

Prepared Statement of the Federal Trade Commission

Midwest Gasoline Prices

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Chairman

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Committee on Commerce
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I. Introduction

Mr. Chairman and members of the Committee, I am pleased to appear before you today at this hearing on the important topic of summer energy concerns, and to present the Federal Trade Commission's testimony, which will focus on recent increases in gasoline prices in certain Midwest markets. Competition in the energy sector-particularly in the petroleum industry-is vital to the health of the economy of the United States. Antitrust enforcement has an important role to play in ensuring that the industry is, and remains, competitive.

Consumers in some Midwest markets, such as Chicago and Milwaukee, have experienced considerable price increases in gasoline since early spring, and prices have continued to spike up in the past month. The national average retail price of reformulated gasoline ("RFG") increased from \$1.29 to \$1.67 per gallon from November, 1999 to June 12, 2000.⁽²⁾ In Chicago, the average RFG price rose from \$1.85 per gallon on May 30 to \$2.13 on June 20.⁽³⁾ From May 30 to June 20 in Milwaukee the increase was from \$1.74 to \$2.02.⁽⁴⁾ During the week of June 19, RFG prices at some Chicago gas stations apparently rose as high as \$2.50, although they reportedly receded several cents towards the end of last week.⁽⁵⁾

Conventional gasoline prices in the Midwest have also risen substantially in recent weeks. National average retail prices increased from \$1.25 to \$1.61 per gallon for conventional gasoline between November, 1999 and June 12, 2000.⁽⁶⁾ Average conventional gasoline retail prices in the Midwest rose from \$1.55 to \$1.85 per gallon from May 29 to June 19, 2000.⁽⁷⁾ Increases as dramatic as those seen in recent weeks, without any obvious complete explanation, call for scrutiny by antitrust enforcement authorities to determine whether they result from collusion or other unlawful anticompetitive conduct.

The FTC is a law enforcement agency with two related missions: to preserve competition in the marketplace for the ultimate benefit of consumers and to protect consumers from deceptive or unfair practices that may injure them more directly. Unlike agencies that focus on particular industries, the Commission's statutory authority covers a broad spectrum of sectors in the American economy, including the energy industry and its

various components. The Commission's Bureau of Competition shares responsibility for antitrust enforcement with the Antitrust Division of the Department of Justice. The Commission also shares its expertise in both competition and consumer protection matters by providing advice to the States and to other federal regulatory agencies.

Consumer welfare is the goal of antitrust enforcement across all industries. Its importance is particularly clear in the energy industry, where even small price increases can strain the

reformulated gasoline that went into effect on May 1, 2000 at the wholesale level in both Chicago and Milwaukee. The new, more-stringent regulations require that winter-blend gas be drained from storage tanks before the summer-blend supply could be added. These regulations may have led to abnormally low inventories. According to some reports, summer-blend Phase II RFG is proving more difficult to refine than anticipated, causing refinery yields to be less than expected. The ethanol-based RFG used in Chicago and Milwaukee is reportedly proving to be the most difficult of all to make. Further, St. Louis has now entered the RFG program for the first time, thus adding additional demand to an already tight Midwest RFG supply situation.⁽¹⁰⁾ Moreover, the recent appeals court decision upholding Unocal's patent for some formulations of RFG may have caused some refineries to change RFG blends in an effort to avoid infringement, leading to production delays and decreased refinery throughput.⁽¹¹⁾ As with the OPEC factor, RFG-related issues seem unlikely, however, to provide a complete explanation for recent Midwestern gas price increases, given that in the Midwest as a whole, conventional gasoline prices have risen more dramatically than RFG prices since the end of May.⁽¹²⁾

Another possible factor underlying the price increases could be the break in the Explorer pipeline last March. This pipeline moves refined petroleum products from the Gulf of Mexico through St. Louis to Chicago and other parts of the Midwest.⁽¹³⁾ Explorer is still not operating at full capacity.⁽¹⁴⁾

among two or more independent firms to increase prices, curtail output or divide markets. Our investigation will focus on whether any industry participants have engaged in collusion because it does not appear, at the outset, that any single oil company has sufficient market power to raise prices unilaterally.

laws, pursuant to authority granted under the Sherman Act. 15 U.S.C. §