# Campaign of Inaction:
## The Federal Trade Commission's Refusal to Protect Consumers from Consolidation, Cutbacks and Manipulation in America's Oil and Gasoline Markets

An investigative report presented by
**U.S. Senator Ron Wyden**
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Gasoline pricing is one of the most important consumer protection issues that the Federal Trade Commission (FTC) is responsible for overseeing. But for years, the FTC has failed to act in three critical areas that have a direct impact on the prices consumers pay at the gas pump: oil company mergers, refinery closures, and anti-competitive gasoline marketing practices.

Today's staggering gasoline prices are not just clobbering consumers at the pump; they are siphoning away much of the fuel driving our nation's economy[1]. Consumer spending now accounts for two-thirds of U.S. economic activity, and high gasoline prices act like a tax on consumers that reduces their purchasing power. Every extra dollar that consumers are paying at the pump in higher gas prices is a dollar they are not spending on other products and services. The loss of consumer purchasing power from higher gasoline prices threatens to stall the current economic recovery and throw our economy back into recession.[2]

Higher gasoline and oil prices also raise the cost of doing business for nearly every sector of our economy from airline, trucking and other transportation businesses to farmers and retail stores.[3] As higher gasoline prices are passed on to other sectors of our economy, they also fuel inflation and add pressure to raise interest rates, affecting additional economic sectors such as housing and medical care.[4]

With such serious threats to consumers and our nation's economic future, the American people need their government to be fighting for their interests and for our country's economic future. Instead, the FTC continues to wage a "campaign of inaction" – that is, not just to fail to act on consumers' behalf, but to *refuse* to act – where oil and gasoline markets are concerned.

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[1] "Gasoline Prices Make Shoppers 'Efficient,'" *The Washington Post*, May 25, 2004.
[2] "Rising Gas Prices; Brakes on spending; Economists fear that continued high costs at the pump could lead to drop in consumers' discretionary income," *Newsday* (New York), May 19, 2004.
[3] "Whose pocketbooks are hit by $2 gas prices," *The Christian Science Monitor*, May 13, 2004.
[4] "Moderate Inflation Still Hurts; Tight Budgets Hit Particularly Hard by Gasoline Prices," *The Arizona Republic*, May 16, 2004; "Prices in April Rose a Bit; Energy Costs Stir Concern," *The New York Times*, May 15, 2004.

The consequences of the FTC's inaction are particularly harmful to consumers now, as gasoline prices hover at historic levels. However, the FTC's hands-off approach to the oil and gasoline markets is not new. Through Administrations of both political parties, the FTC has sat on its hands when helping the American consumer should have been a matter of course. The following report details the FTC's inaction on oil company mergers, refinery closures, and anti-competitive gasoline marketing practices, describes the true impact of the agency's inaction, and makes the case for new and aggressive leadership of the FTC. The facts presented here show that there is no more time to waste – this agency must change its course and help American consumers now.

## ISSUE 1: OIL INDUSTRY MERGERS

**The FTC Record**: On May 27, 2004, the General Accounting Office released a major new study showing how oil industry mergers permitted by the FTC have increased gasoline prices.[5] Specifically, GAO found that during the 1990's the FTC allowed a wave of oil industry mergers to proceed, that these mergers had substantially increased concentration in the oil industry and that almost all of the largest of the oil industry mega-mergers examined by GAO each had increased gasoline prices by one to two cents per gallon. Essentially, the GAO found that the FTC's oil merger policies during the 1990's had permitted serial price gouging.

Since 2001, oil industry mergers totaling $19.5 billion have been unchallenged by the FTC, according to an article in Bloomberg News.[6] The article also reported that these unchecked mergers may have contributed to the highest gasoline prices in the past 20 years.

According to the FTC's own records, the agency imposed no conditions on 28 of 33 mergers since 2001.[7] A chart listing oil company mergers and alliances from 2001 to the present and the action taken by the FTC, or lack thereof, is attached as Appendix I.

Where conditions were imposed, analysts indicate that they did not address serious anti-competitive concerns, but provided only cosmetic remedies. One analyst commenting on terms of divestiture in the ConocoPhillips merger stated, "They may lose some retail, and maybe even a refinery, but this is really a drop in the bucket compared to the wider deal."[8] According to another analyst, regarding the refinery Phillips was ordered to divest, "Phillips had in the past been looking to sell its Utah refinery anyway for business reasons." [9] The FTC's conditions for approving the Valero/UDS merger were less than

[5] Effects of Mergers and Market Concentration in the U.S. Petroleum Industry (U.S. General Accounting Office May 2004).
[6] "Gasoline Surges Under Bush Following Refinery Mergers" (Bloomberg News May 17, 2004). ("Bloomberg article")
[7] FTC document, supplied by FTC Congressional Relations, May 20, 2004.
[8] *Oil Daily*, November 26, 2001
[9] *Oil Daily*, September 3, 2002.

stringent, according to analysts. "It's the least disruptive refinery they have to sell," said Andrew Fairbanks, equity analyst at Merrill Lynch.[10]

**<u>The Impact</u>**: You can see the results of the FTC's inaction at gas stations in Oregon and all across America. Nationwide, gasoline markets in Oregon and at least 27 other states are now considered to be "tight oligopolies" using one widely accepted measurement of industry concentration, with four companies controlling more than 60 percent of gasoline supplies, according to a report by the Senate Permanent Subcommittee on Investigations.[11] States where the gasoline business is a tight oligopoly include Arizona, Alaska, Montana, Maine, Nevada, Virginia, Illinois, Hawaii, North Dakota, Massachusetts, West Virginia, California, Oregon and Washington.[12]

Bloomberg reports that the top ten refiners now control 79 percent of the market.[13] On the West and East coasts, where most of the nation's population is located, the markets are even more concentrated. Sixty-seven percent of the West Coast market and 77 percent of the East Coast market are controlled by the top four refiners.[14]

The FTC, oil industry officials and consumer groups all agree that in highly concentrated markets, oil companies don't need to collude in order to raise prices. The FTC's own General Counsel William Kovacic said that "It may be possible in selected markets for individual firms to unilaterally increase prices."[15] In other words, the FTC General Counsel basically admitted that oil companies in these markets can price gouge with impunity. Chevron/Texaco's North American President David Reeves admitted at hearing of the Senate Permanent Subcommittee on Investigations in 2002 that the West Coast gasoline market is so "dominated by a limited number of large committed refinery/marketers whose individual actions can have significant market impact."[16] As Mr. Reeves admitted, one company acting alone can have significant market impact. Consumer Federation of America's director of research Mark Cooper said: "If the number of people in the market is small enough, they don't have to collude to extract nearly all the profits a monopolist would."[17]

Despite all this evidence that gasoline markets around the country have become highly concentrated and, in these concentrated markets, individual firms can raise prices and extract monopoly profits, the FTC has failed to take effective action to check oil industry mergers. In the vast majority of cases, the FTC took no action at all. As this report will further illustrate, the agency has failed to ensure that the benefits of decisions made to protect consumers when mergers occur are maintained in the changing market.

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[10] *Oil Daily*, December 4, 2001.
[11] Gas Prices: How Are They Really Set? (Senate Hearings 107-509 Before the Permanent Subcommittee on Investigations April 30 and May 2, 2002) at p. 257.
[12] Id.
[13] Bloomberg article
[14] Id.
[15] Id.
[16] Gas Prices: How Are They Really Set? at p. 62.
[17] Bloomberg article

## ISSUE 2: REFINERY CLOSURES

**The Oil Industry Record**: From 1995 until the present, 30 American refineries have closed down.[18] A chart listing these refinery closures and the lost refining capacity is attached as Appendix IIA.

In addition, Shell Oil has announced plans to close its 70,000 barrel-per-day refinery in Bakersfield, California.[19] If the Bakersfield closure is not stopped, these refinery closures will have taken 992,465 barrels per day – almost 1 million barrels per day -- out of production in just nine years.[20]

From 1977 to 2002, the total number of refineries decreased from 282 to 153.[21] While there has been a 2.4 percent increase in refinery capacity from expansions of existing refineries, these increases haven't come close to keeping up with the 27 percent increase in demand for gasoline over this time.[22]

**Refinery Closures Achieve Oil Industry Desire to Reduce Excess Refinery Capacity**
Internal oil industry documents show that during the 1990's, industry officials looked to reduce refinery capacity in order to increase margins and boost profits. For example, in November 1995, an internal Chevron document revealed the concerns of a senior energy analyst at the API (American Petroleum Institute) convention that "If the U.S. petroleum industry doesn't reduce its refining capacity, it will never see any substantial increase in refining margins."[23] A few months later, an internal Texaco document warned that "[a]s observed over the last few years and as projected into the future, the most critical factor facing the refining industry on the West Coast is the surplus refining capacity, and the surplus gasoline production capacity. The same situation exists for the entire U.S. refining industry."[24]

In at least one case, oil company documents show a deliberate oil industry strategy to tighten gas supply and drive up prices and oil company profits by keeping a refinery off-line. An internal oil company document revealed efforts to prevent the restart of the Powerine refinery in Southern California because an oil company official feared that its restart would reduce gas prices and refinery profits by two to three cents per gallon. In the document, this official writes: "We would all like to see Powerine stay down. Full court press is warranted in this case."[25]

[18] EIA Annual Energy Review, 2002, Table 5.9 "Refinery Capacity and Utilization, 1949-2002"
[19] Shell To Close Bakersfield Refinery, Optimize Regional Refining Network (Shell Press Release dated November 13, 2003).
[20] Total based on EIA Annual Report, Vol. 1, Years 1995-2002; 2003 data from Mike Connor, EIA Analyst by phone, April 20, 2004.
[21] EIA Annual Energy Review, 2002, Table 5.9 "Refinery Capacity and Utilization, 1949-2002"
[22] EIA Annual Energy Review, 2002, Tables 5.12a, 5.12b, 5.12c, 5.12d, "Petroleum Consumption (Motor Gasoline Data)
[23] Internal Chevron Document, November 30, 1995.
[24] Internal Texaco Document, March 7, 1996.
[25] Internal Mobil Corp. email, February 6, 1996.

**Shell's Shutdown of Bakersfield Refinery – A Textbook Case of Reducing Supply to Boost Prices and Profits**

Most recently, Shell announced plans to close its 70,000 barrel-per-day refinery in Bakersfield, California, even though company records show the refinery is currently profitable.[26] A Shell document showing the refinery's profits is attached as Appendix IIB.

Shell's announcement of its decision to close the Bakersfield refinery claimed that "there is simply not enough crude supply to ensure continued operation would be economically viable."[27] But recent news articles have reported that both Chevron/Texaco and State of California officials estimate that the San Joaquin Valley, where the Bakersfield refinery is located, has a 20-25 year supply of crude oil remaining.[28]

In fact, *The Bakersfield Californian* reported on January 8, 2004, that Chevron/Texaco plans on drilling more than 800 new wells in the San Joaquin Valley this year, which is "300 more new wells than last year."[29] The fact that Texaco, Shell's former partner in the Bakersfield refinery, is increasing its drilling in the area calls into question Shell's claim that a lack of available oil supply is the real reason for closing its Bakersfield refinery.

Another reason to question Shell's claim about the availability of crude oil is the fact that Shell is currently the subject of an investigation for misstating its crude oil reserves.[30]

Despite Shell's claims that its decision to shut the refinery was not made to drive up profits, the company has admitted that "[t]here will be an impact on the market."[31] That impact will be to drive prices even higher. Oil companies predicted that shutdown of the Powerine refinery would boost gasoline prices by two to three cents; that refinery's capacity was only 20,000 barrels per day. Because of the much larger capacity of the 70,000 barrel-per-day Bakersfield refinery, Shell's shutdown of this refinery could have an even larger impact on prices at the pump.

**Fewer Refineries and Tighter Gasoline Supply Improves Oil Industry's Bottom Line**

As refineries have closed, the gap between U.S.-produced gasoline supply and demand has grown by more than 50 percent from 1994 through 2002.[32] In 1994, U.S. refineries

[26] People, Planet, Performance (Shell Bakersfield Refinery February 2004).
[27] Shell Bakersfield Refinery Closure Questions and Answers (Shell Bakersfield Refinery March 9, 2004).
[28] "Shell Plan to Shut Plant Raises Fears," *The Wall Street Journal* (February 23, 2004); "Kern County, Calif., Oil Industry Face Declining Years," *The Bakersfield Californian* (January 3, 2004).
[29] "Chevron Texaco Plans to Drill 800 New Wells in California's San Joaquin Valley," *The Bakersfield Californian* (January 8, 2004).
[30] Reuters News Service, May 24, 2004
[31] "Shell Plan to Shut Plant Raises Fears," *The Wall Street Journal* (February 23, 2004).
[32] EIA Annual Energy Review, 2002, Petroleum Consumption, 1949-2002, Tables 5.12a, 5.12b, 5.12c, 5.12d, (Motor Gasoline Data) and Refinery Input and Output 1949-2002, Table 5.8 (Motor Gasoline Data)

produced 111,876 fewer barrels of oil than were consumed in this country.[33] By 2002, the gap between production and consumption had grown to 179,723 barrels.

Peter Coy, Associate Business Editor at *Business Week*, asserted, "Refiners are running near capacity because they have little incentive to build more. For starters, they make more money when supplies are tight." Refining profit margins in the last week of February were $6.74 a barrel, vs. a five-year average of $4, according to data collected by UBS. In California, where refiners have a long history of high profit margins, the late-February refining margin was $13.78 a barrel. That's double the five-year average of $6.78 UBS says.[34]

Refinery closures and tight supplies have increased refinery margins and padded the oil companies' bottom lines. A prime example is Exxon/Mobil, which announced all-time record earnings for 2003 of $21.5 billion.[35] Those are not just the highest earnings ever by an oil company; they are almost the highest ever by *any* company.[36]

Chevron/Texaco, Exxon/Mobil, BP, Shell, Conoco/Phillips, and Occidental Petroleum have now all reported record first quarter results for 2004. Below is a chart showing the percentage increase in net profits for the first quarter 2004 over 2003.

| **Company** | **% increase in Q1 2004 results as compared to Q1 2003** |
|---|---|
| Chevron / Texaco | **+33%** |
| Exxon / Mobil | **+14%** |
| BP | **+17%** |
| Shell | **+9%** |
| ConocoPhillips | **+27%** |
| Occidental | **+50%** |

These are overall corporate results. Five of the six companies refer to increased margins from their refinery operations as a significant factor in their profit improvements, as follows:

**Chevron/Texaco:**[37]
"US refining, marketing, and transportation earnings of $276 million improved $206 million from last year (a **300 percent increase**). **The primary reasons for the improvement [were] an increase in average refined-product margins, higher sales volumes and lower operating expenses.** …In our downstream and chemical segments,

[33] Id.
[34] "Are Refiners Boosting the Pain at the Pump?" *Business Week* (March 19, 2004).
[35] "Exxon Mobil says it earned a record profit in 2003," (Dallas-AP, March 2, 2004).
[36] Business Wire (March 22, 2004) ("Exxon-Mobil powered its way to the top of the FORTUNE 500 profit charts in 2003, with a $21.5 billion earnings performance that came within a whisper of breaking the record set by Ford in 1998.")
[37] Chevron/Texaco 1st Quarter 2004 Report.

increased demand for refined products strengthened industry margins and helped boost our earnings."

**From Exxon/Mobil:**[38]
"U.S. gasoline prices helped give the world's largest publicly traded oil producer its biggest first quarter refining profit in 13 years."
"**Exxon/Mobil's refining profit rose 39 percent to $1 billion."**

**From Shell:**[39]
"Industry refining margins were driven primarily by strength in gasoline and European margins found support from arbitrage opportunities to the U.S. **In the first quarter refining margins average 19.5 percent for the U.S. Gulf Coast region and 40 percent in the West Coast region."**
"Margins in the USA also may be impacted by supply versus demand imbalances and low storage levels."

**From Conoco/Phillips:**[40]
"Higher refining margins and running at 95 percent of capacity were the primary reasons for the improvement in performance. The realized U.S. refining margin increased almost 31 percent, from $5.58 a barrel to $7.30 a barrel. But if you look at the first-quarter performance in refining and marketing, all of our earnings came essentially from the refining side of the business. And when you look at the refining side of the business worldwide, 87 percent of that came from domestic refining and 13 percent from international refining."

**From BP:**[41]
"The Refining and Marketing result increased 13% compared with a year ago**, reflecting improved refining margins, particularly in the U.S."**

According to an analysis by the Consumer Federation of America's director of research Mark Cooper, oil companies' refinery margins are taking three times as big a bite out of consumers' pockets as the actions of the OPEC cartel.[42] Many industry analysts also view refinery capacity as a bigger problem for U.S. consumers than OPEC. A report by RAND Corporation documented the oil industry's elimination of excess capacity and the impact on consumers:

"For operating companies, the elimination of excess capacity represents a significant business accomplishment," said the report, which noted that the industry blamed overcapacity for low profits in the 1980's and 1990's.

[38] Bloomberg News Service, April 29, 2004.
[39] Shell First Quarter 2004 Report
[40] Conoco/Phillips 1st Quarter 2004 Report.
[41] BP p.l.c. Group Results, 1st Quarter 2004.
[42] "High Energy Prices: Domestic Causes and Solutions," *The Energy Daily* (February 27, 2004).

While oil companies have benefited from reducing refinery capacity, the report said for consumers, "the elimination of spare downstream capacity generates upward pressure on prices at the pump and produces short-term market vulnerabilities."[43]

**The Impact:** Reduced refinery capacity means not only higher profits for oil companies, but also higher prices for consumers. Until recently, the impact of refinery closures and refinery capacity's lag behind the growth in gasoline demand was felt most dramatically by consumers when gasoline supplies were disrupted by refinery outages or pipeline problems. In 2000 and 2001, the FTC identified five separate West Coast gasoline price spikes resulting from unplanned refinery outages.[44] During the summer of 2003, a pipeline problem in the Southwest caused gasoline prices in Arizona to spike to more than $4 per gallon.[45] Another pipeline problem in the spring of 2004 caused a gasoline price spike and supply shortages in Nevada.[46]

However, industry observers now view the growing gap between gasoline demand and domestic production as a continuing problem. According to a petroleum analyst with the Department of Energy's Energy Information Administration, "[t]he markets will stay tighter than [we] have seen historically."[47] Even if oil production increases, industry observers predict a tight gasoline market is here to stay, which could mean periodic sharp price increases at the gas pump.[48]

**The FTC Record**: Besides failing to challenge any oil company mergers in recent years, the FTC also has not exercised effective oversight over the price impacts of tight supply in gasoline markets – even in cases when the agency knew that gasoline prices had spiked above price levels predicted by the FTC's own economic forecasting models. In particular, there is no evidence that the FTC fully investigated the five West Coast gasoline price spikes that occurred during 2000 and 2001 from unplanned refinery outages that the FTC's own models indicated involved gasoline prices above the expected price range during the period. Having attributed the five instances when West Coast prices spiked to refinery fires, there is no indication that the FTC further analyzed the price spikes to determine whether prices spiked higher or the spikes continued for longer periods than could be expected if these refinery outages had occurred in a competitive market.[49] Moreover, during the first quarter of 2003, in a sixth case when West Coast gasoline prices spiked higher than the FTC's predicted range, the FTC was aware that this spike was attributable to voluntary action by oil companies changing oxygenates to

[43] "New Forces at Work in Refining, Industry Views of Critical Business and Operational Trends," D.J. Peterson and Sergej Mahnovski, prepared for the National Energy Technology Laboratory, United States Department of Energy, by Rand Science and Technology, 2003, p. xvi.
[44] Letter from Federal Trade Commission Secretary Donald Clark to U.S. Senator Ron Wyden (May 9, 2003), page 3 and Appendix A.
[45] "Phoenix Tempers Fray In the Quest for Gasoline," *The New York Times* (August 20, 2003), page A10.
[46] "Supply Woes Pinch Gasoline Sales," *Reno Gazette Journal* (May 6, 2004), page 1A.
[47] "Lack of New Refining Capacity Is Spotlighted by High Oil Prices," *The Wall Street Journal* (June 7, 2004), p. A3.
[48] Id.
[49] Letter from U.S. Senator Ron Wyden to Federal Trade Commission Chairman Timothy Muris (June 5, 2003).

ethanol, even though this changeover was not required until 2004.[50] Despite the FTC's knowledge that a West Coast gasoline price spike resulted from deliberate, voluntary action by oil companies, there is no evidence that the FTC investigated the oil industry's decision to accelerate the changeover to ethanol.[51]

There is also no evidence that the FTC is exercising oversight to ensure that existing refinery capacity is maintained in operation or consumers are protected against price impacts from the loss of refinery capacity. A case in point is the FTC's failure to take any action to block Shell's closure of its 70,000 barrel-per-day refinery in Bakersfield, California, even in this case where divestiture of the refinery was required as one of the conditions the FTC imposed to minimize anti-competitive impacts of a merger the agency allowed to proceed.

In 2001, the FTC required Texaco to divest its ownership interest in the Bakersfield refinery. This condition was imposed by the agency to mitigate anti-competitive impacts of Texaco's merger with Chevron, which created the fifth largest oil company in the world. The FTC's September 7, 2001 press release touted the agency's consent agreement allowing the merger to go through as having required "significant divestitures required to remedy the likely anti-competitive impacts of the transaction as proposed."[52] Having found divestiture of the Bakersfield refinery was necessary to mitigate anti-competitive impacts of the Chevron/Texaco merger, the FTC is currently taking no action to ensure that the Bakersfield refinery is not closed – an occurrence which would eliminate any competitive benefit from the divestiture. Moreover, the FTC has failed to take any action to block the Bakersfield refinery closure despite requests by U.S. Senator Ron Wyden,[53] U.S. Senator Barbara Boxer[54] and other elected officials concerned about the impact of the refinery closure on West Coast gasoline supplies and prices.[55]

The FTC's failure to maintain the effectiveness of the refinery-related conditions it imposed to prevent anti-competitive impacts of the Chevron/Texaco merger is not an isolated example of the agency's lack of oversight over oil mergers. The FTC has also failed to exercise its continuing authority over any of the oil company mergers it has allowed to go through.

This is in marked contrast to the oversight role the FTC has exercised over the healthcare industry. As *USA Today* reported, "The industry's growing record of unkept promises has persuaded the FTC to take up the cause again. Some merged hospitals have increased

[50] Letter from Federal Trade Commission Secretary Donald Clark to U.S. Senator Ron Wyden (May 9, 2003), page 3 and Appendix A.
[51] Letter from U.S. Senator Ron Wyden to Federal Trade Commission Chairman Timothy Muris (June 5, 2003).
[52] FTC Consent Agreement Allows the Merger of Chevron Corp. and Texaco Inc. Preserves Competition (Federal Trade Commission September 7, 2001).
[53] "Shell Plan to Shut Plant Raises Fears," *The Wall Street Journal* (February 23, 2004).
[54] "Shell rebuffs Boxer's call to reconsider," *The Bakersfield Californian* (May 17, 2004).
[55] "U.S. Senator Wants Investigation into California's Gas Price Hikes," *The Bakersfield Californian* (February 25, 2004) (reporting the California Attorney General is looking into the planned closure of the refinery for possible antitrust implications).

prices more than 20 percent. The findings don't surprise the FTC which recently set up a hospital-merger review task force and is looking into several recent mergers to see whether these deals actually lived up to the promises they made. If they aren't, the FTC can push to break up the consolidated hospitals." [56]

FTC Chairman Timothy Muris went so far as to say, "The Commission (has) a commitment to vigorous competition in both price and non-price parameters (in healthcare). Theory and practice confirm that when vigorous competition prevails, consumer welfare is maximized in healthcare and elsewhere in the economy." [57]

The increased attention the FTC has provided to hospital mergers and their impact on healthcare consumers is a very different from the approach the FTC has taken in the case of oil industry mergers and refinery shutdowns. To date, the FTC has not announced any oil merger review task force to look into whether the oil industry has kept promises it made. Nor has the FTC taken any action to address the more than 30 percent rise in gasoline prices nationwide over the past year.[58] Instead of acknowledging the anti-competitive impacts of oil mergers and refinery cutbacks, the FTC has criticized the U.S. General Accounting Office's report on the Effects of Mergers and Market Concentration in the U.S. Petroleum Industry.[59]

## ISSUE 3: ANTI-COMPETITIVE PRACTICES

**The FTC Record:** The FTC has documented anti-competitive practices that have been occurring in the oil industry for years. The FTC's own reports on its Western States Gasoline Pricing and Midwest Gasoline Pricing Investigations[60] found that anti-competitive practices, such as "redlining" and withholding gasoline supplies, are occurring in these gasoline markets.

The Federal Trade Commission's 2001 report on its investigation of Western States gasoline marketing and distribution practices found that one of these anti-competitive practices -- "redlining" -- was rampant and had the effect of restricting competition in Western gasoline markets. The Commission specifically found that "[m]ost of the Western States refiners prevented their jobbers from competing with them to supply branded gasoline to independent dealers in metropolitan areas, a practice called 'redlining.'"[61]

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[56] "Merged hospitals break vow to lower patient cost," *USA Today*, November 13, 2002.
[57] Remarks delivered to the 7th Annual Competition in Healthcare Forum, November 7, 2002.
[58] www.fuelgaugereport.com
[59] Effects of Mergers and Market Concentration in the U.S. Petroleum Industry (U.S. General Accounting Office May 2004), Appendix VI.
[60] Statement of Commissioners Sheila Anthony, Orson Swindle, and Thomas Leary Concerning Western States Gasoline Pricing Investigation (Federal Trade Commission File No. 981-0187, May 1, 2002); Final Report of the Federal Trade Commission, Midwest Gasoline Price Investigation (March 29, 2001).
[61] Statement of Commissioners Sheila Anthony, Orson Swindle, and Thomas Leary Concerning Western States Gasoline Pricing Investigation at p. 1.

Three members of the Commission – Commissioners Sheila F. Anthony, Thomas B. Leary and Orson Swindle – issued a statement concluding "The result is that, in certain metropolitan price zones, refiners either prevent or discourage their jobbers from undercutting refiner prices to company-supplied stations."[62] The fourth member of the Commission, Mozelle Thompson, issued a concurring statement that raised further concerns about the anti-competitive effects of redlining, stating "the Commission's analysis does confirm that site-specific pricing can increase wholesale prices."[63] Commissioner Thompson also pointed out that "the investigation did not uncover compelling evidence that site-specific redlining generates any particular cognizable benefits to consumers."[64]

Despite findings that redlining was used to discourage competition, raised prices and provided no benefit to consumers, the Commission found no evidence that the refiners colluded to restrict competition, and so argued that redlining technically could not be prosecuted under antitrust laws.

Even industry analysts have criticized the FTC's lack of action on redlining. A September 2001 article in *Oil Express* stated: "If marketers had hoped that the Federal Trade Commission would use Chevron's $45 billion purchase of Texaco as a means to address market "redlining" by majors, they were sadly wrong – the agency order sanctioning the deal doesn't even mention the word. Neither is a drop of ink spent on any suggestion that marketers should be compensated for their investment in the Texaco brand." [65]

In the March 2001 report on the agency's Midwest Gasoline Pricing Investigation, the FTC documented that by withholding gasoline supply, the industry was able to drive prices up and thereby maximize profits. On this point, the FTC's report found:

> The spike appears to have been caused by a mixture of structural and operating decisions made previously (high capacity utilization, low inventory levels, the choice of ethanol as an oxygenate), unexpected occurrences (pipeline breaks, production difficulties), errors by refiners in forecasting industry supply (misestimating supply, slow reactions), <u>and decisions by firms to maximize their profits (curtailing production, keeping available supply off the market)</u>. The damage was ultimately limited by the ability of the industry to respond to the price spike within three or four weeks with increased supply of products. However, if the problem was short-term, so too was the resolution, and similar price spikes are capable of replication. Unless gasoline demand abates or refining

[62] Id. at p. 2.
[63] Concurring Statement of Commissioner Mozelle Thompson at p. 1.
[64] Id.
[65] *Oil Express*, September 17, 2001

> capacity grows, price spikes are likely to occur in the future in the Midwest and other areas of the country. (emphasis added)[66]

Having found in both its Western States and Midwest Gasoline Pricing Investigations, that these anti-competitive practice had not only occurred but were either on-going or capable of recurring, the FTC nevertheless has not sought additional authority to address these anti-competitive practices and their impacts on gasoline consumers.

**The Impact:** In its May 2004 report, the U.S. General Accounting Office (GAO) identified two major changes that occurred in the gasoline industry as a result of the wave of oil industry mergers and increased market concentration of the industry during the 1990's. First, the availability of generic gasoline, which is generally lower priced than branded gasoline, had decreased substantially. Second, refiners now prefer to deal with large distributors and retailers, which motivated further consolidation in distributor and retail markets.

The FTC's failure to take action against documented anti-competitive practices is likely to exacerbate the problems described by GAO. First, if oil companies are withholding gasoline supplies, as the FTC found, the supplies that would most likely be withheld would be surplus gasoline sold to generic or unbranded markets, rather than branded gasoline that oil companies supply to their own stations. This reduction in the availability of generic gasoline supply during the 1990's may also have contributed to closure of retail gasoline outlets.[67] The net results of reduced generic gasoline availability due to oil companies withholding supplies or other reasons are likely to be higher prices and fewer choices for consumers when they purchase gasoline.

The FTC's lack of action on redlining is also likely to mean fewer choices for retail gasoline dealers buying gasoline and, again, even higher prices for consumers. If dealers cannot buy their gasoline from independent wholesalers because of redlining restrictions imposed by oil companies, then the dealers' only choice is to buy directly from the refinery at prices set by the oil companies. The trend toward increased consolidation of the gasoline industry identified by GAO at both the wholesale and the retail level is likely to make individual stations more competitively isolated. Branded gasoline dealers already have limited ability to shop around for better prices, because they are contractually bound to sell a particular brand of gasoline as part of their franchising agreements. The more concentrated the industry at the wholesale level, the easier it is for oil companies to charge whatever the market will bear, with the higher costs passed on to consumers. Along the West Coast, where the FTC found the practice of redlining was rampant, gasoline prices, refinery margins and profits are all substantially higher than in other areas of the country.[68]

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[66] Midwest Gasoline Price Investigation at p. 4.
[67] According to information provided by the Oregon Gasoline Dealers Association (OGDA), the number of gasoline dealers in Oregon decreased by almost half from 1990 to 2000, from 1,383 in 1990 to approximately 700-725 in 2000. Fax from OGDA Administrator Mike Sims to Senator Ron Wyden (April 5, 2000).
[68] A chart comparing data from California Energy Commission and Energy Information Administration is attached as Appendix III.

Finally, the FTC's failure to take action in cases of documented anti-competitive practices may embolden the oil industry to engage in these and other anti-competitive practices in the future, as the FTC has publicly doubted its own ability to take enforcement action against such practices. At a May 12, 2004 hearing before the Senate Environment and Public Works Committee, one oil industry official boasted that how the oil industry had never been found guilty of illegal activity despite "[m]ore than two dozen federal and state investigations over the last several decades."[69]

The official also quoted the following statement by former FTC Chairman Robert Pitofsky: "There were many causes for the extraordinary price spikes in Midwest markets. . . . Indeed, most of the causes were beyond the immediate control of the oil companies."[70] The fact that an oil industry official quoted the FTC Chairman's statement at the time of the agency's Midwest Gasoline Pricing Investigation report, even though that report had found evidence that prices had spiked because oil companies deliberately withheld gasoline supply from the market, speaks volumes about how the oil industry views investigations of its practices by the FTC.

## FINDINGS AND RECOMMENDATIONS

### Findings

This report makes the following findings with regard to:

**Mergers**

- The FTC has failed to aggressively challenge oil industry mergers, allowing the vast majority to proceed without any checks by the agency.
- The mergers allowed by the FTC have substantially increased concentration in gasoline markets around the country, with the majority of states' gasoline markets now considered to be tight oligopolies.
- The FTC, oil industry officials and consumer groups all agree that in these highly concentrated markets, individual oil companies have the market power to raise prices and extract monopoly profits.
- The U.S. General Accounting Office found that almost all of the oil industry mega-mergers allowed by the FTC during the 1990's each increased gasoline prices by one to two cents per gallon.
- The FTC also has not exercised effective oversight over gasoline markets or the conditions it imposed to minimize anti-competitive impacts of the mergers the agency allowed to go through.

[69] Written Statement of the National Petrochemical & Refiners Association and the American Petroleum Institute before the Senate Committee on Environment and Public Works (May 12, 2004), page 4.
[70] Id.

**Refinery Shutdowns**

- Since 1995, 30 refineries have closed down and Shell Oil has announced plans to close its 70,000 barrel-per-day Bakersfield refinery by October 1. If the Bakersfield closure is not stopped, these refinery closures will have taken 992,465 barrels per day – almost 1 million barrels per day -- out of production.
- Internal oil company documents described the need to reduce refinery capacity in order to increase prices and oil company profits.
- The FTC is not taking action to stop Shell from shutting down its refinery in Bakersfield, even though the agency had previously required Texaco to divest this refinery in order to remedy what it found to be the "likely anti-competitive impacts" of the Chevron /Texaco merger. The shutdown would eliminate the competitive benefit from the divestiture that the agency required.

**Anti-Competitive Oil Industry Practices**

- Fewer refineries and tighter gasoline supplies have resulted in significant improvement in oil companies' bottom lines, with increased profits from refinery operations a major factor in their increased profits.
- Industry and other experts view increased refinery margins as playing a larger role in the higher prices consumers pay at the pump than the OPEC cartel.
- The FTC has documented anti-competitive practices that have been occurring in the oil industry for years. The FTC's own reports on Western States Gasoline Pricing and on Midwest Gasoline Pricing found that anti-competitive practices, such as redlining and withholding gasoline supplies, are occurring in gasoline markets.
- The FTC has concluded that the anti-competitive practices it has found cannot be prosecuted under the antitrust laws on the books today.
- Despite this lack of authority to address documented anti-competitive practices harming competition and consumers, the FTC under Chairman Timothy Muris has taken the position that the agency does not need additional authority in this area.

**Recommendations**

Based on these findings, the FTC should:

1. Revise the current guidelines for oil industry mergers to prevent approval of mergers that result in gasoline consumers paying higher prices and/or require conditions that prevent oil mergers from increasing gasoline prices;

2. Review all mergers identified by GAO as raising gasoline prices to determine whether conditions imposed to remedy the anti-competitive impacts of mergers are being enforced and/or whether new conditions should be imposed to protect gasoline consumers under the FTC's continuing merger review authority;

3. Prohibit Shell's Bakersfield refinery and other refineries owned by companies that were involved in oil industry mergers from shutting down unless the companies

operating the refineries can show shutdown will not decrease available supply, raise prices for gasoline consumers or have other anti-competitive impacts; and

4. Seek additional authority to protect consumers from anti-competitive practices in highly concentrated markets where oil companies can raise prices and extract monopoly profits without having to collude with competitors, such as the authority provided by the Gasoline Free Market Competition Act (S. 1737).

When Americans – particularly in the Pacific Northwest – are paying some of the highest gasoline prices in history, it is unacceptable that the FTC is making no changes to policies that allowed a series of oil mergers to go unchecked and to drive gasoline prices higher. When refinery shutdowns are tightening supply and boosting prices, it is unacceptable that the FTC is taking no action to block these shutdowns, even in one case documented in this report where the agency has specifically ordered the refinery to be sold in order to preserve competition in the market. When the FTC's own reports have found anti-competitive practices rampant in gasoline markets, it is unacceptable that the agency continues to say that it has no authority to address these problems, but also that no new authority is needed.

The Federal Trade Commission needs new and aggressive leadership. The FTC must make a strong commitment to ending its deliberate campaign of inaction where oil and gasoline markets are concerned – and make an equally strong commitment to finally stand up for the American consumers the agency was created to serve.

# APPENDIX I[71]

## Mergers and Acquisitions in the Oil and Gas Industry 2001-2004

| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| **2001** | | | |
| Barrett Resources Corp. (merged with) | Williams Cos. Inc | $2,400,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Basin Exploration Inc. (merged with) | Stone Energy Group | $1,500,000,000 transaction | No action from FTC* |
| Belco Oil and Gas Co. (merged with and into) | Westport Resources Corp. | $922,000,000 transaction | No action from FTC* |
| Bellwether Exploration Co. (merged with Bargo Energy Co.) | Mission Resources Corp. | $220,000,000 transaction | No action from FTC* |
| *Cross Timbers Co.* | *XTO Energy Inc. (name change)* | | |
| DevX Energy Inc. (merged with) | Comstock Resources Inc. | $92,500,000 transaction | No action from FTC* |
| Energy Search Inc. (acquired by) | EOG Resources | $8.22/share for an undetermined number of shares | No action from FTC* |
| Gothic Energy Corp. (acquired by) | Chesapeake Energy Corp. | $345,000,000 transaction | No action from FTC* |

[71] 1)Oil and Gas Journal list of publicly traded companies which appears as the OGJ200 from Bernie Gelb at CRS; 2)EIA list of Mergers and Alliances which tracks companies which control at least 1% of US reserves, production or capacity, from Neal Davis; 3)FTC Enforcement Actions from Bryce Harlow, Congressional Relations, FTC.

| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| GulfCanada Resources (acquired by) | Conoco Transaction size n/a | $9,800,000,000 transaction Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| *Gulfwest Oil Co.* | *Gulfwest Energy Co. (name change)* | | |
| Hallwood Energy Corp. (acquired by) | Pure Resources Inc. | $268,000,000 transaction | No action from FTC* |
| HS Resources Inc. (acquired by) | Kerr-McGee Corp. | $1,750,000,000 transaction Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Huntway (acquired by) | Valero | $78,000,000 transaction Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Louis Dreyfus Natural Gas. Co. (acquired by) | Dominion Exploration and Production Co. | $2,300,000,000 transaction Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| *Pease Oil and Gas Co.* | *Republic Resources Inc. (name change)* | | |
| Southern Mineral Corp. (acquired by) | PetroCorp. Inc | $40,000,000 transaction | No action required from FTC* |

| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| Texaco Inc. (merged into) | ChevronTexaco Corp. | $46,000,000,000 transaction - Numerous anticompetitive issues including: gasoline marketing in 23 states, refining, bulk supply and marketing of CARB in CA, refining and bulk supply of RFG II in St. Louis MSA, terminaling of gasoline and other light products, crude oil transportation in San Joaquin Valley and from offshore Eastern Gulf of Mexico, natural gas transportation, fractionation of natural gas in TX, refining and bulk supply of jet fuel and gasoline in the NW, marketing of aviation fuels in SE and Western US. Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | Texaco must divest interests in Motiva, Equilon, Discovery Gas Transmission, Enterprise fractionator and general aviation business, later amended regarding general aviation business. |
| Tosco (acquired by) | Phillips | $7,000,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Triton (acquired by) | Ameranda Hess | $3,200,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |

| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| **2002** | | | |
| Canaan Energy Corp (acquired by) | Chesapeake Energy Corp. | $118,000,000 transaction | No action from FTC* |
| *Dorchester Hugoton Ltd.* | *Dorchester Mineral LP (name change)* | | |
| EEX Corp. (merged with) | Newfield Exploration Co. | $640,000,000 transaction | No action from FTC* |
| *Equitable Production* | *Equitable Supply (name change)* | | |
| Howell Corp. (acquired by) | Anadarko Petroleum Corp. | $265,000,000 transaction | No action from FTC* |
| Key Production Co. Inc (acquired by Helmrich and Payne) | Cimarex Energy Co. | $225,000,000 transaction | No action from FTC* |
| Mallon Resources Corp. (merged into) | Black Hills Corp. | $52,000,000 transaction | No action from FTC* |
| MCN Oil & Gas (merged into) | DTE Oil & Gas | $4,600,000,000 transaction | Assets must be divested to Exelon Energy Corp pursuant to terms of agreement between MitchCon and Exelon |
| Mitchell Energy and Development Corp (merged with) | Devon Energy Corp | $920,000,000 transaction Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| **Merged or Acquired Company** | **New Company Name** | **Comments** | **FTC Enforcement Action** |
| Ocean Energy (acquired by) | Devon Energy | $5,300,000,000 transaction Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |

| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| Pennzoil-Quaker State (acquired by) | Shell | $2,900,000,000 transaction Anticompetitive concerns include: refining and marketing of paraffinic base oil in US and Canada. Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | Pennzoil interest in lube oil joint venture must be divested, Penn sourcing of lube oil refiner frozen |
| Conoco (acquired by Phillips) | Conoco Phillips | $35,000,000,000 transaction Anticompetitive issues include: Bulk supply of light petroleum products in eastern CO, and northern Utah, terminaling in Spokane WA and Wichita, KA, bulk propane supply in so. Missouri, St. Louis, so. Illinois, natural gas gathering in west TX and se NM, fractionation of nat gas in TX. Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | Divestitures: Conoco refinery in Denver; Phillips assets in eastern CO; Phillips refinery in Salt Lake City; marketing assets in No. Utah; Phillips terminal in Spokane; Conoco gas gathering assets in each area. Prohibition on transfers of competitive information; voting requirements for capacity expansion. |
| *Plains Resources Inc.* | *Plains Exploration and Production Co. (name change)* | | |
| *Power Exploration Inc.* | *Matrix Energy Services Corp. (name change)* | | |
| Prize Energy Corp.(merged with) | Magnum Hunter Resources Inc. | $300,000,000 transaction | No action from FTC* |

| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| **2003** | | | |
| Holly (acquired by) | Frontier Oil Transaction cancelled. Frontier suit of Holly currently in court. | $462,000,000 transaction value<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |

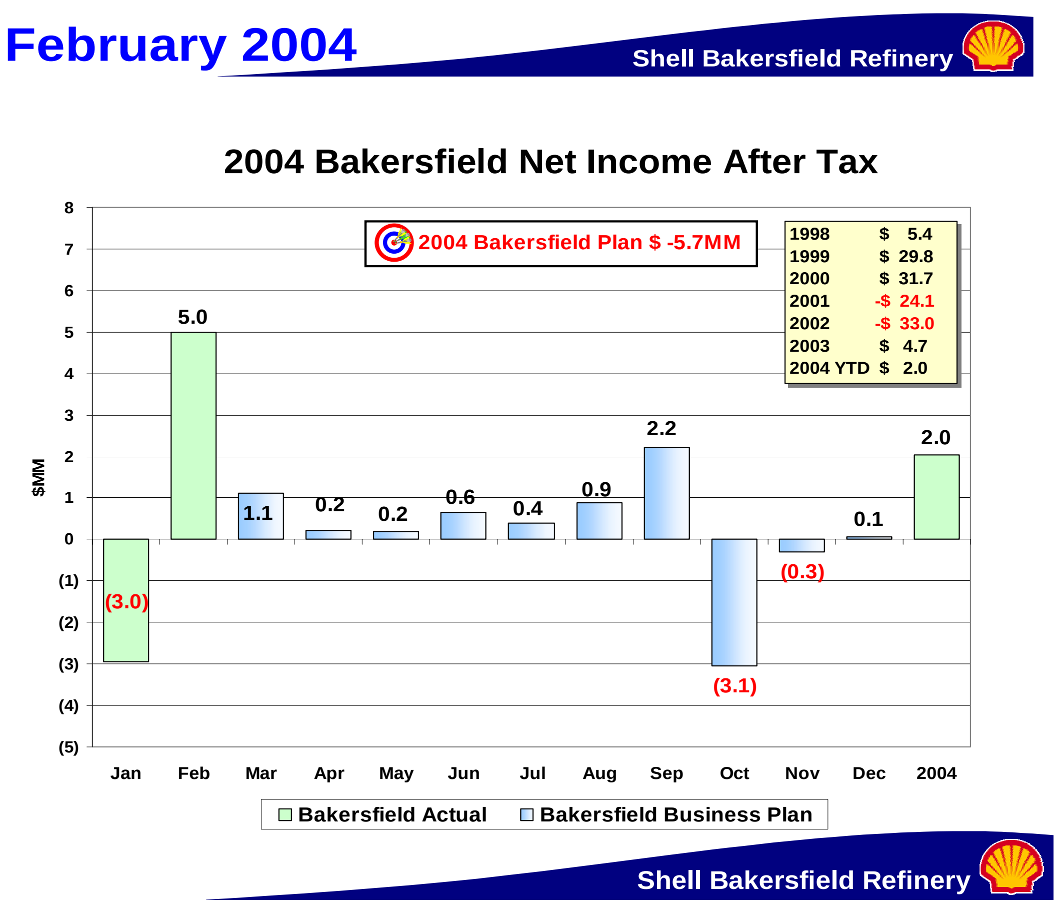
| Merged or Acquired Company | New Company Name | Comments | FTC Enforcement Action |
|---|---|---|---|
| **2004** | | | |
| Evergreen Resources (acquired by) | Pioneer National Resources | $2,100,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Ashland Petroleum (sold partial ownership in shared facility) | Marathon Oil | $2,930,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Nuevo Energy (acquired by) | Plains Production and Exploration | $638,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |
| Westport Resources (acquired by) | Kerr-McGee | $3,400,000,000 transaction<br>Company meets EIA threshold of 1% or more of US reserves, production or refining capacity | No action from FTC* |

*Hart-Scott-Rodino Act requires FTC to review all mergers or acquisitions with a transaction value of $50,000,000 or more (effective February 1, 2001 representing an increased threshold from $15,000,000). "No action" may indicate the FTC signed off on the transaction, or the transaction did not meet the $50,000,000 threshold.

# APPENDIX IIA

| US Oil Refinery Capacity and Closures 1995-2004 | | | | |
|---|---|---|---|---|
| **Year** | **Total # of Refineries (Jan. 1)** | **Total Capacity (1,000 barrels / day, Jan. 1)** | **Refinery Closures during Calendar Year** | **Total Capacity lost from Closed Refineries (1,000 barrels/ day)** |
| | Source: EIA Refinery Capacity and Utilization, 1949-2002 | Source: EIA Refinery Capacity and Utilization, 1949-2002 | Source: EIA Annual Report, Vol. I, Years 1995-2002 ('95-p.80; '96-p.119; '97-p.80; '98-p.119;'99-p.116; '2000-p.116;'01-p.116;'02-p.116),2003 data, Mike Connor, EIA Analyst, by phone April 20, 2004 | |
| 1995 | 175 | 15,434,280 | **5 Closures:** Indian Refining, Lawrence IL; Cyril Petrochemical Corp., Cyril OK; Powerine Oil Co., Santa Fe Springs, CA; Sunland Refining Corp., Bakersfield CA; Caribbean Petroleum Corp., San Juan PR; | 191,750 |
| 1996 | 170 | 15,333,450 | **7 Closures:** Tosco, Marcus Hook PA; Barrett Refg. Corp, Custer OK; Laketon Refr, Laketon IN; Total Petroleum, Inc, Arkansas City KS; Arcadia Refr. Corp, Lisbon LA; Barrett Refg. Corp., Vicksburg MS; Intermountain Refg. Co. Fredonia AZ; | 268,750 |
| 1997 | 164 | 15,451,785 | **3 Closures:** Gold Line Refr. Ltd, Lake Charles LA; Canal Refg. Co., Church Point LA; Pacific Refg. Co. Hercules CA | 87,100 |
| 1998 | 163 | 15,711,000 | **5 Closures**: Gold Line Refining Ltd., Jennings LA; Petrolite Corp., Kilgore TX; Shell Oil Co. Odessa TX; Pride Refg. Inc, Abilene TX; Sound Refg. Onc., Tacoma WA; | 123,650 |
| 1999 | 159 | 16,261,290 | **1 Closure:** TPI Petro Inc., Alma MI; | 51,000 |
| 2000 | 158 | 16,511,871 | **3 Closures:** Pennzoil, Rouseville PA; Berry Petroleum, Stephens AR; Chevron, Richmond Beach WA; | 19,500 |
| 2001 | 155 | 16,595,371 | **1 Closure:** Premcor, Blue Island IL; | 80,515 |
| 2002 | 153 | 16,785,391 | **5 Closures:** Premcor Refg. Group, Hartford IL; American Intl.l, Lake Charles LA; Foreland Refg. Corp., Tonapah NV; Tricor Refg. Bakersfield CA; Chevron Phillips Chem PR Core, Guayana PR; | 94,000 |
| 2003 | 153 | 16,767,000 (EIA, Av. Weekly Refinery Cap) | None | 0 |
| 2004 | 152 | 16,747,000 (based on ytd) | **1 Proposed Closure:** Shell Refinery, Bakersfield CA | |

# APPENDIX IIB [72]


[72] People, Planet, Performance (Shell Bakersfield Refinery February 2004).

# APPENDIX IIB (continued)

## YTD Income Statement

| Bakersfield February YTD | | | |
|---|---|---|---|
| | **Actual** | **Plan** | **Delta** |
| Hydrocarbon Gross Margin | 32.5 | 17.0 | 15.5 |
| Energy/Utilities Expense | 11.5 | 6.4 | (5.1) |
| Gross Margin | 21.0 | 10.6 | 10.4 |
| Operating Expenses | 12.2 | 16.6 | 4.4 |
| EBITDA | 8.8 | (6.0) | 14.8 |
| D&A | 5.6 | 6.6 | 1.0 |
| **NIAT** | **2.0** | **(8.0)** | **10.1** |

EBITDA ~ Earnings Before Interest, Tax, Depreciation, Amortization

Shell Bakersfield Refinery

# APPENDIX III[73]

| INCREASING GASOLINE PRICES AND REFINING MARGINS | | | | | |
|---|---|---|---|---|---|
| | **Gasoline Price per Gallon** | | | **Refinery Cost & Profit per Gallon (margin)** | |
| | US | California | | US | California |
| **Jun-03** | $1.493 | $ 1.79 | **Jun-03** | $ 0.225 | $ 0.530 |
| **Jul-03** | $1.513 | $ 1.70 | **Jul-03** | $ 0.227 | $ 0.410 |
| **Aug-03** | $1.620 | $ 2.10 | **Aug-03** | $ 0.365 | $ 0.710 |
| **Sep-03** | $1.679 | $ 1.85 | **Sep-03** | $ 0.233 | $ 0.410 |
| **Oct-03** | $1.564 | $ 1.71 | **Oct-03** | $ 0.233 | $ 0.440 |
| **Nov-03** | $1.512 | $ 1.68 | **Nov-03** | $ 0.177 | $ 0.390 |
| **Dec-03** | $1.479 | $ 1.62 | **Dec-03** | $ 0.170 | $ 0.260 |
| **Jan-04** | $1.572 | $ 1.75 | **Jan-04** | $ 0.250 | $ 0.360 |
| **Feb-04** | $1.648 | $ 2.11 | **Feb-04** | $ 0.315 | $ 0.630 |
| **Mar-04** | $1.736 | $ 2.13 | **Mar-04** | $ 0.330 | $ 0.730 |
| **Apr-04** | $1.798 | $ 2.11 | **Apr-04** | $ 0.396 | $ 0.640 |
| **May-04** | $2.004 | $ 2.33 | **May-04** | $ 0.441 | $ 0.660 |

[73] Source: U.S. information from: EIA, Gasoline Components History, U.S. Retail Motor Gasoline and On-Highway Diesel Fuel Prices; California information from: California Energy Commission: "Gasoline Price Breakdown & Margin Detail"