Statement of the Commission

In the Matter of Sunoco Inc./Coastal Eagle Point Oil Company
File No. 031 0139

The Commission has closed its investigation of Sunoco, Inc.'s ("Sunoco") proposed acquisition of the Coastal Eagle Point Oil Company ("Coastal") from the El Paso Corporation. As part of its acquisition of Coastal, Sunoco, which owns three refineries[1] in the greater Philadelphia area, seeks to acquire the Eagle Point refinery. As a part of the Commission's continuing effort to provide transparency to its decision-making process,[2] the Commission is providing this brief statement outlining its decision to close the investigation.[3]

The Commission received some expressions of concern that the proposed transaction would have an adverse effect on the price of reformulated gasoline ("RFG") in the Philadelphia area.[4] The investigation revealed, however, that Philadelphia has, and will continue to have, access to several sources of supply for RFG. Besides Sunoco, three other separately controlled

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[1] Sunoco owns the Marcus Hook, Point Breeze, and Girard refineries. Because Point Breeze and Girard are adjacent and somewhat integrated, some consider them to be one refinery. For present purposes, however, the Point Breeze and Girard facilities are treated as separate refineries.

[2] *See, e.g.*, Statement of the Federal Trade Commission, AmeriSource Health Corporation/Bergen Brunswig Corporation (Aug. 24, 2001) available at http://www.ftc.gov/os/2001/08/amerisourcestatement.pdf; Statement of the Federal Trade Commission Concerning Royal Caribbean Cruises, Ltd./P&O Princess Cruise plc and Carnival Corporation//P&O Princess Cruises plc (Oct. 4, 2002) available at www.ftc.gov/os/2002/10/cruisestatement.htm; DOJ and FTC Merger Challenges Data, Fiscal Years 1999-2003 (Dec.18, 2003) available at www.ftc.gov/opa/2003/12/mergereffects.htm.

[3] This Statement does not discuss all potential markets for which the Commission conducted an investigation, only those that raised the most plausible concerns of anticompetitive harm.

[4] Pursuant to Environmental Protection Agency regulations, gasoline marketers in the Philadelphia area are required to sell RFG, which is more expensive than conventional gasoline. This area includes southern New Jersey.

refineries remain in the Philadelphia area, each of which has sufficient capacity to meet a substantial portion of the demand for RFG in Philadelphia. Moreover, substantial volumes of RFG flow through Philadelphia toward and into New York from the Gulf of Mexico via the Colonial pipeline. An attempt to increase price in Philadelphia is likely to cause one or more of the many firms shipping RFG on Colonial to divert supply into Philadelphia, and to lead to increased flows from the Gulf to Philadelphia.[5] In addition, Philadelphia receives waterborne RFG shipments, most notably from refineries in the U.S. Virgin Islands. These shipments appear likely to increase in the event of an attempted price increase by the four remaining Philadelphia-area refiners. This potential or actual increase in supply will likely cause prices to remain at, or quickly return to, the competitive level. Therefore, we have concluded that suppliers of RFG into Philadelphia are unlikely to find it profitable to attempt – much less maintain – a price increase for RFG in Philadelphia.

The Commission also received expressions of concern that local refiners in Philadelphia could increase the price of conventional gasoline sold into the Laurel Corridor[6] after the acquisition because other potential sources of supply, such as the Buckeye pipeline from New York Harbor and the Colonial pipeline from the Gulf of Mexico, are full during the summer, not economically viable, or constrained by certain logistical impediments. Based on information obtained in the investigation, including substantial data on the volume and timing of shipments into the Laurel Corridor, the Commission determined that these concerns were unfounded. The Commission concluded that shipments of conventional gasoline into the Laurel Corridor via the Colonial pipeline would likely increase in the event of any attempted price increase by the refiners located in the greater Philadelphia area, and that as a result any attempt to increase price would not be profitable or sustainable.

Potential efficiencies present an additional reason to close the investigation without enforcement action. Sunoco presented credible evidence that the acquisition is likely to produce substantial merger-specific efficiencies relating to refinery synergies and optimization. These efficiencies should contribute significantly to assuring the continuing viability of the Eagle Point

[5] Because New York has ample supply from alternative sources, diverting supply from Colonial into Philadelphia would not cause adverse effects in New York.

[6] "Laurel Corridor" is a term used to describe the area of Pennsylvania served by the Laurel pipeline. The Laurel pipeline runs from Pittsburgh to Philadelphia, where it connects with the Colonial pipeline. The Laurel pipeline connects with the Buckeye pipeline in Sinking Spring, Pennsylvania.

refinery in light of upcoming investments needed to satisfy regulatory requirements for cleaner-burning fuels.[7]

The Commission continues to pay very close attention to the energy sector.[8] If we see evidence of anticompetitive effects, we will act accordingly.

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[7] Our previous experience suggests that these regulatory requirements may result in some increases in price in these areas, as have occurred elsewhere in similar situations. See, Midwest Gasoline Price Investigation, Final Report of the Federal Trade Commission (Mar. 29, 2001) available at www.ftc.gov/os/2001/03/mwgasrpt.htm; Comments of the Staff of the General Counsel, Bureaus of Competition and Economics, and the Midwest Region of the Federal Trade Commission before the Environmental Protection Agency "Study of the Unique Gasoline Fuel Blends, Effects on Fuel Supply and Distribution and Potential Improvements" (Jan. 30, 2002) available at www.ftc.gov/be/v020004.pdf. We have no reason to believe that this acquisition will contribute to any potential increase in price.

[8] *See, e.g*, Conoco Inc., and Phillips Petroleum Co., Dkt. No. C-4058 (final consent order) (Feb. 7, 2003); Valero Energy Corp. and Ultramar Diamond Shamrock Corp., Dkt. No. C-4031 (final consent order) (Feb. 19, 2002); Chevron Corp. and Texaco, Inc. Dkt. No. C-4023 (final consent order) (Jan. 2, 2002); and the Commission's "Gas Price Monitoring Program," announced on May 8, 2002 (available at www.ftc.gov/opa/2002/05/gcr.htm).