STATEMENT OF COMMISSIONERS SHEILA F. ANTHONY, ORSON SWINDLE, AND THOMAS B. LEARY

Concerning Western States Gasoline Pricing Investigation

File No. 981-0187

The Federal Trade Commission has completed its investigation of various marketing and distribution practices employed by the major oil refiners in Arizona, California, Nevada, Oregon, and Washington ("Western States"). Initiated almost three years ago to explain the differences in the price of gasoline between Los Angeles, San Francisco, and San Diego, the investigation was extensive.

of illegal conduct by the Western States refiners. In its recently-concluded investigation of last year's gasoline price spikes in Midwestern States, the Commission was asked to identify the full array of reasons for the price increases. In the Western States matter, however, the Commission was asked to investigate solely whether there was an antitrust violation.

[(2)] Accordingly, this statement touches only briefly on significant non-antitrust factors, such as limited refining capacity, specialized fuel requirements, or the costs of shipping gasoline or crude oil to the Western States. On the particular question that was investigated, the investigation produced no evidence of conduct that violates the antitrust laws.

States refiners prevented their jobbers from competing with them to supply branded gasoline to independent dealers in metropolitan areas, a practice called "redlining."[5] There are two general types of redlining: 1) territorial, in which the contract between the refiner and the jobber gives the refiner the right to refuse to approve the jobber's request to supply branded gasoline to independent stations or supply its own stations in specific price zones; and 2) specific, in which the contract includes financial disincentives for the jobber to sell in locations directly supplied by the refiner and prevents a jobber from shipping low-priced gasoline to stations located in high-priced zones.[6] Refiners use different redlining methods and redline different geographic areas. The result is that, in certain metropolitan price zones, refiners either prevent or discourage their jobbers from undercutting refiner prices to company-supplied stations. Again, the investigation revealed no evidence of conspiracy or coordination of these practices by vertically integrated West Coast refiners.

Absent a conspiracy among refiners, redlining likely would be evaluated under the rule of reason. This would require the Commission to show actual or prospective consumer harm. Absent direct proof of harm, the Commission would need to prove a refiner had the ability profitably to raise price or reduce output. In an evaluation of consumer harm, it is necessary to consider whether the discounted jobber prices -- which were designed in part to stimulate incremental sales in more rural areas or new markets[7] -- would be (or continue to be) offered in the event jobbers could simply solicit sales from the refiners' existing customers.[8] The investigation uncovered no evidence that any refiner had the ability profitably to raise price market-wide or reduce output at the wholesale level, nor did it find a situation in which a refiner adopted redlining in a metropolitan area and increased market-wide prices.

In conclusion, the investigation did not uncover any evidence of conduct by the Western States refiners that would, on balance, result in likely consumer harm sufficient to establish an antitrust violation. Accordingly, the Commission has closed its antitrust investigation of Western States gasoline pricing.

6. In its most common form, site-specific redlining, as the name implies, occurs when a refiner sets a price to the jobber based upon the jobber's stated delivery location. Refiners use various methods to track deliveries and thereby ensure that jobbers do not divert gasoline intended for an area where prices are low to an area where they are high. In one variation, the refiner adjusts its prices to the jobbers via a post-sale end-of-the-month accounting intended to reflect changes in retailer prices or other refiners' wholesale prices that prevailed during the preceding month. Site-specific redlining decreases the incentive for a jobber to charge lower prices to its customers. This could have the same practical effect as airtight territorial redlining, but for the reasons stated in the text, there is insufficient evidence to prove an antitrust violation.

7. Jobbers can serve multiple brands, thereby allowing their trucks to carry different brands of