

Submitted Via eRulemaking Portal

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EPA Docket Center
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Mail Code 28221T
Washington, D.C. 20460
Attn: Docket ID No. EPA-HQ-OAR-2016-0544

Re: Docket ID No. EPA-HQ-OAR-2016-0544

The Oil Price Information Service (OPIS) submits the following comments on EPA's Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation. It is important to note at the outset that, in filing these comments, OPIS is not taking any position regarding the advisability of moving the RFS point of obligation. Rather, OPIS is compelled to file these comments in order to correct the regulatory record in relation to OPIS' involvement in evaluating the potential number of parties who could become obligated under the RFS should EPA elect to move the point of obligation to the fuel terminal rack. The EPA's proposed denial, published on November 10, 2016, contains several mischaracterizations of OPIS' work on this issue and our communications with EPA. These issues are addressed below for your consideration.

I. About OPIS

OPIS, an IHS Markit company, is one of the world's most comprehensive sources for petroleum pricing and news information. OPIS began covering petroleum news in 1977 with the launch of the award-winning Oil Express Newsletter. In 1980, OPIS pioneered "rack" price discovery for thousands of wholesalers, and now maintains the world's most comprehensive database of U.S. wholesale petroleum prices, publishing more than 30,000 rack prices each day at over 1,500 terminals in nearly 400 market locations.

In 1981, OPIS began providing spot price assessments for all refined products and later renewable fuels and natural gas liquids. Today, OPIS spot gasoline, diesel, jet fuel, renewable fuels and natural gas liquids prices are highly benchmarked in the U.S. West Coast and other key markets. OPIS's refinery feedstocks and LPG prices are also considered a preferred benchmark by many U.S. and international traders. All OPIS spot and rack prices are available historically to customers via our web-based TimeSeries database.

In 1999, OPIS launched the first retail fuel pricing database in North America. With its unique ability to map retail prices back to wholesale markets, it quickly launched a retail margin service. OPIS now receives daily gasoline and diesel prices for nearly 140,000 retail outlets in the U.S. and Canada. OPIS prices are used by AAA, Microsoft (MSN Autos), Garmin, MapQuest and dozens of other website and mapping companies, in addition to its core oil company base.

OPIS is comprised of more than 50 information specialists, including the most experienced editors in the business, combining over 200 years of industry experience. Our editors not only cover the market, and report breaking stories — but also provide inside analysis on what the trends mean and how they could affect prices and purchasing decisions. They are joined by customer service, sales, marketing, information technology and conference specialists, who strive to provide quality products, services and service to our customers.

Our client list includes the top 200 oil companies, thousands of distributors, traders, government and commercial buyers and sellers of petroleum products worldwide.

II. Background on OPIS' Work on Point of Obligation

In 2016, IHS Global Inc, OPIS' parent company, approached OPIS with a request to compile relevant data sets to evaluate "RFS Obligated and Non-Obligated Party Lists" on behalf of Monroe Energy, LLC with a focus on developing an independent, non-biased, third-party analysis of the RFS obligated party count based on the "current" point of obligation as well as other potential points of obligation including; Blenders, Rack Sellers, and Rack Buyers. To ensure the broadest possible coverage, the data provided by OPIS to IHS included posted price data for all rack locations covered by OPIS as well as a complete master list of OPIS customers for all RFS-related fuels, including RFG gasoline, conventional gasoline, diesel fuels, and renewable fuels.

In 2016, in addition to the IHS request, Valero Energy Corporation (Valero) approached OPIS with a request to compile relevant data sets including: posted price data for all rack locations covered by OPIS as well as a complete master list of OPIS customers for all RFS related fuels. This data included all gasolines (RFG, Conventional, Clear, CBOB's, RBOB's, E15, E85 etc.), all diesel fuels (ULSD, Clear, Dyed, Bio blends) and all Renewable Fuels (Ethanol/DN, Biodiesel, B99, B100 etc.). Additionally, Valero contracted with OPIS to independently provide detailed rack-posted price information from January 1, 2012 through May 31, 2016 for an independent third-party analysis by respected industry economic experts who have provided significant economic and analytic support to the EPA on the RFS.

III. EPA's Misleading Statements Regarding OPIS' Work on Point of Obligation

On page 39 of EPA's Proposed Denial, EPA states "We have reviewed Valero's analysis, and we believe it to be flawed, due principally to their reliance on an incomplete data set (obtained from [OPIS])." EPA then states that they:

"independently contacted OPIS, who could not provide verification of Valero's estimate and further cautioned that using their client list of who posts wholesale rack price to estimate a count of position holders would likely be an underestimation because their client list only represents those parties who publicly report fuel prices at terminals (and not parties that sell fuel at the rack without publicly posting prices or who purchase fuel above the rack for their own use rather than for resale)."

EPA's depiction above is a complete misreading of OPIS' communications. The statement published by EPA was taken completely out of context and presented by EPA as a standalone fact, without addressing the actual data or methodologies utilized by IHS and Valero. As previously

indicated, OPIS' parent company IHS did in fact complete an independent analysis of both the current number of obligated parties as well as the number of obligated parties that would result from moving the point of obligation to position-holders at the terminal rack. While the report was not intended as a verification of Valero's analysis, the results were entirely consistent with Valero's findings as published in their petition (Attachment D – Master List of Rack Sellers). Consequently, both the IHS and Valero analysis yielded obligated party counts below the current number of obligated parties as indicated by EPA.

EPA next states the following:

“OPIS provided EPA their client list of conventional gasoline suppliers who are rack sellers...This list confirms that their client list should not be used as the sole source of information to account for all potential parties that sell fuel at the rack, and that could become obligated parties if the point of obligation were moved.”

This is again a misleading statement as EPA limited the data requested of OPIS, both in terms of the fuels covered and the type of data requested (count of client list only). This is in stark contrast to the much broader criteria and multiple data sets requested and utilized by IHS and Valero in their analyses. In addition to the OPIS data utilized in the analyses done by IHS and Valero, OPIS is aware that these parties used several additional data sources to analyze the potential numbers of obligated parties if the point of obligation were moved as petitioned. These data sources include, but may not be limited to: Part 80: EPA Fuels Programs Registered Company/Facility ID List; EIA Company Level Import Data; Valero market research on bulk and rack activity; federal excise tax forms (637s); market information received in the course of discussing the RFS issues with others in the business; and discussions of potential “New Obligated” parties with SIGMA, ABFA, RFA, NBB, biofuel producers, rack sellers, retailers and other RFS stakeholders.

IV. Conclusion

Whether or not to move the RFS point of obligation is a policy decision that should be based on sound facts regarding the current structure of the program and any proposed changes to that structure. Accordingly, we appreciate the opportunity to set the facts straight regarding OPIS' work and data provided on this issue and we welcome any further questions the EPA or any other stakeholders have on this issue.

Respectfully submitted,



Robert Gough

