UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Prepared Statement of the Federal Trade Commission

Petroleum Industry Consolidation

Presented by
William E. Kovacic
Commissioner

Before the
Committee on the Judiciary
United States Senate

February 1, 2006

I. Introduction

Mr. Chairman and members of the Committee, I am William Kovacic, a Commissioner of the Federal Trade Commission. I am pleased to appear before you to present the Commission's testimony on FTC initiatives to protect competitive markets in the production, distribution, and sale of gasoline through our vigilant and comprehensive merger program.[1]

The petroleum industry plays a crucial role in our economy. Not only do changes in gasoline prices affect consumers directly, but the price and availability of gasoline also influence many other economic sectors. No other industry's performance is more deeply felt, and no other industry is so carefully scrutinized by the FTC.

Recent events highlight the importance of the petroleum industry to consumers and the U.S. economy. Prior to Hurricane Katrina, increasing crude oil prices had resulted in rising gasoline prices during much of 2005. Despite these rising prices, the demand for gasoline during the summer of 2005 was strong and exceeded summer demand in 2004. Then, in this already tight market, Hurricanes Katrina and Rita severely disrupted the important Gulf Coast supply of crude oil and gasoline. At one point, over 95 percent of Gulf Coast crude oil production was shut in, and numerous refineries and pipelines were damaged, lacked electrical power, or had to be restarted.[2] In the week after Hurricane Rita, more than one-fourth of United States refining

---

1 This written statement represents the views of the Federal Trade Commission. My oral presentation and responses to questions are my own and do not necessarily represent the views of the Commission or any other Commissioner.

2 *See* Minerals Mgmt. Serv., U.S. Dep't of the Interior, Release No. 3328, *Hurricane Katrina Evacuation and Production Shut-in Statistics Report as of Tuesday, August 30, 2005, at* http://www.mms.gov/ooc/press/2005/press0830.htm.

capacity was not operating. In the periods immediately following Katrina and Rita, gasoline prices rose sharply to $3.00 per gallon or more in many markets.

Substantially in response to the price effects of this massive supply disruption, demand for gasoline fell somewhat in the weeks after Hurricane Katrina. This reduced demand – together with increased gasoline output from refineries not affected by the hurricanes, the resumption of a sizeable fraction of production in the hurricane-damaged region, and increased gasoline imports – brought both wholesale and retail gasoline prices back down to pre-hurricane levels by the end of last November.[3]

Although we analyze each petroleum merger according to numerous market facts surrounding the transaction, an overall analysis of merger policy in the petroleum industry necessarily takes a longer and broader view. Over the past 20 years, the Commission's merger policy has been consistent across administrations. Applying sound principles of law and of economics, it has been designed and focused to prevent the accumulation and use of market power to the detriment of consumers.

Over the past two decades, the petroleum industry has undergone a structural upheaval, punctuated by a burst of large mergers in the late 1990s. A number of other industries also saw a large number of mergers in that time frame. However, certain forces unique to producing and distributing petroleum products have spurred the transformation of that industry. Technological,

---

[3] Several refineries in the Gulf Coast area are still running at reduced capacity or remain inoperable. Yet, despite this reduced capacity, it appears that the rebound in gasoline prices that the country has experienced since early December has largely been attributable to rising crude oil prices, which have been affected by recent world events, especially in Iran and Nigeria. The Commission will examine this further in the course of the two investigations the agency is conducting pursuant to Congressional directives, described *infra* pp. 14-15.

economic, and regulatory factors have led toward reliance on a smaller number of larger, more sophisticated refineries that can process different kinds of crude oil more efficiently. The development of crude oil spot and futures markets has reduced the risks of acquiring crude oil through market transactions – as opposed to owning crude oil extraction and production assets – thus contributing to a decline in vertical integration between crude oil extraction and production and refining among the major oil companies. A number of major integrated firms have restructured to concentrate on one or more segments of the industry, and a number of unintegrated refiners or retailers have entered. Domestic crude oil production has fallen, and foreign sources have supplied an increasing share of the crude oil refined in the United States, thus enhancing the importance of competition in the world market for crude oil. That competition has intensified over the last decade with the dramatic increase in crude oil demand from newly industrializing countries.

II. The FTC's Expertise in the Petroleum Industry

Since the early 1980s, the FTC has been the federal antitrust agency primarily responsible for addressing petroleum industry competition issues. The Commission has closely scrutinized prices and examined any merger and nonmerger activity in the gasoline industry that had the potential to decrease competition and thus harm consumers. The Commission and its staff have developed expertise in the industry through years of investigation and research, pursuant to our primary function as a law enforcement agency tasked with preventing "unfair methods of competition,"[4] as well as mergers or acquisitions whose effect "may be substantially to lessen

[4] Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

competition, or tend to create a monopoly."[5] Under Section 5 of the FTC Act and Section 7 of the Clayton Act, the agency has carefully examined proposed mergers and has blocked or required revisions[6] of any that have threatened to harm consumers by reducing competition.[7] Indeed, in 2004, the Commission released data on all horizontal merger investigations and enforcement actions from 1996 to 2003.[8] These data show that the Commission has brought more merger cases at lower levels of concentration in the petroleum industry than in any other industry. Unlike in other industries, the Commission has obtained merger relief in moderately concentrated petroleum markets.

In 2004, the FTC staff also published a study reviewing the petroleum industry's mergers

---

[5] Section 7 of the Clayton Act, 15 U.S.C. § 18.

[6] FTC enforcement action has played an important role in the restructuring of the petroleum industry over the past 20 years. The Commission has allowed mergers to proceed when the overall transaction was efficient and procompetitive but has required divestitures to remedy the anticompetitive effects that might have arisen in particular relevant markets. These FTC orders permitted the merging firms to achieve the economic benefits of the transaction while curing the potential anticompetitive effects through divestiture to a third party.

[7] Since 1981, the FTC has filed complaints against 20 large petroleum mergers. In 13 of these cases, the FTC obtained significant divestitures (and in one of these cases, *Exxon/Mobil*, the Commission required the largest divestiture ever sought by the agency, including divestiture of over 2,000 retail stations and a refinery). Of the seven other matters, the parties in four cases abandoned the transactions altogether after FTC antitrust challenges; another case resulted in a remedy requiring the acquiring firm to provide the Commission with advance notice of its intent to acquire or merge with another entity; in another case, *Chevron/Unocal*, the FTC's order prohibits the enforcement of certain patent rights; and in the final matter, the Commission obtained dismissal of the complaint (*Aloha Petroleum*) based on changed circumstances that restored allegedly threatened competition.

[8] Federal Trade Commission Horizontal Merger Investigation Data, Fiscal Years 1996-2003 (Feb. 2, 2004), Table 3.1, *et seq.*; FTC Horizontal Merger Investigations Post-Merger HHI and Change in HHI for Oil Markets, FY 1996 through FY 2003 (May 27, 2004), *available at* http://www.ftc.gov/opa/2004/05/040527petrolactionsHHIdeltachart.pdf.

and structural changes as well as the antitrust enforcement actions that the agency has taken in the industry over the past 20 years.[9] This was the Commission's third such report since 1982.[10] Like its predecessors, the 2004 Report had two basic goals: to inform public policy concerning competition in the petroleum industry, and to make more transparent how the Commission analyzes mergers and other competitive phenomena in this sector.

Several themes emerged from the Commission's study of changes in the petroleum industry over the past two decades:

- Mergers of private oil companies have not significantly affected worldwide concentration in crude oil. This fact is important, because crude oil prices are the chief determinant of gasoline prices.

- Despite some increases over time, concentration for most levels of the United States petroleum industry has remained low to moderate.

- Intensive, thorough FTC merger investigations and enforcement have helped prevent further increases in petroleum industry concentration and avoid potentially anticompetitive problems and higher prices for consumers.

- Economies of scale have become increasingly significant in shaping the petroleum industry. The United States has fewer refineries than it had 20 years ago, but the average size and efficiency of refineries have increased, along with the total output of refined products.

- Industry developments have lessened the incentive to vertically integrate throughout all or most levels of production, distribution, and marketing. Several significant refiners have no crude oil production, and integrated petroleum

---

9 BUREAU OF ECONOMICS, FEDERAL TRADE COMMISSION, THE PETROLEUM INDUSTRY: MERGERS, STRUCTURAL CHANGE, AND ANTITRUST ENFORCEMENT (2004), *available at* http://www.ftc.gov/os/2004/08/040813mergersinpetrolberpt.pdf.

10 *See* Federal Trade Commission, *Mergers in the Petroleum Industry* (Sept. 1982), *available at* http://www.ftc.gov/os/2004/08/040813mergersinpetrol82.pdf; Staff Report of the Bureau of Economics, Federal Trade Commission, *Mergers in the U.S. Petroleum Industry 1971-1984: An Updated Comparative Analysis* (May 1989), *available at* http://www.ftc.gov/os/2004/08/040813mergersinpetrol84.pdf.

companies today tend to depend less on their own crude oil production. In addition, a number of independent retailers purchase refined products on the open market.

- Some significant independent refiners have built market share by acquiring refineries that were divested from integrated majors pursuant to FTC enforcement orders.[11]

III. Merger Enforcement in the Petroleum Industry

The Commission has gained much of its antitrust enforcement experience in the petroleum industry by analyzing proposed mergers and challenging transactions that likely would reduce competition, thus resulting in higher prices.[12] For more than 20 years, the FTC has been the federal antitrust agency primarily responsible for reviewing conduct in the petroleum industry to assess whether it is likely to reduce competition and harm consumer welfare. In this role, the FTC has devoted substantial resources to investigating and studying the industry. For example, during the period of large oil industry mergers in the late 1990s, the Bureau of Competition spent almost one-fourth of its enforcement budget on investigations in energy industries.

The Commission investigates every substantial petroleum industry merger. Many transactions, particularly smaller ones, raised no competitive concerns and required no

---

[11] Last year the Commission issued a report on the various factors that influence the price of gasoline and other refined petroleum products. *See* Federal Trade Commission, *Gasoline Price Changes: The Dynamic of Supply, Demand, and Competition* (2005), *available at* http://www.ftc.gov/reports/gasprices05/050705gaspricesrpt.pdf. Lessons of this report included the findings that worldwide supply, demand, and competition for crude oil are the most important factors in the national average price of gasoline in the United States. Other important factors impacting retail gasoline prices include retail station density, new retail formats, environmental factors, state and local tax rates, and state and local regulations.

[12] Section 7 of the Clayton Act prohibits acquisitions whose effect "may be substantially to lessen competition, or to tend to create a monopoly" "in any line of commerce or in any activity affecting commerce in any section of the country." 15 U.S.C. § 18.

enforcement intervention. A case-by-case analysis is necessary to find the relevant markets in which competition might be lessened, to assess the likelihood and significance of possible competitive harm, and to fashion remedies to ensure that competition is not reduced in those relevant markets and consumers consequently are not harmed.[13] It is important to note that mergers can be, and often are, efficiency-enhancing and procompetitive.

The FTC's analysis of petroleum mergers follows the same Department of Justice/Federal Trade Commission Horizontal Merger Guidelines that the agencies use to analyze mergers in other industries.[14] Consistent with advances in economic learning and case law developments,

---

[13] In May 2004, the Government Accountability Office released a report that purported to analyze how eight petroleum industry mergers or joint ventures carried out during the late 1990s affected gasoline prices. GAO, *Energy Markets: Effects of Mergers and Market Concentration in the U.S. Petroleum Industry* (May 2004). The Commission regards evaluations of past enforcement decisions as valuable elements of responsible antitrust policymaking, and is supportive of the goal of the GAO inquiry – to evaluate the consequences of past decisions by the federal antitrust agencies. However, the Commission believes the GAO report suffered from a number of significant deficiencies. Although we will not recount all of the problems with the GAO Report that our staff has identified, we will describe three particularly significant deficiencies here. First, the GAO's econometric models did not properly control for the numerous factors that cause gasoline prices to increase or decrease. These omissions undermine the GAO Report's estimates of the effects of concentration and mergers on wholesale gasoline prices. Second, the GAO Report did not measure concentration in any properly defined geographic market. Third, by focusing exclusively on wholesale prices, the GAO Report failed to address the effects of concentration and mergers on *retail* gasoline prices. FTC staff's research indicates that wholesale price effects are not necessarily indicative of retail price effects. These mistakes and omissions significantly undermine the results of the GAO study. *See* Prepared Statement of the Federal Trade Commission Before the Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, U.S. House of Representatives, *Market Forces, Anticompetitive Activity and Gasoline Prices – FTC Initiatives to Protect Competitive Markets* (July 15, 2004), *available at* http://www.ftc.gov/os/2004/07/040715gaspricetestimony.pdf.

[14] U.S. Dep't of Justice and Fed. Trade Comm'n, *1992 Horizontal Merger Guidelines* (Section 4 on Efficiencies revised April 8, 1997), *reprinted in* 4 Trade Reg. Rep. (CCH) ¶ 13,104 ("Merger Guidelines"). Based on the results of joint DOJ/FTC workshops (held in February 2004) that assessed the practical efficacy of the Merger Guidelines in light of 12

although merger analysis begins with concentration data, emphasis is placed on qualitative factors that indicate whether a merger will increase the ability of the merging parties to exercise market power in one or more properly defined relevant markets[15] by curbing output unilaterally or by coordinating their behavior with rival suppliers.

Despite increases in concentration at some production levels over the last two decades, particularly since the mid-1990s, most sectors of the petroleum industry generally remain unconcentrated or moderately concentrated. In addition, the growth of independent marketers and hypermarkets has increased competition at the wholesale and retail levels in many areas.

Some mergers have led to increased concentration. An increase in concentration from a merger, however, is not by itself a sufficient basis for finding that a merger is anticompetitive. Where concentration changes raise concerns about potential competitive harm, the FTC conducts a more detailed investigation. When it has concluded that a merger is likely to reduce competition, the FTC has required divestitures or sought preliminary injunctions. Many of the mergers the FTC challenged would have lessened competition significantly if they had proceeded

---

years of experience, FTC Chairman Majoras has announced that the FTC, along with DOJ, will develop a Commentary on the Merger Guidelines to bring greater transparency to the agencies' application of the Guidelines to merger analysis. The Commentary will clarify how the agencies apply the Guidelines and will enhance the dialogue between the agencies, businesses, legal advisors, and the public.

[15] The correct definition of a market in pre-merger review is a detailed, fact-intensive inquiry that involves both product and geographic components. We must ascertain for which product (or products) the transaction may harm competition, and we must also determine the geographic area over which any anticompetitive effects will be felt. In our analysis of petroleum mergers, national, state, or PADD-wide "markets" rarely correspond to properly defined geographic markets. ("PADD" stands for "Petroleum Administration for Defense District." PADD I consists of the East Coast. PADD II consists of the Midwest. PADD III includes the Gulf Coast. PADD IV consists of the Rocky Mountain region. PADD V is made up of the West Coast plus Alaska and Hawaii.)

as originally planned. Our antitrust remedies prevented those increases: through carefully crafted divestitures, the Commission has mandated the elimination of competitively problematic overlaps between the merging parties while allowing the competitively unobjectionable – or even efficiency-enhancing – portion of a transaction to proceed.[16]

Collectively, mergers have raised competitive concerns at all of the various levels of the petroleum industry, but the majority of FTC actions have targeted downstream activities, *i.e.*, refining, refined products pipelines, terminals, and marketing. The competitive concern generally has been that the merger would enable the merged firm to raise prices in a market for products that it sells to the next level of the industry (*e.g.*, refined products sold to wholesalers, or wholesale products sold to retailers) through either unilateral or coordinated behavior. A key element in assessing the potential for adverse competitive effects is to determine the alternatives available to customers, including whether more distant suppliers are viable options. Some enforcement actions have been based on a potential competition theory; some on competitive problems involving market power held by a buyer or a group of buyers; and some on vertical concerns relating to the ability of a single firm or a coordinating group of firms to raise the costs of other firms in the industry, to the injury of consumers.

Several recent investigations illustrate the FTC's approach to merger analysis in the petroleum industry.[17] An important recently completed case challenged Chevron's acquisition of Unocal. When the merger investigation began, the Commission was in the middle of a

---

[16] *See also supra* note 6.

[17] The attached appendix shows every Commission merger enforcement action in the petroleum industry since 1981.

monopolization case against Unocal in which the FTC's administrative complaint alleged that Unocal had deceived the California Air Resources Board ("CARB") in connection with regulatory proceedings to develop the reformulated gasoline ("RFG") standards that CARB adopted. The complaint further charged that Unocal had illegally acquired monopoly power in the technology market for producing the new CARB-compliant summertime RFG, thus undermining competition and harming consumers in the downstream product market for CARB-compliant summertime RFG in California. The Commission estimated that Unocal's enforcement of its patents could potentially result in over $500 million of additional consumer costs each year.

The proposed merger between Chevron and Unocal raised the additional concern that, by unconditionally inheriting Unocal's patents through the acquisition, Chevron would have been in a position to obtain sensitive information and to claim royalties from its own horizontal downstream competitors. Chevron, the Commission alleged, could have used this information and this power to facilitate coordinated interaction and detect any deviations. The Commission settled both the merger and the monopolization matters with separate consent orders that compelled Chevron to forgo enforcement of the Unocal patents, thus preserving competition in all relevant merger markets and securing complete relief on the monopolization claim.[18]

Another merger case that resulted in a divestiture order resolved a complaint concerning the acquisition of Kaneb Services and Kaneb Pipe Line Partners (companies that engaged in

---

[18] *Chevron Corp.*, FTC Docket No. C-4144 (July 27, 2005) (consent order), *at* http://www.ftc.gov/os/caselist/0510125/050802do0510125.pdf; *Union Oil Co. of California,* FTC Docket No. 9305 (July 27, 2005) (consent order), *at* http://www.ftc.gov/os/adjpro/d9305/050802do.pdf.

petroleum transportation and terminaling in a number of markets) by Valero L.P., the largest petroleum terminal operator and second largest operator of liquid petroleum pipelines in the United States. The complaint alleged that the acquisition had the potential to increase prices in bulk gasoline and diesel markets.[19] The FTC's divestiture order succeeds in maintaining import possibilities for wholesale customers in Northern California, Denver, and greater Philadelphia and precludes the merging parties from undertaking an anticompetitive price increase.[20]

Most recently, the Commission filed a complaint on July 27, 2005, in federal district court in Hawaii, alleging that Aloha Petroleum's then-proposed acquisition of Trustreet Properties' half interest in an import-capable terminal and retail gasoline assets on the island of Oahu would have reduced the number of gasoline marketers and could have led to higher gasoline prices for Hawaii consumers.[21] To resolve this complaint, the parties executed a 20-year throughput agreement with a third party that will preserve competition allegedly threatened by the acquisition.[22]

In the past few years, the Commission has brought a number of other important merger

---

[19] *Valero L.P.*, FTC Docket No. C-4141 (June 14, 2005) (complaint), *at* http://www.ftc.gov/os/caselist/0510022/050615comp0510022.pdf.

[20] *Valero L.P.*, FTC Docket No. C-4141 (July 22, 2005) (consent order), *at* http://www.ftc.gov/os/caselist/0510022/050726do0510022.pdf.

[21] *Aloha Petroleum Ltd.*, FTC File No. 051 0131 (July 27, 2005) (complaint), *at* http://www.ftc.gov/os/caselist/1510131/050728comp1510131.pdf .

[22] FTC Press Release, *FTC Resolves Aloha Petroleum Litigation* (Sept. 6, 2005), *available at* http://www.ftc.gov/opa/2005/09/alohapetrol.htm.

cases. One of these challenged the merger of Chevron and Texaco,[23] which combined assets located throughout the United States. Following an investigation in which 12 states participated, the Commission issued a consent order against the merging parties requiring numerous divestitures to maintain competition in particular relevant markets, primarily in the western and southern United States.

Another petroleum industry transaction that the Commission challenged successfully was the $6 billion merger between Valero Energy Corp. ("Valero") and Ultramar Diamond Shamrock Corp. ("Ultramar").[24] Both Valero and Ultramar were leading refiners and marketers of gasoline that met the specifications of the California Air Resources Board, and they were the only significant suppliers to independent stations in California. The Commission's complaint alleged competitive concerns in both the refining and the bulk supply of CARB gasoline in two separate geographic markets – Northern California and the entire state of California – and the Commission contended that the merger could raise the cost to California consumers by at least $150 million annually for every one-cent-per-gallon price increase at retail.[25] To remedy the alleged violations, the consent order settling the case required Valero to divest (1) an Ultramar refinery in Avon, California; (2) all bulk gasoline supply contracts associated with that refinery;

---

[23] *Chevron Corp.*, FTC Docket No. C-4023 (Jan. 2, 2002) (consent order), *at* http://www.ftc.gov/os/2002/01/chevronorder.pdf.

[24] *Valero Energy Corp.*, FTC Docket No. C-4031 (Feb. 19, 2002) (consent order), *at* http://www.ftc.gov/os/2002/02/valerodo.pdf.

[25] *Valero Energy Corp*, FTC Docket No. C-4031 (Dec. 18, 2001) (complaint), *at* http://www.ftc.gov/os/2001/12/valerocmp.pdf.

and (3) 70 Ultramar retail stations in Northern California.[26]

An additional example is the Commission's 2002 challenge to the merger of Phillips Petroleum Company and Conoco Inc., alleging that the transaction would harm competition in the Midwest and Rocky Mountain regions of the United States. To resolve that challenge, the Commission required the divestiture of (1) the Phillips refinery in Woods Cross, Utah, and all of the Phillips-related marketing assets served by that refinery; (2) Conoco's refinery in Commerce City, Colorado (near Denver), and all of the Phillips marketing assets in Eastern Colorado; and (3) the Phillips light petroleum products terminal in Spokane, Washington.[27] The Commission's order ensured that competition would not be lost and that gasoline prices would not increase as a result of the merger.

---

26 *Valero Energy Corp., supra* note 24.

27 *Conoco Inc. and Phillips Petroleum Corp.*, FTC Docket No. C-4058 (Aug. 30, 2002) (Analysis of Proposed Consent Order to Aid Public Comment), *at* http://www.ftc.gov/os/2002/08/conocophillipsan.htm. Not all oil industry merger activity raises competitive concerns. For example, in 2003, the Commission closed its investigation of Sunoco's acquisition of the Coastal Eagle Point refinery in the Philadelphia area without requiring relief. The Commission noted that the acquisition would have no anticompetitive effects and seemed likely to yield substantial efficiencies that would benefit consumers. *Sunoco Inc./Coastal Eagle Point Oil Co.*, FTC File No. 031 0139 (Dec. 29, 2003) (Statement of the Commission), *at* http://www.ftc.gov/os/caselist/0310139/031229stmt0310139.pdf. The FTC also considered the likely competitive effects of Phillips Petroleum's proposed acquisition of Tosco. After careful scrutiny, the Commission declined to challenge the acquisition. A statement issued in connection with the closing of the investigation set forth the FTC's reasoning in detail. *Phillips Petroleum Corp.*, FTC File No. 011 0095 (Sept. 17, 2001) (Statement of the Commission), *at* http://www.ftc.gov/os/2001/09/phillipstoscostmt.htm.

Acquisitions of firms operating mainly in oil or natural gas exploration and production are unlikely to raise antitrust concerns, because that segment of the industry is generally unconcentrated. Acquisitions involving firms with de minimis market shares, or with production capacity or operations that do not overlap geographically, are also unlikely to raise antitrust concerns.

To sum up structural changes and merger enforcement policy in the last two decades, mergers have contributed to the restructuring of the petroleum industry but have had only a limited impact on industry concentration. The FTC has investigated all major petroleum mergers and required relief when it had reason to believe that a merger was likely to lead to competitive harm. The FTC has required divestitures in moderately concentrated markets as well as in highly concentrated markets.

IV. Current FTC Activities in the Petroleum Industry

In addition to its merger and nonmerger law enforcement work in the petroleum industry, the Commission continues to study this industry closely. Recently, Congress turned to the Commission to investigate whether businesses have manipulated markets and prices to the detriment of consumers. Section 1809 of the Energy Policy Act of 2005[28] mandates an FTC investigation "to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation or price gouging practices," while Section 632 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act of 2006[29] requires the Commission to investigate possible gasoline price gouging in the aftermath of Hurricane Katrina. In response to both legislative commands, the Commission has launched an investigation to scrutinize whether unlawful conduct affecting refinery capacity or other forms of illegal behavior have provided a foundation for price manipulation. The FTC staff is looking at pricing decisions and other conduct in the wake of Hurricane Katrina to understand what has occurred and identify any illegal conduct. The Commission issued civil investigative demands to

---

28 Pub. L. No. 109-58, § 1809, 119 Stat. 594 (Aug. 8, 2005).

29 Pub. L. No. 109-108, § 632, 119 Stat. 2290 (Nov. 22, 2005).

a substantial number of companies in this investigation, and our lawyers and economists have been analyzing the data that we have collected, including information received from staff's contacts with the Department of Energy, the DOE's Energy Information Administration, and other government agencies. Although I cannot provide more complete details about this ongoing investigation, the Commission anticipates reporting to Congress on the findings of this investigation this spring. Any identification of unlawful conduct will result in aggressive FTC law enforcement activity.

V. Conclusion

The Federal Trade Commission has an aggressive program to enforce the antitrust laws in the petroleum industry. The agency has taken action whenever a merger or nonmerger conduct has violated the law and threatened the welfare of consumers or competition in the industry. The Commission continues to search for appropriate targets of antitrust law enforcement, to analyze and bring cases against any merger that is potentially anticompetitive, and to study this industry in detail.

Thank you for this opportunity to present the FTC's views on this important topic. I look forward to answering your questions.

FTC Merger Enforcement Actions in the Petroleum Industry Since 1981				
Firms (Year)*	**Markets Affected**	**Theory of Anti-competitive Effects**	**Concentration (HHI)**	**FTC Enforcement Action**
Aloha/Trustreet (2005)[1]	1. Gasoline Marketing in Hawaii	Unilateral/ Coordinated	Post-merger 2744 Change 220	Complaint resolved with 20 year terminal throughput agreement for new gasoline marketer
	2. Gasoline Retailing in Oahu	Unilateral	Not publicly available	As above
Chevron/Unocal (2005)[2]	Marketing and refining of CARB RFG in California and smaller markets therein	Coordinated	Highly (HHI > 1800)or moderately concentrated (HHI > 1000)	Chevron's constrained from enforcing Unocal's patents on CARB RFG.
Valero/Kaneb (2005)[3]	1. Terminaling of light products in the Philadelphia area	Coordinated	Post Merger >1800 (inferred) Change>50 (inferred)	Divestiture of Kaneb's three Philadelphia area terminals
	2. Terminaling of light products in the Colorado Front Range	Coordinated	Post Merger >1800 (inferred) Change>50 (inferred)	Divestiture of Kaneb's West Pipeline system, including associated terminals
	3. Terminaling of light products in Northern California	Coordinated	Post Merger >1800 (inferred) Change>50 (inferred)	Divestiture of two Kaneb terminals in Northern California
	4. Terminaling of Ethanol in Northern California	Coordinated/ Vertical	Not publicly available	As above and information firewall and third party access terms required
Shell/Buckeye (2004)[4]	Terminaling of gasoline, diesel, and other light petroleum products within a 50-mile radius of Niles, Michigan	Coordinated	Post-merger 3600 Change 800	Prior approval for acquisition of Western Michigan terminal required.

[1] Complaint, filed in U.S. District Court, District of Hawaii, CV05-00471 (2005); FTC Press Release (September 6, 2005). Prior to the beginning of district court hearings, Aloha entered into a 20 year throughput agreement with Mid Pac Petroleum. Since this agreement resolved the FTC's concerns with the challenged transaction, the FTC asked the court to dismiss the complaint.
[2] Chevron/Unocal (2005), Complaint ¶¶ 13-19, Analysis of Proposed Consent Order to Aid Public Comment.
[3] Valero/ Kaneb (2005), Complaint ¶ ¶ 15-76; Analysis of Proposed Consent Order to Aid Public Comment.
[4] Shell/Buckeye (2004), Complaint ¶¶ 7-19, Analysis of Proposed Agreement Containing Consent Order to Aid Public Comment.

Magellan/ Shell[5] **(2004)**	Terminaling of light products in the Oklahoma City area.	Coordinated	Post-merger > 4300 Change > 1200	Divestiture of Shell's Oklahoma City terminal assets
Shell/Pennzoil Quaker State[6] **(2002)**	Refining and marketing of paraffinic base oil in U.S. and Canada	Unilateral / Coordinated	Post-merger >2300 Change >700	Divestiture of Pennzoil interest in lube oil joint venture; Pennzoil sourcing of lube oil from third party lube oil refiner frozen at current level
Phillips/ Conoco[7] **(2002)**	1. Bulk supply (via refining or pipeline) of light petroleum products in eastern Colorado	Coordinated	Post-merger > 2600 Change > 500	Divestiture of Conoco refinery in Denver and all of Phillips marketing assets in eastern Colorado
	2. Bulk supply of light petroleum products in northern Utah	Coordinated	Post-merger > 2100 Change > 300	Divestiture of Phillips refinery in Salt Lake City and all of Phillips marketing assets in northern Utah
	3. Terminaling services in the Spokane, Washington area	Unilateral / Coordinated	Post-merger 5000 Change > 1600	Divestiture of Phillips' terminal at Spokane
	4. Terminaling services for light products in the Wichita, Kansas area	Unilateral / Coordinated	Post-merger > 3600 Change > 750	Terminal throughput agreement with option to buy 50% undivided interest in Phillips terminal
	5. Bulk supply of propane in southern Missouri	Unilateral / Coordinated	Post-merger 3700 Change > 1200	Divestiture of Phillips' propane business at Jefferson City and E. St. Louis; contracts giving buyer nondiscriminatory access to market at Conway, KS

[5] Magellan/Shell (2004), Complaint ¶¶ 8-15, Analysis of Proposed Consent Order to Aid Public Comment.
[6] Shell/Pennzoil-Quaker State (2002), Complaint ¶¶ 8-16, Analysis of Proposed Consent Order to Aid Public Comment.
[7] Phillips/Conoco (2002), Complaint ¶¶ 8-135; Analysis of Proposed Consent Order to Aid Public Comment.

	6. Bulk supply of propane in St. Louis	Unilateral / Coordinated	Post-merger > 7700 Change > 1000	As above
	7. Bulk supply of propane in southern Illinois	Unilateral / Coordinated	Post-merger > 7700 Change > 1000	As above
	8. Natural gas gathering by pipeline in certain parts of western Texas and southeastern New Mexico (Permian Basin)	Unilateral[8]	Not publicly available	Divestiture of Conoco's gas gathering assets in each area
	9. Fractionation of natural gas liquids at Mont Belvieu, Texas	Unilateral / Coordinated[9]	Not publicly available	Prohibitions on transfers of competitive information; voting requirements for capacity expansion
Valero/UDS[10] (2001)	1. Refining and Bulk Supply of CARB 2 gasoline for northern California	Unilateral / Coordinated	Post-merger > 2700 Change > 750	Divestiture of UDS's refinery at Avon, CA, bulk gasoline supply contracts, and 70 owned and operated retail outlets
	2. Refining and Bulk Supply of CARB 3 gasoline for northern California	Unilateral / Coordinated	Post-merger > 3050 Change >1050	As above
	3. Refining and Bulk Supply of CARB 2 gasoline for state of California	Coordinated	Post-merger > 1750 Change > 325	As above
	4. Refining and Bulk Supply of CARB 3 gasoline for state of California	Coordinated	Post-merger >1850 Change > 390	As above
Chevron/ Texaco[11] (2001)	1. Gasoline marketing in numerous separate markets in 23 western and southern states	Coordinated	Post-merger range from 1000-1800 Change >100 to Post merger >1800 Change >50 (all inferred)	Divestiture (to Shell, the other owner of Equilon) of Texaco's interests in the Equilon and Motiva joint ventures (including Equilon's interests in the Explorer and Delta Pipelines)
	2. Marketing of CARB gasoline in California	Unilateral / Coordinated	Post-merger range >2000 Change >50	As above

[8] Phillips owned 30% of Duke Energy Field Services (DEFS); DEFS and Conoco were the only gatherers in the Permian Basin. Phillips/Conoco (2002), Complaint ¶¶ 69-71.

[9] Phillips owned 30% of DEFS, with representation on its Board of Directors; DEFS held an interest in two of the four fractionators in the market. Conoco partially owned and operated a third, Gulf Coast Fractionators. The merger would have given the combined firm veto power over significant expansion projects and might have led to the sharing of competitively sensitive information. Phillips/Conoco (2002), Complaint ¶¶ 76-79

[10] Valero/UDS (2001), Complaint ¶¶ 13-21; Analysis of Proposed Consent Order to Aid Public Comment.

[11] Chevron/Texaco (2001), Complaint ¶¶ 12-57; Analysis of Proposed Consent Order to Aid Public Comment.

	3. Refining and bulk supply of CARB gasoline for California	Unilateral / Coordinated	Post-merger 2000 Change 500	As above
	4. Refining and bulk supply of gasoline and jet fuel in the Pacific Northwest	Coordinated	Post-merger > 2000 Change > 600	As above
	5. Refining and bulk supply of RFG II gasoline for the St. Louis metropolitan area	Coordinated[12]	Post-merger > 5000 Change > 1600	As above
	6. Terminaling of gasoline and other light products in various geographic markets in California, Arizona, Hawaii, Mississippi, and Texas	Unilateral / Coordinated	Post-merger range >2000 Change >300	As above
	7. Crude oil transportation via pipeline from California's San Joaquin Valley	Coordinated	Post-merger > 3300 Change >800	As above
	8. Crude oil transportation from the offshore Eastern Gulf of Mexico	Unilateral[13]	Post-merger >1800 (inferred) Change >50 (inferred)	As above
	9. Natural gas transportation from certain parts of the Central Gulf of Mexico offshore area	Unilateral / Coordinated[14]	Post-merger >1800 (inferred) Change >50 (inferred)	Divestiture of Texaco's 33% interest in the Discovery Gas Transmission System
	10. Fractionation of natural gas liquids at Mont Belvieu, Texas	Unilateral / Coordinated[15]	Not publicly available	Divestiture of Texaco's minority interest in the Enterprise fractionator
	11. Marketing of aviation fuels to general aviation in the Southeast U.S.	Unilateral / Coordinated	Post-merger > 1900 Change > 250	Divestiture of Texaco's general aviation business to an up-front buyer
	12. Marketing of aviation fuels to general aviation in the western U.S.	Unilateral / Coordinated	Post-merger > 3400 Change > 1600	As above

[12] Chevron held a 17% interest in Explorer Pipeline, and Texaco and Equilon (Texaco's joint venture with Shell) together held 36%. Explorer is the largest pipeline supplying bulk Phase II Reformulated Gasoline (RFG II) to St. Louis; at the time, Equilon also had a long-term contract that gave it control of much of the output of a local St. Louis area refinery. Chevron/Texaco (2001), Analysis of Proposed Consent Order to Aid Public Comment.

[13] Equilon owned 100% of Delta, and Chevron owned 50% of Cypress; these two pipelines were the only means of transporting crude from the Eastern Gulf of Mexico to on-shore terminals. Chevron/Texaco (2001), Analysis of Proposed Consent Order to Aid Public Comment.

[14] Texaco owned 33% of the Discovery Gas Transmission System; Chevron and its affiliate Dynegy together owned 77% of the Venice Gathering System, one of only two other pipeline systems for transporting natural gas from this area. Chevron/Texaco (2001), Analysis of Proposed Consent Order to Aid Public Comment.

[15] Chevron owned 26% of Dynegy, which held large interests in two of the four fractionators in the market, and had representation on Dynegy's Board of Directors; Texaco held a minority interest in a third. The merger might have exercise unilateral market power. Chevron/Texaco (2001), Analysis of Proposed Consent Order to Aid Public Comment.

BP/ARCO[16] (2000)	1. Production and sale of Alaska North Slope ("ANS") crude oil	Unilateral[17]	Post-merger >5476 Change 2640	FTC filed in federal District Court, then reached consent; divestiture of all of ARCO's Alaska assets[18]
	2. Bidding for ANS crude oil exploration rights in Alaska	Unilateral[19]	Post-merger >1800 (inferred) Change >50 (inferred)	As above
	3. Transportation of ANS crude oil on the Trans-Alaska Pipeline System	Unilateral / Coordinated[20]	Post-merger >5600 Change 2200	As above
	4. Future commercialization of ANS natural gas (potential competition)	Unilateral / Coordinated[21]	Not applicable	As above
	5. Crude oil transportation and storage services at Cushing, Oklahoma	Unilateral[22]	Post-merger >1849 for storage >2401 for pipelines >9025 for trading services Changes >50 (inferred)	Divestiture of all of ARCO's pipeline interests and storage assets related to Cushing
Exxon/ Mobil[23] (1999)	1. Gasoline marketing in at least 39 metro areas in the Northeast (Maine to New York) and Mid-Atlantic (New Jersey to Virginia) regions of the U.S.	Unilateral / Coordinated	Post-merger range from 1000-1800 Change >100 to Post-merger >1800 Change >50 (all inferred)	Divestiture of all Exxon (Mobil) owned outlets and assignment of agreements in the Northeast (Mid-Atlantic) region

16 BP/ARCO (2000), Complaint ¶¶ 10-66; Analysis of Proposed Consent Order to Aid Public Comment.

17 BP had a 44% share of ANS crude oil production at that time, while ARCO had a 30% share, implying that their contribution to the HHI was 2,836. Their contribution to the post-merger HHI would have been 5476. BP/ARCO (2000), Analysis of Proposed Consent Order to Aid Public Comment.

18 The ARCO Alaska assets divested included crude oil exploration and production assets, 22% interest in TAPS, and specialized tanker ships. BP/ARCO (2000), Analysis of Proposed Consent Order to Aid Public Comment.

19 BP and ARCO together won 60% of the Alaska state lease auctions during the 1990s, while the top four bidders won 75%. BP/ARCO (2000), Analysis of Proposed Consent Order to Aid Public Comment.

20 BP (50%) and ARCO (22%) both held interests in TAPS. Their contribution to the HHI would have been 2,984 pre-merger and 5,184 post-merger. There were five other owners of TAPS; Exxon held 20% (*see* note 20 *infra*), and the four others' shares are not publicly available; including Exxon and assigning the four other firms equal shares yields a lower bound for the HHI of 3,400 pre-merger or of 5,600 post-merger. BP/ARCO (2000), Analysis of Proposed Consent Order to Aid Public Comment.

21 The FTC alleged that BP Amoco, ARCO, and Exxon Mobil were the only three companies that held "sufficiently large volumes of gas reserves to have the potential to develop those reserves for significant commercial use." BP/ARCO (2000), Analysis of Proposed Consent Order to Aid Public Comment.

22 BP and ARCO together accounted for 43% of storage capacity, 49% of pipeline capacity, and 95% of trading services at Cushing. BP/ARCO (2000), Analysis of Proposed Consent Order to Aid Public Comment.

23 Exxon/Mobil (1999), Complaint ¶¶ 8-54; Analysis of Proposed Consent Order to Aid Public Comment.

	2. Gasoline marketing in five metro areas of Texas	Unilateral / Coordinated	Post-merger range from 1000-1800 Change >100 to Post-merger >1800 Change >50 (all inferred)	Divestiture of Mobil's retail outlets and supply agreements
	3. Gasoline marketing in Arizona (potential competition)	Coordinated	Not applicable	Termination of Exxon's option to repurchase retail outlets previously sold to Tosco
	4. Refining and marketing of "CARB" gasoline in California	Unilateral / Coordinated	Post-merger 1699 Change 171 (measured by refining capacity)	Divestiture of Exxon's refinery at Benicia, CA, and all of Exxon's marketing assets in CA, including assignment to the refinery buyer of supply agreements for 275 outlets
	5. Refining of Navy jet fuel on the west coast	Unilateral / Coordinated	Post merger >1800 (inferred) Change >50 (inferred)	As above
	6. Terminaling of light products in Boston, MA and Washington, DC areas	Unilateral / Coordinated	Post merger >1800 (inferred) Change >50 (inferred)	Divestiture of a Mobil terminal in each area
	7. Terminaling of light products in Norfolk, VA area.	Unilateral / Coordinated	Post merger >1800 (inferred)	Continuation of competitor access to wharf
	8. Transportation of light products to the Inland Southeast	Coordinated[24]	Post-merger >1800 (inferred)	Divestiture of either party's pipeline interest
	9. Transportation of Crude Oil from the Alaska North Slope	Coordinated[25]	Post-merger >1800 (inferred) Change >50 (inferred)	Divestiture of Mobil's 3% interest in TAPS
	10. Terminaling and gasoline marketing assets on Guam	Unilateral / Coordinated	Post-merger 7400 Change 2800	Divestiture of Exxon's terminal and retail assets on the island
	11. Paraffinic base oil refining and marketing in the U.S. and Canada	Unilateral / Coordinated	Post-merger range 1000 to 1800 (inferred) Change >100 (inferred)	Relinquishment of contractual control over Valero's base oil production; long term supply agreements at formula prices for volume of base oil equal to Mobil's U.S. production

[24]Exxon owned 49% of Plantation Pipeline and Mobil owned 11% of Colonial Pipeline. Exxon/Mobil (1999), Complaint ¶ 13.
[25]Exxon and Mobil owned 20% and 3%, respectively, of the Trans-Alaska Pipeline System (TAPS), the only means oftransporting Alaskan North Slope (ANS) crude oil to the port facilities at Valdez, AK. Exxon/Mobil (1999), Complaint¶ 14.

	12. Refining and marketing of jet turbine oil worldwide	Unilateral[26]	Pre-merger >5625	Divestiture of Exxon jet turbine oil manufacturing facility at Bayway, NJ, with related patent licenses and intellectual property
BP/ Amoco[27] (1998)	1. Terminaling of gasoline and other light products in nine separate metropolitan areas, mostly in the Southeast U.S.	Coordinated	Post-merger range >1500 ->3600 Change >100	Divestiture of a terminal in each geographic market
	2. Wholesale sale of gasoline in thirty cities or metropolitan areas in the Southeast U.S. and parts of Ohio and Pennsylvania	Coordinated	Post-merger range >1400->1800 Change >100	Divestiture of BP's or Amoco's owned retail outlets in eight geographic areas; in all 30 areas jobbers and open dealers given option to cancel without penalty
Shell/Texaco[28] (1997)	1a. Refining of gasoline for the Puget Sound area	Unilateral / Coordinated	Post-merger 3812 Change 1318	Divestiture of Shell refinery at Anacortes, WA; Shell jobbers and dealers given option to contract with purchaser
	1b. Refining of jet fuel for the Puget Sound area	Unilateral / Coordinated	Post-merger 5248 Change 481	As above
	2a. Refining of gasoline for the Pacific Northwest	Unilateral / Coordinated	Post-merger 2896 Change 561	As above
	2b. Refining of jet fuel for the Pacific Northwest	Unilateral / Coordinated	Post-merger 2503 Change 258	As above
	3. Refining of "CARB" gasoline for California	Unilateral / Coordinated	Post-merger 1635 Change 154	As above
	4. Transportation of undiluted heavy crude oil to San Francisco Bay area for refining of asphalt	Unilateral[29]	Not applicable	Ten year extension of crude oil supply agreement.
	5. Pipeline transportation of refined light products to the inland Southeast U.S.	Coordinated[30]	Pre-merger >1800	Divestiture of either party's pipeline interest
	6. CARB gasoline marketing in San Diego County, California	Coordinated	Post-merger 1815 Change 250	Divestiture to a single entity of retail outlets with specified individual and combined volume

[26] Exxon and Mobil together accounted for 75% of worldwide sales, and 90% of worldwide sales to commercial airlines. Exxon/Mobil (1999), Analysis of Proposed Consent Order to Aid Public Comment.
[27] BP/Amoco (1998), Complaint ¶¶ 8-21; Analysis of Proposed Consent Order to Aid Public Comment.
[28] Shell/Texaco (1997), Complaint ¶¶ 10-37; Analysis of Proposed Consent Order to Aid Public Comment.
[29] The Texaco heated pipeline was the only pipeline supplying undiluted heavy crude oil to the San Francisco Bay area, where Shell and a competitor refined asphalt. Shell/Texaco (1997), Complaint ¶ 15.
[30] Shell owned 24% of Plantation Pipeline and Texaco owned 14% of Colonial Pipeline. Shell/Texaco (1997), Complaint ¶ 32.

	7. Terminaling and marketing of gasoline and diesel fuel on the island of Oahu, Hawaii	Coordinated	Post-merger 2160 Change 267	Divestiture of either Shell's or Texaco's terminal and associated retail outlets
Sun/Atlantic[31] (1988)	Terminaling and marketing of light products in Williamsport, PA and Binghamton, NY	Coordinated	Not publicly available	Divestiture of terminal and associated owned retail outlets in each area
PRI/Shell[32] (1987)	1. Terminaling and marketing of light petroleum products on the individual island of Oahu, HI	Unilateral / Coordinated	Not publicly available	FTC won preliminary injunction in U.S. District Court; prior approval required for future acquisitions
	2. Terminaling and marketing of light petroleum products on the individual islands of Maui, Hawaii, and Kauai in the state of Hawaii (potential competition)	Unilateral / Coordinated	Not publicly available	As above
Conoco/ Asamera[33] (1986)	1. Bulk supply (from refineries and pipelines) of gasoline and other light products to eastern Colorado	Unilateral[34] / Coordinated	Not publicly available	FTC voted to seek preliminary injunction; parties abandoned the transaction
	2. Purchasing of crude oil in the Denver-Julesberg Basin of northeastern Colorado	Unilateral	Not publicly available	As above
Chevron/ Gulf[35] (1984)	1. Bulk supply of kerosene jet fuel in parts of PADDs I and III and the West Indies and Caribbean islands	Coordinated	Not publicly available	Divestiture of one of two specified Gulf refineries in Texas and Louisiana.
	2. Transport of light products to the inland Southeast	Coordinated[36]	Not publicly available	Divestiture of Gulf's interest in the Colonial Pipeline
	3. Wholesale distribution of gasoline and middle distillates in numerous markets in West Virginia and the South	Coordinated	Not publicly available	Divestiture of all Gulf marketing assets in six states and parts of South Carolina

[31] Sun/Atlantic (1988), Complaint and Order.
[32] PRI/Shell (1987), Complaint ¶¶ 6-12.
[33] Conoco/Asamera (1986), Complaint that the Commission voted to pursue.
[34] The Preliminary Injunction Complaint in Conoco/Asamera alleged that the merger would create a dominant firm inthe relevant markets. Conoco/Asamera (1986), Complaint that the Commission voted to pursue ¶ 15.
[35] Chevron/Gulf (1984), Complaint ¶¶ 15-41.
[36] Gulf owned the largest share, 16.78%, of Colonial Pipeline, while Chevron owned the second largest share, 27.13%, of Plantation Pipeline, Colonial's only direct competitor. Chevron/Gulf (1984), Complaint ¶¶ 25-26.

	4. Transport of crude oil from West Texas/New Mexico	Unilateral / Coordinated[37]	Not publicly available	Divestiture of Gulf interests in specified crude oil pipelines, including 51% of Gulf's interest in the West Texas Gulf Pipeline Company
Texaco/Getty[38] (1984)	1. Refining of light products in the Northeast[39]	Unilateral	Not publicly available	Divestiture of Texaco refinery at Westville, NJ
	2. Pipeline transportation of light products into the Northeast	Unilateral / Coordinated[40]	Not publicly available	Texaco required to support all Colonial pipeline expansions for ten years
	3. Pipeline transportation of light products into Colorado	Unilateral / Coordinated[41]	Not publicly available	Divestiture of either Texaco pipeline interest or Getty refining interests
	4. Wholesale distribution of gasoline and middle distillates in various parts of the Northeast	Coordinated	Not publicly available	Divestiture of Getty marketing assets in the Northeast, and a Texaco terminal in Maryland
	5. Sale and transport of heavy crude oil in California	Unilateral[42]	Not publicly available	Texaco required to supply crude oil and crude pipeline access to former Getty customers under specified terms
Gulf/Cities Service[43] (1982)	1. Wholesale distribution of gasoline in various areas in the East and Southeast	Coordinated	Not publicly available	Gulf withdrew its tender offer after the FTC obtained a temporary restraining order prior to a preliminary injunction hearing
	2. Manufacture and sale of kerosene jet fuel in PADDs I and III and parts thereof	Coordinated	Not publicly available	As above

[37] Chevron owned a proprietary pipeline running from the West Texas/New Mexico producing area to El Paso, while Gulf owned the largest share of the West Texas Gulf Pipeline running from the producing area to the Gulf Coast and the MidValley Pipeline at Longview, TX. Chevron/Gulf (1984), Complaint ¶¶ 38-39.
[38] Texaco/Getty (1984), Complaint ¶¶ 15-59.
[39] At this time pipeline transport from the Gulf Coast was not considered to be in the relevant market for "the manufacture of refined light products." Texaco/Getty (1984), Complaint ¶¶ 19-21.
[40] Texaco owned 14.3% of Colonial Pipeline, "the dominant means of transporting additional refined light products into the Northeast region, supplying approximately 36.9 percent of total consumption . . . in 1982." Getty owned 100% of the Getty Eastern Products Pipeline. Texaco/Getty (1984), Complaint ¶¶ 33-35.
[41] Texaco owned 40% of the Wyco Pipeline, one of four pipelines delivering refined product to Colorado, while Getty owned 50% of the Chase Pipeline. Texaco/Getty (1984), Complaint ¶¶ 29-31.
[42] Both Texaco and Getty owned refineries and proprietary pipeline systems in the relevant market. While Texaco produced less heavy crude oil than it could refine, Getty produced more than it could refine on the West Coast. The Complaint alleged that the merger was "likely to increase Texaco's incentives and ability to deny non-integrated refiners heavy crude oil and access to proprietary pipelines." Texaco/Getty (1984), Complaint ¶¶ 50-57.
[43] Gulf/Cities Service (1982), Complaint for a Temporary Restraining Order and Preliminary Injunction Pursuant to Section 13(b) of the FTC Act ("Gulf/Cities Service Complaint"), ¶¶ 19-22. 1982 Merger Report.

	3. Pipeline transportation of refined products into the Mid Atlantic and Northeast	Unilateral[44]	Not publicly available	As above
Mobil/ Marathon[45] (1981)	Wholesale marketing of gasoline and middle distillates in various markets in the Great Lakes area	Unilateral / Coordinated[46]	Not publicly available[47]	FTC sought preliminary injunction, but before hearings were held Mobil withdrew tender offer as a result of injunction in a separate, private litigation
Source: Compiled from FTC complaints, orders, and analyses to aid public comment.				
* Note: This table lists enforcement actions in reverse chronological order, beginning with the FTC's most recent challenge of a major petroleum merger in 2004. The year cited is the year in which the merger was proposed and most of the FTC activity occurred; in some cases, a consent order was not final until a later calendar year.				

[44] Gulf and Cities Service owned 16.78% and 13.98%, respectively, of Colonial Pipeline. Since the merged firm's share would exceed 25%, it would be able to unilaterally block future pipeline expansion under the pipeline's rules. Gulf/Cities Service Complaint ¶ 19.
[45] Mobil/Marathon (1981), Memorandum of Points and Authorities in Support of the Federal Trade Commission's Complaint for Temporary Restraining Order and for Preliminary Injunction ("Mobil/Marathon Complaint Memorandum") 6, 26-27. 1982 Merger Report.
[46] While the theories of anticompetitive effects were not always clearly articulated in the earliest petroleum merger investigations, a careful reading of the complaint and accompanying materials suggests the type of effects the investigators had in mind. The classifications of theories for these early cases listed in this table are therefore based in part on the authors' interpretation of the complaints, court documents, and staff case memoranda. In the case of Mobil and Marathon, the merger would "enhance Mobil's market power" in the relevant markets by "doubling and tripling its share," (Mobil/Marathon Complaint Memorandum 26, 29) suggesting a likelihood of unilateral anticompetitive effects, and that it would increase concentration in already concentrated markets and remove a firm that had tended to act as a maverick, pricing aggressively and selling large volumes to independent retailers (Mobil/Marathon Complaint Memorandum 29-30) – pointing toward a theory of coordinated effects.
[47] The Complaint alleged that the firms' combined shares of wholesale gasoline sales exceeded 24.5% in eighteen SMSAs, reaching 44.0% in one city and 49.4% in another. While HHIs were not calculated at that time, the parties' contribution to HHI (that is, the sum of their squared shares) can be calculated from the market share data given (Mobil/Marathon Complaint Memorandum 27, Table 1). The parties' pre-merger contribution to HHI ranged between 500 and 1,000 for ten of the eighteen SMSAs and exceeded 1,000 for another three.