

pipelines directly connect with the producers in the Baltic field. Each would need to build significant facilities to reach the same origin market. Finally, the applicant has not shown that capacity would be available on either of the two other pipelines in the same time frame for which it seeks market-based pricing.

d. Geographic Market: Destination Area

The relevant geographic destination market includes all alternative sellers that can provide FT to City's city-gate priced at or below transportation services over ABC's system, assuming a 15 percent FT price increase by ABC. If ABC Pipeline wished to include all the pipelines listed in Table 1, it would have to demonstrate that their transportation services met this criteria. It would also have to demonstrate that the transportation services over those pipelines at least matched the quality of transportation service over ABC Pipeline.

Consider a simple measure of market size and concentration first. Table 3 displays market shares and market concentration for the FT suppliers to City in 1994. Market shares are calculated based on capacity at City's city-gate. There is additional pipeline capacity within the metropolitan area. ABC Pipeline, however, has not provided evidence to show that the capacity could be easily connected to City's city-gate. Absent such a showing staff has used the lower capacity rights figures in our calculations.

TABLE 3

Seller	MDQ rights (Bcf)	Market share	Contribution to HHI
ABC Pipeline (FT)	1.3	.62	.38
Short Line Pipeline	0.3	.14	.02
Boardwalk Pipeline	0.2	.10	.01
Ventnor Pipeline	0.2	.10	.01
Pennsylvania Pipeline	0.1	.05	—
Total	2.1	1.01	.42

In this instance, ABC has a very large market share, 62 percent. Also, the HHI is quite high (.42) indicating that the market is concentrated. The market's HHI is well above the threshold levels of .18-.25 commonly used by antitrust authorities to identify competitive markets. Were ABC to seek Commission approval for market-based transportation rates, it would have to document that there are other factors,

such as ease of entry, excess capacity, etc., that would eliminate the ability to exercise market power that is not ruled out by these high market shares and high HHI.

ABC Pipeline might also allege that released capacity on its own system and on other pipelines would provide good alternatives for City. However, in one very important respect released capacity, especially on ABC Pipeline itself, will have little, if any, impact on the assessment of ABC Pipeline's underlying market power in the primary long-run FT market. An analogy might help. Suppose there were only one manufacturer of automobiles, but robust used-car and leasing markets. Would the manufacturer have monopoly power? Yes. Even with a perfectly competitive secondary market for automobiles, the manufacturer could "contribute" a scarcity by making fewer new automobiles and charging a higher price than necessary to cover costs.⁶³

Similarly, if a pipeline has market power, it would exploit it by "contributing a scarcity." Although a pipeline with a well-functioning capacity release program might not withhold existing capacity, it could choose not to expand. Customers can only release capacity they don't need; they can't build. As demand grows, a pipeline with market power could simply enjoy higher prices and refuse to build even if its customers were willing to pay the incremental cost of expansion. It would build only when the market clearing price for FT went above the monopoly price.

Thus, this analysis suggests that the secondary market on ABC Pipeline may discipline market power the pipeline may have in selling IT and unsubscribed or "short-term" FT, but not in new primary FT. Released capacity on other pipelines might discipline any market power ABC Pipeline may have in the long-term FT market, but the secondary market on ABC Pipeline can do little to discipline its market power in supplying primary FT.

e. Other Competitive Factors

ABC Pipeline might argue that entry is sufficiently easy that ABC would be constrained from exercising market power by new firms quickly entering the market at relatively low cost. It seems

⁶³ See U.S. v. Aluminum Co. of America, 148 F.2d 416, 424 (2d Cir. 1945). The main issue in this case was whether secondary scrap aluminum was in the same market as primary aluminum. Judge Learned Hand held that since Alcoa had produced the metal reappearing as reprocessed scrap, it would have taken into account in its output decisions the effect of scrap reclamation on future prices, and therefore secondary scrap should not be in the same market as primary aluminum.

unlikely that building major new transportation facilities to serve City would be inexpensive or timely. Rather, in a densely-populated urban area, building a new pipeline would likely be a contentious political and environmental issue. ABC Pipeline might, however, argue that the Boardwalk Pipeline or other pipelines could expand their existing interconnections with City. To support this argument it would need to show that the connections could be made without great expense or delay.

It may be that the four other pipelines have significant amounts of excess capacity at or close to City's city-gate. In the event that ABC Pipeline were to attempt to exercise market power, arguably such excess capacity could be used by City to defeat such an attempt. However, evidence currently at hand suggests that only the Short Line Pipeline has excess capacity.

Finally, staff did not address ABC Pipeline's argument regarding buyer power since the destination market was so highly concentrated and the analysis was not fully developed.

f. The Destination Area: Caveats and Conclusion

The market share and HHI calculations in this example are based on simplifying assumptions which minimize market shares and market concentration. First, by assuming that any of City's customers could be supplied by any of the five pipelines connecting to City, staff has intentionally expanded the market and thereby lowered market shares and HHI.

Second, staff did not include no-notice service. For this higher quality service City may have very few alternatives indeed, since no-notice service would only be available to pre-restructuring customers on the alternative pipelines.

Rather than ABC Pipeline, the Ventnor Pipeline or the Short Line Pipeline might file for market-based transportation rates to serve City on the basis that the market shares shown in Table 1 document their lack of market power, despite the destination market's high HHI. If, however, City fully utilized all of its FT at peak, then the Ventnor Pipeline or the Short Line Pipeline would be able to exercise market power despite their small shares of the market. Therefore, the Ventnor Pipeline or the Short Line Pipeline would have to demonstrate that City had alternatives at peak, as well as demonstrating that they lacked market power in the origin markets.