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FBT Defends Marathon in Pricing Practices Case

Frost Brown Todd successfully defended Marathon Petroleum Company LP against the Kentucky Attorney General's claims concerning Marathon's pricing practices during times of declared emergencies in Kentucky. After the Governor had declared a state of emergency due to flooding, the Attorney General sought a temporary injunction that would have forced Marathon to lower its wholesale price of gasoline sold in Kentucky to pre-emergency levels. The Attorney General alleged that Marathon violated Kentucky's so-called price gouging statute because its wholesale price of gasoline was in excess of pre-emergency prices and that the increases allegedly were not justified by increased costs.

During the evidentiary hearing conducted less than one week after the motion was filed, the court heard testimony from the parties' witnesses, including their expert witnesses, and denied the Attorney General's request for immediate relief. The court agreed with Marathon that, as used in Kentucky's statute, the term "cost" is "broad enough to encompass a variety of factors that could impact price." The court also agreed with Marathon that fixing the price of gasoline at below-market levels "could result in a significant disruption in the market" and harm the public.

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