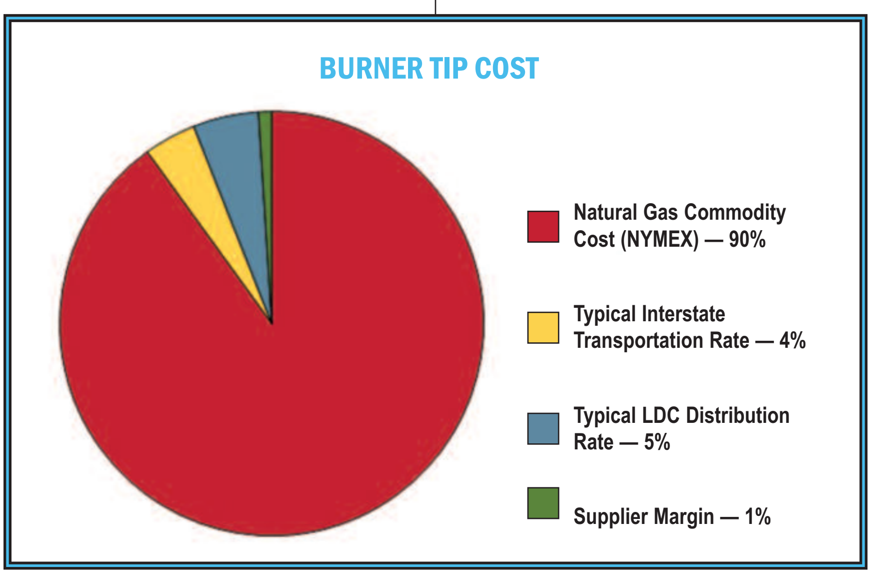

AARON GELB

Holy cow! Religious discrimination claims are on the rise

Religious discrimination claims have steadily increased over the past 15 years. In 2007, the EEOC received 2,880 religious discrimination charges, a 13 percent increase from the 2,541 charges received in 2006, and more than double the amount filed in the early 1990s. These numbers will likely continue to rise now following the EEOC's 2008 release of a new compliance manual on Religious Discrimination. Intended to address the myriad issues associated with a marked increase in religious diversity in U.S. workplaces, the publication of new guidelines signals the EEOC's intent to focus on religious discrimination claims and crack down on those employers that fail to get on board. This may mean more on-site investigations, probable cause findings, and highly publicized lawsuits.

Title VII, the federal law that prohibits religious discrimination, not only forbids disparate treatment in hiring, promotion, pay, discipline and discharge, but also imposes an affirmative obligation upon employers to accommodate the religious beliefs and practices of their employees. This article is not concerned with those claims that involve an employee who believes he was treated worse than an employee belonging to a different religion. Those claims can be best prevented in much the same way you minimize risk for race, sex or age discrimination claims: consistency, communication, and coordination between human resources and management. Instead, we will focus on what employers, particularly manufacturers, should do to help avoid religious accommodation claims.

Accommodation requests typically relate to work schedules, dress and grooming rules, or religious expression or practice while at work. To comply with the law, employers may have to make a special exception from, or adjustment to, a particular work requirement so that an employee (or applicant) can practice his or her religion. Every request need not be granted, but an employer must be able to show that the proposed accommodation would impose a more than *de minimis* cost or burden on the company.

Perilous waters ahead

Not surprisingly, religious accommodation requests present some particularly difficult challenges to employers. The following cases illustrate how litigation often results when religious beliefs intersect with operational needs in the modern workplace:

- Minnesota-based Gold'n Plump entered into a consent decree with the EEOC in November 2008, in which the chicken processor agreed to add a paid break during each shift to accommodate Muslim employees who wish to pray. The Company also agreed to pay $215,000 to workers who were terminated for taking prayer breaks. The EEOC accused Gold'n Plump of violating Title VII by terminating workers who prayed during their work shifts. In a separate lawsuit, the EEOC alleged that an employment agency used by Gold'n Plump improperly required applicants for jobs at Gold'n Plump to sign forms acknowledging that they might be required to handle pork. The Work Connection separately agreed to stop using the pork handling consent form.

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IMA member spotlight: Baxter, International, Inc.

Adopting sustainable practices creates business value

Baxter's sustainability program helps "green" manufacturing processes, reduces environmental impact and creates competitive advantage

To be successful in today's competitive global economy, mere environmental compliance is not enough. Integrating sustainable practices into manufacturing operations provides a competitive advantage in the world marketplace with both short-term and long-term implications. Increasingly, companies are recognizing that strong environmental performance enhances business value.

Baxter International, Inc. has embraced the principles of sustainability — the balance of environmental, social and financial considerations — and incorporates them into daily operations. For more than three decades, the company has incorporated environmental, health and safety (EHS) programs into its manufacturing operations to reduce environmental impacts and ensure employee safety.

In 2007, Baxter's executive-level Sustainability Steering Committee established nine sustainability priorities that fall into three broad categories: "Our People," "Our Operations and Products" and "Our World." The company built upon this commitment by defining measurable performance goals for each priority.

Baxter's EHS organization is spearheading the company's efforts to reduce its environmental impact, a cornerstone of the company's sustainability program, through its strategic goals. These performance goals drive continual improvement in the reduction of waste, water, energy usage, greenhouse gas emissions and environmental incidents. The company also leverages its leadership position to influence suppliers' manufacturing practices through its Ethics and Compliance Standards for Suppliers and participation in the U.S. Environmental Protection Agency's Green Suppliers Network.

Recognizing the strategic and financial benefits of environmental sustainability, Baxter pioneered environmental financial reporting in 1994 that extends the rigor applied to expenses in other parts of the business to track environmental costs and savings. Baxter's Environmental Financial Statement demonstrates the value of proactive, global environmental management to senior leadership and stakeholders. The return on investment for these initiatives has been significant. EHS programs completed in 2008 realized savings and cost avoidance totaling $11.9 million, or 70 percent of the cost of Baxter's basic environmental program ($16.9 million). On average, Baxter receives a total financial return of about three dollars for every dollar it invests in its environmental program.

Baxter has attained these savings in part by integrating EHS programs into many aspects of its manufacturing operations. In 2007, Baxter launched a "Lean energy" program for its principal manufacturing centers that established four distinct energy standards — pre-requisite, bronze, silver and gold. Each level defines 25 to 30 requirements a facility's energy program must meet. Baxter's goal is to have 50 percent of its locations reach the gold level by 2010. As a result of programs like this, Baxter has improved overall energy efficiency and achieved significant savings and cost avoidance.

Baxter achieves energy efficiency improvements by systematically implementing energy conservation programs and facility-based activities. Each of Baxter's manufacturing and R&D sites receive a review of primary utility systems every few years. Based upon this review, Baxter shares current energy technologies

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BAXTER

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with the site, and identifies energy-saving projects and best practices to be shared among other sites. For example, Baxter's facility in Mountain Home, Arkansas, installed ultra-violet light technology to keep heat-transfer coils in the facility's HVAC units clean, which improves and maintains system energy efficiency. This technology was presented at Baxter's 2008 Global Energy Conference.

Additionally, Baxter has utilized its EHS expertise to develop "Lean" manufacturing initiatives that both prevent adverse environmental consequences and identify opportunities for environmental improvement. EHS has modified Lean tools, such as value-stream maps, by adding environmental aspects, and applied these tools to EHS processes, such as wastewater treatment. Baxter has integrated traditional pollution-prevention techniques into Lean manufacturing to provide a systematic way of finding opportunities to improve environmental performance, reduce waste and reduce cost. Baxter's facility in Marion, North Carolina, utilized Lean to complete a value-stream map on a major production line to better manage process steam flow and reduce associated water and energy usage.

The company also applies many of its sustainability standards to Baxter's suppliers worldwide who provide the goods, services and raw materials required by Baxter's operations. Baxter's Ethics and Compliance Standards for Suppliers function as a supplier evaluation framework that determines supplier selection and management. The Standards define policies and expectations for ethical behavior when doing business with Baxter and ensure that suppliers are evaluated and approved before the company purchases any materials, components, products or services. The guidelines compliment Baxter's Supplier Quality Standards, which specifically address sustainability issues, including indentured and child labor, employment standards, waste and energy reduction, and ethics.

Baxter is committed to building partnerships and sharing expertise to help improve suppliers' environmental performance. As a result of this commitment, in 2005 Baxter joined the Green Suppliers Network, a col-

Baxter's corporate headquarters in Deerfield, Illinois, became carbon neutral in 2007 by purchasing Green-e certified renewable energy certificates (RECs) and offsetting fuel-related GHG emissions through the Chicago Climate Exchange.

The use of isolators provides a controlled, sterile work environment that is less energy intensive than traditional manufacturing environments. Baxter has integrated the use of isolators into many of its facilities, including in Round Lake, Illinois.

laboration of industry, the U.S. EPA and the U.S. Department of Commerce's Manufacturing Extension Partnership. Such partnerships can help suppliers be more efficient, reduce waste, save money and lessen the environmental impact of materials in Baxter products.

Baxter's sustainability initiatives go beyond manufacturing operations. A number of Baxter facilities use alternative or renewable energy, such as solar, biodiesel and biomass. At the company's Deerfield, Illinois, headquarters campus, in 2007, the company acquired renewable energy certificates and offset the emissions associated with the facility's natural gas to make the campus "carbon neutral," a status the company maintains. Baxter purchased the Green-e certified renewable energy certificates, equivalent to 17.2 million kilowatt hours of electricity, from Baltimore-based Constellation NewEnergy, the IMA affinity partner for energy supply. The certificates offset 98 percent of the building's energy needs. To account for the remaining two percent supplied by natural gas, Baxter purchased carbon credits from the Chicago Climate Exchange, of which Baxter is a founding member. Additionally, Baxter's McGaw Park facility installed rooftop solar systems to pre-heat water for facility use.

The benefits of these environmental programs transcend mere cost avoidance and energy or raw-material savings. Many of the initiatives Baxter has put in place in its facilities have also brought higher production throughput, greater production flexibility, optimization of manufacturing assets and higher quality levels, as well as reduced scrap material and waste generation. By focusing on measurable environmental goals, Baxter has been become a more competitive and sustainable organization.

IMA member Baxter International Inc. develops, manufactures and markets products that save and sustain the lives of people with hemophilia, immune disorders, infectious diseases, kidney disease, trauma, and other chronic and acute medical conditions. As a global, diversified healthcare company, Baxter applies a unique combination of expertise in medical devices, pharmaceuticals and biotechnology to create products that advance patient care worldwide. Baxter manufactures products in 26 countries and sells them in more than 100 countries, with more than 55 percent of its sales coming from outside the United States. ■

OBAMA BOARD

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year (by a minimum of six months), reimbursing bargaining costs, reading a notice to employees about the charge and granting union access to bulletin boards. To date, these special remedies have been approved in approximately 40 percent of these cases. With the Obama Board, employers can expect to see more requests for, and grants of, special remedies in first contract cases.

Expanded definition of "covered employee" under the law

a) Supervisors. Supervisors are not protected by the National Labor Relations Act (the "Act") and are not eligible to be unionized. Unions believe that the Bush Board expanded the definition of "supervisor" to exclude more employees from union eligibility in deciding *Oakwood Healthcare, Golden Crest Healthcare Ctr.* and *Croft Metals Inc.*. Although Board decisions since *Oakwood* have demonstrated the difficulty in proving supervisory status on the basis of "assignment" or "responsible direction of work," unions still vigorously contend that the statutory definition should exclude low level individuals who routinely assign duties, but not work hours or work locations, and should only include those persons "in charge" of a department. Consequently, unions are pushing Congress to pass the Re-empowerment of Skilled and Professional Employees and Construction Tradeworkers (RESPECT) Act, a measure to amend the law to require individuals to spend a majority of their work time in a supervisory capacity to be classified "Supervisors" and deleting the words "assign" and "responsibly to direct" from the legal definition.

Absent the passage of the RESPECT Act, the Obama Board will likely overturn or greatly limit *Oakwood* and subsequent decisions and will continue to narrow the factors demonstrating supervisory status.

b) Contingent workers. In 2000, in *M.B. Sturgis,* the Clinton Board ruled that individuals employed through a temporary agency could vote in an election along with the user's regular employees if they were working at the user's facility on the date of the election. Overruling this decision in 2004, the Bush Board in *Oakwood Care Center,* ruled that temporary employees could only vote in such an election if both the temporary agency and user employer agreed. The Obama Board is likely to overrule Oakwood Care Center and allow temporary employees to vote in elections at the user employer's facility if they are employed on the election date. Also, on a related issue, employers should expect tighter standards applied in determining whether individuals are independent contractors versus employees.

Contract bar re-imposed in voluntary recognition cases

In the *Dana Corp./Metaldyne Corp.* cases, the Bush Board, departing from Board precedent dating back to 1966, held that an employer's voluntary recognition of a labor organization does not bar a decertification or rival union petition filed within 45 days after the issuance of a notice of voluntary recognition. *Dana* further requires employers to post a notice, notifying employees of the voluntary recognition and their right to file a decertification petition or support a rival union petition within 45 days of the notice. In a strong dissent, Liebman argued that *Dana* would discourage voluntary recognition and the collective bargaining process would be held up by a minority group who tries to subvert the choice of the majority. With Liebman as Chairman, employers will likely see a return of the imposition of contract bars (meaning no decertification petition will be processed for the length of the contract, up to three years) in voluntary recognition cases. Thus, unions will presumably push employers harder for voluntary recognition, thereby avoiding having to submit to an election.

Possible expansion of "Weingarten" rights to non-union employees.

In 1975, in *NLRB v. J. Weingarten, Inc.,* the Supreme Court ruled that unionized employees who attend meetings with management in which discipline could result are entitled, upon request, to have a union representative or co-worker present for support or representation. In 2000, in *Epilepsy Foundation,* the Clinton Board extended "Weingarten" rights to co-worker representation for non-union employees. *Epilepsy Foundation* was overruled by the Bush Board's 2004 decision in *IBM*. The Obama Board will likely reinstate "*Weingarten*" rights to co-worker representation for non-union employees.

What can you do to prepare?

1. Have your employee handbooks, employment contracts, work rules and policies (including no-solicitation and email policies) reviewed for possible unlawful or discriminatory policies.
2. Evaluate whether those you call "supervisors" are likely to pass the tougher supervisory tests.
3. If your organization employs contingent workers, understand — in advance — why these employees may be vulnerable to a union, eliminate any areas of discontent and educate them to "just say no" if they are approached to sign a union card.
4. Train statutory supervisors on how to recognize and lawfully respond to union activity.
5. Acquire, and use, experienced labor counsel to assist you in navigating these areas of labor law and expected changes.

Clearly, employers are facing stricter rules regarding employees' rights to form unions and engage in other activities overseen by the Board. Combined with the potential passage of the Employee Free Choice Act and other new federal labor laws, an employer who fails to anticipate and consider adjustments to its workplace policies risks greater likelihood of employee claims and union activities. ■

UPDATE

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method of doing this. A REC represents the technological and environmental attributes of one megawatt hour (MWh) of electricity generated from renewable energy resources and delivered to the power grid.

Other green energy policies of interest

In addition to the new RPS in Illinois, there are various other "green" energy policies and programs that have emerged in Illinois. Some of those include:

- **SmartGrid Technologies —** Electric utilities are investing a significant amount of money into upgrading their distribution systems with SmartGrid technologies and more advanced metering infrastructure (AMI). These measures are designed to modernize the distribution system so that it operates more efficiently and benefits from technological innovations. These innovations will provide the electric utilities, consumers and ARES with access to better data and information about the way that customers utilize electricity.

- **Energy efficiency and demand response —** There are various energy efficiency and demand response programs that are available from ARES like CNE and certain incentives that are administered by the electric utilities. Gas utilities are now subject to meeting energy efficiency targets in the coming years.

- **Net metering —** For customers with certain small-scale renewable generating facilities, they can receive credit for electricity that is sold back to the grid.

Top four reasons for purchasing RECs . . .

1. Every REC your company purchases can be used to offset carbon emissions and it simultaneously supports future global investment in renewable energy.
2. When your business purchases an REC, it is actually purchasing renewable electricity and requesting that it be delivered to the electricity grid. This means that more green power will be available for consumption across the board.
3. You can choose RECs that support a specific type of green energy source, such as wind or hydroelectric power.
4. RECs are sold independently from electricity, essentially making them much simpler to buy. What's more, RECs can be purchased from any location where renewable energy is produced, and can be based on any amount of electricity (in units of MWhs.)

RECs open up an opportunity for businesses to show a commitment to sustainability and reducing their carbon footprints in a very transparent, understandable way.

The future of the Illinois electric market

The Illinois competitive retail electric market will soon celebrate a major milestone. Thanks to the introduction of competition in the Illinois retail electric market, businesses have enjoyed a multitude of different products and services from new entrants in the Illinois electric market. These suppliers have been able to work with businesses — large and small — to meet their energy needs. Significantly, according to data compiled by the U.S. Department of Energy's Energy Information Administration, Illinois electric rates are now six percent lower than the national average. According to that same data, prior to the introduction of retail competition in Illinois, Illinois' electric rates were 12 percent higher than the national average. The IMA and CNE have been active participants in the regulatory and legislative process that has led to the successful development of the competitive retail electric market.

Nevertheless, there are still certain policymakers that do not believe that competition is working in Illinois.

As a result, there will likely be continued debate about potential changes to the market structure in the coming years. With federal climate change legislation and other State-level green or environmental programs on the horizon, it will be more important than ever to maintain a competitive market model in Illinois so that the costs associated with such programs are subject to competitive pressures. CNE is actively engaged in energy policy matters before the Illinois General Assembly, the Illinois Commerce Commission, IPA, and with other key policymakers and stakeholders. If you are interested in learning more about how your Illinois business can stay ahead of the energy landscape — including how to successfully leverage green power solutions — please visit www.newenergy.com. ■

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DISCRIMINATION

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- In Colorado, a JBS Swift & Co. meatpacking plant terminated 100 Muslim workers who walked off the job after the Company allegedly refused to grant them time to pray during the holy month of Ramadan. The Company reportedly reneged on an informal agreement to allow them time to break their daylong fast at sundown after non-Muslim workers protested.
- The EEOC filed suit against the Grand Central Partnership, a New York City non-profit that provides sanitation, public safety and other services to business in the Grand Central area. The organization was accused of discriminating against a number of its Rastafarian employees because of their dreadlocks. The workers complained that they were disciplined for failing to cover their dreadlocks, while the organization maintained that it attempted to accommodate their employees' beliefs, even providing oversized caps to them.
- Serranos, a Mexican restaurant chain based in Arizona, recently prevailed on appeal in a case brought by the EEOC on behalf of a former manager who claimed the company failed to accommodate her religious beliefs by forbidding her from teaching a Bible study class to several of her subordinates. Company policy prohibits managers from socializing with non-managerial employees outside of business hours. Notably, Serranos offered the manager several options, including a transfer, before terminating her employment.

What you need to know now

There are several key concepts that employers must take into account when dealing with religious accommodation issues.

- **First,** although employers are required to accommodate only those religious beliefs that are sincerely held, the EEOC states that the sincerity of an employee's belief is usually not in dispute. As such, the EEOC suggests that employers should ordinarily assume the employee's accommodation request is for a sincerely held belief. Before attempting to question an employee further, you must have some objective basis for doubting the religious nature or the sincerity of a particular belief.
- **Second,** employers should check their preconceptions at the door. If an employee's belief is sincerely held, it matters not that the belief appears illogical or does not fit within your understanding of a particular religion. The EEOC stresses that even those beliefs that appear "incomprehensible" or "incorrect" are protected by the law. This means that you must try to accommodate a Catholic who requires time off to attend mass on Friday (rather than Sunday) as well as the Wiccan who seeks time off to celebrate the Samhain Sabbat.
- **Third,** personal preferences and social functions affiliated with religious entities need not be accommodated. The EEOC recognizes that employers need not modify a dress code because an employee with visible tattoos and piercings claims they reflect her belief in body art as self-expression, just as time off does not have to be granted to an employee wishing to prepare food for a church social. Of course, this does not guarantee enterprising employees will not try to find a way to cloak themselves in the protections afforded by the law, as evidenced by an employee of a retail chain who claimed to be a member in the Church of Body Modification in an effort to exempt himself from tattoo and piercing regulations at work.
- **Fourth,** even though an employee or applicant must make you aware of the need for an accommodation, there is no "magic words" requirement. The individual need not mention Title VII or say they need an accommodation. As long as the employee gives you enough information to make you aware that there is a conflict between their beliefs or practices and their job, they have done all that the EEOC expects of them. Once they have done so, you are on notice and the burden shifts to you to act. As an employer, you should recognize that both your employees and your first line supervisors may be uncomfortable discussing religion. As discussed below, having the right policies and training initiatives in place can help significantly in decreasing the chance that such issues are overlooked.
- **Fifth,** once on notice, employers should be proactive, conferring with the employee in an effort to gather whatever information may be needed to evaluate the request and identifying workable solutions. Just like reasonable accommodation requests under the ADA, employers should strive to keep the lines of communication open, fostering a back-and-forth dialogue (often referred to as the interactive process). Employers need not provide the specific accommodation sought by the employee, but the accommodation will not pass muster if it merely lessens rather than eliminates the conflict, if eliminating the conflict would not pose an undue hardship. The EEOC instructs that the determination of undue hardship must be made on a case-by-case basis. This means there is no pat answer and each situation must be handled independently and without prejudgment.

Preventative maintenance

While there is no foolproof formula for preventing discrimination claims, a proactive employer can take a number of steps to minimize the risk that employees will file charges (or lawsuits) and put themselves in a position to better defend against those complaints that are filed. Some steps that you should consider include:

- Issue a stand-alone religious accommodation policy. Issuing such a policy communicates your commitment to EEO compliance to your employees, managers and even any government agencies that may come calling. And in the event you ever find yourself in front of a jury defending against a religious accommoda-

see DISCRIMINATION page 27

SURVEILLANCE

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improved the surveillance world in many aspects.

IP camera technology has improved the quality of video being recorded. A single megapixel IP camera can replace several standard analog cameras, thereby reducing the overall costs of a surveillance system. A megapixel IP camera can see more detail in the same field of view or view a wider field of view at the same level of detail. For applications requiring larger areas to be secured, such as warehouses, distribution centers and manufacturing facilities, this is a huge advantage. If fewer cameras are required this provides a huge cost advantage, not only with equipment costs but also a huge cost savings with installation. A length of CAT5 cable costs less than a bundle of coaxial cable, fiber, audio wire, control wire, alarm input wire, and power cable.

Ideal locations for video surveillance:

- **Visitor entrances**
- **Secured entrances/exits**
- **Shipping and docking areas**
- **Inventory and storage areas**
- **High employee traffic areas**
- **Parking area**

Another major advantage is on video quality. Many existing analog surveillance systems do not provide enough resolution or quality for detailed forensic evidence. Megapixel cameras solve many of these quality/resolution issues. Megapixel cameras provide a much larger amount of pixels on object. This allows us to zoom in a recorded video maintaining the quality of the objects on the recorded footage. This is a major benefit for application looking for facial recognition, vehicle license plate recognition and inventory management.

Video surveillance is often paired with access control or other intrusion detection sensors to send an alert or an instant view of the area under surveillance to a remote computer, PDA or other viewing device. Video surveillance solutions can set off automated alarms or permit remote investigation of a site when an alarm is triggered. When a hazardous area is breached by an unauthorized person, video surveillance cameras are usually the first eyes on the scene. Working with facial recognition software, a video surveillance system can recognize dangerous individuals on the premises and automatically alert appropriate personnel. ■

MVP

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MVP is available in the Mid-Atlantic, New England, New York/New Jersey areas — and now in Illinois.

Constellation NewEnergy offers plans for all your energy needs

As a key energy supplier in Illinois, Constellation NewEnergy has been instrumental in helping our customers improve their overall energy portfolio strategy. We offer a broad range of plans and products that can help manage your organization's electricity purchases and natural gas fuel costs. In fact, MVP is available for your natural gas purchases too. For more than a decade, we've helped businesses of all sizes and types protect their bottom line against uncertain and volatile energy prices. Constellation also has a company-wide commitment to facilitate the efficient use of energy and long-term power solutions.

Due to our reliability, size, and experience, you can count on us to be there to serve you today and into the future, providing you with the options you need as your business grows and markets evolve.

Constellation NewEnergy is a wholly owned subsidiary of Constellation Energy (NYSE: CEG), and a leading competitive supplier of electricity, natural gas and energy-related services to customers throughout North America. Constellation NewEnergy's regional expertise, coupled with its national presence, provides customers with customized energy products and services while leveraging the assets of one of the strongest integrated energy companies in North America.

Headquartered in Baltimore, Constellation NewEnergy serves more than 19,000 commercial, industrial and institutional customers throughout 31 states, representing nearly 14,000 megawatts of peak load and more than 354 billion cubic feet of annual natural gas consumption. ■

DISCRIMINATION

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tion claim, opposing counsel cannot use the absence of such a policy as evidence that you do not take such matters seriously. As a practical matter, having such a policy increases the likelihood that employees will come forward with an accommodation request, rather than assuming that you are aware of the need, that they will bring the request to right person, and that the request will be handled properly.

- Adopt a set of procedures or steps to be followed in handling each accommodation request. The goal is to ensure that requests are handled consistently throughout the company and that those involved in responding to a request know what to do and whom to contact.
- Include religion and religious accommodations as a topic in an upcoming supervisor training program. It need not be the only topic and your supervisors do not need to come away subject matter experts. Rather, your goal should be to train them to be aware of the protections afforded by Title VII, to understand the risks associated with non-compliance, and that they serve as your eyes and ears on the shop floor, meaning that their job is simply to spot issues and bring them to the attention of senior management or human resources.
- Develop and utilize a standardized form to record requests, the steps taken to respond to the request and identify potential accommodations, all communications with the employee about the request, the accommodation offered, the reason it was offered and the outcome. ■

RFP PROCESS

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of 2005 natural gas prices were below \$.70 per therm. In mid-December, natural gas prices spiked to new all-time highs at \$1.57 per therm. Less than two months after that peak, prices corrected more than 50 percent to less than \$.73 per therm in February, 2006. These potential market timing savings dwarf the perceived savings associated with the minuscule differences between various supplier margins which will typically be less than a half a penny (\$.005) per therm. Timing a financial market is extremely difficult. Another approach is to employ a proven, systematic technique when establishing a fixed price component of a diversified portfolio. A prudent supply strategy considers a longer-term view of the market as far out as 24 to 36 months. Purchasing monthly, or even annually, increases the potential for greater price volatility. It is very likely volatility will remain in the market for at least the next several years. Guessing correctly on future energy prices is difficult at best, if not impossible. Your best bet is to build a disciplined strategy and to stay diversified. Your focus should be on managing price risk.

Storage management

When bidding an annual supply of natural gas, the value of storage and storage management is often overlooked. The majority of requests and subsequent offers utilize a "pay for use" strategy that transfers the benefits of the storage asset to the supplier. For IMA members on the Nicor transportation system, there are generally two options available regarding the use of the storage asset. One option is to turn over their storage to a marketer in exchange for a nominal reduction of their spot market supply. The second option is to have a marketer actively manage your storage asset on your behalf. Under this scenario, all of the actual storage benefits are realized by the customer.

These consistent cost savings are not the only savings benefit associated with CNE GAS storage management. For IMA members on People's Gas system, storage is still an asset to be utilized and managed in the same way as described above, only to a lesser degree. Due to limitations of People's storage assets, the nominal reduction of spot market supply is not applicable. The primary benefits for accounts on People's system include savings in different forms. They still include potential arbitrage opportunities, but storage is primarily managed for balancing daily and monthly load variances. The way in which CNE GAS has always actively managed storage minimizes often costly monthly 'true-ups', 'cash-outs', or re-pricing. This means monthly invoices are based upon actual gas delivered. Correctly managed storage accounts also provide critical day protection and utility penalty avoidance.

Selecting an energy partner

Security of natural gas supply has become increasingly important in today's market. With historically high prices and extreme volatility, this is a significant issue that should not be taken lightly. With the recent tripling of supply costs, it is now critical to select an energy partner with a strong credit rating, asset base, and the human resources necessary to manage through this difficult environment.

Constellation NewEnergy — Gas Division ("CNE GAS") is a full service energy agent organized much differently than other traditional marketing companies. CNE GAS has been serving customers in the Illinois market since 1995. We possess unsurpassed knowledge of utility tariffs, pipelines, and supply options. This mixture allows us to represent the interests of our customers and to focus on all the means of cost savings (i.e. commodity pricing, account management, and utility costs) and risk management, while helping our customers save time with energy purchasing decisions.

CNE GAS has a variety of tools and options available to offer its customers. In general, we advocate a diversified plan to help manage price risk and protect customers from the extreme price volatility of the natural gas market. One key component of this diversified strategy is enrollment in a proprietary price hedging program.

Price hedging

A fixed price is established for specific volumes of natural gas for future months. One option for establishing a fixed price is a traditional, single point-in-time transaction where customers 'time the market' themselves. Of course, as discussed above, the results of this approach can vary dramatically. A more recommended strategy is to utilize Constellation NewEnergy – Gas Division's Minimize Volatile Pricing ("MVP") Program. With the MVP Program, a fixed price is established over time using multiple transactions and a systematic, target-based approach. The MVP Program provides an objective, disciplined, 'take the emotions out of it' approach to locking in a portion of your annual natural gas load. The MVP Program has helped mitigate natural gas price volatility for our customers for more than twelve years. A customer specific MVP report is updated monthly so you can track your purchases and weighted average cost. The objective of the program is to mitigate volatility and it has on average outperformed the market over the years..

Service

CNE GAS provides a portfolio of consultative services that keep customers informed and save time. Examples include: the assignment of a dedicated Account Manager, on-line reporting, weekly market updates and information, local energy conferences, and regulatory involvement and representation.

In summary, simple strategies that may have worked in the past are no longer effective in today's volatile market. Today's energy environment is filled with changes, opportunities and challenges. Companies that stay informed, understand their options, and establish long-term strategies will be in the best position to meet their company's objectives. Managing risk now takes precedence over attempting to achieve marginal savings.

Author Jeff Abeln is an Energy Sales Consultant for Constellation NewEnergy Gas Division. Jeff has ten years of experience in the natural gas industry and can be reached at 312-704-8527, or via email at jeff.abeln@constellation.com.

WASHINGTON

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the nation's energy policy.

The legislation not only addresses climate change but is a comprehensive energy plan that will completely change the way Americans use energy as well as the source of that energy. The principal way it changes that behavior is by increasing the cost of energy. The bill deals with four principal topics: clean energy, energy efficiency, reducing global warming, and transitioning to a clean energy economy. The bill is highly complex and difficult to summarize in a few words. With various energy efficiency standards, fuel standards, transportation emission standards and caps on greenhouse gas emissions, every segment of society will be affected.

The Congressional Budget Office has estimated that the average American household would pay $175/year by 2020 while the poorest would receive rebates that would lower their annual energy costs by $40/year. The Heritage Foundation estimates that the costs for an average family of four would increase by an average of about $3,000 per year between 2012 and 2035. Further, the Heritage Foundation estimates that gross domestic product will decrease by an average of $394 billion per year between 2012 and 2035. The Midwest and South are more severely impacted by this bill while the Northeast and West Coast are less affected.

Another related action that is relevant to the ACES Act is the proposal by the USEPA to find that greenhouse gas emissions threaten the public health and welfare and thereby regulate those emissions through the Clean Air Act. Most agree that the Clean Air Act is not well suited to regulate greenhouse gasses and to do so poses significant problems. Some see the threat of this "endangerment finding" as a means for the Obama administration to pressure lawmakers and industry alike to support the ACES bill that recently passed the House. Representative Edward Markey (D-Massachusetts) said, in response to USEPA's endangerment finding proposal, "It's actually more cost-effective and environmentally effective to legislate. There is more flexibility inside a legislative process to deal with trade-exposed energy intensive industries, with the impact on consumers and the other issues that legislators would be concerned about."

The bottom line seems to be that greenhouse gas emissions will be addressed nationally, either legislatively or by USEPA rule. The better choice would be to have legislation that takes the issue out of USEPA's hands and provides a course of action that is prudent given the financial difficulties facing the U.S. and the world.

Still, some see the choice between addressing greenhouse gas emissions by legislation or regulation as a poor choice to have to make. However, absent some action at the national level addressing this issue, business will continue to be faced with confusion and uncertainty. The myriad of local, state, and regional initiatives and regulations as well as the continuing legal battles over energy projects are likely to persist until Congress acts. It is also clear that the cost of energy will rise and that the complexity of doing business in a carbon constrained market will increase as well. ■

New IMA members

American Blue Ribbon Holdings
Oak Forest

Center Ethanol Company, LLC
Sauget

Conagra Foods, Inc.
Omaha, NE

Owens-Illinois, Inc.
Toledo, OH

Primera Engineers, Ltd.
Chicago

Tyson Foods, Inc.
Springdale, AR

Utica Silicates
Utica

Vanee Foods Company
Berkeley

IMA & MIT 2008 Calendar of events

July 30, 2009
IMA EVENT: H1N1 Flu: Education & Awareness
NIU-Naperville Campus, 1120 E. Diehl Rd., Naperville — 9:00–11:30 am
Emergency Preparedness, Response & Recovery – Presented by Jim Brachmann, Emergency Preparedness Specialist, 3M Occupational Health & Environmental Safety Division. COST: $65 IMA members; $85 Non-members. Contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

August 7, 2009
IMA's Small Manufacturers Council — Oak Brook
The Small Manufacturers Council provides a forum for key representatives of small manufacturers to discuss industry trends from a governmental standpoint as well as innovations that can effect day to day efforts. Join us for access to the substantive information you need in today's competitive manufacturing environment. Contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

August 11, 2009
IMA-MIT Event: Essential Internal Training Skills and Techniques, DePaul University O'Hare Campus, 3166 S. River Rd, Des Plaines
This program introduces the new internal trainer or subject matter expert to the skills necessary for them to be successful. Essential Internal Training Skills and Techniques covers core skills such as how to create rapport with your learner, how to communicate learning objectives, how to introduce a learning activity, how to ask the right question, and how to engage and re-engage the adult learner.

August 20, 2009
IMA-MIT Event: Customer Service Skills and Excellence, DePaul University O'Hare Campus, 3166 River Rd, Des Plaines
It's not just you. It's a fact. Customers are more demanding today than ever before! Complaints to Better Business Bureaus and state regulatory agencies are at an all time high, and growing! The words "may I speak to your supervisor?" are heard with increased regularity, urgency and intensity. Rather than just responding to the customer's request or demand, the most effective customer service professionals strategically gain control of the inquiry. Remember, it is not just telephone calls anymore, accurately predicting the customer's position and proactively providing the desired results in advance is the goal.

August 25, 2009
IMA-MIT Event: Effective Presentation Skills, DePaul University O'Hare Campus, 3166 River Rd, Des Plaines
Today's business presenter must know how to create and articulate a clear and concise message, respond to questions in an effective and logical manner, and create and use compelling visual aids. This interactive, energetic workshop will provide the business presenter with all of the necessary skills required to deliver a winning presentation. The workshop will introduce and reinforce these skills by having the participant deliver three videotaped presentations.

September 1, 2009
IMA-MIT Event: World Class Negotiating Skills, DePaul University O'Hare Campus, 3166 River Rd, Des Plaines
This interactive, one-day workshop will consider both the selling and purchasing aspect of business negotiations. It will provide effective solutions and settings in which to practice negotiating skills. Attendees will learn how to formulate strategies, overcome potential difficulties and apply proven principles to make business transactions more productive for all involved.

September 11, 2009
MPAC Golf Outing
Willow Crest Golf Course, Oak Brook
Save the Date! Sponsorship and registration information coming soon. Contact Kimberly McNamara, 800.482.0462, Ext. 2109, Email kmcnamara@ima-net.org.

September 16, 2009
IMA EVENT: OSHA Recordkeeping — NIU-Naperville Campus, 1120 E. Diehl Rd., Naperville
8:30 am–Noon, Presenter: Jeff Risch, Partner, SmithAmundsen, LLC Cost: $125 IMA members; each additional attendee $100; $150 Non-members. Contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

October 2-4, 2009
2nd annual IMA Young Leaders Council Fall Retreat, Eagle Ridge Resort & Conference Center, Galena, Illinois.
Contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

November 5, 2009
IMA EVENT: Sales & Use Tax Seminar, NIU-Naperville Campus, 1120 E. Diehl Rd.
Join your peers for an update on Illinois Sales & Use Tax presented by Joe Bigane, Wolf & Co. 8:30 a.m. - 12:30 p.m. Cost: $125 IMA members; $100 each additional attendee; $200 Non-members. Contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: kmcnamara@ima-net.org.

Visit http://www.ima-net.org/calendar.cfm or http://www.ima-net.org/MIT/open.cfm for more information, pricing, etc., and a more complete listing of IMA and IMA-MIT offerings. Questions? Contact Janie Stanley at 800-875-4462 ext. 3020, email: jstanley@ima-net.org.