

Congress of the United States
House of Representatives

Washington, DC 20515

October 12, 2012

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Leibowitz,

I write to you today regarding recent abnormal movements in the price of fuel, especially in New England. While oil prices have been falling in recent weeks, gasoline prices have not experienced commensurate declines. I am therefore concerned that gasoline prices could be behaving abnormally due to price gouging or manipulation. For this reason, I believe the Federal Trade Commission (FTC) should immediately launch an investigation to ensure that American consumers are protected.

The price of oil has been falling in recent weeks. West Texas Intermediate crude prices have fallen from \$99 in mid-September to \$92 today, a drop of seven percent. Brent crude prices have seen a similar drop. While prices have risen substantially in the last week in California due to refinery outages, most of the rest of the country is seeing gas prices steadily ease as a result of falling crude prices. But New England has neither regional refinery outages nor receding prices. On the contrary, gasoline prices in the region are actually *up* 4 cents a gallon since September 10th. And while crude oil prices today are similar to what they were in mid-July, gasoline prices in New England are more than 40 cents per gallon higher today than they were in mid-July. In Massachusetts in particular, gas prices have actually increased by 8 cents over the last month and 33 cents over the last two months, according to AAA Southern New England.

East coast gasoline and diesel markets are clearly tight, according to Energy Information Administration (EIA) data released yesterday. Motor gasoline and diesel fuel stocks are both below the 5 year range typically seen at this point in the year. Refining capacity in the region has fallen from 1.6 million barrels per day last year to 1.3 million barrels per day today due to permanent refinery closures. But even with this reduced level of capacity, East Coast refinery utilization rates continue to lag below the national average.

With this state of gasoline and diesel markets in New England, I am concerned about the potential for market manipulation or price gouging. While manipulation of gasoline prices is illegal, there has been concern that it may have been occurring in the oil markets for some time. President Obama formed a task force to investigate possible manipulation or fraud in the oil markets in May 2011 comprised of representatives from the Federal Trade Commission (FTC),

Commodity Futures Trading Commission (CFTC), the Federal Reserve Board, Securities and Exchange Commission (SEC), and the Departments of Agriculture, Energy, Justice and Treasury.

It is critical that any abnormalities in the gasoline markets be dealt with immediately. If fuel prices are being kept unnaturally high by manipulation, the consequences for consumers and our economy could be significant. Inflated gas prices would mean that consumers will have less money available to spend elsewhere, damaging the nascent economic recovery. Businesses will face reduced profit margins and have less ability to hire new workers.

Families in New England are already facing higher costs as we head into the winter heating season. The EIA forecasts that households heating with heating oil are already set to see their costs rise by \$407 this winter to nearly \$2,500. Costs to heat with heating oil have increased nearly \$1,000 over the last six years, which is part of the reason why we have had 1.4 million families switch away from home heating oil in the Northeast over the last eight years. If the price of fuel oil is being manipulated, consumers are being gouged first at the pump, then again at the oil furnace.

Section five of the Federal Trade Commission Act grants your agency the power to investigate and prevent deceptive trade practices. If the price of fuels is being manipulated, unknown persons are endangering the very heart of our economy: our ability to transport people and goods across the country. As the current abnormalities in the price of gasoline cannot be easily explained by supply and demand, I request that the FTC initiate an immediate investigation of gasoline prices in New England to determine whether they are being manipulated and to ensure that consumers are protected.

To better understand the current situation, I also request that you respond to the following questions:

- 1) Has the FTC initiated an investigation into manipulation of oil and gasoline markets at any time in the last five years? If not, why not?
- 2) Has the FTC investigated whether different regions of the country may be more susceptible to market manipulation or price gouging?
- 3) Has the FTC prosecuted any persons or entities for fraud relating to the manipulation of oil and gasoline markets in the last five years? If so, please describe those actions and their ultimate outcomes.

Chairman Jon Leibowitz
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Thank you for your assistance and cooperation in this matter. Please provide us with a written response by October 22, 2012. If you have any questions, please contact Justin Slaughter on the Natural Resources Committee's staff at (202)225-6065.

Sincerely,


Edward J. Markey
Member of Congress