



GAS PRICE GOUGING REPORT

JUNE 25, 2009

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I. KEY FINDINGS

The key findings of the Attorney General's Office's investigation into gasoline price increases related to Hurricane Ike in 2008 can be summarized in four points:

- The spike in prices in South Carolina was primarily due to a lack of supply causing a scramble for gas by suppliers, wholesalers, and retailers.
- Palmetto state retailers' markups were not as significant as they were after Hurricane Katrina in 2005, indicating that the state price gouging law enacted in 2006 had a deterrent effect.
- With few exceptions, retail stations acted within reason given the information available to them about the status of fuel supply.
- Settlements were reached with three retail stations and one supplier whose prices were out of line with general market prices and were potentially unconscionable. As part of the settlements, each is making a financial contribution to the American Red Cross for hurricane relief.

II. INFORMATION ON SETTLING ENTITIES

Information on settling entities is as follows:

- Bobb's Food and Fuel
 - Business type: gas station
 - Location: 4325 Mineral Springs Road, Lexington, SC 29073
 - Settlement: \$500 to American Red Cross for hurricane relief
- Best Stop
 - Business type: gas station
 - Location: 3937 Leaphart Road, West Columbia, SC 29169
 - Settlement: \$500 to American Red Cross for hurricane relief
- Citgo
 - Business type: gas station
 - Location: 19002 Hwy 72 East, Clinton, SC 29325
 - Settlement: \$500 to American Red Cross for hurricane relief
- Transmontaigne
 - Business type: major gasoline supplier
 - Corporate address: 1670 Broadway, Suite 3100, Denver, CO 80202
 - Settlement: \$5,000 to American Red Cross for hurricane relief

III. TIMELINE OF CRITICAL EVENTS

- 9/1/2008
 - Gustav makes landfall in Louisiana
 - 11 Louisiana refineries and 1 Texas refinery shut down
- 9/2/2008
 - Colonial and Plantation pipelines partially shut down
- 9/11/2008
 - U.S. Gulf Coast prices spike in advance of Ike
 - S.C. gas stations begin to increase prices in evening
 - Lines form at gas stations
- 9/12/2008
 - 13 Texas refineries shut down
 - Attorney General McMaster activates state price gouging law at noon
- 9/13/2008
 - Ike makes landfall in early morning
- 9/15/2008
 - Attorney General McMaster issues first civil investigative demands to stations and wholesalers
- 9/16/2008
 - U.S. Gulf Coast prices return below pre-spike levels
- 9/25/2008
 - Attorney General McMaster issues first civil investigative demands to suppliers
- 9/26/2008
 - Attorney General McMaster renews activation of state price gouging law
- 10/1/2008
 - Colonial Pipeline returns to 100% operational capacity
- 10/3/2008
 - Plantation Pipeline returns to 100% operational capacity
- 10/12/2008
 - Attorney General McMaster allows state price gouging law activation to expire
- 3/27/09
 - Memorandum of Understanding signed with Clinton Citgo
- 3/31/09
 - Memorandum of Understanding signed with Best Stop
 - Memorandum of Understanding signed with Bobb's Food and Fuel
- 4/23/09
 - Memorandum of Understanding signed with Transmontaigne
- 6/24/09
 - Investigation officially closed

IV. BACKGROUND

As Hurricane Ike approached shore on the evening of Thursday, September 11, 2008, refineries in the Gulf Coast shut down. Due to an unprecedented scramble to purchase a limited amount of fuel from refineries that were already operating at reduced capacity due to Hurricane Gustav, the benchmark for the price of gasoline for suppliers¹ in the Gulf Coast region rose by over \$1.50 overnight. The Colonial and Plantation pipelines, on which some states, including South Carolina, depend for as much as two thirds of their gasoline, dramatically decreased their throughput due to power outages, flooding, and lack of available fuel. The result was shortages at retail stations across the Southeast and large price increases that shocked consumers.

The effect of the crisis on the gasoline market in South Carolina was immediate and severe. Retail stations, desperate to obtain fuel however possible, purchased at least 180,000 gallons of gas – and probably many thousands more that remain undocumented – at prices greater than \$5.00 per gallon. While prices were skyrocketing, the state struggled with shortages due to reduced pipeline supply. These shortages persisted for weeks following the initial crisis.

V. DESCRIPTION OF INVESTIGATION

In response to the crisis, the Attorney General immediately enacted the state’s price gouging law by issuing a notice of abnormal disruption of the market pursuant to his statutory authority in S.C. Code §39-5-145. The notice was officially issued at noon on Friday, September 12, the first day after prices began to increase in South Carolina. To ensure that the industry was alerted as quickly as possible, he distributed the notification through the South Carolina Petroleum Marketer’s Association and the South Carolina Petroleum Council in addition to the mainstream media. In his statements to the media, the Attorney General solicited the public for information on instances of suspected price gouging. Calls and emails began pouring into the office immediately, and the office eventually received a total of 4,360 complaints. The office fielded phone calls over the weekend and until 7:00 at night.

On Monday, September 15, the Attorney General’s Office began issuing its first civil investigative demands (“CIDs”), initially targeting stations and wholesalers that charged the highest prices according to consumers and were the subject of the most complaints. By September 25, the Attorney General’s Office had broadened its investigation to major suppliers identified by retailers and wholesalers. As complaints poured into the office by phone and email, they were assembled into a massive database that investigators used to identify other CID targets.

¹ The term “supplier” as used in this report refers to any firm with ownership of product being transported in a pipeline or tanker. The term “wholesaler” as used in this report refers to any firm that transports product, typically via truck, from pipeline terminals or port terminals to retail stations.

With the use of the database of consumer complaints, CIDs were sent to a variety of branded retail stations (stations with exclusive contracts² with major oil suppliers), unbranded retail stations (stations without such contracts), wholesalers, and suppliers. The variety of targets allowed investigators to gain the perspectives of many different market players during the crisis. The Attorney General's Office eventually issued CIDs to thirty retail stations, four wholesalers, and three suppliers through February of 2009 for a total of thirty-seven CIDs. During the following months, meetings were held with suppliers, wholesalers, and retailers, and Attorney General's Office employees visited many locations in person.

While consumer-reported data were indispensable in determining which retail stations to investigate, the data was not and could not be taken at face value. Information regarding the station's identity and location lacked specificity in many instances, a problem that was compounded by the tendency of retail stations to have multiple names. Many complaints also proved to be impossible to verify, particularly in regards to prices. Prices for premium unleaded were often reported as a price for regular unleaded, and many complaints consisted of nothing more than general allegations that prices in certain areas were too high.

VI. PRICING ANALYSIS

The Attorney General's Office's investigation found that, although there initially appeared to be significant price gouging, retailers' markups were actually much less severe than they were with Hurricane Katrina in 2005. In examining prices in South Carolina, the Attorney General's Office analyzed prices at both the supplier level and the retail level. Information was collected from consumer complaints, investigative inquiries, public sources such as the United States Department of Energy, and OPIS, the Oil Price Information Service.

As mentioned earlier, the supplier-level price of U.S. Gulf Coast gas – gas entering the pipelines in Texas and Louisiana – increased over \$1.50 on September 11, 2008. The severity of this spike was primarily due to low inventories following refinery shutdowns around September 1 associated with Hurricane Gustav (see Section VI – Supply analysis). The exact dollar value of the increase varies depending upon several factors, particularly whether the price being measured is that of 100% regular unleaded gasoline or of a 90/10 gasoline/ethanol mix.

Anticipating increased wholesale costs based on the dramatic increase in the adjusted U.S. Gulf Coast price,³ numerous retailers adjusted their prices upwards. Since

² Although these contracts require retail stations to purchase their fuel only from a single branded supplier, some suppliers waive the requirement – essentially by “looking the other way” – when a supply crisis prevents the supplier from providing fuel to all of its stations.

³ For purposes of these analyses, federal taxes (\$0.184 per gallon), state taxes (\$0.16 per gallon), state fees (\$0.0075 per gallon), estimated pipeline throughput fees (\$0.05 per gallon), and estimated transportation charges (\$0.03 per gallon) have been added to the actual price to reflect the total costs experienced by retail stations. The data in this report is based on reported Platts U.S. Gulf Coast prices, which benchmark the

the adjusted U.S. Gulf Coast price was \$5.18 per gallon, \$5.29 per gallon became a common price at retail stations around the state; consumer complaints alleged that at least fifty-one unique stations charged this price or higher. The highest documented prices for actual wholesale costs experienced by these stations were \$5.27 per gallon for regular unleaded and \$5.43 per gallon for premium unleaded.

However, few retail stations increased their prices significantly beyond this point. Only two stations in South Carolina significantly exceeded this price without sufficient justification: Bobb’s Food and Fuel at 4325 Mineral Springs Road in Lexington, which charged \$5.79 per gallon on September 12, and Best Stop at 3937 Leaphart Road in West Columbia, which charged \$5.49 per gallon on September 12.

The third station with which the Attorney General’s Office settled, the Citgo at 19002 Hwy 72 East in Clinton, never exceeded \$4.68 during the crisis. However, its prices remained significantly elevated during the weeks after the crisis while the Attorney General’s notice of abnormal disruption of the market remained in effect. Since the basis for the settlement with the Clinton Citgo was different from that of all other stations, the Clinton Citgo has not been included in these analyses.

In contrast, in 2005, retail stations charged prices far beyond the adjusted U.S. Gulf Coast price. The below chart, labeled Table 1, compares the prices charged by the highest-priced retail stations in 2005 and 2008. The first four stations listed are stations with which the Attorney General’s Office settled in 2005, and the last two stations are two of the three stations with which the Attorney General’s Office settled in 2008.

Table 1

Year	Station	Station’s high retail price	Adjusted U.S. Gulf Coast price	Station’s markup over adjusted U.S. Gulf Coast price in dollars	Station’s markup over adjusted U.S. Gulf Coast price as a percentage
2005	Laurens/Clinton Cornerstops	\$4.79	\$3.28	\$1.51	46.24%
	Pik-N-Go	\$4.79	\$3.28	\$1.51	46.24%
	Laurens BP	\$4.59	\$3.28	\$1.31	40.13%
	Pavan Food Stores	\$4.29	\$3.28	\$1.01	30.97%
2008	Bobb’s	\$5.79	\$5.18	\$0.61	11.82%
	Best Stop	\$5.49	\$5.18	\$0.31	6.03%

price of gasoline entering the pipeline in Texas and Louisiana. Platts is a price-reporting service that provides daily prices for supplier-level gasoline markets and other markets.

The data show that although stations charged higher prices in the 2008 crisis (up to \$5.79 per gallon) than in the 2005 crisis (up to \$4.79 per gallon) fewer stations charged unconscionably high prices in 2008 given the status of their wholesale costs. In fact, stations' markups in 2008 did not come close to approaching the 40% and 46% markups seen in 2005. To put the relative moderation of stations' 2008 markups in perspective, a station would have had to charge \$7.57 per gallon in 2008 to match the percentage markups of the highest-priced stations in 2005.

While there is no single reason that retail price spikes were less significant with Hurricane Ike, conversations with stations owners indicated a variety of factors: the already-high price of gas, fear of alienating customers, and heightened awareness of the state's price gouging law, including the results the Attorney General obtained in 2005.

Figure 1 and Figure 2 provide graphical representations of the data in Table 1.

Figure 1

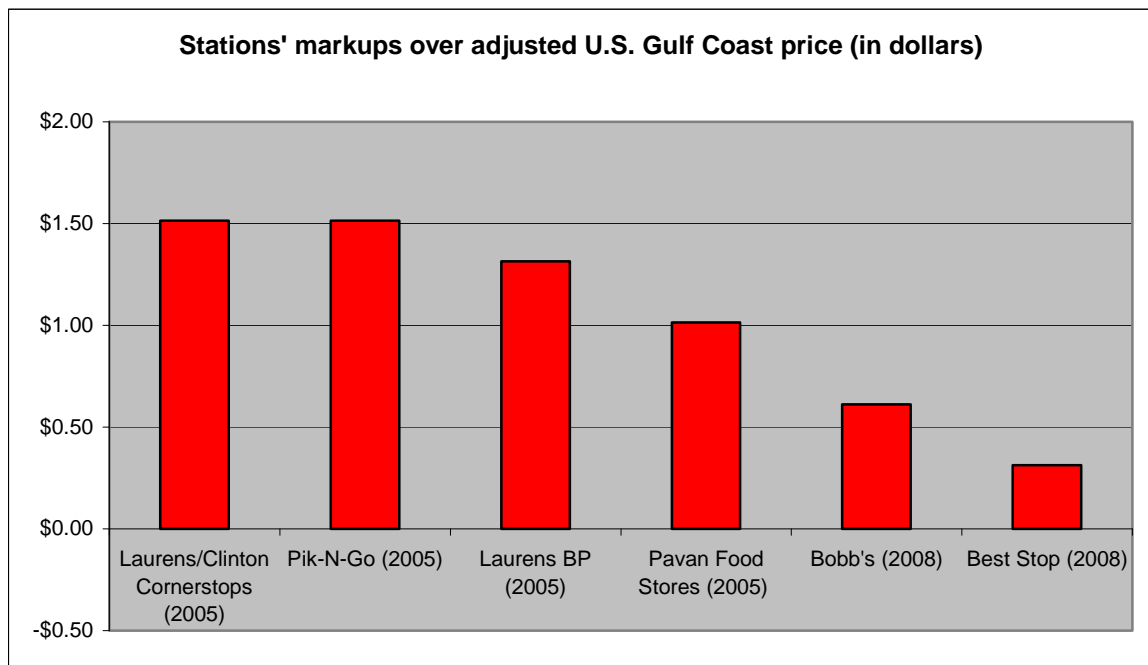
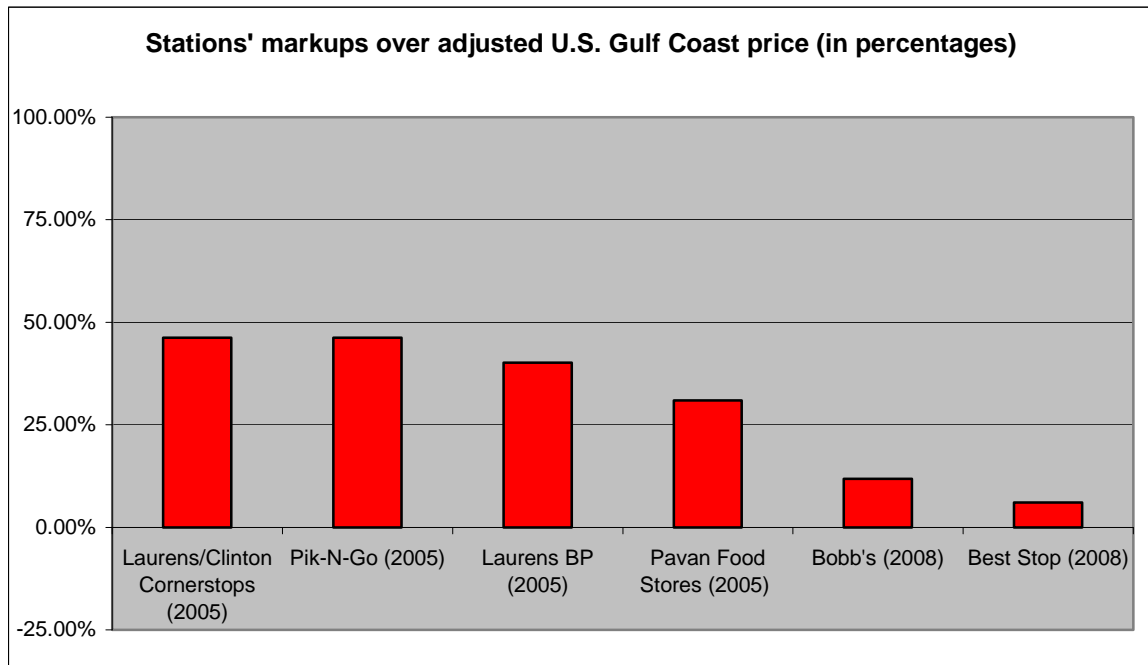


Figure 2



The Attorney General's Office's investigation of suppliers focused primarily on Transmontaigne, a wholly-owned subsidiary of Morgan Stanley that sold fuel at terminals in South Carolina. Transmontaigne's prices were significantly higher than other suppliers' prices during the crisis. However, investigators found that Transmontaigne's prices were directly linked to the U.S. Gulf Coast price on a daily basis. Other suppliers, while they may have experienced the same costs as Transmontaigne, distributed price increases over a wider time period and did not contractually link their sales to the daily U.S. Gulf Coast benchmark.

The Attorney General settled with each of the three stations for \$500.00 and with Transmontaigne for \$5,000.00. The entire \$6,500.00 is being donated to the American Red Cross for hurricane relief.

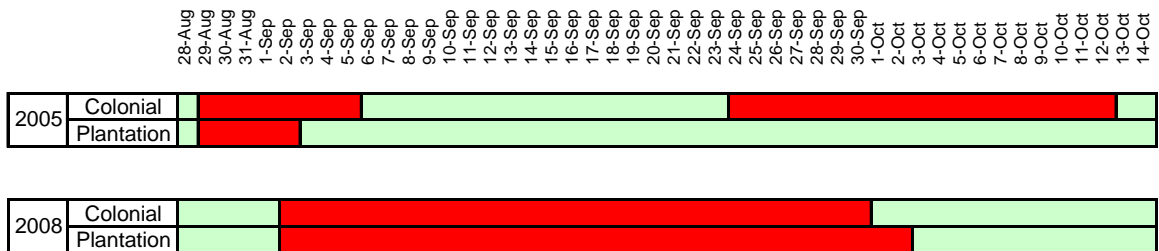
VII. SUPPLY ANALYSIS

In addition to the unprecedented price levels, Hurricane Ike caused unprecedented shortages across the Southeast. Two factors contributed to the shortage: the low inventory at refineries that were already operating at reduced capacity after Hurricane Gustav and the reduced throughput at the Colonial and Plantation pipelines.

The length of time between Hurricane Gustav and Hurricane Ike, which made landfall only twelve days apart, did not give refiners sufficient time to repair damaged infrastructure and replenish their inventories. In 2005, Hurricane Rita made landfall twenty-six days after Hurricane Katrina. Given considerably lower inventory levels in 2008, it is noteworthy that the supplier-level price increases remained similar to those seen in 2005.

The decline in pipeline throughput was even more disruptive to South Carolina’s supply of gasoline. As a state that receives roughly two thirds of its gasoline via pipeline, South Carolina is more susceptible to shortages than states that have more ports or are located closer to refineries. Figure 3, below, provides a graphical representation of the downtimes in 2005 and 2008 for Colonial Pipeline and the Plantation Pipeline, the two pipelines that serve the Southeast. Red segments indicate that the pipeline was shut down or operating at reduced capacity, while green segments indicate that the pipeline was fully operational.

Figure 3



As shown above, the Plantation and Colonial pipelines operated at no capacity or reduced capacity for a combined sixty days in 2008 compared to a combined thirteen days for Hurricane Katrina in 2005 and a combined nineteen days for Hurricane Rita in 2005. Significantly, both pipelines were brought back to full capacity for over two weeks between Hurricane Katrina and Hurricane Rita, providing stations and terminals the opportunity to replenish their inventories.

Some stations went to great lengths to obtain fuel, with at least one South Carolina station trucking fuel from as far away as Virginia. Numerous South Carolina retailers purchased from North Carolina and Georgia in their scramble to find supply. Some stations and wholesalers in the Upstate and Midlands which always purchased gas from pipeline terminals had logistical hurdles in purchasing gas from unfamiliar port terminals such as Charleston. At the same time, a number of other station owners reported that to avoid bad publicity they simply shut their doors instead of purchasing gasoline at elevated prices.

VIII. CONCLUSION

After the Attorney General's initial actions during the onset of the gasoline crisis caused by Hurricane Ike, the Attorney General's Office's conducted an exhaustive investigation of the pricing dynamics and supply dynamics at play during the crisis. The key findings of the investigation can be summarized in four points:

- The spike in prices in South Carolina was primarily due to a lack of supply causing a scramble for gas by suppliers, wholesalers, and retailers.
- Palmetto state retailers' markups were not as significant as they were after Hurricane Katrina in 2005, indicating that the state price gouging law enacted in 2006 had a deterrent effect.
- With few exceptions, retail stations acted within reason given the information available to them about the status of fuel supply.
- Settlements were reached with three retail stations and one supplier whose prices were out of line with general market prices and were potentially unconscionable. As part of the settlements, each is making a financial contribution to the American Red Cross for hurricane relief.