acquisition of Energy Transfer Partners L.P.'s Heritage Propane business,[2] in June the Commission announced approval of Energy Transfer Partners' proposal to sell the Heritage Propane Express business to JP Energy Partners, LP.[3] The Commission took these actions in order to maintain competition in the market for propane exchange cylinders (used for such purposes as fueling barbecue grills and patio heaters).

The Commission also was active in examining transactions in the natural gas industry. In May, the Commission announced that it would require Kinder Morgan, Inc., one of the nation's largest transporters of natural gas and other energy products, to divest three natural gas pipelines and other related assets in the Rocky Mountain region. This consent order, which the Commission issued in final form on June 12, is designed to alleviate the likely anticompetitive effects of Kinder Morgan's acquisition of El Paso Corporation, which threatened harm to competition in markets for pipeline transportation and processing of natural gas in gas production areas in and around Wyoming, Colorado, Nebraska, and Utah.[4]

In addition, the Commission investigated other mergers and acquisitions that raised significant competition issues. These investigations involved crude oil transportation, terminaling, and bulk supply; petroleum refineries; refined petroleum product terminals, pipelines, and bulk supply; gasoline retailing; and natural gas production, pipeline distribution, and storage. A number of these matters involved the cooperation of state attorney general offices, which the Commission always welcomes.

The Commission's enforcement activities also included examinations of possibly anticompetitive conduct in the petroleum and natural gas industries. As the Commission announced in June 2011[5] and described in its last two semiannual reports, the substantial increases in crude oil and refined petroleum prices and profit margins during the spring of 2011[6] led to the opening of an investigation – including the use of compulsory process – to determine whether certain oil producers, refiners, transporters, marketers, physical or financial traders, or

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[2] *See* http://www.ftc.gov/opa/2012/01/amerigas.shtm.

[3] *See* http://www.ftc.gov/opa/2012/06/amerigas.shtm.

[4] *See* http://www.ftc.gov/opa/2012/05/elpaso.shtm; http://www.ftc.gov/opa/2012/06/kindermorgan.shtm.

[5] *See* "Information To Be Publicly Disclosed Concerning the Commission Petroleum Industry Practices and Pricing Investigation," File No. 111 0183 (June 20, 2011), *available at* http://www.ftc.gov/os/2011/06/110620petroleuminvestigation.pdf.

[6] According to the Energy Information Administration ("EIA"), U.S. refiners' refining margins increased more than 90 percent between January and early May 2011, while those refiners were using only 81.7 percent of their capacity in early May (a seven percent reduction from the same period in 2010).

others have engaged or are engaging in anticompetitive or manipulative practices or have provided any federal department or agency with false or misleading information related to the wholesale price of crude oil or petroleum products. This ongoing investigation seeks information that may include, but is not limited to, utilization and maintenance decisions, inventory holding decisions, product supply decisions, product margins and profitability, and capital planning.

On June 13, following a review of its 17-year-old rule entitled "Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles," the Commission announced that it proposes to amend the rule to (1) consolidate the FTC's alternative fueled vehicle ("AFV") labels with new fuel economy labels required by the Environmental Protection Agency and the National Highway Traffic Safety Administration and (2) eliminate the requirement for a separate AFV label for used vehicles. The Commission will accept public comments on these proposed amendments until August 17, 2012.[7]

The FTC also has continued to investigate other types of conduct by firms in the oil and gas industries, including inquiries related to natural gas, propane, and other natural gas liquids and investigations of possibly anticompetitive or possibly deceptive conduct involving other products or services in or affecting the oil and gas sector.[8] Some of this work involved contacts with local law enforcement officials.

Memorandum of Understanding with the CFTC

As discussed in our recent semiannual reports, the FTC and the Commodity Futures Trading Commission ("CFTC") signed a Memorandum of Understanding ("MOU") in April 2011 that is intended "to foster further cooperation between the two agencies by helping them share nonpublic information."[9] By facilitating the sharing of such information in investigations of wholesale oil and gasoline markets, the MOU was expected to help each agency carry out its authority to detect and prevent manipulation in those markets. During the first half of 2012, the FTC and the CFTC have exchanged information pursuant to the MOU on multiple occasions.

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[7] *See* http://www.ftc.gov/opa/2012/06/altfuels.shtm.

[8] For example, the Commission issued consent orders settling complaints against five firms for misrepresenting the energy efficiency and energy-saving properties of their replacement windows. The orders are designed to prevent the companies from engaging in similar deceptive marketing practices in the future. Such FTC law enforcement actions should help consumers who rely on accurate information to save on expenditures for such energy commodities as heating oil and natural gas. *See* http://www.ftc.gov/opa/2012/02/windows.shtm; http://www.ftc.gov/opa/2012/05/windows.shtm; *see also* "Shopping for New Windows?" (http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea20.shtm).

[9] *See* http://www.ftc.gov/opa/2011/04/ftccftc-mou.shtm (press release); http://www.ftc.gov/os/2011/04/110412ftccftc-mou.pdf (text of the MOU).

industry. Begun in 2002, the Gasoline and Diesel Price Monitoring Project involves monitoring by the Bureau of Economics of the wholesale and retail prices of gasoline and diesel fuel in order to help detect possible anticompetitive activities and determine whether a law enforcement investigation is warranted. This project continues to track retail gasoline and diesel prices in 360 cities across the nation and wholesale (terminal rack) prices in 20 major urban areas. The staff of the Bureau of Economics receives daily data from the Oil Price Information Service (except on Sundays) and reviews other relevant information that the Commission might receive directly from the public or from other government agencies or Members of Congress. The staff reviews the data and uses an econometric model to determine whether current retail and wholesale prices each week are anomalous in comparison with historical data. This alerts FTC staff to unusual changes in gasoline and diesel prices so that further inquiry can be undertaken expeditiously. When price increases do not appear to result from market-driven causes, the staff consults with the EIA. FTC staff also contacts the offices of the appropriate state attorneys general to discuss the anomaly and appropriate potential actions, including the opening of an investigation. The Commission expects to continue this important activity.

Outer Continental Shelf Leasing

The FTC has an ongoing responsibility to provide an antitrust review of proposed oil and natural gas leases on the Outer Continental Shelf, pursuant to the Outer Continental Shelf Lands Act Amendments of 1978. The Commission undertook one such review during the first half of 2012 and advised the Acting Assistant Attorney General for Antitrust regarding its views of the proposed lease sale.

FTC Personnel Involved in Oil and Gas Activities

During the first half of 2012, personnel from many parts of the Commission continued their involvement in the agency's activities in the oil and natural gas industries. The Commission's Associate General Counsel for Energy engaged in virtually all aspects of the agency's work in these industries. Personnel from the Mergers III division of the Bureau of Competition (which is devoted primarily to petroleum and natural gas issues) and from a number of other Bureau divisions have been involved in addressing oil and natural gas issues as well.[12] In addition to the Bureau of Competition, one division of the Commission's Bureau of Economics bore major responsibility for conducting economic analysis of pricing and other competition issues in the petroleum and natural gas industries. Staff from the Commission's Office of the General Counsel, the Bureau of Consumer Protection, the Office of Congressional Relations, the Commissioners' offices, the FTC's Regional Offices, and other FTC organizations also contributed to oil and natural gas matters during the first six months of 2012.

[12] Additional Bureau of Competition offices whose staff participated in oil and gas matters during the first half of 2012 include the Office of the Director, the Division of Compliance, other merger divisions, the Office of Policy and Coordination, the Division of Technology and Information Management, the Division of Operations, and the Office of Premerger Notification.

Conclusion

The Commission has maintained its intensive antitrust and consumer protection scrutiny of the energy sector during the first half of 2012. In view of the fundamental importance of oil, natural gas, and other energy resources to the overall vitality of the United States and world economy, we expect that FTC review and oversight of the oil and natural gas industries will remain a centerpiece of our work for years to come.