

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

L.U.O.

STATE OF MAINE
Department of the Attorney General

PETROLEUM MARKET SHARE ACT/REPORT TO THE LEGISLATURE

KF
1860
.Z99
M24
1994

ANDREW KETTERER
ATTORNEY GENERAL



STATE LAW LIBRARY
AUGUSTA, MAINE

REGIONAL OFFICES:

96 HARLOW ST., SUITE A
BANGOR, MAINE 04401
TEL: (207) 941-3070

59 PREBLE STREET
PORTLAND, MAINE 04101-3014
TEL: (207) 822-0260

Telephone: (207) 626-8800
FAX: (207) 287-3145

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

October 2, 1995

Honorable Philip E. Harriman, Chair Honorable G. Steven Rowe, Chair
Joint Standing Committee on Business Legislation

State House Station #3
Augusta, ME 04333

State House Station #2
Augusta, ME 04333

Re: Petroleum Market Share Act/Annual Report to the Legislature

Dear Senator Harriman and Representative Rowe:

Enclosed, in accordance with the provisions of 10 M.R.S.A. § 1677, is the Attorney General's Annual Report to the Legislature concerning levels of concentration in Maine's retail petroleum markets. A recommendation for further legislative action is also provided.

This report is being provided to you as Chairs of the legislative committee with jurisdiction. Please advise if you would like us to arrange for further distribution of the Report within the Legislature.

Thank you for your consideration of these materials; please do not hesitate to call if you should have any questions in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis E. Ackerman".

FRANCIS E. ACKERMAN
Assistant Attorney General

cc: Andrew Ketterer, Attorney General
Linda Pistner, Deputy Attorney General
Stephen Wessler, Assistant Attorney General

OCT 17 1995

State of Maine
Department of the Attorney General

PETROLEUM MARKET SHARE ACT
ANNUAL REPORT OF THE ATTORNEY GENERAL
TO THE MAINE LEGISLATURE
PURSUANT TO 10 M.R.S.A. § 1677

- I. EXECUTIVE SUMMARY
- II. INTRODUCTION
- III. LEVELS OF CONCENTRATION IN MAINE'S
RETAIL PETROLEUM MARKETS
- IV. LEGISLATIVE RECOMMENDATION

October 2, 1995

State of Maine
Department of the Attorney General

**ANNUAL REPORT OF THE ATTORNEY GENERAL
TO THE MAINE LEGISLATURE
PURSUANT TO 10 M.R.S.A. § 1677**

October 2, 1995

I. EXECUTIVE SUMMARY

This Report is provided by the Attorney General to the Legislature pursuant to Maine's Petroleum Market Share Act ("PMSA"), 10 M.R.S.A. §§ 1671 -1682. The Report represents a view of competition in retail petroleum markets in Maine at the end of calendar year 1994. It is based on data reported to the Attorney General by petroleum wholesalers in accordance with the requirements of the statute. Retail petroleum markets, whether for home heating oil ("HHO") or gasoline ("MFO"), are local markets. The data reported enable the Attorney General to determine how many competitors are active in each of these markets, and what market share each competitor has.

The PMSA has become a linchpin of the Attorney General's antitrust enforcement effort in petroleum markets. Simply put, the ready availability of accurate data means that the Attorney General can determine, rapidly and efficiently, whether a proposed petroleum merger or acquisition will violate antitrust law. Similarly, the data enables the Attorney General to reliably inform the Legislature concerning competitive trends, *i.e.*, whether the level of competition in a given market is increasing or decreasing.

This Report shows that, at the end of 1994, Maine's retail HHO markets were relatively concentrated. This means that levels of competition within these markets were generally low. The most concentrated, least competitive markets were those along Maine's southern and western borders, and those east and north of Bangor. A refiner held significant market share in seven of thirty-three markets.

In terms of trends in HHO markets, the implications are unclear. Viewed from a statewide perspective, the impression would be one of stability in overall levels of competition. Sharp fluctuations in levels of competition in some local markets, however, suggest that this is a period of realignment and change in the industry.

With respect to MFO, the Report shows declining levels of concentration, and increased competition, over the prior reporting period. Refiner market power appeared to register a decline, although a refiner remained dominant in half of Maine's counties. It is too early to determine whether this trend will be sustained.

The relatively high levels of concentration (and low levels of competition) in some markets do not necessarily mean that Maine consumers are currently being forced to pay higher prices for product than their counterparts in other states. For example, Maine's HHO prices are currently among the lowest in New England.

While a trend toward increased concentration (and reduced competition) is likely to lead to higher prices in the longer term, the near term effect can be, paradoxically, to force prices down, as players with market power exert economic muscle in an effort to squeeze smaller competitors out of the market. Referred to as

“predatory pricing”, this scenario illustrates why increasing concentration in a given market will be a legitimate concern even when it is not immediately accompanied by higher prices.

The PMSA is scheduled for sunset on September 6, 1996. This Report recommends that these provisions be extended or repealed. The statute represents an essential early warning system, capable of alerting the Attorney General and the Legislature to the need for enforcement action, or for legislation to address the unique problems which could arise in Maine’s petroleum markets in the years ahead.

II. INTRODUCTION

The central purpose of Maine’s Petroleum Market Share Act (“PMSA”), 10 M.R.S.A. §§ 1671 -1682, is to provide the Attorney General with the ability to monitor levels of concentration in Maine’s retail petroleum markets on a current basis. The perception that this monitoring function was both advisable and necessary arose out of a concern that a refiner or refiners could use the advantage conferred by vertical integration¹ to stake out a dominant position in Maine’s retail petroleum markets, whether by a program of acquisitions, or otherwise. Indeed, the PMSA was adopted as a moderate alternative to so-called “divorcement” legislation, which would have barred refiners from Maine’s retail petroleum markets altogether. Levels of concentration are also a matter of general concern for reasons

¹ A vertically integrated refiner enjoys two principal advantages over nonintegrated competitors in retail petroleum markets. First, the refiner is independent of the vagaries of wholesale markets; second, the refiner can pass along to its retail arm any economies realized in upstream phases of its integrated operation.

of antitrust policy.

As levels of concentration in a given market rise, it becomes more likely that a single firm, or group of firms, could successfully exercise market power to levy monopoly profits by charging higher prices. In a rapidly evolving market environment, access to current data regarding levels of concentration is critical to effective antitrust enforcement. It is equally critical to a review of legislative options, and to a determination as to whether more drastic legislative remedies, such as divorcement, merit consideration or adoption. See 10 M.R.S.A. § 1677.

Under the PMSA, the Attorney General reports to the Legislature annually. The required report comprises two elements: first, a recommendation concerning the need for further legislation; and second, an assessment of "the concentration of retail outlets in the State or in sections of the State." The required report may not disclose the identity of any particular retailer or retail outlet. Id.

It is important to recall that the statute contains sunset provisions which would effect its repeal as of September 1, 1996, only one year from now. We are therefore also called upon to offer an assessment of the impact and effectiveness of the program, and to provide a legislative recommendation with respect to repeal or reenactment. In this report, the Attorney General concludes that the program is effectively fulfilling the purposes for which it was designed, and that it merits continuation. Accordingly, we recommend that the sunset provisions be eliminated or extended.

The report which follows is divided into two sections. In the first, following

an explanation of the antitrust methodology used, we evaluate levels of concentration and review trends. In the concluding section, a legislative recommendation is offered.

III. LEVELS OF CONCENTRATION IN MAINE'S RETAIL PETROLEUM MARKETS

A. Methodology

The methodology employed by the Attorney General to assess levels of concentration in Maine's retail petroleum markets, as reflected in this report, is essentially the same methodology used by the U.S. Department of Justice, the Federal Trade Commission and the Attorneys General of the several states in evaluating the legality of any given merger or acquisition under applicable antitrust law. Since the Attorney General has been notably active in enforcing Maine's merger law, 10 M.R.S.A. § 1102-A, in recent years, this office has developed a familiarity with, and expertise in the required analysis.

1. Market Definition. The first step in this analysis is to define the relevant product and geographical markets. The product markets on which this report will focus are the retail markets for HHO and MFO as defined in the PMSA. HHO is defined as "#2 fuel oil sold for heating residential, industrial or commercial space or water". MFO "means internal combustion fuel sold for use in motor vehicles" as more fully defined in 29 M.R.S.A. § 1(7). See 10 M.R.S.A. § 1672(3) and (4).²

² In general, HHO and MFO, as defined in the statute, are properly susceptible of antitrust analysis as distinct product markets.

The relevant geographical markets are more problematic. In layman's terms, the task of defining the relevant geographical market is essentially one of determining who competes against who in a given locality or region. For example, the wholesale market for widgets may be a nationwide market, if it is found that sellers in Maine and California actually compete with each other for sales. Alternatively, if transportation costs render transcontinental competition economically unfeasible, and sellers from Minnesota or Louisiana find it possible to make sales in Maine, while those from California do not, it may make more sense to divide the country into two separate (east-west) geographical markets. Then again, if the most distant competition to Maine-based sellers comes from New York, a geographical market limited to the northeast may be appropriate. In short, the chosen geographical market should reflect the realities of competition.

In more technical terms, the chosen geographical market should approximate one within which a putative monopolist could implement a small, but significant and nontransitory price increase, on the order of, for example, five percent, without precipitating competitive responses which would render the price increase unprofitable. If the posited price increase would neither impel customers within the the chosen geographical market to look beyond its boundaries, nor attract competitors located elsewhere to look for sales within its boundaries, the market will fairly represent competitive realities. Otherwise, it will be necessary to redraw the boundaries until it does.

It should be emphasized that market definition is not an exact science. Few

markets can be geographically delineated with absolute certainty that their chosen contours accurately reflect human economic behavior. For better or for worse, the task of defining a geographic market will always be one of approximation.

The Attorney General has taken quite different approaches to defining geographic markets within the State for HHO on the one hand, and MFO on the other. In the case of HHO, we have conducted a series of interviews with a number of persons knowledgeable in and about the petroleum industry in this State. The assistance of Eugene Guilford, Executive Director of the Maine Oil Dealers Association, is particularly acknowledged. On this basis, we have divided the State into thirty-three separate geographic markets which, we believe, represent a fair approximation of economic and competitive realities. A map depicting these markets is attached hereto as Appendix A. While we have no doubt that it will prove necessary to refine our conception of the boundaries of these markets over time, and would welcome comment from any reader of this report, we remain confident that the HHO geographic markets analysed here would (minor modifications aside) stand up to antitrust scrutiny in any forum.

Markets for MFO within the State, however, operate differently from those for HHO. While HHO markets typically encompass a geographic region, however limited -- for example, the St. John Valley, or Mount Desert Island -- MFO markets may be more localised. The task before us here, however, is not the analysis of a merger in a local market. We have determined that for purposes of monitoring broad trends toward concentration across the State, to focus on such narrow

geographic markets would be counterproductive. Instead, it was determined that the use of Maine's sixteen counties as hypothetical MFO geographic markets would, at least initially, constitute a more effective mode of analysis.³ Wherever a trend toward concentration is observed within these hypothetical markets, a fuller and more accurate analysis can be brought to bear, in order to pinpoint the geographic sources of the trend.

2. The Herfindahl-Hirschmann Index. No market is perfectly competitive, and there are varying degrees of competition. The most important factor affecting competition in a given market is the level of concentration.⁴ To give an extreme example, a market in which there is only one seller, a monopolist, is obviously highly concentrated, and by the same token, totally lacking in competition. Conversely, a market with numerous small sellers and no large ones has a low level of concentration, and is likely to have a high degree of competition. The number of competitors in a market cannot, however, by itself, provide a measure of either concentration or competition. For example, a market with numerous small competitors which is nevertheless dominated by a single larger competitor may have a high degree of concentration, and a low level of competition.

The Herfindahl-Hirschmann Index, or HHI, is a measure of the level of concentration in any given market. It is also, therefore, a good indicator of the

³ Use of county markets also permits a meaningful integration of MFO bulk sales to end users into the calculation of market share.

⁴ That competition in turn represents the best guarantee to consumers of high quality and low price needs no emphasis here.

presence or absence of competition in that market. The HHI measures concentration by focusing not only on the number of competitors in the market, but also on their size. The index is widely used by federal and state antitrust enforcement agencies, including this office, as a valuable tool in merger analysis. We have used the HHI in this report to quantify, compare and evaluate levels of concentration in Maine's retail petroleum markets.

Simply expressed, the HHI is the sum of the squares of the percentage market shares of each competitor in the market. Thus a market which is a monopoly -- i.e., in which one seller has a 100% market share -- will have an HHI of 10,000 (100 squared). At the other end of the spectrum, a market in which one hundred sellers each have a market share of 1% will have an HHI of only 100 (one squared times 100). Somewhere in between, a market with ten competitors at 10% each would have an HHI of 1000 (ten squared times ten); by way of comparison, a market with nine competitors at 5% each, and the tenth at 55% would have a much higher index, 3250 (five squared times nine, plus 55 squared), reflecting a higher degree of concentration and a lower level of competition in a market dominated to this extent by a single competitor.

Experience in merger analysis has permitted enforcement authorities to generalise regarding the relative risks to competition reflected in varying HHI numbers. These generalisations are set forth in two sets of merger guidelines published by the U.S. Department of Justice and the Federal Trade Commission on the one hand, and by the National Association of Attorneys General (NAAG) on the

other. The points of disagreement between the two sets of guidelines are few, and immaterial for our purposes here; in any case, this office has in the past, and will continue to use both sets of guidelines.

Based upon the guidelines generally, the consensus among antitrust enforcement authorities is that an HHI below 1000 points betokens an unconcentrated market -- one in which competition would be expected to flourish. Enforcement authorities would challenge a merger in such a market only in extraordinary circumstances. Where the HHI falls into a middle range, roughly between 1000 and 1800, the market is generally viewed as moderately concentrated. In such markets, a merger will ordinarily be a matter of concern to enforcement authorities only if the merger produces an increase in the HHI in excess of 100 points. Markets registering an HHI above 1800 points are viewed as highly concentrated. In this category, enforcement authorities are likely to consider any merger resulting in an increase in the HHI of 50 points or more as cause for antitrust concern.⁵

B. Levels Of Concentration

Data assembled from reports submitted by wholesalers and refiners pursuant to the PMSA have permitted us to calculate the annual gallonage supplied to each

⁵ It should be noted that in analysing a particular merger, antitrust enforcement authorities do not mechanically apply the HHI criteria described above. Rather, the HHI is employed as an indicator of the appropriateness of further inquiry. In addition to the HHI, a variety of other factors, such as ease of entry, are consulted in order to determine whether the merger merits a challenge.

HHO and MFO retailer and retail outlet located in the State. These annual gallonage figures, in turn, provide the basis for arriving at the percentage market shares held by each retailer in every geographic market in the State. We have calculated HHIs by squaring the percentage market shares arrived at for each competitor, and deriving a total figure for each market. These HHI figures are set forth in Appendix B below.

1. Overview: Retail Home Heating Oil Markets. Levels of concentration in Maine's retail HHO markets are generally high. Only two of thirty-three markets, Belfast and Augusta, could be characterized as unconcentrated, with HHIs below 1000. At the other end of the spectrum, five markets showed an extreme degree of concentration, racking up HHI totals over 4000 points each. These were Bethel, Midcoast, South Paris, Sanford and York.⁶ Three other markets, Jackman-Greenville, Jay and Limerick topped 3000 points.

Of the remaining twenty-three markets, thirteen fell into the 1800 -3000 point range, and would therefore qualify as highly concentrated under the standards set by federal and NAAG guidelines; ten were moderately concentrated, *i.e.*, in the 1000 - 1800 range. It is noteworthy that most of Maine's large urban centers, including Bangor, Biddeford-Saco, Lewiston-Auburn, Portland, Ashland-Presque Isle and Waterville fell into the moderately concentrated category.

In regional terms, two generalizations can be made. First, all markets along

⁶ As a reminder, a typical example of a market over 4000 points might consist of three competitors, with 55%, 25% and 20% market shares, respectively.

Maine's western and southern borders, and all markets east and north of Bangor were highly concentrated (with a single exception, *viz.*, Ashland-Presque Isle). Second, markets along the Interstate 95 corridor from Biddeford to Bangor were either moderately concentrated or unconcentrated. Maine's coastal areas from Portland to Bangor demonstrated no pattern, with Belfast and Rockland showing healthy levels of competition, while Bath-Brunswick and especially the Midcoast displayed a tendency to extreme concentration.

Of the eight most concentrated markets in the State, a refiner commanded significant market share in only one. In the other seven extremely concentrated markets, refiners were either not present, or their participation was negligible.

More broadly, a refiner led the field in four markets statewide, and held second place in three others. Some level of concern is warranted with respect to those markets combining relatively high concentration with a high level of refiner participation.

The high levels of concentration observable in Maine's retail HHO markets are a source of antitrust concern to the Attorney General. That concern would be heightened in the event a consistent trend toward further concentration were to emerge.⁷ At this juncture, of course, it is too early to discern any trend, let alone a consistent one. Overall, the available data suggests a picture of relative stability,

⁷ Indeed, a single proposed acquisition in a concentrated market can give cause for concern great enough to warrant barring the transaction. For example, in one of the markets listed above (unnamed here for reasons of confidentiality) a merger of the third and fourth largest competitors would result in an increase in the HHI of more than 150 points. Such an increase would place the merger squarely in the category of those which would merit a challenge unless other factors weighed heavily in its favor.

with the average HHI for 1994 slightly down from the previous reporting period (2387, down from 2490), and the median HHI also slightly down (2059, down from 2096). This overall picture becomes more complicated, however, when one considers market-specific data. For example, of the thirty-three markets, only seven had the same number of competitors in 1994 as they had in 1993: seventeen markets showed an increase in the number of competitors, while nine lost one or more competitors. To add another layer to the complexity, it is somewhat surprising to note that six of the markets which showed an increase in the number of competitors at the same time registered an increase in concentration as measured by the Herfindahl-Hirschmann index, while three of those which lost competitors also registered lower HHI point totals. Only two markets remained within a hundred points of their previous year's HHI; fifteen showed an increase of more than one hundred points, while sixteen registered declines of more than one hundred points.

Particularly encouraging were data showing an increase in numbers of competitors coupled with substantial declines in concentration in Ashland-Presque Isle, Bethel, Jackman-Greenville, Woodland-Calais and York.⁸ Of particular concern, conversely, were the substantial increases in concentration recorded in Cherryfield-Machias, Lincoln and the Midcoast, in the first two cases despite an increase in the numbers of competitors.

In sum, a comparison of 1994 data for retail HHO markets against those for

⁸ One should be wary, nevertheless, of painting too rosy a picture: with the exception of Ashland-Presque Isle, all of these markets remain highly concentrated, with Bethel and York the most concentrated markets in the State.

the preceding year permits the following three comments. First, while overall levels of competition and concentration have remained relatively stable, this appears to be a period of considerable realignment within the industry, with numerous competitors exiting and entering throughout the State. Second, some of the most concentrated markets in the State have moved modestly toward increased competition; nevertheless, levels of concentration in these markets remain cause for concern. Finally, markets registering substantial increases in concentration are also a cause for concern. It is particularly noteworthy that marked increases in concentration have been recorded in two markets where refiner market share is substantial.

The Attorney General remains concerned by the generally high levels of concentration in this industry. It is too early to determine whether there is a trend toward further concentration. Our impression, however, is that the industry is experiencing a period of realignment and flux. Accordingly, vigilance and careful monitoring are the order of the day.⁹

2. Overview: Retail Motor Fuel Oil Markets. Fully two-thirds of the county MFO markets listed in Appendix C below fall into the unconcentrated category. The remainder are moderately concentrated; none could be characterised as highly concentrated. In six counties, levels of concentration remained stable from the

⁹ At the same time, it is important to note that high levels of concentration do not necessarily translate immediately into high retail prices for HHO. However, a trend toward higher levels of concentration could portend higher retail prices in the future. For this reason, the Attorney General will pay close attention to any such trend, and, with an eye to the motivating purpose of the PMSA program, will also pay close attention to the part played by refiners in bringing about any such trend.

previous reporting period; in all ten remaining counties, declines in levels of concentration were recorded. Waldo and Sagadahoc Counties registered particularly significant declines in concentration (in excess of 500 points each).

Nevertheless, it remains that the HHI levels shown in Appendix B significantly understate the actual levels of concentration which would be found in the narrower geographic markets suitable for purposes of merger analysis. These HHI figures should not, therefore, be read as a signal that this office would be likely to take a hands-off attitude to antitrust review of transactions in markets described as unconcentrated.

As one might expect, in view of the across-the-board declines in concentration noted above, the market position of dominant competitors also tended to erode somewhat over the reporting period. Thus in seven of the sixteen county markets (down from ten), at least one competitor enjoyed a market share in excess of 20%; while market shares above 30% were registered in only three markets (down from five).¹⁰

Equally noteworthy, moreover, is the fact that in every county except one, there was a significant number of new entrants into retail MFO markets.¹¹ The sole exception was Aroostook County, where the number of competitors remained

¹⁰ The three counties in question were Oxford, Piscataquis and Somerset.

¹¹ In some instances, these data may reflect more complete reporting by wholesalers. From available information, the Attorney General is unable to determine precisely how many of these apparent new entrants represent actual new entrants and how many are the result of underreporting in the previous reporting period.

unchanged from the previous reporting period.

Today, a refiner holds first or second place in terms of market share in ten of Maine's sixteen counties (down from thirteen), with a leading position in eight of these (no change). In five counties (down from eight), a refiner held a market share in excess of 20%; a refiner's market share exceeded 30% in only one county (down from four). Despite these declines, refiner dominance in fully half of Maine's counties remains a matter for concern.

In MFO markets as in HHO markets, a stronger tendency toward concentration is noticeable in western, northern and downeast sections. Southern and central counties were less prone to concentration. The median (753, down from 990) and average (835, down from 1085) HHIs for the State are indicative of moderate, rather than extreme levels of concentration. Again, it should be emphasized that these figures represent a significant understatement, as a result of our decision to use county geographic markets for reasons of analytical convenience.

Although a comparison of the data assembled for 1994 to those for the previous reporting period gives cause for cautious optimism regarding the future of Maine's retail MFO markets, it is far too early to speak in terms of consistent trends. Continued vigilance, and continued careful monitoring, are warranted.

IV. LEGISLATIVE RECOMMENDATION

The reporting and fee sections of the statute, 10 M.R.S.A. §§ 1673, 1681, contain sunset provisions which automatically repeal those sections as of September

1, 1996. It is the Attorney General's recommendation that the sunset provisions themselves be extended or repealed. The concept of the PMSA program has been tested in action; initial glitches have been corrected and the program is in operation and working well. The Attorney General is now in a position to follow trends in Maine's petroleum markets on a current basis, and to react swiftly by seeking remedies in court, or in the Legislature should the need arise.

Without the PMSA program, the Attorney General would be forced to fall back on routine antitrust enforcement methods and mechanisms. The PMSA program was adopted in the first place because it was felt that in a rapidly evolving market environment, there was a serious risk that routine enforcement would be ineffective -- that it would accomplish too little, too late. Nothing has intervened to alter that equation, and the risk remains.

Further, the PMSA program was conceived, not as a means of affording the Attorney General a one-time look at levels of concentration in Maine's petroleum markets, but as a means to follow and evaluate trends. It would accordingly be inadvisable to eliminate the program in accordance with the sunset provisions now in place; and equally inadvisable to replace them with similar near-term limits on the life of the program. The problem which the PMSA was designed to address is not likely to go away in the near term; nor should the program itself.

It is the Attorney General's considered view that the continuation of the PMSA program is an essential component of an effective competition strategy for Maine's petroleum markets.

Respectfully submitted,

Dated: October 2, 1995

ANDREW KETTERER
Attorney General

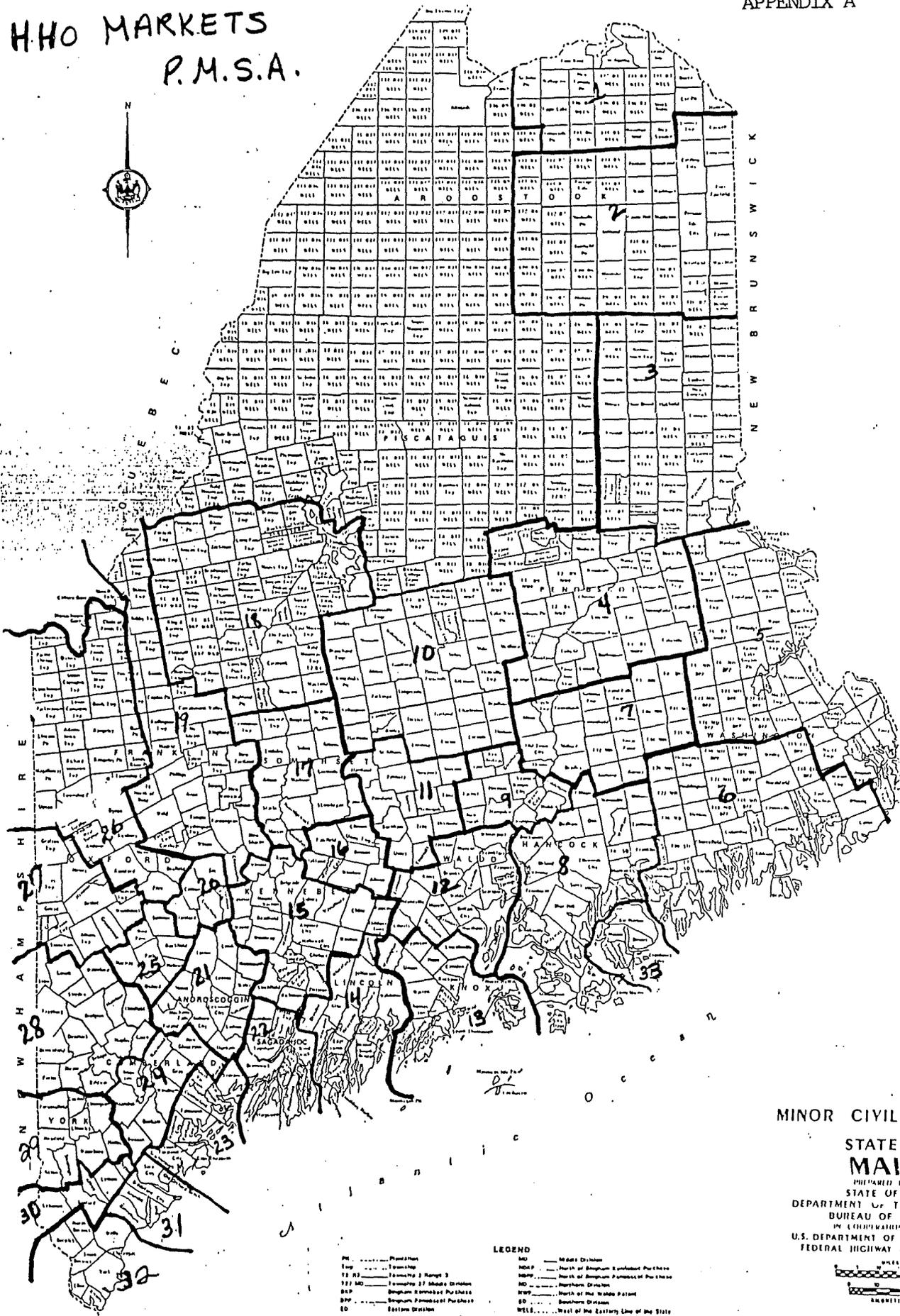


STEPHEN L. WESSLER
Director, Public Protection Unit
Assistant Attorney General



FRANCIS E. ACKERMAN
Assistant Attorney General

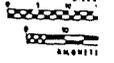
H.H.O. MARKETS P.M.S.A.



MINOR CIVIL
STATE
MAIL
PREPARED BY
STATE OF VA
DEPARTMENT OF TRA
BUREAU OF PL
IN COOPERATION
U.S. DEPARTMENT OF T
FEDERAL HIGHWAY 7

LEGEND

PL	Post Office	MD	Market District
TP	Tramway	MDP	North of Shenandoah Purchase
TR 22	Tramway 2 Range 2	MDP	North of Shenandoah Purchase
TR 23	Tramway 2 Range 3	MD	Northwestern District
TR 24	Tramway 2 Range 4	MD	North of the Middle Patent
SP	Shenandoah Purchase	SD	Southwestern District
SP	Shenandoah Purchase	SD	Southwestern District
ED	Eastern District	WEL	West of the Eastern Line of the State
WLR	West of the Rappahannock River		



APPENDIX B

This appendix sets forth HHI figures for Maine's retail petroleum markets. As we note in the text above, these are derived from data reported to us by wholesalers and refiners pursuant to the PMSA.

It should be noted that in the case of HHO markets located along the Maine-New Hampshire border, available data do not indicate market shares held by cross-border competitors. Accordingly, HHIs for these markets are based to some extent on estimates. We indicate below wherever an estimate is used.

The Attorney General is forbidden by statute to disclose the identity of any retailer or retail outlet in making his report. The market summaries offered below therefore set forth only (1) geographic location (for HHO markets, reference should be made to the map attached hereto as Appendix A); (2) number of competitors; (3) HHI; and (4) a characterisation of the level of concentration. We have used four characterisations, loosely derived from federal and NAAG guidelines, as follows: an HHI in the 0 -1000 range is viewed as "unconcentrated"; in the 1000 -1800 range, the characterisation is "moderately concentrated"; in the 1800 -3000 range, an HHI is rated "highly concentrated"; while in the 3000 plus range, the phrase "extremely concentrated " is used.

A. Home Heating Oil HHIs.

1. St. John Valley

No. of competitors: 7 (+1)¹²

HHI: 2539 (+1)

Character: highly concentrated

2. Ashland/Presque Isle

No. of competitors: 21 (+2)

HHI: 1557 (- 368)

Character: moderately concentrated

3. Houlton

No. of competitors: 8 (- 2)

HHI: 2082 (+109)

Character: highly concentrated

4. Lincoln

No. of competitors: 13 (+3)

HHI: 1940 (+ 624)

Character: highly concentrated

5. Woodland/Calais

No. of competitors: 15 (+6)

HHI: 2237 (- 1129)

Character: highly concentrated

¹² The figure in parentheses indicates the change from the previous reporting period.

6. Cherryfield/Machias

No. of competitors: 14 (+4)

HHI: 2552 (+324)

Character: highly concentrated

7. Old Town

No. of competitors: 10 (same)

HHI: 1997 (+288)

Character: highly concentrated

8. Ellsworth

No. of competitors: 20 (-2)

HHI: 2059 (-108)

Character: highly concentrated

9. Bangor

No. of competitors: 35 (-1)

HHI: 1342 (-291)

Character: moderately concentrated

10. Dover-Foxcroft

No. of competitors: 9 (same)

HHI: 2191 (+95)

Character: highly concentrated

11. Pittsfield/Newport

No. of competitors: 13 (-2)

HHI: 1693 (-403)

Character: moderately concentrated

12. Belfast

No. of competitors: 21 (+4)

HHI: 899 (-85)

Character: unconcentrated

13. Rockland

No. of Competitors: 31 (+8)

HHI: 1069 (-252)

Character: moderately concentrated

14. Midcoast

No. of competitors: 8 (-1)

HHI: 4190 (+510)

Character: extremely concentrated

15. Augusta

No. of competitors: 30 (+5)

HHI: 714 (-208)

Character: unconcentrated

16. Waterville

No. of competitors: 14 (same)

HHI: 1370 (-178)

Character: moderately concentrated

17. Skowhegan

No. of competitors: 12 (+1)

HHI: 1317 (-301)

Character: moderately concentrated

18. Jackman/Greenville

No. of Competitors: 5 (+2)

HHI: 3534 (-1997)

Character: extremely concentrated

19. Farmington

No. of competitors: 11 (-1)

HHI: 2358 (+101)

Character: highly concentrated

20. Jay

No. of competitors: 4 (-1)

HHI: 3368 (+157)

Character: extremely concentrated

21. Lewiston/Auburn

No. of competitors: 18 (+4)

HHI: 1517 (-96)

Character: moderately concentrated

22. Bath/Brunswick

No. of competitors: 10 (-1)

HHI: 2169 (+248)

Character: highly concentrated

23. Portland

No. of competitors: 38 (+6)

HHI: 1168 (+71)

Character: moderately concentrated

24. Gray

No. of competitors: 15 (-4)

HHI: 1572 (+291)

Character: moderately concentrated

25. South Paris

No. of competitors: 7 (same)

HHI: 4158 (+452)

Character: extremely concentrated

26. Rumford/Rangeley

No. of competitors: 8 (+1)

HHI: 1989 (+63)

Character: highly concentrated

27. Bethel

No. of competitors: 5 (+2)

HHI: 4941 (-693)

Character: extremely concentrated

28. Bridgton

No. of competitors: 7 (same)

HHI: 2689 (estimate) (+289)

Character: extremely concentrated

29. Limerick

No. of competitors: 7 (same)

HHI: 3085 (+93)

Character: extremely concentrated

30. Sanford

No. of competitors: 6 (+1)

HHI: 4392 (estimate) (+392)

Character: extremely concentrated

31. Biddeford/Saco

No. of competitors: 21 (+4)

HHI: 1323 (-201)

Character: moderately concentrated

32. York

No. of competitors: 6

HHI: 6855 (estimate) (-1145)

Character: extremely concentrated

33. Mt. Desert

No. of competitors: 10 (same)

HHI: 1902 (-68)

Character: highly concentrated

B. Motor Fuel Oil HHIs.

County markets for MFO are listed below in inverse order of concentration.

1. Cumberland

No. of competitors: 156 (+25)

HHI: 416 (+1)

Character: unconcentrated

2. York

No. of competitors: 105 (+10)

HHI: 445 (-7)

Character: unconcentrated

3. Knox

No. of competitors: 63 (+4)

HHI: 503 (-7)

Character: unconcentrated

4. Androscoggin

No. of competitors: 64 (+10)

HHI: 511 (+29)

Character: unconcentrated

5. Hancock

No. of competitors: 72 (+19)

HHI: 580 (-392)

Character: unconcentrated

6. Franklin

No. of competitors: 40 (+5)

HHI: 673 (-333)

Character: unconcentrated

7. Waldo

No. of competitors: 48 (+14)

HHI: 675 (-638)

Character: unconcentrated

8. Lincoln

No. of competitors: 35 (+10)

HHI: 721 (+7)

Character: unconcentrated

9. Kennebec

No. of competitors: 81 (+11)

HHI: 785 (-189)

Character: unconcentrated

10. Penobscot

No. of competitors: 148 (+9)

HHI: 799 (-172)

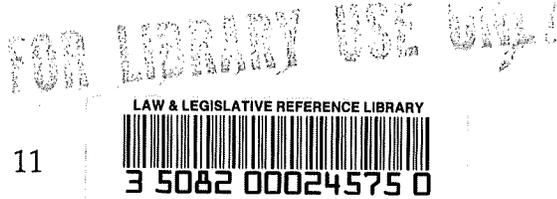
Character: unconcentrated

11. Sagadahoc

No. of competitors: 33 (+11)

HHI: 902 (-600)

Character: unconcentrated



12. Aroostook

No. of competitors: 90 (same)

HHI: 1073 (-270)

Character: moderately concentrated

13. Somerset

No. of competitors: 68 (+10)

HHI: 1140 (-978)

Character: moderately concentrated

14. Washington

No. of competitors: 58 (+10)

HHI: 1140 (+16)

Character: moderately concentrated

15. Oxford

No. of competitors: 44 (+13)

HHI: 1331 (-263)

Character: moderately concentrated

16. Piscataquis

No. of competitors: 38 (+13)

HHI: 1662 (-216)

Character: moderately concentrated