
¹ Explanatory Statement for Division D, Title V, Consolidated Appropriations Act, 2008, Pub. L. No. 110-161 (House Appropriations Committee Print at 895, *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_house_committee_prints&docid=f:39564d.pdf). As the Commission noted in its ~~order~~(or)Tj12.400 o2.400 o2.400 o26a400 0.00 ,r0 A

Economics also bore major responsibility for conducting competition analysis of pricing and other competitive issues in the petroleum and natural gas industries. Other staff involved in oil and natural gas matters during the second half of 2008 came from the Commission's Bureau of Consumer Protection, the Office of the General Counsel, the Office of Congressional Relations, the Commissioners' offices, and other FTC organizations.³ All told, approximately 125 FTC staff members – attorneys, economists, paralegals, research analysts, and others – have worked on matters involving antitrust and pricing issues in the oil and natural gas sector during the relevant period, with some of these personnel (such as those in Mergers III and the economists who maintain the FTC's Gasoline and Diesel Price Monitoring Project) spending all or most of their time on these matters.

During the relevant period, the Commission actively reviewed mergers and acquisitions and maintained enforcement actions in the petroleum and natural gas industries, in order to identify anticompetitive effects and challenge transactions that threaten harm to consumers.

For example, the Commission concluded its successful involvement in the formerly proposed acquisition by Equitable Resources, Inc., of The Peoples Natural Gas Company from Dominion Resources, Inc. – a review that led to an FTC challenge in federal court and, ultimately, to the abandonment of the transaction. The FTC's investigation had revealed that the acquisition would substantially lessen competition in the distribution of natural gas to nonresidential customers in Pittsburgh and certain ot

³ The staff involved in the Commission's petroleum market manipulation rulemaking proceeding (discussed at page 5, *infra*) continues to come from offices spanning the entire agency.

⁴ The Commission's previous report stated that the agency received 16 Hart-Scott-Rodino filings for transactions in the oil and natural gas industries during the first half of 2008. In fact, the Commission received three additional Hart-Scott-Rodino filings in these industries between

Since July 1, 2008, the Commission has conducted several new inquiries into transactions involving petroleum or natural gas, including an acquisition in the lubricating oil industry, a joint venture among natural gas pipeline companies, and an acquisition involving retail gas station operators in several western states (with a focus on Washington State). Certain investigations were closed due to a lack of competitive overlap or because the transactions being scrutinized were unlikely to lead to anticompetitive effects.

The Commission's work involving oil and natural gas also includes the examination of possibly anticompetitive conduct by firms in these industries.

For example, during the relevant period, the agency concluded a very intensive investigation of bulk supply and demand conditions and markets for gasoline and diesel fuel throughout the Pacific Northwest region, with a particular focus on price anomalies in western and eastern Washington State and supply conditions in Petroleum Administration for Defense Districts IV and V. On May 18, 2007, the Commission authorized the use of compulsory process to determine whether the observed prices resulted from unlawful anticompetitive activity. On June 21, 2007, the Commission issued numerous civil investigative demands and subpoenas *duces tecum* to dozens of companies involving refining, transportation, storage, and other aspects of supply in the Pacific Northwest. The demands for documents and data sought to identify refinery, transportation, and terminal disruptions that may have affected bulk supply of gasoline and diesel to the region during the relevant period. In addition to requests for strategic plans and competition-related documents, the staff sought evidence of communications among firms, to help determine whether illegal collusion had occurred.

In response to the subpoenas, the Commission received 0 TD(od)Tj12.0000 0.000dr5.2 e6e9600 0.0000 T

the date on which that report was approved for submission to Congress and June 30, 2008, bringing to 19 the total number of relevant filings during the first half of 2008.

Members of Congress in mid-August concerning the findings and conclusions of the investigation, and the Commission closed the investigation later that month.

Another intensive inquiry has involved gasoline prices in North Adams and other localities in western Massachusetts. To determine whether wholesalers or retailers were pricing in ways inconsistent with competition, the Bureau of Economics staff has examined city average price data from the FTC's Gasoline and Diesel Price Monitoring Project; station-specific data for western Massachusetts; and rack price data for Springfield, Massachusetts, and Hartford, Connecticut (the two terminal areas closest to the western Massachusetts communities). The Bureau has also reviewed the trade and popular press, as well as concerns expressed by consumers to the U.S. Department of Energy Gasoline Price Hotline, for any pertinent information. The staff also has discussed this inquiry with the Massachusetts Attorney General's office. The inquiry has entailed a detailed analysis of pertinent gasoline price data for Massachusetts over the relevant period, with a particular focus on prices in the early summer of 2007 in North Adams, Pittsfield, and Springfield. The Commission expects to conclude this matter early in 2009.

The staff continues to evaluate reported differences in gasoline prices between Cape Cod and off-Cape locations. The FTC's Bureau of Economics is in the process of gathering information to analyze this situation. The Bureau staff is analyzing city average data from the FTC's Gasoline and Diesel Price Monitoring Project;⁵ station-level data at various locations on and off Cape Cod; firm-level rack prices for the primary terminal for the wholesale supply of gasoline to Cape Cod.; and several other types of relevant data. Bureau staff also has examined state sales tax and employment data (to glean information about demand trends); reviewed the trade press relating to gasoline supply and brand or station control in southeastern Massachusetts; conducted background research on local zoning and environmental regulations; and sought more information on these issues from various other sources. This inquiry has involved cooperation between FTC staff and the Massachusetts Attorney General's office.⁶

Pursuant to a Congressional inquiry in the spring of 2008, the FTC's Bureau of Economics continued an intensive examination of price increases for diesel fuel and jet fuel in the second half of 2008. The staff collected relevant data from a variety of sources, including information on refinery capacity utilization, imports and exports, and refinery-level financial profits. On September 23, 2008, the Commission sent a letter detailing the results of the staff's inquiry, including an analysis of price trends for diesel fuel and jet fuel that began in 2004.

⁵ See *infra* for a more detailed discussion of the Gasoline and Diesel Price Monitoring Project.

⁶ The Commission also has worked closely during this half-year with staff from a number of other state attorney general offices concerning gasoline pricing issues in certain states.

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.

Another important FTC activity involving oil and natural gas stemmed from Hurricane Ike and its effects on the energy infrastructure of the U.S. Gulf Coast. After the hurricane made landfall, the Commission began to receive complaints and reports concerning high gasoline prices in areas affected by the storm (particularly southeastern states). The Commission quickly established a Hurricane Ike Task Force comprising staff from throughout the agency, with the mission of closely tracking gasoline price trends and supply information, and developing ways to be as responsive as possible to state authorities and to individual consumers who might need the FTC's assistance. In the first few days after the hurricane hit, Commission staff began consulting daily with the Department of Energy about complaints that the Department receives on its Gasoline Price Hotline. Moreover, we added resources to our own Gasoline and Diesel Price Monitoring Project in order to step up the level of attention that we regularly pay to prices. In addition, we contacted the offices of state attorneys general in hurricane-affected states in order to offer technical assistance in responding to consumer complaints about high gasoline prices; we continue to consult with several states on their questions regarding gasoline economics a

⁷ The Commission's 2008 ethanol report is available at <http://www.ftc.gov/os/2008/11/081117ethanolreport.pdf>.

A number of reports prepared by the FTC or its staff that predate the period covered by the current report to Congress also demonstrate the Commission's commitment to delving deeply into key competition and consumer issues in the energy sector and sharing its expertise with Congress and the public. *See, e.g.*, FEDERAL TRADE COMMISSION, REPORT ON

SPRING/SUMMER 2006 NATIONWIDE GASOLINE PRICE INCREASES (2007), *available at*
<http://www.ftc.gov/reports/gasprice>