

**Opening Statement of
William E. Kovacic, Commissioner
United States Federal Trade Commission
Before the Committee on Commerce, Science, and Transportation
United States Senate
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Chairman Pryor, Vice-Chairman Stevens, and members of the Committee. Thank you for the opportunity to review the Commission's recent competition policy initiatives concerning the energy industry. I will focus on activities of the past 12 months and will discuss four elements of our competition program for energy: law enforcement, research, cooperation with other government agencies, and public consultation.

Merger control is the core of recent FTC law enforcement concerning the energy sector. Four matters stand out. In March, the Commission filed an administrative complaint challenging the proposed purchase by Equitable Resources of a subsidiary of Dominion Resources. The FTC alleged that the proposed transaction would create a monopoly of natural gas distribution services in Pittsburgh and surrounding parts of Allegheny County, Pennsylvania. Two months ago, the Commission opposed the terms of a \$22 billion deal by which Kinder Morgan would have been taken private by its management and a group of investment firms. The Commission obtained adjustments to protect competition in the transportation and temporary storage of gasoline and other petroleum products in the southeastern United States. Last November, Chevron and USA Petroleum abandoned a transaction by which Chevron would have bought most of USA Petroleum's retail gasoline stations in California. The FTC had been conducting an investigation into the proposed transaction, and USA Petroleum's president said that resistance from the FTC induced the parties to abandon the deal. Last October, the FTC issued a consent order that compelled the divestiture of salt dome storage capacity on the Texas Gulf Coast to resolve competitive issues arising from EPCO's acquisition of the natural gas liquids storage business of TEPPCO partners.

These and other FTC law enforcement initiatives draw heavily upon the Commission's investment of resources to conduct research and perform studies involving the energy sector. These investments are the research and development that guides the FTC's pursuit of cases and informs the use of our non-litigation policy tools. In May 2006 the Commission presented to Congress its report on the Investigation of Gasoline Price Manipulation and Post-Katrina Gasoline Price Increases. The report examined whether energy firms had manipulated gasoline prices and described how energy markets responded to the destruction caused by hurricanes Katrina and Rita. In December 2006, the Commission issued a report on the current state of ethanol production in the United States.

The FTC is not the only public body with competition policy duties in the energy sector. Improved cooperation with other public bodies can help each institution spend its competition resources more effectively. I believe the creation of more effective public agency networks is a key ingredient of future policy success in energy and other parts of the economy. To this end,

last September the FTC and representatives of various state attorneys general held a day-long workshop to discuss competition and consumer protection issues that involve gasoline pricing. The workshop participants regarded the event as a useful step toward improving federal and state efforts to address developments of common concern, such as mergers.

The fourth ingredient of the FTC's energy program is public consultation in the form of public hearings, seminars, or workshops. Public consultations have enable the FTC to gain deeper insight into developments affecting industry and consumers, to identify major emerging issues, and to help build a consensus about appropriate policy responses. Earlier this morning the Commission convened the first of three days of hearings on *Energy Markets in the 21st Century: Competition Policy in Perspective*. The hearings will examine the role of old and new fuel cycles, demand-side issues such as the operation of the transportation sector, lessons from past regulatory strategies, and the vulnerability of the United States to supply and demand shocks. The proceedings feature an extraordinary group of participants, including representatives from consumer groups, government agencies, energy companies, think tanks, and universities. The hearings have great promise to improve our understanding of how the FTC can best apply its competition policy instruments and, more generally, what paths the nation's energy policy should take in the future.

I am pleased to address your comments and questions.

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