TE Products Pipeline Co., L.P.
92 FERC ¶ 61,121 (2000)

In TE Products Pipeline Company (TEPPCO), the Commission established a rebuttable presumption in favor of BEAs for refined petroleum pipelines. The Commission held that if an applicant refined petroleum pipeline defines its geographic markets as the relevant BEAs, alternative sources of transportation within the BEA will be included in the market power statistics unless protesters and intervenors raise a reasonable doubt as to the appropriateness of the use of BEAs. If protesters and intervenors raise a reasonable doubt about the use of BEAs, the applicant pipeline will have to provide detailed cost data justifying the alternative sources within the BEA are viable in terms of cost. Likewise, if an applicant pipeline does not use the relevant BEAs as its geographic market or includes alternative sources of transportation outside the BEAs, cost studies showing the included alternative sources are cost competitive will have to be provided. The Commission did not directly overrule the presumption in favor of BEAs for refined petroleum pipelines in the *Enterprise/Enbridge* proceeding or in Opinion No. 529. The Commission did modify in those proceedings when detailed cost studies are required to justify proposed alternative sources of transportation.

UNITED STATES OF AMERICA92 FERC ¶ 61,121
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
William L. Massey, Linda Breathitt,
and Curt Hébert, Jr.

TE Products Pipeline Company, L.P. Docket No. OR99-6-000

ORDER ON APPLICATION FOR
MARKET POWER DETERMINATION
AND ESTABLISHING A HEARING AND A CONFERENCE

(Issued July 31, 2000)

On May 11, 1999, TE Products Pipeline Company, L.P. (TEPPCO) filed an application under Part 348 of the Commission's regulations for a market power determination. TEPPCO seeks permission to charge market-based rates for deliveries of refined petroleum products[1] from origin points on its system on the Western Gulf Coast and near Shreveport, Louisiana; Indianapolis, Indiana; and Chicago, Illinois; to destination points on its system near Houston and Beaumont, Texas; Shreveport, Louisiana; Little Rock, Arkansas; Memphis, Tennessee; St. Louis, Missouri; Indianapolis and Evansville, Indiana; Chicago, Illinois; and Cincinnati, Dayton, and Toledo, Ohio.

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[1]TEPPCO states that it also transports liquefied petroleum gases (LPGs) on its pipeline system, but that the instant application does not seek market-based rates for its LPG origin or destination markets.

As discussed below, the Commission will permit TEPPCO to implement market-based rates in the Indianapolis and Chicago origin markets and in the Houston, Beaumont, St. Louis, Evansville, Indianapolis, Chicago, and Toledo destination markets. However, the Commission will establish a hearing to determine whether TEPPCO has the ability to exercise significant market power in the Shreveport origin market, as well as in the Little Rock, Shreveport,[2] Cincinnati/Dayton, and Memphis destination markets. The Commission also will direct its staff to convene a conference to explore the facts and issues regarding the Western Gulf Coast origin market.

I. Background

TEPPCO explains that it is the regulated entity through which TEPPCO Partners, L.P., a publicly-traded master limited partnership, owns and operates the pipeline and related facilities. TEPPCO emphasizes that it is an independent pipeline because neither it nor any of its affiliates is a marketer or distributor shipping refined petroleum products on its pipeline.

TEPPCO states that its common carrier petroleum products pipeline system consists of approximately 4,300 miles of pipeline within a 12-state area. According to TEPPCO, its mainline, which actually consists of two lines, originates at Baytown, Texas, and extends to the Lebanon, Ohio, and Seymour, Indiana areas. Further, states TEPPCO, to the east of Lebanon, its system transports LPGs, while another line from Seymour to Chicago transports refined petroleum products to destinations in Chicago and Indianapolis. Finally, TEPPCO states that it also serves various other destinations along its mainline from the Western Gulf Coast through terminals in Texas, Louisiana, Arkansas, Missouri, Indiana, and Illinois, and from connecting lateral lines to additional destinations in Arkansas, Ohio, and Kentucky.

II. TEPPCO's Application

[2] As will be discussed in greater detail below, one of the parties asserts that Arcadia, Louisiana, which is part of the Shreveport destination market defined by TEPPCO, should be considered a separate market. That issue also will be addressed at the hearing in this proceeding.

TEPPCO seeks a declaration pursuant to Part 348 of the Commission's regulations[3] that it lacks significant market power in all of its BEA[4] origin and destination markets and, therefore, that it should be permitted to charge market-based rates. TEPPCO contends that its rates are constrained by a variety of forces over which it has no control, such as the dual state/federal system of regulation; cost-based regulatory mechanisms such as the Commission's indexing formula;[5] and competition from a variety of sources, both actual and potential, including other pipelines, trucks, waterborne transportation, local refineries, and exchanges (or purchases and sales) of petroleum products among shippers. TEPPCO further argues that it should be permitted to implement market-based rates because of the low level of concentration in its origin and destination markets, its modest market share, and significant excess capacity in each market. TEPPCO maintains that market-based rates would give it greater flexibility to maximize throughput by implementing innovative rate programs that would provide its customers better price and service packages, as well as enhancing incentives for investment in the pipeline.

TEPPCO asserts that the relevant product market is pipelineable petroleum products, including motor fuel, distillates, and jet fuel.[6] According to TEPPCO, the United States Supreme Court has observed that "[t]he outer boundaries of the product

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[3] 18 C.F.R. Part 348 (1999). Section 348.1 requires a pipeline seeking to implement market-based rates to: (1) define the relevant product and geographic markets (including both origin and destination markets); (2) identify the competitive alternatives for shippers, including potential competition and other competition constraining the pipeline's ability to exercise market power; and (3) compute the market concentration and other market power measures from information relating to the competitive alternatives.

[4] Each BEA is an "Economic Area" defined by the Bureau of Economic Analysis of the U.S. Department of Commerce. These areas were redefined in 1995 to reflect more current commuting and trading patterns.

[5] TEPPCO cites Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, Order No. 561, FERC Stats. & Regs., Regulations Preambles, January 1991-June 1996, ¶ 30,985 (1993). See 18 C.F.R. § 342.3.

[6] Application of TE Products Pipeline Company, L.P. For Authority to Charge Market-Based Rates (Application), Statement B at 1.

market are determined by the reasonable interchangeability of use or the cross-elasticity of demand between the product itself and substitutes for it."[7]

In defining the geographic markets, TEPPCO acknowledges that the Commission does not utilize the so-called "corridor" or origin/destination pair basis. In its application, TEPPCO separately defines the origin and destination markets. TEPPCO states that "the scope of the relevant geographic market includes the area in which sellers of the relevant product can increase price or cut output without triggering a flow of supply into the area from outside it."[8]

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[7]TEPPCO cites Brown Shoe v. United States, 370 U.S. 294, 324 (1962).

[8]TEPPCO cites FTC v. Illinois Cereal Mills, Inc., 691 F. Supp. 1131, 1142 (N.D. Ill. 1988), aff'd sub nom., FTC v. Elders Grain Inc., 868 F.2d 901 (7th Cir. 1989).

TEPPCO asserts that the Commission's methodology for defining the relevant markets is based on the approach used by the U. S. Department of Justice (DOJ) in its 1992 Horizontal Merger Guidelines (Merger Guidelines). Specifically, continues TEPPCO, this approach identifies the products and services that are readily substitutable for the product or service offered by the relevant firm in response to a "small but significant and nontransitory increase in price" (SSNIP), which in the case of oil pipelines, is at least a 15 percent price increase. TEPPCO further states that, consistent with this method, the relevant geographical market for evaluating the degree of competition faced by oil pipelines is properly defined as the supply of refined pipelineable products from a given origin to all destinations and from all origins to a given destination.[9]

[9]TEPPCO cites Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,660-61 (1994), order on reh'g, Opinion No. 391-A, 71 FERC ¶ 61,291 at 62,131-33 (1995); Buckeye Pipe Line Co. Opinion No. 360, 53 FERC ¶ 61,473 at 62,663-64 (1988), order on reh'g, Opinion No. 360-A, 55 FERC ¶ 61,084 (1991). See also SFPP, L.P., 84 FERC ¶ 61,338 at 62,494-96 (1998); Longhorn Partners Pipeline, L.P., 83 FERC ¶ 61,345 at 62,380-81 (1998).

TEPPCO states that it follows the Commission's preferred approach and utilizes the BEAs surrounding the geographic destination markets as the starting point for determining those destination markets.[10] According to TEPPCO, the Commission has accepted the use of BEA destination markets, but also has acknowledged the validity of including external supply sources outside of the BEA border.[11] Thus, asserts TEPPCO, a relevant geographic destination market typically is larger than the BEA, and should include all sources within 75 to 100 miles of the BEA (a reasonable trucking distance in most circumstances) to reflect actual patterns of distribution and consumption. TEPPCO contends that the Commission has not equated BEAs with relevant geographic markets for oil pipelines, instead imposing on applicants for market-based rates the burden of showing "that each BEA represents an appropriate geographic market."[12] Accordingly, states TEPPCO, it has departed from strict BEA boundaries in certain areas to reflect the competitive realities of those markets.[13] TEPPCO's summary of the competition in its destination markets is found in Appendix A to this order. TEPPCO also contends that its own statistical analysis confirms that competitive sources are sufficient to prevent any exercise of market power in all of its destination markets.[14]

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[10]Application, Statement A, Geographic Markets.

[11]TEPPCO cites Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,669 (1994), order on reh'g, Opinion No. 391-A, 71 FERC ¶ 61,291 at 62,124 (1995); Kaneb Pipe Line Operating Partnership, L.P., 83 FERC ¶ 61,183 at 61,760-61 (1998). See also Application, Statement A, Geographic Markets at 14-15.

[12]TEPPCO cites Market-Based Ratemaking for Oil Pipelines, Order No. 572, FERC Stats. & Regs., Regulations Preambles, January 1991-June 1996, ¶ 31,007 at 31,188 (1994).

[13]As discussed in greater detail below, TEPPCO has departed from strict BEA boundaries in defining its markets in Shreveport, Louisiana; Cincinnati and Dayton, Ohio; and Little Rock, Arkansas.

[14]TEPPCO cites Application, Statement G, which presents a competitive analysis using both: (a) the Herfindahl-Hirschman Index (HHI) of the market, which measures the likelihood of a pipeline exerting market power in concert with other sources of product; and (b) pipeline market share by which one can determine a pipeline's ability to exert market power. TEPPCO states that it has developed both capacity and delivery-based HHIs, as well as capacity and delivery-based market share statistics for each of the participants in its destination BEAs.

TEPPCO maintains that it has utilized a similar process to define relevant origin markets, first identifying the refineries and inbound transportation facilities that could utilize its pipeline and then identifying the outbound transportation facilities and local consumption that could exhaust the supply from those receipt points. TEPPCO states that it included all alternative sources of consumption or transportation available to the refineries or inbound port facilities that use or could utilize TEPPCO at each of its origin points.[15] TEPPCO asserts that the competitive environment in those markets is equally as intense as in its destination markets.[16] TEPPCO's summary of the competition in its origin markets is found in Appendix B to this order.

The HHI is derived by squaring the market shares of all of the firms competing in a particular geographic market and adding them together. The HHI can range from just above zero, where a large number of small companies serve the market, to 10000, where the market is served by a single monopolist. A high HHI indicates significant concentration, which makes it more likely that a pipeline could exercise market power, either unilaterally or through collusion with rival firms in the market.

[15]TEPPCO cites Application, Statement A at 38-39; Statement D at 6-14.

[16]TEPPCO cites Application, Statement I (Schink Testimony at 16-18); Statement G at 55.

TEPPCO's statistical market analysis is summarized in Appendix C to this order. For each of its destination markets, TEPPCO calculates two HHIs: (1) a delivery-based HHI using actual deliveries in these markets to calculate market shares, and (2) a capacity-based HHI to calculate market shares using the capacity of TEPPCO and other good alternatives in the market. TEPPCO also includes its estimated market share, an excess capacity ratio,[17] and the percentage delivered by waterborne sources for each of these markets. The capacity-based calculations are subdivided to reflect the potential impact of external suppliers within 75 miles, 100 miles, and in the case of the Little Rock BEA, within 125 miles of the BEA. For its origin markets, TEPPCO calculates a shipment-based HHI, a capacity-based HHI, and its estimated market share.

TEPPCO maintains that a market should be presumed workably competitive if it has an HHI of less than 2500, the threshold that has been adopted by the DOJ and utilized by the Commission.[18] However, TEPPCO further states that the Commission uses 2500 only as an initial screen,[19] and that even with HHIs above that level, a pipeline should not be deemed to have market power if its market share is less than 50 percent.[20] Moreover, continues TEPPCO, the Commission has found that, if a given pipeline's market share were 70 percent or higher, this "would be 'fairly persuasive' of market power, a market power share of 50 to 70 percent would 'warrant concern' that might be offset by other factors, and a market share below 50 percent would be 'less troublesome.'"[21]

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[17]The excess capacity ratio is calculated by dividing effective capacity available to serve a market by the annual consumption in the market. The effective capacity includes all the refinery, pipeline, truck, and barge capacity that is available to serve a market. The effective capacity may be less than the nominal engineering capacity because portions of a pipeline's or another entity's capacity may be required to serve other markets and therefore are not available to serve the market being analyzed.

[18]TEPPCO cites Application, Statement I (Schink Testimony at 7-8); Statement G at 1-2; Oil Pipeline Deregulation, Report of the U.S. Department of Justice, May 1986 (Deregulation Report) at 30.

[19]TEPPCO cites Williams Pipe Line Co., Opinion No. 391-A, 71 FERC ¶ 61,291 (1995).

[20]TEPPCO cites Application, Statement G at 2-4.

[21]TEPPCO cites Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,671 (1994). TEPPCO further states that the Commission has applied this test in

subsequent proceedings. See Application, Statement G at 8-14.

TEPPCO emphasizes that the HHI and market share data it has submitted, with the exception of Little Rock, do not even approach these levels, whether concentration and market share are calculated on the basis of deliveries or capacity, even assuming a relatively conservative maximum trucking distance of 75 miles.[22] Further, argues TEPPCO, its lack of significant market power is also the result of other relevant factors, including the existence of significant excess capacity,[23] potential new entries in the markets, the continual increase in refinery capacity in the markets,[24] and exchanges.[25]

III. Protests and Interventions

As stated above, TEPPCO filed its application on May 11, 1999. On July 7, 1999, LaGloria Oil and Gas Company filed a motion to intervene. On July 26, 1999,[26] Chevron Products Company (Chevron) filed a motion to intervene, and Exxon Company, U.S.A. (Exxon) and TransMontaigne Product Services Inc. (TransMontaigne) filed interventions and protests. In addition, on July 26, 1999, Lion Oil Company (Lion) filed a motion to intervene and a protest, request for rejection, or in the alternative, for hearing; however, on September 9, 1999, Lion filed a motion to withdraw its protest in part, and on September 16, 1999, Lion filed a substitute for its original protest, in which the portions relating to the El Dorado, Arkansas origin market were redacted.

IV. Discussion

A. Uncontested Markets

No party challenged the Indianapolis and Chicago origin markets or the Houston, Beaumont, St. Louis, Evansville, Indianapolis, Chicago, and Toledo destination markets.

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[22]TEPPCO cites Application, Statement I (Schink Testimony at 7-10).

[23]TEPPCO cites Application, Statement G at 15-16; Statement H at 1-3.

[24]TEPPCO cites Application, Statement E at 2-6, Statement H at 3.

[25]TEPPCO cites Application, Statement I (Langley Testimony at 14).

[26]On July 7, 1999, the Commission granted an extension of time to July 26, 1999, for the filing of interventions and protests.

Accordingly, TEPPCO will be permitted to implement market-based rates in these unchallenged markets.

B. Contested Markets

As discussed below, the Commission will establish a hearing to determine whether TEPPCO has the ability to exercise significant market power in the Little Rock, Shreveport/Arcadia, Cincinnati/Dayton, and Memphis destination markets, as well as in the Shreveport origin market. Additionally, the Commission will direct its staff to convene a conference to explore the facts and issues regarding the Western Gulf Coast origin market.

1. Commission Precedent

In analyzing TEPPCO's protested geographic market definitions, the Commission first looks to Order No. 572,[27] which requires that an oil pipeline seeking market-based rates describe the geographic markets in which it claims to lack significant market power. The Commission also requires the oil pipeline to justify its method of defining the relevant origin and destination markets. Although the Commission does not require any particular geographic market definition, the Commission stated that it

> expects that oil pipelines will propose to use BEAs as their geographic markets. In that event, the burden will be on the oil pipeline to explain why its use of BEAs or any other definition of the geographic market is appropriate. If a pipeline uses BEAs, it must show that each BEA represents an appropriate geographic market.[28]

In addition, the Commission stated that it "believes that the appropriate geographic markets should be determined in each proceeding based on its facts. The burden is on the

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[27] Market-Based Ratemaking for Oil Pipelines, FERC Stats. & Regs., Regulations Preambles, January 1991-June 1996, ¶ 31,007 (1994).

[28] Id. at 31,188.

proponent of any particular definition."[29] It is practical to presume that a BEA is a reasonable approximation of a relevant geographic market, even in cases where the applicant has not provided detailed evidence demonstrating that all of the alternatives within the BEA are indeed good alternatives. However, that is merely a rebuttable presumption.

The parties to a proceeding in which an oil pipeline seeks to implement market-based rates always should be permitted to challenge the use of a BEA as a relevant geographic market. If their protests raise reasonable doubt about a particular BEA as an appropriate geographic market, the applicant must provide a detailed justification of the BEA as a relevant market, including a demonstration that all of the alternatives within the BEA are good alternatives in terms of price.

In Order No. 572, the Commission did not require that good alternatives be justified in any particular way. However, the Commission suggested that comparative costs could be an effective means of justifying good alternatives to the pipeline's service. Order No. 572 sets the stage by pointing out that, in general, it is delivered prices, not transportation rates, that must be compared. The Commission stated that

[29] Id.

> where competitive alternatives constrain the applicant's ability to raise transport prices, the effect of such constraints are ultimately reflected in the price of the commodity transported. Hence, the delivered commodity price (relevant product price plus transportation charges) generally will be the relevant price to be analyzed for making a comparison of the alternatives to a pipeline's services.[30]

In Order No. 572, the Commission also addressed the information to be provided about competition and alternatives.

> For example, the oil pipeline would have to include data similar to that provided for its own facilities and services in Statement C, including cost and mileage data in specific reference to the oil pipeline's terminals and major consuming markets.... To the extent available, Statement E must include data about potential competitors such as a potential entrant's costs and their distance in miles from the oil pipeline's terminal and major consuming markets. [31]

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[30] Id. at 31,189. The delivered price is the appropriate price for destination markets. In origin markets, the focus is on alternatives to the shipper for getting product out of a particular location. Thus, it is the netback (price to the shipper after all costs of delivery) that should be compared in determining good alternatives for origin markets.

[31] Id. at 31,191-92.

In addition to Order No. 572, guidance is found in the Commission's orders in three types of oil pipeline cases addressing applications for market-based rates. In the first type, where the applications were protested and the pipelines provided good justification based on cost analyses showing that shippers had sufficient alternatives to prevent the pipelines from exercising market power, the Commission found the geographic destination markets to be greater than the relevant BEAs. The Buckeye Pipe Line Co. (Buckeye)[32] and Williams Pipe Line Co. (Williams)[33] cases are the only two fully-litigated cases on the issue of oil pipeline market power, and both cases focused only on destination markets. In those cases, the Commission began with the tentative definition of the geographic market as the BEA. However, the Commission ultimately expanded the size of the geographic markets by considering alternatives external to the BEAs based upon laid-in cost studies and found that there was lack of market power in certain markets in both cases.

In the second type, in which the geographic markets were uncontested, varied considerably, and were defined as BEAs or greater than BEAs, the Commission did not scrutinize these markets in detail. For example, in the Longhorn Partners Pipeline, L.P. (Longhorn) case,[34] the applicant defined one destination market consisting of 10 BEAs and one origin market consisting of seven BEAs. Although the Commission did not comment on the applicant's definition of the relevant markets, it found that Longhorn lacked market power in both its origin and destination markets.[35]

[32]Buckeye Pipe Line Co., Opinion No. 360, 53 FERC ¶ 61,473 (1990), order on reh'g, Opinion No. 360-A, 55 FERC ¶ 61,084 (1991).

[33]Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 (1994), order on reh'g, Opinion No. 391-A, 71 FERC ¶ 61,291 (1995).

[34]Longhorn Partners Pipeline, L.P., 83 FERC ¶ 61,345 (1998).

[35]One party argued that the applicant should have used a corridor market approach rather than origin and destination markets, but there was no protest addressing the specific boundaries of the origin and destination markets.

In a similar case, the Commission granted Explorer Pipeline Company's (Explorer) application for a market power determination for all of its origin and destination markets.[36] Explorer defined five destination markets, each consisting of a single BEA. However, in identifying competitive alternatives, the applicant also identified competitive alternatives within 75 and 100 miles of the BEAs and included these sources in some of its HHIs and other market power statistics. While the parties contested Explorer's destination markets, they did so for reasons unrelated to the definition of the geographic destination markets. Explorer also identified three origin markets. Two of the origin markets included one BEA each, and the third origin market included seven BEAs. No party protested the origin markets, and the Commission expressed no opinion about appropriate geographic boundaries or market power in any of the origin markets, stating that

> the Commission has examined that portion of Explorer's filing addressing its origin markets and concludes that the definition and import of those markets are not material issues in this proceeding . The Commission therefore concludes that Explorer can be authorized to utilize market-based rates originating from those markets.[37]

In the third type of case, the Commission has rejected some protested oil pipeline applications for market-based rates because it found that the cost analyses provided by the pipelines were not persuasive. For example, in Kaneb Pipeline Co. (Kaneb),[38] the applicant defined six relevant single-BEA destination markets, but included competitive alternatives within 75 miles of the BEA borders. The applicant also defined five origin markets, each of which included a 75-mile radius around a particular refinery; thus, these five markets probably were smaller than many BEAs. Other than rejecting the Casper BEA as a relevant destination geographic market, the Commission did not comment on the applicant's geographic market definitions, and the Commission found lack of market power in all markets. However, the Commission found the Casper, Wyoming BEA to be too large and defined a smaller market to replace the Casper BEA. No party protested any aspect of Kaneb's application.

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[36] Explorer Pipeline Co., 87 FERC ¶ 61,374 (1999).

[37] Id. at 62,389.

[38] Kaneb Pipeline Co., 83 FERC ¶ 61,183 (1998).

In SFPP, L.P. (SFPP),[39] the applicant requested market-based rates for its 3.8-mile line from Sepulveda to Watson Station, California. The applicant defined the origin market as a three-county area around Sepulveda and the destination market as only the Watson Station itself.[40] Both the origin and destinations markets were protested. The Commission found that SFPP lacked market power in the destination market. The question of market power in the origin market was set for hearing to give the protesters a chance to make their case, although the Commission stated that the applicant had established a prima facie case of lack of market power. In the order establishing the hearing, the Commission agreed with the protesters that SFPP's three-county origin market was too broad. In addition, the Commission stated that

[39] SFPP, L.P., 84 FERC ¶ 61,338 (1998).

[40] In addition to SFPP, several other pipelines are connected to the Watson Station.

> SFPP has correctly stated the test for determining origin markets as that area which includes all means by which refiners whose products currently move through line Section 109 can dispose of their product elsewhere. However, SFPP has failed to show that shippers on line Section 109 can avail themselves of all pipelines in the three-county area.[41]

In its discussion of the origin market, the Commission also noted that trucking to divert product to local markets is a relevant alternative and that the 75-mile radius used in destination markets can apply to origin markets. In that regard, the Commission stated that

> [t]rucking within a 75-mile radius of a destination market, absent evidence to the contrary, has generally been considered an alternative to the use of a pipeline to bring product to a destination market. The Commission sees no reason to deviate from that policy with respect to origin markets.[42]

It is clear from an examination of these precedents that, in the case of protested geographic markets, applicants must justify their geographic markets and alternatives based on detailed cost analyses. One approach to doing so is to perform a detailed laid-in cost study that would identify the set of economic ("good") alternatives in the market from which market shares and HHI indices may be computed. If the applicants choose to develop delivery-based and capacity-based HHI analyses, they should show, for a delivery-based measure, that adjusted delivery figures reflect either what occurs in a market or what reasonably is expected to occur. For a capacity-based measure, the analysis should show that capacity-based measures make it reasonable to infer that these are good divertable alternatives and that the quantity is supported. The Commission prefers the use of a delivered price analysis in determining whether an alternative is a good alternative in a destination market. If an alternative source has not been shown to be a good alternative, it should not be included in the relevant geographic market and used in market share, HHI, or other market power statistics. Such statistics are meaningless if all of the alternatives are not good alternatives.

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[41] SFPP, L.P., 84 FERC ¶ 61,388 at 62,496 (1998).

[42] Id. at 62,497.

The Commission previously has not imposed stringent screening guidelines with respect to HHI figures or market shares in other oil pipeline cases relating to applications for market-based rates.[43] Nonetheless, those are important measures in determining whether a pipeline has significant market power in a particular destination or origin market. The market share tests reflect different methods of measuring a firm's actual participation in a market and the total capacity that is available to meet demand. The delivery-based market share is the applicant's estimated percentage of actual deliveries to the market. As such, it does not consider whether there is additional capacity to serve the market in the event of a price increase by the applicant. The capacity-based market share measures the effective capacity available after allowing for pipeline, refinery, truck, and barge capacity that may be committed to serving other markets and, therefore, not available to serve the market at issue. This measure also specifically allows for the additional capacity to which shippers could turn if the pipeline were to attempt to raise its rates above competitive levels. The excess capacity ratio is the ratio of the total capacity for all sources available to satisfy demand to the demand for petroleum products in the given market.

2. Contested Destination Markets

a. Little Rock Destination Market

i. Geographic Market

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[43] In the Buckeye, Williams, Kaneb, and Longhorn cases, the Commission used an HHI range of 1800 to 2500 as an initial screen and then reviewed the pipelines' market shares and other factors in order to determine whether the pipelines possessed significant market power. Buckeye Pipe Line Co., Opinion No. 360, 53 FERC ¶ 61,473 at 62,666-68 (1990), order on reh'g, Opinion No. 360-A, 55 FERC ¶ 61,084 at 61,254 (1991);
Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,670-72 (1994), order on reh'g, Opinion No. 391-A, 71 FERC ¶ 61,291 at 62,127 (1995); Kaneb Pipeline Co., 83 FERC ¶ 61,183 at 61,761 (1998); Longhorn Partners Pipeline, L.P., 83 FERC ¶ 61,345 at 62,381 (1998). The HHI figures of 1800 and 2500 are indicators typically used by pipelines applying for market-based rates to reflect what they feel is an accurate depiction of tolerable levels of concentration based the Deregulation Report and the Merger Guidelines. A threshold of 1800 is met if a market is served by between five and six equally sized competitors. The 2500 threshold is met by a market served by four equally sized competitors.

TEPPCO maintains that the Little Rock BEA does not define the market adequately and should be enlarged. TEPPCO states that, while it appears to have a relatively high degree of market power based upon trucking distances of 75 miles, its market power concentration actually is diminished by trucks that travel in excess of 100 miles.[44] TEPPCO claims that it has established this fact by an analysis of its relevant bills of lading, a telephone survey of service station managers, an analysis of posted prices and price movements at terminals in and around Little Rock, and calculations of the costs of supplying each county in the Little Rock BEA from Little Rock and terminals in surrounding areas.[45]

Exxon, Lion, and TransMontaigne all dispute TEPPCO's definition of the Little Rock geographic market, arguing in favor of a radius limited to 75 miles around the Little Rock BEA. Lion contends that TEPPCO has expanded the geographic scope of the market to include sources of supply up to 125 miles from the border without providing any cost justification for including those sources. Lion and TransMontaigne claim that their own laid-in cost study[46] demonstrates that sources outside the Little Rock BEA could not access the Little Rock BEA economically from more than 75 miles. In addition, TransMontaigne asserts that TEPPCO has used truck costs that are approximately 35 percent lower than prevailing trucking costs in the Little Rock area, and Exxon maintains that TEPPCO does not consider the fact that the capacity of external sources that are deliverable by truck become increasingly less competitive with each incremental mile. For example, states Exxon, the current tariff rate from Baytown to Little Rock is $0.85 per barrel. According to Exxon, a TEPPCO increase of 15 percent would result in an additional transportation cost of $0.1275 per barrel. However, Exxon points out that it would cost an additional $0.17 per barrel to transport petroleum an additional 25 miles by

[44] TEPPCO cites Application, Statement I (Fox Testimony at 3-5).

[45] TEPPCO cites Application, Statement I (Schink Testimony at 11-16); Statement A at 22-33.

[46] A laid-in cost study shows the product price at a supply source terminal as well as the estimated trucking costs required to move that product to a particular destination. Such a study permits a determination of the economic viability of trucking product from outside of a particular BEA to compete with the pipeline's delivered product inside that BEA. Both Lion and TransMontaigne have employed Dr. Scott Jones to prepare a laid-in cost study and provide testimony to support their protests. As a result, the market power statistics for both are the same.

truck using TEPPCO's accepted cost of $0.0067 per barrel per mile (100 miles - 75 miles = 25 miles x $0.0067 = $0.1675).

Exxon also contends that TEPPCO overestimates the other existing competitive alternatives to its service to Little Rock. Of the four refineries cited by TEPPCO in the 75-mile external supply area, Exxon asserts that two are small, contributing less than 10 percent of the total deliveries of light refined products into the market, and a third, the Williams refinery at Memphis (at the 75-mile trucking radius), touches only parts of three counties within the Little Rock BEA, which contain only 17,000 citizens out of a total population of the Little Rock BEA of 1.3 million. Additionally, Exxon argues that none of the pipeline terminals cited by TEPPCO in the 75-mile external supply area is an actual source of competition in Little Rock because of the additional transportation cost associated with trucking the product into the Little Rock market and the fact that the commodity price from these sources is higher than TEPPCO's product price. Exxon points out that these terminals are in Platt's Group 3, which historically has a higher commodity price index than the Gulf Coast index commodity prices associated with the product transported by TEPPCO. Further, submits Exxon, TEPPCO overstates the potential competition from expansion of refinery capacity and new pipeline entrance into Little Rock.

TransMontaigne and Exxon challenge TEPPCO's reliance on actual and potential waterborne competition. TransMontaigne claims that actual waterborne deliveries within the Little Rock BEA are less than one percent and that potential waterborne capacity is limited because the costs of barging refined petroleum products from origins in Houston, New Orleans, or Baton Rouge to Little Rock would be 60 to 70 percent higher than TEPPCO's tariff into Little Rock. In addition, TransMontaigne emphasizes that there currently are no available marine transportation facilities in Little Rock dedicated to refined petroleum products. Finally, Exxon maintains that TEPPCO's own data show that no motor fuel was delivered to Little Rock during 1997 and 1999 and that only four short tons of distillate were delivered to Little Rock during those years.

ii. Delivery-Based and Capacity-Based Figures

The protesters argue that TEPPCO arbitrarily reduces its delivery-based market share of refined product to the Little Rock market for purposes of its delivery-based market share and HHI calculations. Additionally, they challenge TEPPCO's claims that approximately one-third of TEPPCO's deliveries into Little Rock are trucked over 100 miles to destinations outside the Little Rock BEA, while at the same time, large volumes of product are trucked into the Little Rock BEA from distant external sources.

Lion and TransMontaigne contend that the capacity-based calculations must be adjusted to remove deliveries from external BEA sources in Fort Smith and Rodgers. From their own study, they conclude that deliveries into the Little Rock BEA from these areas would be uneconomical. Additionally, they assert that waterborne receipts must be obtained from actual 1999 receipts at the Pine Bluff, Arkansas terminal rather than from the forecast offered by TEPPCO.

Lion maintains that, even though TEPPCO's calculations reflect an overly broad geographic market and flawed capacity-based and delivery-based HHI measures, they still produce HHI levels that exceed the Commission's guidelines. The protesters state that TEPPCO's delivery-based HHI for the Little Rock destination market is 2853, with a substantial market share. They also point out that TEPPCO's capacity-based HHI for this market, using the more accurate assumption that external suppliers within a 75-mile radius can supply good economic alternatives, is 4179 with a 63.9 percent market share.

Along with the smaller geographic market they propose, Lion and TransMontaigne also propose adjustments to the delivery-based and capacity-based HHI measures. Lion and TransMontaigne contend that the market power numbers in the Little Rock market are extraordinarily high: a delivery-based HHI for the Little Rock destination market of nearly 6000 and a high TEPPCO market share, as well as a capacity-based HHI of 5375 and a TEPPCO market share of 73 percent. Exxon's own cost studies result in even higher market power numbers, yielding an actual delivery-based HHI of 6688 with an even larger market share, as well as a capacity-based HHI of 6555, with a TEPPCO market share of 80.8 percent.

The following table provides a comparison of HHI measures calculated for the Little Rock destination market by the parties. The protesters claim that they have corrected TEPPCO's errors.

Market Power Statistics	TEPPCO	Lion	Exxon	TransMontaigne
Delivery-Based				
HHI	2853	5932	5932	6688
Market Share	**	**	**	**[47]
Capacity-Based				
HHI (75-mile ext suppliers)	4179	5375	5375	6555
Market Share	63.9%	72.9%	72.9%	80.8%
HHI (100-mile ext suppliers)	1819	N/A	N/A	N/A
Market Share	37.9%			
HHI (125-mile ext suppliers)	1452	N/A	N/A	N/A
Market Share	25.0%			

Given their alarmingly high re-calculated HHI measures, all of the protesting parties oppose giving TEPPCO the authority to establish market-based rates in the Little Rock destination market. Lion concludes that TEPPCO cannot meet the DOJ guidelines. Instead, argues Lion, TEPPCO will be able to maintain an above-market pricing scheme of 15 percent, and the vast majority of the Little Rock BEA still will be a captive market for TEPPCO's supply. Exxon states that in the 1986 Deregulation Report, the DOJ acknowledged that there were no market forces in Little Rock sufficient to mitigate the pricing behavior of TEPPCO in that market. Asserting that nothing has changed in the intervening years, Exxon concludes that there is no reason to grant TEPPCO's application.

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[47] TEPPCO claims that the delivery-based market share figures constitute confidential information.

iii. Seasonality of Demand

Exxon claims that TEPPCO has failed to address the seasonality of demand, which Exxon asserts is a critical factor because TEPPCO routinely is capacity-constrained for motor gasoline during the summer and prorates capacity for up to four months each year. Exxon observes that, in Koch Gateway Pipeline Co.,[48] the Commission found that a natural gas pipeline's ability to sustain price increases of 10 percent for periods of two months and four months constituted market power. Exxon reasons that, if TEPPCO is permitted to charge market-based rates during the summer season from the Gulf Coast to Little Rock, it will be able to sustain substantial price increases for up to six months per year.

iv. Commission Analysis

The Commission will set for hearing the issue of TEPPCO's market power in the Little Rock destination market. Rather than expanding this BEA as it did in other cases, TEPPCO includes in its statistical computations alternative external supply sources located up to 125 miles from the BEA. In another departure from its approach in other markets, TEPPCO provides cost support data, including a laid-in cost study for the Little Rock market. On the other hand, the three protesting parties make a persuasive, well-supported showing that TEPPCO has market power in the Little Rock destination market. Setting this market for hearing will afford TEPPCO the opportunity to provide a more detailed laid-in cost study and also will give the protesting parties an opportunity to provide additional support for their cost studies.

TEPPCO utilizes the Commission’s delivery-based method[49] and computes its HHI for Little Rock to be 2853, with a substantial market share. Using the Commission's capacity-based method,[50] TEPPCO computes three separate market power figures,

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[48] 85 FERC ¶ 61,013 (1998).

[49] This market share test is based on the applicant's estimated percentage of actual deliveries to the market. As such, it does not address whether there is additional capacity to serve the market in the event of a price increase by the applicant.

[50] This market share test measure is based on the effective capacity available after allowing for pipeline, refinery, truck, and barge capacity that may be committed to serving other markets and, therefore, not available to serve the market at issue. This measure also allows for the additional capacity to which shippers could turn if the

assuming trucking radii of 75, 100, and 125-miles, which yield HHIs and capacity shares of 4179 and 63.9 percent; 1819 and 37.9 percent; and 1452 and 25 percent, respectively.

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pipeline were to attempt to raise its rates above competitive levels.

Clearly, these results exceed figures found appropriate by the Commission in other cases. First, the HHI figures and market share percentages do not compare favorably with HHI initial screening figures found in the Buckeye, Williams, and Kaneb proceedings cited above. However, in the Williams case, the Commission accepted HHIs as high as 2600 and market shares as high as 39 percent and concluded that Williams lacked significant market power in the relevant markets.[51] In the instant case, the results of TEPPCO's delivery-based and capacity-based calculations (assuming a 75-mile truck radius) exceed even the market power levels in Williams.[52] The protesters' evidence indicates that 75 miles is the limit within which trucks can deliver alternative oil supplies economically from outside of the Little Rock BEA into that market. Employing that limit in calculating the HHI for the Little Rock destination market, TEPPCO determines an HHI of 4179, considerably greater than either the 1800 or 2500 HHI thresholds used in previous oil pipeline cases. The HHIs and market share percentages increase significantly when adjusted to reflect the protesters' criticisms that TEPPCO has misapplied the delivery-based and capacity-based HHI measures in this market. These criticisms are persuasive.

TEPPCO's evidence also is insufficient to verify the amount of product delivered per day into the Little Rock market and ultimately delivered outside the market. TEPPCO claims that its actual deliveries into the Little Rock BEA for 1998 were much greater than the figure it utilizes for purposes of its HHI and market share calculations, suggesting that a large portion of the deliveries into Little Rock are trucked out of the BEA, often to substantial distances. TEPPCO offers a survey of gas station managers in Arkansas, indicating that, from the 267 responses, TEPPCO determined that 15 percent of deliveries are from more than 100 miles outside the BEA. In TEPPCO's view, this demonstrates that trucks regularly travel over 100 miles to serve gas stations in Arkansas.

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[51] Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,681-86 (1994), order on reh'g, Opinion No. 391-A, 71 FERC ¶ 61,291 (1995).

[52] For example, Topeka (HHI 3333; market share 46 percent); Duluth (HHI above 2500; 60 percent market share); Rochester (HHI above 2500; 60 percent market share); Sioux City (HHI above 2500; market share 51 percent); Omaha (HHI 2786; market share 46 percent); Grand Island (HHI above 2500; market share 62 percent); Sioux Falls (HHI above 2500; market share 49 percent); Aberdeen (HHI above 2500; market share 49 percent); Quincy (HHI 2026; market share 70 percent); and Cedar Rapids, Waterloo, and Ft. Dodge (HHIs between 1800 and 2500; market shares 81 percent, 99 percent, and 98 percent, respectively). Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,682-86 (1994).

TEPPCO also provides a map showing the locations of the retail gasoline stations whose managers gave Little Rock as the source of the last truckload of gasoline delivered. TEPPCO maintains that this demonstrates that a substantial number of gas stations are supplied from more than 100 miles from the Little Rock terminal.[53] However, the Commission's review of the TEPPCO map reveals that this applies to only 18 of 106 gas stations. In addition, the map indicates that only eight gas stations outside TEPPCO's adjusted BEA and only six gas stations outside the actual Little Rock BEA were supplied from Little Rock terminals. These facts do not support TEPPCO's allegations.

Consequently, it appears that TEPPCO's delivery-based calculation may be incorrect as a result of TEPPCO's understating its deliveries into the Little Rock area. When TransMontaigne and Lion correct for this inaccuracy, they compute a delivery-based HHI of 5932, with a high market share for TEPPCO. Exxon's calculations result in even higher figures.

The capacity-based results also cause concern. Specifically, TEPPCO projects over 7 kBD (approximately a 5.5 percent market share) of its external supply coming into Little Rock from Rodgers and Fort Smith, Arkansas, as well as Springfield, Missouri. TEPPCO states that the posted prices at these three terminals were substantially higher than at Little Rock, ranging from 1.20 to 4.53 cents per gallon higher than at Little Rock over the past year. The higher posted prices plus the additional cost associated with trucking supply into the Little Rock BEA strongly suggests that these supplies are not good alternatives.

The Commission is unable to verify the per-gallon per-mile price employed in TEPPCO's laid-in cost study. Verifiable trucking costs are essential in order to determine if supply from outside a BEA can be recognized as a reasonable alternative to BEA supply. On the other hand, TransMontaigne's laid-in cost studies utilize individual price quotes for truck movements to Little Rock from Greenville, Mississippi; El Dorado and West Memphis, Arkansas; and Memphis, Tennessee. TransMontaigne states that it obtained the truck quotes by contacting a trucking company that operates tanker trucks in the Arkansas area and also by contacting a local jobber familiar with truck rates in the area. Lion and TransMontaigne re-computed TEPPCO's market share to remove the external supply they believe cannot compete economically in Little Rock. As a result, they

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[53] TEPPCO does not provide actual numbers corresponding to the results reflected on its map. Because of the large number of gas stations in the area, the gas station indication symbols overlap to a large extent.

contend that TEPPCO has a capacity-based HHI of 5375 and a 73 percent market share. Again, Exxon's calculations result in higher numbers, with a capacity-based HHI of 6555 and an 81 percent market share.

TEPPCO's evidence does not show that waterborne alternatives are available economically in the Little Rock market to an extent that would defeat a sustained, above-market price increase by TEPPCO. TEPPCO's estimated waterborne deliveries amount to 13.5 kBD, representing a 16.28 percent share of all deliveries. However, TEPPCO's application shows that actual waterborne deliveries during 1997 and 1999 accounted for less than two kBD of refined petroleum product. According to TEPPCO's witness Schink, the majority of the estimated deliveries are trucked in from barge terminals in Memphis, West Memphis, and Greenville. However, rather than associating these volumes with waterborne deliveries, the Commission finds that they would be reflected more appropriately under the section of deliveries associated with trucks, as they come from outside the BEA.[54] Consequently, because TEPPCO does not provide adequate support for the inclusion of these external BEA sources, the Commission questions whether TEPPCO's capacity-based market share in the Little Rock market and the resultant capacity-based market HHI may be understated.

Exxon claims that seasonality of demand is a critical factor that TEPPCO does not address in its calculation. TEPPCO admits to being operated at or near capacity both in the winter and summer months. In Explorer,[55] the Commission considered a similar challenge. In that case, the Commission recognized that (1) the most conservative market share number and excess capacity ratio for the St. Louis market were 27.4 percent and 3.4 times the peak demand for petroleum products in that market, while the comparable figures for the Chicago market were 24.4 percent and 3.5; (2) Explorer is only one of many pipelines serving the St. Louis and Chicago markets; and (3) waterborne deliveries are substantial in St. Louis. This is in sharp contrast with the situation in the Little Rock market, where TEPPCO is the only pipeline serving Little Rock, waterborne deliveries are negligible, and the most conservative market share number and excess capacity ratio computed by TEPPCO (including external supply within 75-miles) are 63.9 percent and 1.5. Moreover, TEPPCO has not provided information indicating the available capacity

[54] The protesters challenge TEPPCO's cost information associated with possible waterborne deliveries and trucking, but the protesters' supporting cost information fails to make it clear whether waterborne alternatives can be economically viable in the Little Rock market.

[55] Explorer Pipeline Co., 87 FERC ¶ 61,374 (1999).

versus the demand for pipeline products during peak periods. If TEPPCO does in fact have market power in the Little Rock market, it would have even greater market power during those months when its shippers are constrained. Accordingly, TEPPCO must address at the hearing the seasonality issue and its effect on TEPPCO's ability to exercise market power in the Little Rock market.

In conclusion, the Commission views as persuasive the protesters' evidence relating to the Little Rock destination market. However, their cost studies yield strikingly different results than that of TEPPCO, and the Commission is unable to verify a great deal of the cost data, such as that reflected in the laid-in cost studies used for trucking pipeline products in and out of the Little Rock market. Trucking costs are crucial in determining if alternate sources of supply can enter the Little Rock market and how far they can penetrate. Likewise, such costs are important in determining how much pipeline product can be trucked out of Little Rock. Although the trucking cost information provided by the protesting parties is more detailed than TEPPCO's, consisting of individual quotes for transporting gasoline and diesel fuel, the protesters do not disclose the sources of this information, thus it cannot be verified. In addition, TEPPCO and the protesting parties filed conflicting barge cost data that cannot be verified. Therefore, despite the appearance that TEPPCO possesses significant market power in the Little Rock destination market, the Commission will set this market for hearing in order to develop a more complete and accurate record that will permit a conclusive market power ruling to be made.

b. <u>Cincinnati/Dayton Destination Market:</u>

TEPPCO submits that the relatively small Cincinnati and Dayton BEAs should be combined. TEPPCO explains that its principal delivery point into this area is at Lebanon, Ohio, which is located within the Cincinnati BEA, but actually is close to the Dayton BEA border and lies approximately halfway between the cities of Cincinnati and Dayton. TEPPCO points out that combining these BEAs results in a geographic market that is smaller than the adjacent Indianapolis BEA.[56]

TEPPCO asserts that it faces competition from two inbound pipelines with terminals in the proposed Cincinnati/Dayton, Ohio BEA and that there are eight barge docks on the Ohio River at Cincinnati. TEPPCO states that there are 16 additional pipeline terminals within a 75-mile radius (as well as two refineries and one additional

[56] TEPPCO cites Application, Statement I (Langley Testimony at 17); Statement A at 12-13, 18-19.

waterborne source of products). If the radius is extended an additional 25 miles, TEPPCO claims that three other refineries and three pipeline terminals are added to its competition.[57]

In its protest, TransMontaigne argues that TEPPCO arbitrarily combines these BEAs in order to reduce its market share and HHI measure. TransMontaigne maintains that these are two separate destination markets and that TEPPCO provided no proof that end-users in the combined Cincinnati/Dayton market can access all suppliers in the combined Cincinnati/Dayton market economically. TransMontaigne contends that, when the Cincinnati BEA is considered as a separate market and includes supply sources within 75 miles of the Cincinnati BEA, TEPPCO's market share increases from 16.5 percent to 29 percent, and the HHI value increases from 1683 to 2265. As can be seen in the table below, TransMontaigne claims that, if two allegedly dubious external sources in Louisville and Lexington are not included, TEPPCO's market share and HHI value increase even more.

Market Power Statistics	Cincinnati/Dayton BEA TEPPCO	Cincinnati BEA only TransMontaigne
<u>Capacity-Based</u>		
HHI (75-mile ext suppliers)	1683	2673
Market Share	16.5%	34.6%

[57]TEPPCO cites Application, Statement A at 36-37; Statement D, Table D.1 at 13-14; Statement I (Langley Testimony at 20).

The Commission finds that, TEPPCO has failed to justify combining these BEA destination markets. For its destination markets, TEPPCO must show that each alternative supply source included in the expanded geographic market has the ability to constrain TEPPCO's ability to exercise market power within that geographic market. As can be seen from the table in Appendix C, it appears that TEPPCO's HHI calculations, delivery-based market share, capacity-based market share, and excess capacity ratio for the Cincinnati/Dayton destination market are consistent with Commission precedent.[58] However, the protesters claim that TEPPCO has improperly combined these markets so that its HHI for the market is inaccurate and too low. The Commission finds that the evidence presented by TEPPCO is insufficient to permit a determination as to whether TEPPCO lacks market power in this combined market. Accordingly, the Commission will set the Cincinnati/Dayton destination market for hearing.

c. Shreveport/Arcadia Destination Market

[58]For example, in Williams, the Commission accepted an HHI of 2606 and a delivery-based market share of 35 percent for the Minneapolis/St. Paul market; an HHI of 1801 and a market share of 37 percent for Wausau; an HHI of 2381 and a market share of 39 percent for Dubuque; and an HHI of 2048 and a market share of 34 percent for Davenport. Williams Pipe Line Co. Opinion No. 391, 68 FERC ¶ 61,136 at 61,677-78, 61,682 (1994).

TEPPCO contends that the boundaries of the Shreveport BEA do not define adequately the relevant destination market because they do not include the Lion Oil refinery at El Dorado, Arkansas, and the La Gloria refinery at Tyler, Texas, both of which are within a 100-mile practicable trucking radius around Shreveport. Moreover, continues TEPPCO, El Dorado, which is within the Little Rock BEA, actually is closer to Shreveport than to Little Rock and should be included in the Shreveport BEA. TEPPCO also points out that it moves refined petroleum products from Tyler to El Dorado. Adjusting the Shreveport destination market as it has proposed, TEPPCO claims competition from seven refineries and two inbound pipelines (Conoco and Mobil), in addition to 17 pipeline and barge terminals and refineries within a 100-mile radius.[59]

TransMontaigne emphasizes that the Shreveport market, expanded as proposed by TEPPCO, would be twice the size of the Shreveport BEA and include counties in three states. TransMontaigne asserts that TEPPCO has presented no evidence that its expansion of the Shreveport market beyond the BEA is justified or appropriate and that TEPPCO's sole basis for the enlarging the Shreveport market is to include additional competitors in order to lower its market share and the relevant HHI measures. TransMontaigne further contends that TEPPCO's analysis of the Shreveport market improperly includes two refineries that primarily produce non-pipelineable product. As reflected in the table below, TransMontaigne argues that, when these errors are corrected, TEPPCO's market share and the HHI value are larger.

Market Power Statistics	Expanded Shreveport BEA TEPPCO	Shreveport BEA only TransMontaigne
<u>Capacity-Based</u> HHI (75-mile ext suppliers) Market Share	 1557 18.6%	 2665 31.4%

Exxon asserts that TEPPCO may exercise undue market power with respect to deliveries into Arcadia, Louisiana, which Exxon claims is a separate destination market. According to Exxon, Arcadia is situated approximately 50 miles east of Shreveport and is midway between Shreveport and Monroe, Louisiana. Exxon states that its product destined for the Shreveport area and most of Northern Louisiana is delivered on TEPPCO's system to Arcadia; therefore, for Exxon's purposes, Arcadia is the destination

[59]TEPPCO cites Application, Statement A at 18-20; Statement D, Table D.1 at 4-5; Statement I (Langley Testimony at 17-18).

market rather than Shreveport. With respect to the Arcadia destination market, Exxon asserts several competitive options claimed in TEPPCO's application are not good economic alternatives because they lie outside of a 75-mile radius of Arcadia. Exxon specifically cites (a) the refinery in Tyler, Texas; (b) Conoco's terminal (which is served by its pipeline) in Mt. Pleasant, Texas; and (c) terminals located in Center, Texas (that are served by a Mobil pipeline). Further, Exxon states that the terminals that are fed by Mobil's pipeline in Waskom, Texas, fall just within a 75-mile radius from Arcadia. Therefore, Exxon argues, if the destination market is changed to Arcadia, which is more reflective of Exxon's business, competition for TEPPCO's pipeline service is nearly eliminated.

Moreover, Exxon does not view the potential alternatives cited by TEPPCO as economically acceptable substitutions for TEPPCO's service. Exxon claims that the cost of utilizing alternatives other than TEPPCO into Arcadia averages around 1.25 cents per gallon over TEPPCO's current rates. Further, Exxon contends that TEPPCO overstates the range of supply source alternatives in the Shreveport area. Of the seven refineries TEPPCO lists as competitive alternatives in the Shreveport destination market, Exxon states that three of those refineries (Lion in El Dorado, La Gloria in Tyler, and Pennzoil in Shreveport) constitute 85 percent of the capacity.

The Commission emphasizes again that, with respect to a destination market, TEPPCO must show that each alternative supply source included in the expanded geographic market has the ability to constrain TEPPCO's ability to exercise market power within that market. Specifically, in the Shreveport market, TEPPCO must demonstrate that the refinery in El Dorado, which lies within the Little Rock BEA defined by TEPPCO, could compete with the sources of supply within Shreveport. Even though El Dorado is approximately 15 miles closer to Shreveport than to Little Rock, and if trucking costs would always be the same for any given distance (e.g., 75 miles), it is still important to present comparative cost studies to justify alternatives external to a BEA. Product prices may vary substantially by location; therefore, a high product price may prevent a nearby alternative from being competitive. On the other hand, a more distant alternative with higher trucking costs may be a good alternative if its product price is lower.

As can be seen from the table in Appendix C, it appears that TEPPCO's HHI calculations, delivery-based market shares, capacity-based market shares, and excess capacity ratios are consistent with Commission precedent for the Shreveport destination market.[60] However, the protesters argue that TEPPCO has improperly enlarged the

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[60]For example, in Williams, the Commission accepted an HHI of 2606 and a delivery-based market share of 35 percent for the Minneapolis/St. Paul market; an HHI of

market and overstated the good alternatives so that its HHIs for the Shreveport market are inaccurately low. In addition, Exxon argues that Arcadia, Louisiana, which is part of the Shreveport BEA, should be defined as a separate destination market. The Commission finds that the evidence presented by TEPPCO and the protesters is insufficient for it to determine whether TEPPCO lacks market power in the Shreveport destination market.

Accordingly, the Commission will set the Shreveport/Arcadia destination market for hearing. Just as TEPPCO bears the burden of supporting its proposed expanded Shreveport destination market, Exxon bears the burden of supporting its claim that Arcadia should be defined as a separate geographic market. Although Exxon provided information and explanations for its proposition that Arcadia should be a distinct market, it failed to provide sufficient cost justification for its position. It will have the opportunity to do so at the hearing.

d. Memphis Destination Market

TEPPCO contends that there is a refinery within the Memphis, Tennessee destination BEA, as well as 15 active docks, five additional barge terminals, and one additional pipeline terminal situated within 75 miles of the BEA.[61] In addition, TEPPCO's application indicates that actual deliveries into the Memphis market were considerably higher than the figures used to compute its delivery-based market share and HHI figure. However, TEPPCO provides no explanation for this considerable reduction.

TransMontaigne claims that TEPPCO artificially reduces its delivery-based share in the Memphis market in much the same way it did in Little Rock; i.e., TEPPCO simply asserts without proof that a substantial portion of its deliveries leave the BEA to compete in the home markets of external competitors. TransMontaigne contends that, absent an evidentiary showing that this in fact occurs, TEPPCO cannot reduce its delivery-based market share in Memphis. However, TransMontaigne does not offer alternative HHI measures for the Memphis market.

1801 and a market share of 37 percent for Wausau; an HHI of 2381 and a market share of 39 percent for Dubuque; and an HHI of 2048 and a market share of 34 percent for Davenport. Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,677-78, 61,682 (1994).

[61] TEPPCO cites Application, Statement A at 34; Statement D, Table D.1 at 7; Statement I (Langley Testimony at 19).

The Commission finds that TEPPCO’s delivery-based market share and HHI of 1834 fall within levels the Commission has accepted in the past. In addition, TEPPCO uses the official geographic BEA for Memphis. While the market power statistics suggest that TEPPCO cannot exercise market power in the Memphis destination market, the record is not complete. TEPPCO has not provided adequate support for its analysis in this market, and TransMontaigne did not file cost support for its position. Consequently, this market also will be set for hearing so that the parties will have an opportunity to provide additional evidence in support of their positions.

3. Contested Origin Markets

a. Shreveport Origin Market

TEPPCO includes in the Shreveport origin market the areas near El Dorado, Arkansas, and Tyler, Texas. According to TEPPCO, a spur line from Tyler to El Dorado receives product from the La Gloria refinery in Tyler, Texas; the Pennzoil refinery in Shreveport, Louisiana; the Calumet refineries in Cotton Valley and Princeton, Louisiana; the Berry Petroleum refinery in Stephen, Arkansas; the Cross Oil refinery in Smackover, Arkansas; and the Lion refinery in El Dorado, Arkansas. TEPPCO further explains that this product enters the TEPPCO mainline at El Dorado and can be shipped to destinations in Arkansas, Missouri, Illinois, Indiana, or Ohio.[62]

TransMontaigne contends that TEPPCO's calculations of market share and its HHIs for the Shreveport origin market are inaccurate and inconsistent with the analytical procedure recently used in the SFPP case.[63] TransMontaigne claims that, when properly calculated, TEPPCO's receipt-based market share and capacity-based market share are far higher than TEPPCO's figures, as can be seen in the table below. TransMontaigne states that the difference is due to TEPPCO's overstating the extent of the geographic market and defining its own effective capacity to be substantially lower than the actual volumes it transports.

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[62] Application, Statement G at 50-51, Tables G.58-G.60.

[63] 84 FERC ¶ 61,338 (1998).

Market Power Statistics	TEPPCO	TransMontaigne
Shipment-Based vs. Receipt-Based		
HHI	1307	2207
Market Share	**	**[64]
Effective Capacity-Based		
HHI	1002	2237
Market Share	31.7%	47.3%

In order to justify each of its origin markets, TEPPCO must show that each alternative outlet is a good alternative in terms of price for each shipper in the market. While it appears that TEPPCO's shipment-based and capacity-based HHI and market share calculations do not indicate the presence of market power in the Shreveport origin market, the protesters assert that TEPPCO has improperly enlarged the market and overstated the good alternatives so that its HHIs for this market are too low. The Commission finds that the evidence presented by TEPPCO and the protesters is insufficient for the Commission to determine whether TEPPCO lacks market power in the Shreveport origin market. Accordingly, the Commission will set this market for hearing.

b. Western Gulf Coast Origin Market

TEPPCO defines the Western Gulf Coast origin market as extending from Corpus Christi, Texas, through Lake Charles, Louisiana. TEPPCO explains that it receives product from refineries in the immediate Houston area as well as the Corpus Christi area. TEPPCO states that its pipeline then extends east to the area of Beaumont and Port Arthur, Texas, where it receives product from refineries in both cities. In addition, TEPPCO explains that it can receive refined products that have been shipped via barge to Beaumont from Lake Charles-area refineries.[65]

TransMontaigne contends that the Western Gulf Coast origin market defined by TEPPCO consists of a conglomeration of BEAs extending hundreds of miles from Corpus Christi, Texas, to Lake Charles, Louisiana. According to TransMontaigne, TEPPCO's proposed Western Gulf Coast market is much larger than the actual geographic

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[64] TEPPCO claims that the market share figures constitute confidential information.

[65] Application, Statement G at 46-50, Tables G.53-G.57.

origin market and finds no support in economic theory or Commission precedent. TransMontaigne argues that TEPPCO offers no evidence to demonstrate that shippers located at one end of such a large origin market can access transportation alternatives at the other end of the origin market in a cost-effective manner. TransMontaigne also states that TEPPCO has offered no cost studies or other proof to show that it would be feasible for shippers in such vast origin markets to move their products onto other transportation alternatives substantial distances away. However, TransMontaigne does not offer alternative HHI measures for the Western Gulf Coast origin market.

It appears that TEPPCO's shipment-based and capacity-based HHIs and market share results do not indicate the presence of market power in the Western Gulf Coast origin market. On the other hand, the protesters assert that TEPPCO has improperly enlarged the market and overstated the good alternatives so that its HHIs for this market are too low. Accordingly, the Commission will direct its staff to convene a conference to explore the facts and issues regarding this origin market.

C. Chevron's Comments and TEPPCO's Motion to Compel Discovery

Chevron contends that TEPPCO has not addressed adequately the cost and availability of possible competing transportation options between all of the origins and destinations defined in its application. Chevron also expresses concern that the Commission's procedures for evaluating applications for market-based rates do not permit a consideration of all relevant factors.

Chevron's concerns will be addressed appropriately in the context of the hearing to be established in this proceeding. The Commission has made it clear that additional cost support is necessary to permit an assessment of TEPPCO's potential market power in a number of its markets. Moreover, all of the interveners will have an opportunity to examine and contest the evidence offered by TEPPCO in support of its application.

On September 20, 1999, TEPPCO filed a motion to compel discovery, asking the Commission to order three of the protestants in this proceeding (Exxon, TransMontaigne, and Lion) to comply with the limited discovery request made by TEPPCO in separate letters to each of the parties on August 19, 1999. TEPPCO seeks information relevant to the positions of these parties challenging its application.

TEPPCO contends that there is no need for a hearing before an administrative law judge because the Commission may resolve factual issues by means of a paper hearing.[66]

[66] TEPPCO cites Revisions to Oil Pipeline Regulations, 88 FERC ¶ 61,171 at

In the alternative, states TEPPCO, if the Commission determines that an administrative law judge is required, the Commission should limit such appointment to the resolution of discovery issues.

On October 1, 1999, counsel for TEPPCO filed a letter with the Commission advising that TEPPCO and the three protestants named in its motion to compel discovery were engaged in discussions that might lead to a settlement of the issues relevant to the motion. TEPPCO thus requested a 30-day extension of time in which answers would otherwise be due. Thus, states TEPPCO, the due date would become November 3, 1999. On November 3, 1999, Lion and Exxon filed responses in opposition to the motion to compel discovery, and TransMontaigne filed an answer on December 6, 1999. However, in light of the Commission's decision to establish a hearing, TEPPCO's motion to compel discovery is denied as moot. TEPPCO may raise discovery issues in the context of the hearing.

The Commission orders:

(A) TEPPCO's application for a market power determination is granted to the extent discussed in the body of this order. TEPPCO may file to implement market-based rates in its Indianapolis and Chicago origin markets, as well as in its Houston, Beaumont, St. Louis, Evansville, Indianapolis, Chicago, and Toledo destination markets.

(B) Pursuant to the Commission's rules and regulations, including 18 C.F.R. § 348.2(i), and 18 C.F.R. Subparts D and E, a public hearing is to be held in Docket No. OR99-6-000 for the purpose of determining whether TEPPCO possesses the ability to exercise significant market power in the Shreveport origin market and the Little Rock, Shreveport/Arcadia, Cincinnati/Dayton, and Memphis destination markets.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304, must convene a prehearing conference in this proceeding to be held within 20 days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The prehearing conference is for the purpose of clarification of the positions of the participants and establishment by the presiding judge of any procedural dates necessary for the hearing. The Presiding Administrative Law

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(1999); Express Pipeline Partnership, 75 FERC ¶ 61,303 (1996); Platte Pipe Line Co., 78 FERC ¶ 61,307 (1997); Sinclair Oil Corporation v. Platte Pipeline Co., 87 FERC ¶ 61,259 (1999).

Judge is authorized to conduct further proceedings in accordance with this order and the rules of practice and procedure.

(D) The Commission's staff is directed to convene a conference to explore the facts and issues regarding the Western Gulf Coast origin market and to report the results of the conference to the Commission.

(E) TEPPCO's motion to compel discovery is denied as moot.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

APPENDIX A
TE PRODUCTS PIPELINE COMPANY, L.P.
DOCKET NO. OR99-6-000
TEPPCO'S SUMMARY OF COMPETITION IN ITS DESTINATION MARKETS

1. In the Houston, Texas destination BEA, TEPPCO claims that it faces competition from 10 refineries, three inbound pipelines, and waterborne deliveries to a total of 78 working docks. In addition, TEPPCO claims that there are no fewer than 15 refineries within 75 to 100 miles of the Houston BEA which can impact the Houston BEA with truck transportation.[67]

2. In its Beaumont, Texas destination BEA, TEPPCO asserts that it competes with four refineries within the BEA and over a dozen within practicable trucking distances. In addition, TEPPCO cites two large inbound pipelines (Explorer and Colonial) that move petroleum products through the BEA. TEPPCO points out that this BEA also is served by 25 active docks.[68]

3. Adjusting the Shreveport, Louisiana destination BEA as it has proposed, TEPPCO claims competition from seven refineries, two inbound pipelines (Conoco and Mobil), in addition to 17 pipeline and barge terminals and refineries within a 100-mile radius.[69]

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[67] TEPPCO cites Application, Statement A at 16-17; Statement D, Table D.1 at 1-2; Statement I (Langley Testimony at 16).

[68] TEPPCO cites Application, Statement A at 17-18; Statement D, Table D.1 at 3; Statement I (Langley Testimony at 16).

[69] TEPPCO cites Application, Statement A at 18-20; Statement D, Table D.1 at 4-5; Statement I (Langley Testimony at 17-18).

4. TEPPCO states that, in the Little Rock, Arkansas BEA, it competes, actually and potentially, with waterborne movements of petroleum products moving by barge.[70] Moreover, within 75 miles of the BEA, TEPPCO identifies four refineries, three barge terminals, and five pipeline terminals. In addition, as stated above, TEPPCO maintains that actual trucking distances in this area are significantly greater than 75 miles and that a more realistic trucking radius of 100 miles brings two additional refineries into the market and further extends the reach of the sources identified above. Moreover, states TEPPCO, enlarging the trucking radius to 125 miles adds an additional refinery, a pipeline terminal, and a barge terminal.[71]

5. TEPPCO contends that there is a refinery within the Memphis, Tennessee destination BEA, as well as 15 active docks, five additional barge terminals, and one additional pipeline terminal situated within 75 miles of the BEA.[72]

6. TEPPCO asserts that the St. Louis, Missouri destination BEA (which the Commission found to be competitive in Williams) is served from TEPPCO's terminal at Cape Girardeau, Missouri. TEPPCO states that it faces competition in this BEA from two local refineries, five inbound pipelines, and 22 working docks. In addition, states TEPPCO, four other sources of products (two barge terminals and two refineries) lie within 75 miles of the BEA.[73]

7. In the Evansville, Indiana BEA, TEPPCO cites competition from two local refineries, one inbound pipeline, and five barge docks. TEPPCO also points out that there are 13 terminals on a number of inbound pipelines and four barge docks situated within 100 miles of the BEA.[74]

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[70] TEPPCO cites Application, Statement I (Fox Testimony at 6-16).

[71] TEPPCO cites Application, Statement A at 20-33; Statement D, Table D.1 at 6; Statement I (Langley Testimony at 18).

[72] TEPPCO cites Application, Statement A at 34; Statement D, Table D.1 at 7; Statement I (Langley Testimony at 19).

[73] TEPPCO cites Application, Statement A at 34-35; Statement D, Table D.1 at 8; Statement I (Langley Testimony at 19).

[74] TEPPCO cites Application, Statement A at 35; Statement D, Table D.1 at 9; Statement I (Langley Testimony at 20).

8. In its Indianapolis, Indiana destination BEA (which the Commission found to be competitive in Buckeye), TEPPCO maintains that it competes with six inbound pipelines moving products from refineries in Indiana, Illinois, and Missouri, as well as 20 additional supply sources within 75 miles of the BEA.[75]

[75] TEPPCO cites Application, Statement A at 35-36; Statement D, Table D.1 at 10-11; Statement I (Langley Testimony at 21).

9. In the Chicago, Illinois BEA (which the Commission found to be competitive in Williams), TEPPCO points to four local refineries, five inbound pipelines, and four working docks, as well as four additional sources of products within 75 miles.[76]

10. TEPPCO states that there are two inbound pipelines with terminals in TEPPCO's proposed combined Cincinnati/Dayton, Ohio BEA and that there are eight barge docks on the Ohio River at Cincinnati. TEPPCO notes that there are 16 more pipeline terminals within a 75-mile radius (as well as two refineries and one additional waterborne source of products). If the radius is extended an additional 25 miles, TEPPCO adds three refineries and three pipeline terminals to its competition.[77]

11. Finally, in its Toledo, Ohio destination BEA (which the Commission found to be competitive in Buckeye), TEPPCO states that there are three local refineries and seven competing inbound pipelines, plus four additional pipeline terminals and three additional refineries within a 75-mile range.[78]

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[76]TEPPCO cites Application, Statement A at 36; Statement D, Table D.1 at 12; Statement I (Langley Testimony at 21).

[77]TEPPCO cites Application, Statement A at 36-37; Statement D, Table D.1 at 13-14; Statement I (Langley Testimony at 20).

[78]TEPPCO cites Application, Statement A at 37-38; Statement D, Table D.1 at 15-16; Statement I (Langley Testimony at 20-21).

APPENDIX B
TE PRODUCTS PIPELINE COMPANY, L.P.
DOCKET NO. OR99-6-000
TEPPCO'S SUMMARY OF COMPETITION IN ITS ORIGIN MARKETS

1. In the Western Gulf Coast area, which extends from Corpus Christi, Texas, through Lake Charles, Louisiana, TEPPCO states that it receives product from refineries in the immediate Houston area as well as from refineries in the Corpus Christi area. TEPPCO states that its pipeline then travels east to the area of Beaumont and Port Arthur, Texas, where it receives product from refineries in both cities. In addition, TEPPCO explains that it can receive refined products at Beaumont from Lake Charles-area refineries via barge.[79]

2. TEPPCO includes in the Shreveport origin market the areas near El Dorado, Arkansas, and Tyler, Texas. According to TEPPCO, a spur from Tyler to El Dorado receives product from the La Gloria refinery in Tyler; the Pennzoil refinery in Shreveport; the Calumet refineries in Cotton Valley and Princeton, Louisiana; the Berry Petroleum refinery in Stephen, Arkansas; the Cross Oil refinery in Smackover, Arkansas; and the Lion Oil refinery in El Dorado. TEPPCO further explains that this product enters the TEPPCO mainline at El Dorado and can be shipped to Arkansas, Missouri, Illinois, Indiana, or Ohio.[80]

3. Although it acknowledges that the Indianapolis area currently has no refineries, TEPPCO states that it offers transportation service for product from connecting pipelines near Clermont, Indiana, to locations in Chicago. TEPPCO contends that shippers in the Indianapolis area are able to dispose of their product in Indianapolis through local terminals or use outbound pipelines to other locations.[81]

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[79] Application, Statement G at 46-50, Tables G.53-G.57.

[80] Application, Statement G at 50-51, Tables G.58-G.60.

[81] Application, Statement G at 51-52, Tables G.61-G.63.

4. TEPPCO states that, in the Chicago area, shippers can dispose of their product locally through their truck terminals or through other pipelines to locations in Illinois, Wisconsin, Iowa, Minnesota, Indiana, Ohio, or Michigan.[82]

[82] Application, Statement G at 52-55, Tables G.64-G.66.

APPENDIX C
TE PRODUCTS PIPELINE COMPANY, L.P.
DOCKET NO. OR99-6-000
SUMMARY OF TEPPCO'S STATISTICAL MARKET ANALYSIS

Destination Markets

Market & Analysis	**HHI**	**Mkt Share**	**Excess Capacity Ratio**	**Water borne Share**
Houston, TX BEA				
Delivery-Based	925	**[83]	N/A	9.2%
Capacity-Based		0		
(75-mile external suppliers)	1111	0	6.5	
(100-mile external suppliers)	848		8.2	
Beaumont, TX BEA				
Delivery-Based	266	**	N/A	49.6%
Capacity-Based		5.5%		
(75-mile external suppliers)	511	5.3%	8.6	
(100-mile external suppliers)	488		8.9	
Shreveport, LA BEA (Adjusted)				
Delivery-Based	1482	**	N/A	10.1%
Capacity-Based		18.6%		
(75-mile external suppliers)	1557	13.5%	2.4	
(100-mile external suppliers)	939		3.3	
Little Rock, AR BEA				
Delivery-Based	2853	**	N/A	16.3%
Capacity-Based				
(75-mile external suppliers)	4179	63.9%	1.5	
(100-mile external suppliers)	1819	37.9%	2.6	
(125-mile external suppliers)	1452	25.0%	3.9	
Memphis, TN BEA				

[83]TEPPCO claims that the market share figures constitute confidential information.

Delivery-Based	1834	**	N/A	39.6%
Capacity-Based				
(75-mile external suppliers)	1996	31.6%	1.6	
(100-mile external suppliers)	1738	29.4%	1.7	
St. Louis, MO BEA				
Delivery-Based	1471	**	N/A	6.9%
Capacity-Based				
(75-mile external suppliers)	1500	17.6%	4.6	
(100-mile external suppliers)	1459	17.3%	4.7	
Evansville, IN BEA				
Delivery-Based	2058	**	N/A	26.8%
Capacity-Based		29.5%		
(75-mile external suppliers)	2076	19.9%	2.5	
(100-mile external suppliers)	1166		3.7	
Indianapolis, IN BEA				
Delivery-Based	2223	**	N/A	4.0%
Capacity-Based				
(75-mile external suppliers)	1980	28.2%	3.5	
(100-mile external suppliers)	1302	20.3%	4.9	
Chicago, IL BEA				
Delivery-Based	1338	**	N/A	1.6%
Capacity-Based		5.8%		
(75-mile external suppliers)	1431	5.7%	3.6	
(100-mile external suppliers)	1394		3.7	
Cincinnati/Dayton, OH BEA (Adj)				
Delivery-Based	1939	**	N/A	12.0%
Capacity-Based				
(75-mile external suppliers)	1683	16.5%	3.9	
(100-mile external suppliers)	1229	11.3%	5.7	
Toledo, OH BEA				

Delivery-Based Capacity-Based (75-mile external suppliers) (100-mile external suppliers)	1206 1123 1056	** 8.3% 8.0%	N/A 8.2 8.5	 0.2%

Origin Markets

Market & Analysis	**HHI**	**Market Share**
Western Gulf Coast Shipment-Based Results Effective Capacity-Based Results	 1672 1833	 ** 5.5%
Shreveport, Louisiana Shipment-Based Results Effective Capacity-Based Results	 1307 1002	 ** 31.7%
Indianapolis, Indiana Shipment-Based Results Effective Capacity-Based Results	 1181 1858	 0% 32.0%
Chicago, Illinois Shipment-Based Results Effective Capacity-Based Results	 766 1002	 0% 0%