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Mr. Donald C. Clark
Secretary
U.S. Federal Trade Commission
Room H-135 (Annex G)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Request for Extension of Time to File Comments in Response to Market Manipulation Rulemaking, P082900: Prohibitions on Market Manipulation and False Information in Subtitle B of the Energy Independence and Security Act of 2007

Dear Secretary Clark:

The Association for Convenience and Petroleum Retailing (“NACS”) formally requests that the U.S. Federal Trade Commission (“Commission”) allow an additional sixty day comment period, through August 5, 2008, in order to respond fully to the Commission’s May 1, 2008, Advanced Notice of Proposed Rulemaking (“ANPR”) entitled “Market Manipulation Rulemaking, P082900.”

NACS is an international trade association representing more than 2,200 retail and 1,800 supplier company members, with a majority of its membership based in the U.S. In 2006, NACS members posted \$405 billion in motor fuel sales. While the ANPR correctly notes that the “in connection with” requirement of Section 811 of Subtitle B of the Energy Independence and Security Act of 2007 (EISA) instructs that Section 811 will not extend to retail sales of gasoline,

the proposed rulemaking nevertheless would have an immediate, widespread effect on NACS members.

NACS primarily requests the additional comment time due to the great complexity of the proposed rulemaking and its desire to provide the Commission with substantive comments that will ensure that the record is fully developed. As the ANPR explains, various, distinct areas of the law will potentially influence both the formulation of any rule on market manipulation and the subsequent legal framework under which any such rule would be analyzed. Not only might the Commission's consumer protection experience under the Federal Trade Commission Act influence the rulemaking, but also the Securities and Exchange Act of 1934, the Securities Act of 1933, the Natural Gas Act, the Federal Power Act, The Commodity Exchange Act, The Sherman Act, the Clayton Act, and the Federal Trade Act.

Under these numerous and expansive areas of the law, commenters must grapple with the subtleties of both regulatory and court interpretations in order to provide the Commission with substantive insight into the formulation and interpretation of the proposed rule under EISA Section 811. The Commission requests commenters to analyze whether, how, and to what extent any or all of these varied legal precedents should be incorporated into or otherwise reflected in a Section 811 rule. In order to do so, and in an attempt to address the numerous specific issues raised by the legal precedent and ANPR, NACS feels that it must have more than the allotted thirty days for comment.

The potential precedents of the proposed rulemaking distinct and complex, and the analysis and application of such precedent to the Commission's authority under Section 811 is novel. The Commission's new authority to prohibit manipulative or deceptive practices in the wholesale market must be carefully crafted to the authorities vested in the Securities and

Exchange Commission (“SEC”) under the Securities and Exchange Act of 1934 and the Federal Regulatory Commission (“FERC”) under the Energy Policy Act of 2005 and other law. Not only do the SEC and FERC precedent in these regards apply to regulated behavior, while the Commission’s proposed rulemaking applies to unregulated behavior, but any proper comparison of such precedent requires in-depth analysis of individual statutory clauses, legal terms of art, and concepts that will be extremely difficult to define, let alone analyze in such a short time frame.

NACS has an expansive membership that is understandably concerned about possible serious effects the Commission’s proposed rulemaking would have on its business. NACS respectfully submits that thirty days is simply much too little time to coordinate a response from its varied membership to such a complex issue as presented by the wholesale market manipulation rulemaking at issue. Therefore, NACS respectfully requests an additional sixty days to coordinate this response.

Thank you for your consideration of this request.

Respectfully,

James D. Barnette