April 4, 2022

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science, and Transportation
U.S. Senate
Washington, DC 20510

The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
U.S. Senate
Washington, DC 20510

Dear Chair Cantwell and Ranking Member Wicker:

Our trade associations represent America's retail fuel community.[1] More than 90 percent of retail sales of motor fuel in the United States occur at our members' outlets. As you convene the Senate Committee on Commerce, Science, and Transportation to examine petroleum markets and rising motor fuel prices, we offer the following information on the retail fuels industry and how fuel is priced for your consideration.

- **Overview of the Retail Fuels Industry**

The retail fuels industry's sole objective is to sell legal products, in a lawful way, to customers who want to buy them. While agnostic as to what types of fuel they sell to satisfy consumer demand, our industry's members do have a bias: they believe it is best for the American consumer and America's industrial position in the world marketplace to have reasonably low and stable energy prices.

The convenience and retail fuels industry employed approximately 2.34 million workers and generated more than $548.2 billion in total sales in 2020, representing more than 3 percent of U.S. gross domestic product. Of those sales, approximately $292.6 billion came from fuel sales alone.

The industry, however, is truly an industry of small business. More than 60 percent of convenience stores are single-store operators. Less than 0.2% of convenience stores that sell gas are owned by a major oil company and about 4% are owned by a refining company. More than 95% of the industry, then, are independent businesses. Although some might bear the name of a large oil company, this is not indicative of any ownership stake in the business or the real estate, but simply of a marketing relationship or announcement to passing motorists that a certain company's product is available for purchase at that location (comparable to a soft drink advertisement in a grocery store window).

Members of the industry process more than 160 million transactions every single day. That means about half the U.S. population visits one of the industry's stores on a daily basis. In fact, ninety-

[1]The National Association of Convenience Stores (NACS) is an international trade association representing the convenience store industry with more than 2,200 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO, Representing America's Travel Plazas and Truckstops currently represents approximately 5,000 travel plazas and truck stops nationwide, comprised of both national chains and small, independent locations. SIGMA: American's Leading Fuel Marketers represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel (together, the "Associations").

three percent of Americans live within 10 minutes of one of our industry's locations. These businesses are particularly important in urban and rural areas of the country that might not have as many large businesses. In these locations, the convenience store not only serves as the place to get fuel but is often the grocery store and center of a community.

The average time a customer spends in a convenience store is about three and one-half minutes and industry members compete to ensure the customer's needs are met as efficiently as possible – saving them time and money.

- **The Retail Fuels Market is Transparent, Which Creates Competition**

The retail fuels market is the most transparent, competitive commodities market in the United States. As every American knows, customers can see gasoline retailers' price signs from blocks away, or compare prices on cell phone applications.[2] These signs represent more than just pricing information; they are a value proposition to potential customers, both with respect to fuel and also food and other convenience items and amenities that are offered at specific facilities. NACS' surveys of consumers indicate drivers will make a left turn across a busy street to save one cent per gallon on gas and will drive five minutes out of their way to save five cents per gallon. This combination of transparent, competitive pricing with consumers' price-sensitivity exerts a constant downward pressure on retail fuel prices. This benefits consumers. It also forces successful retailers to run efficient and cost competitive business platforms.

Retailers are fundamentally "buyers" of fuel as much as they are sellers of fuel. Given the transparency and competitiveness of fuel pricing, fuel retailers are "price takers" when they buy fuel in wholesale markets: The market sets the price and retailers compete on optimizing purchasing and inventory management as well as speed and quality of service.

Retail fuel margins are generally extraordinarily low; fuel sales are profitable because of the volume of sales that occur every day. The competitive, transparent market in which they operate creates a dynamic such that retailers cannot pass through price increases as fast as they must absorb them. As the wholesale price of motor fuel rises, retail margins contract. In fact, there are times when their wholesale prices rise so rapidly that retailers lose money on their retail gasoline sales in an attempt to maintain market share.

- **Gas Prices Reflect Retailers' Changing Costs**

The cost of crude oil represents the largest single input to retail fuel. As the Federal Trade Commission put it in its 2011 staff study, "Crude oil prices continue to be the main driver of gasoline prices."[3] In 2021, crude oil averaged about 53 percent of the retail price of gasoline and other major costs include taxes (16 percent), refining (16 percent) and transportation and marketing. Each increase or decrease of $1 per barrel of crude oil roughly translates to an increase or decrease of 2.4 cents per gallon of gasoline.[4]

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[2] Retail pricing decisions are made more competitive by the large number of websites and applications that consumers can access which show different gas prices in a given area. These services often get their data directly from individual consumer reporting and there can be reliability issues, nonetheless retailers know that having higher prices than their competitors can lose them business.

[3] "Gasoline Price Changes and the Petroleum Industry: An Update," Federal Trade Commission Bureau of Economics (Sept. 2011) at i.

[4] A barrel of crude oil has 42 gallons.

The full measure of crude oil cost increases and decreases are reflected in retail prices.[5] Although reductions in price take time to be fully realized at the retail level, the Energy Information Administration (EIA) indicates 60 percent of price changes are reflected at retail within two weeks, 80 percent within four weeks, and 100 percent of cost changes were reflected after seven weeks.[6]

The speed at which crude oil price changes are passed through to retail pricing vary some by region. EIA concluded that much of the regional differences in the rate of pass through were attributable to the distance of some markets to refineries – with markets in closer proximity to refineries having price changes reflected at retail more quickly than markets that were more distant from the refineries that supplied them.[7] This dynamic is also present for retailers that are located far away from fuel terminals that receive and store motor fuel. The shortage of truck drivers available to transport fuel has created inflationary pressure in the transportation market as well, which exacerbates these price issues (especially in rural markets).

There are important reasons why the retail industry favors a strong supply of fuel and low energy prices. As the price of motor fuel rises, retail margins get squeezed. Competition creates a dynamic such that retailers cannot pass through price increases as fast as they must absorb them. That compresses margins. At the same time retailers' margins get smaller, costs such as credit card fees – which are a large part of retailers' costs of selling fuel – increase because they are a percentage of sales prices. In fact, there are times when prices rise rapidly that retailers lose money on gasoline sales in order to try to hold onto market share and not lose customers. The inverse dynamic happens as prices fall. Retailers tend to regain margins as reductions in price take time to be fully realized at the retail level. But, as noted, crude oil cost increases and decreases get reflected in retail prices.

Supply agreements can also impact fuel retailers' costs and pricing. Some retailers have long-term agreements to purchase gasoline from a particular supplier while other retailers try to find the best prices they can by making short-term purchases from different suppliers. There are arguments in favor for both business models: long-term agreements can help retailers get priority access to product when supplies are constrained while purchasing on the so-called "spot market" gives retailers more flexibility to find better deals. These different models can lead to cost differences but, ultimately, all of the retailers in a local market must compete on price to attract customers. That intense price competition keeps prices low and, as noted by EIA, over time reflects all of the cost changes that retailers face.

Fuel retailers can also offset higher crude costs by blending renewable fuels into their supply of gasoline. For example, ethanol is cheaper than gasoline. Allowing larger quantities of ethanol to be blended into the fuel supply could offset higher costs of crude oil, help enhance supply, and lower gas prices. The Associations support a legislative change to permit E15 to be sold year-round throughout the country.

- **Replacement Costs Impact Fuel Retailers**

Fuel retailers are sensitive to the prices that consumers pay because, as price takers, they are similarly impacted by fuel costs. Fuel retailers must have the funds available to purchase their next

[5] "Gasoline Price Pass-through," Michael Burdette and John Zyren, EIA (2003) *available at* https://www.eia.gov/petroleum/archive/gasolinepass.htm [hereinafter "EIA Report"]. In one of the most in-depth studies of gasoline price pass-through it conducted, the Energy Information Administration (EIA) found that there is a 100 percent pass-through of both cost increases and cost decreases when examining wholesale and retail pricing.

[6] EIA Report.

[7] EIA Report.

load of gasoline to supply their retail locations. In other words, to maintain their customer base, they need to replace the product that they sell with new product – or risk shutting down for a time and losing their customers due to a lack of reliability. As fuel costs increase, these replacement costs weigh on business owners' minds. At any given time, retailers must try to earn enough from their sales of fuel so they can pay for their next load of fuel. If they are able to do that, they can replace their inventory without having to make the next purchase on credit. This becomes harder to accomplish as prices rapidly rise. And, as those prices rise, retailers can find that they do not have sufficient credit to purchase their next load even if they wanted to do so.

The bottom line is that retailers, in order to be successful going concerns, need to pay attention to their replacement costs and this is an important dynamic that impacts the market for motor fuel sales overall.

- **Fuel Retailers Pay Increased Credit Card Costs**

When retailers' margins get smaller, costs such as credit card fees – which are a large part of retailers' costs of selling fuel – increase because credit card fees are a percentage of sales prices. Credit card swipe fees therefore accelerate as retail fuel prices increase. Retailers pay card fees on more than 75 percent of their motor fuel sales.[8] These fees are levied as a percentage of the total price of the transaction, so the fees rise as the cost of gasoline rises and create additional price pressure on retailers. In fact, these fees are charged on the tax portion of every transaction as well so retailers must pay the credit card industry for revenue that they know they will never see.

If credit card swipe fee costs were the product of a functioning market, they would simply be another factor in the overall cost mix of a gallon of fuel. Unfortunately, Visa and Mastercard control approximately 80 percent of the credit card market and set the prices that the banks that issue their credit cards charge retailers on every transaction. Those banks compete on prices and rates with respect to every other aspect of their businesses – but they refuse to compete when it comes to the fees they charge retailers. Unlike the retail fuels market, the ongoing antitrust violations, price-setting and lack of transparency in the credit card ecosystem ensure that market forces are unable to discipline the credit card swipe fees.

Last year alone, the swipe fees paid by the convenience and fuel retailing industry increased by more than 27 percent. As prices rise and retail margins narrow, in fact, there are times when the credit card fees paid by retailers on fuel transactions exceed their own margins earned on the sales. While the impact of those fees on gasoline prices is dramatic –the fees inflate the costs of nearly everything that Americans buy, not just gasoline.

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As the Committee investigates the petroleum market and increasing gas prices, we urge you to carefully consider this information.

Sincerely,

National Association of Convenience Stores (NACS)
NATSO, Representing America's Travel Plazas and Truck Stops
SIGMA: American's Leading Fuel Marketers

[8] Swipe fees are fuel retailers' second-highest operating cost, behind only labor. The fees are much more than retailers' costs of utilities and rent, just to take two examples.