
Public Hearing

before

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

“Testimony concerning retail gasoline pricing in Cape May County”

LOCATION: Cape May County
Administration Building
Cape May Court House, New Jersey

DATE: July 9, 2002
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Nilsa Cruz-Perez, Chairwoman
Assemblyman Jeff Van Drew
Assemblyman Peter C. Eagler
Assemblyman Paul R. D’Amato



ALSO PRESENT:

David L. Sallach
Office of Legislative Services
Committee Aide

David Eber
Assembly Majority
Committee Aide

Eileen M. Mannion
Assembly Republican
Committee Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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ASSEMBLYMAN JEFF VAN DREW: I'd like to call this Consumer Affairs Committee meeting to order. I am very proud and honored to have with us today the Consumer Affairs Committee and some substitutes. Let me just, at the beginning of the meeting, thank the Chairperson, who has been extremely gracious, not only in her vision and foresight to allow this historic meeting to occur in Cape May County -- it is the first meeting of Consumer Affairs ever to occur in the County of Cape May -- but secondly, also, to allow me to chair the meeting. She's been very gracious. She's shown a lot of leadership and foresight in consumer affairs for the State of New Jersey. I would like to express my appreciation to her on behalf of all the residents of south Jersey and Cape May County.

ASSEMBLYWOMAN CRUZ-PEREZ: Thank you.

ASSEMBLYMAN VAN DREW: The Chairperson is Nilsa Cruz-Perez.

ASSEMBLYWOMAN NILSA CRUZ-PEREZ (Chairwoman):
Good morning.

ASSEMBLYMAN VAN DREW: I would also like to introduce Assemblyman Peter Eagler, who comes from the 34th District. For those of you who don't know where that is, that's far away. It's up in north Jersey. He has also been kind enough to travel all the way down here today, as well as my colleague and my friend on the other side of the aisle who has been nice enough to be here from the 2nd Legislative District from Atlantic County. I appreciate Assemblyman Paul D'Amato for being here, as well as Peter.

We have two research associates with us, David Eber, Eileen Mannion, as well as David Sallach, who is from OLS. He is a Principal Analyst.

I'd like to thank the Cape May County Board of Freeholders, and I think I believe I see one of them in the back there, John Mruz, for allowing us to use this beautiful building today.

For me, it's a little bit of déjà vu. For those of you who don't know, I was a Freeholder in Cape May County, and it's kind of nice to be back at the dais. It's a good feeling.

This has been an issue that I think many of you obviously relate to and are familiar with and have been involved with in one way or the other over a good number of years. I will say that, as a freeholder years ago, so often people would come to me, before I was even a State legislator, and say, "Jeff, why are the gas prices in Cape May County so high? Why does it cost more to purchase gas here?" And at first, I have to be honest with you, I thought maybe it was anecdotal, maybe it was just something that appeared to be that way to all of us, that in reality it wasn't true. I think, as many of you know -- I guess it was a little over a year ago around last May -- as a Freeholder, I started doing some of my own gas surveys to investigate the cost of gasoline.

Consistently, without question, the price of gasoline in the County of Cape May is more than in any other south Jersey county, period. Anybody can say, regardless of what any representative may say today from different lobbying groups or different interests, that is fact. We have survey after survey to show that. And indeed, we did a survey that I have here. We just did it last night. I will tell you that out of the stations that we surveyed, which are the

same stations that we've consistently surveyed in Cape May County, in Atlantic County, in Burlington County, in Ocean County, and in Cumberland County, the greatest differential is between Cape May County and Burlington, which is a difference of 14 cents. It's a 13 cent differential between Cumberland and Cape May County. There is an almost 8 cent differential between Cape May County and Atlantic County. It doesn't matter if it's in the summertime. It doesn't matter if it's in the winter time. Sometimes that variation, the gap, will contract and expand depending upon the time of the year and what particular week that we do it, but it is consistently there.

The purpose of this meeting is not to castigate anybody. It's not even to lay blame, but it is to, in essence, investigate and discover and learn why the problem exists. I made a promise to the people of this county, and I am going to keep that promise that if I was elected to the Legislature, that the State of New Jersey would investigate this and that we would not leave it alone. Because there has to be a reason, and we want to know what the reason is. I'm keeping my promise, and I want to thank my colleagues here today, on both sides of the aisle, for helping me.

With that being said, I think we will begin the process of testimony. I appreciate all of you who are here, all of you that are here to listen, all of you who are here to testify regardless of what you say. I will ask you as much as possible, we have a great number of people who do want to testify, and technically we do have the room until 4:00 p.m., but we sure hope we don't need it until 4:00 p.m., and I know that you don't hope that we need it until 4:00 p.m. Most of all, I don't think -- and I'll look at my staff -- I don't think we're serving lunch. So I think we'd better get it done in a timely way.

Some of the elected officials that are here, I'm going to ask them to come forward at the beginning, at the outset here, because I know some of them have other commitments. And again, I do appreciate them being here.

I will start with the bombastic Mayor of Middle Township, actually the Deputy Mayor of Middle Township, Deputy Mayor Chuck Leusner.

DEPUTY MAYOR CHARLES M. LEUSNER: Thank you, Assemblyman Van Drew, Assemblyman Eagler-- I knew I recognized him. I'm thinking where do I know this guy from? And he said to me, "Remember me? I used to work for you on the Garden State Parkway when I was a commissioner from 1990 to 1996." My route to the Parkway was kind of interesting. And I don't know if Assemblyman D'Amato knows -- he probably does -- and Assemblywoman Cruz-Perez, but in 1987 I filed a complaint with the Public Advocate, who at the time was Alfred Slocum, concerning the Parkway tolls being raised from 25 cents to 50 cents. Do you remember that, Peter? And we found out that the people running the Parkway, not you at the time, violated the sunshine law 16 times based on Alfred Slocum's investigation. As a result, Governor Kean ordered that the tolls be rolled back, and they began the process over again. And instead of going to 50 cents, they went to 35 cents.

As the Mayor of Middle Township for the past three years and now the Deputy Mayor, I want to welcome you all to Middle Township, which is where you're located in Cape May County, the County Seat. We think Middle Township is the most beautiful community in Cape May County, although I do venture into Assemblyman D'Amato's district to do surveys on

hoagies and comparing it with Cape May and Cumberland County. I'm happy to report that the best hoagie in the tri-county area is at Mississippi and Arctic Avenues in Atlantic City, commonly known as the White House.

With that, I would like to thank you all for coming, near and far. I would like to thank Assemblywoman Cruz-Perez for yielding to our Assemblyman and good friend. Jeff and I have been through a lot together. One thing we have in common, I believe we do care about the average person. I can't go anyplace without being stopped. People say to me, "Doesn't that really bug you?" And I say, "No, it doesn't." I consider it to be flattering that people have enough confidence in me that they can approach me and Jeff and tell us how they feel about things. It's when they stop talking to you you're in trouble.

In any case, being a former reporter for the *Gazette Leader* and writing consumer columns -- my column was *Caveat Emptor*, that's before I became a politician -- I have had quite a bit of interest in the gas prices here in Cape May County. There is no question that Cape May County has the highest gas prices of the entire 21 counties in the state. Gas is cheaper wherever you go, north, west, and if you can go east a little bit, when you leave Cape May County.

It is unfair the prices we're being charged. The spread, as I view it, in traveling to Burlington County last weekend for a family reunion with my family, whether I go to Cumberland County shopping or Atlantic County to the White House, it is obvious that the spread between the lowest unleaded regular and the highest is generally about 10 cents. That could give or take a few cents. But on July 1 when I did my survey, the difference between the

highest and the lowest in Cape May County was 26 cents, being \$1.17 in Vineland. And I found four stations on the Delsey Drive (phonetic spelling) commonly known as New Jersey Route 47, to be \$1.17; the Sunoco at the Wawa at Route 47 and Sherman Avenue just before you get to Cumberland County College; the Riggins closer to downtown on Landis Avenue at Route 47 and Chestnut; and the Coastal at Route 47 and Almond Avenue were all \$1.17. While one station in Wildwood was \$1.43, that gives us the spread from the highest to the lowest of 26 cents.

I just spoke with our Director of Consumer Affairs, Mike Brogan, who does a great job for the residents of Cape May County, and I believe we have to search for existing laws on the books to determine if gouging is already taking place. Don't ask me because I think the answer is yes. Do I think we need further legislation? Absolutely. When we know that people are conspiring on opposite corners to keep the price artificially high and do not decrease their prices while the same stations in Vineland have decreased them four times, you know something is wrong. To pay \$1.39 consistently, while other stations are dropping to \$1.17, and maybe even lower as we speak here on July the 9th, is absolutely not fair.

I applaud you all for coming here today. We have a problem. Cape May County has many things that the other parts of the State of New Jersey does not have. We do not have industry. We have the finest beaches. We have open space. We have the greatest zoo. Middle Township and Lower and all the communities are just a wonderful place to live and raise our families. My three children have all gone to a community college. And please, if you have any friends in Trenton, see what you can do to get that approved

for out there on Dennisville Road. We really need it. Because that college has done great things for my three children -- a police officer, a teacher, and someone who is in Stockton right now.

But we need legislation. We need your help. Please don't let Cape May County have the dubious distinction of having the highest gas prices in the State of New Jersey. I realize that there are other things that I could say, but you have a long list of people, and I didn't want to go over a self-imposed limit of five minutes.

Once again, I thank you.

Assemblyman Eagler, it was a nice surprise seeing you.

Assemblywoman Cruz-Perez, thank you for yielding.

Jeff, my good friend. Do I have to call you Assemblyman?

ASSEMBLYMAN VAN DREW: That's all right. Nobody else does.

DEPUTY MAYOR LEUSNER: And Assemblyman D'Amato, it was nice seeing you, from our neighboring county of Atlantic. Thank you very much and good luck and please help us.

Thank you.

ASSEMBLYMAN VAN DREW: Thank you, Mayor.

Next we have Mayor Malcolm Fraser from Cape May Point. Thank you for being here, Mayor.

MAYOR MALCOLM C. FRASER: Thank you, Jeff. Is this on? (referring to PA microphone)

ASSEMBLYMAN VAN DREW: It's on.

MAYOR FRASER: I have a simple statement that I wish to make regarding the disparity in gasoline prices. While the State does not regulate gas prices, per se, there should possibly be some attention paid to the apparent discrepancy in prices throughout the state. In the larger metropolitan and populated suburban areas, competition generally fosters lower prices. In the rural areas which are more sparsely populated, the smaller market generally leads to higher prices. Unfortunately, in Cape May County, we find that citizens are hit with a double whammy, the higher rural pricing plus an additional 10 cents per gallon surcharge average because of the long isolated Cape May peninsula.

We recognize the Cape May peninsula is a one-way longer transportation cost, but 10 cents per gallon is rather steep, particularly since more than 53 percent of the population in Cape May County is 62 years of age or older, most of which are retirees. For a 10,000-gallon tanker truck that makes the distribution between multiple gasoline stations, that represents a \$1000 extra profit per truck and faces a nil extra cost to handle that one way, even though taking the truck back is a dead head.

Cape May County gasoline pricing should match I think, at least, the general rural area price level in the State of New Jersey.

I thank you very much for listening.

ASSEMBLYMAN VAN DREW: Thank you, Mayor.

Next we have Mayor Jerry Inderwies from the city of Cape May.

MAYOR JEROME E. INDERWIES: Assemblyman Van Drew, members of the Assembly, thank you for permitting me to come here today to testify for gasoline prices, and I have a prepared statement.

For some time I have been concerned with the pricing structure of gasoline in Cape May County. During my travels in Cumberland, Atlantic, and Ocean County, I have found a variation in the pricing of gasoline products anywhere from a few pennies to as much as 12 cents to 15 cents per gallon. The price of a gallon of gasoline in Rio Grande is usually a few pennies cheaper than that in Cape May City. Prices in Cape May Court House are higher than Rio Grande. Why?

I think I have a lot of questions that need to be answered. Is it that the owners boost their price every time OPEC threatens to cut oil production, or is it that the supplier does the same? Is it the same old story that Cape May is at the bottom of the state and it costs more for delivery, or is the station owner boosting the price to the consumer for more profit during peak seasons? If that's the case, in my opinion, the residents of Cape May City and Cape May County are being treated unfairly.

The 4th of July weekend was a good example of the fluctuations in pricing for a gallon of unleaded gas. South of the Cape May Canal, prior to the weekend, the price for a gallon of gas of unleaded gasoline was \$1.33 a gallon. The weekend price jumped to \$1.37 a gallon. I've always been one to support business in my own city, but with the pricing structures as you have just heard, I find that's a little bit difficult sometimes.

Yesterday I happened to have to go to a meeting in Ocean County in Toms River. I paid \$1.22 for gasoline. So I don't think that we should be paying the prices that we are. And again, it is my opinion that we have to do something to stabilize the gasoline prices around here in Cape May County so

that everyone pays approximately the same price of gasoline as they do elsewhere.

Thank you.

ASSEMBLYMAN VAN DREW: Thank you, Mayor.

ASSEMBLYMAN D'AMATO: Assemblyman, may I ask a question?

ASSEMBLYMAN VAN DREW: Sure, absolutely. Yes, Assemblyman.

ASSEMBLYMAN D'AMATO: Mayor, I was mayor of Linwood, Atlantic County for two years, and I want to ask you this question, if I may. This differential in pricing, is it the same throughout the 12 months, or do you notice it more, like, in the spring and summer?

MAYOR INDERWIES: It fluctuates in spring and summer.

ASSEMBLYMAN D'AMATO: By how much?

MAYOR INDERWIES: Well, let me just say this. The price of gasoline in Cape May County is always higher than any other county in the state that I've been to. In my city, I find the price of gasoline fluctuates as the season progresses, and then it drops again after the season. So there is a lot of disparity there and really something needs to be done to stabilize the price of gasoline throughout the state, I would think.

ASSEMBLYMAN D'AMATO: Thank you.

MAYOR INDERWIES: Thank you.

ASSEMBLYMAN VAN DREW: And that's a good point. Let me say that -- and I really want to make this clear, because at times when we were going through these surveys gas was becoming more expensive everywhere --

regardless of whether gas goes up or down anywhere else in the State of New Jersey, it is consistently still always higher in Cape May County. It may even be worse. The gap, I believe, gets a little bit worse in the summertime. It does get a little bit worse, but it is not-- Years ago, it used to seem to a lot of us who have been here for a good number of years that there was a difference during the height of the season. In June, July, and August, gas went up, but the rest of the year it wasn't as bad. It has, over the last number of years, become consistent throughout 12 months a year that the gas prices are higher here.

I'd also like to thank all the mayors that spoke, and I probably believe that every single elected official in Cape May County is on board. Let me tell you, high gas prices don't only affect Republicans. They don't only affect Democrats. They affect every resident who lives in this county. They especially hurt senior citizens, because what typically happens is some of us-- And I'll be very open about it. I very seldom buy my gasoline in Cape May County, and this is my home. This is where I live. I travel throughout the district. I'm in Cumberland County and Atlantic County a great deal. Almost anyone who does travel a good deal buys their gas out of county, and that's a shame. But seniors typically stay within the borders of the county a great deal more and therefore are subject to, enslaved to the higher prices that we have here. So I'd very much like to thank the mayors that were here today.

Next we have Rudy Callender, if he could come forward. I want to get Rudy's exact title right. I've known Rudy for years, but he is the State Cochair media spokesperson in Cape May County for the A-A-R-P. Rudy, help me out? We're not supposed to say A-A-R-P anymore, or we're not supposed to say AARP anymore?

RUDOLPH M. CALLENDER: No, you can say A-A-R-P, but it's really AARP.

ASSEMBLYMAN VAN DREW: It's AARP.

MR. CALLENDER: If you say AARP, everybody knows it's AARP.

ASSEMBLYMAN VAN DREW: They've told me this three times, and I still don't get it right.

MR. CALLENDER: That's all right, Jeff. We appreciate it very much.

Firstly, let me thank the Committee Chairperson for getting the opportunity to having this hearing here in Cape May County. Having hearings in Cape May County gives all the residents of this county an opportunity to sit and hear the operation of their government up close and personal. I do hope that you will continue to do this. The second thing, let me say, that I do not drive myself, but my wife, Minnie, who is here today does the driving. From the driver's seat, I know without a doubt that the prices in Cape May County and from the passenger side that the prices in Cape May County are the highest wherever we travel.

Not only am I active with AARP, but with the American Legion, the VFW and the DAV. My wife is the president of Christian Women, and we travel all over this county and neighboring counties -- Atlantic County, Cumberland County, Salem County. The joke is let's gas up before we get back to Court House. The other joke is that you know it's Memorial Day because you see the attendants beginning to raise the prices on the numbers

handling it. And we say, no, this is that time of year when we know the prices in Cape May County, and especially in Court House, is going to go up.

It was pointed out today also that the prices vary within Cape May County. The prices in Cape May Court House will be higher than the prices in Rio Grande. They'll be higher than down in Villas. It will be higher than maybe in Green Creek. Now that's definitely, definitely unfair and something that should be looked into. I do hope that the Committee will be taking care of that while they're here today.

I have been a member of the AARP for the past 10 years. I have been living in Cape May Court House for 11 years. As a media spokesperson for A-A-R-P, I feel it is my duty to advise you of the current situation that exists in Cape May County regarding gas prices, and it's disgraceful.

As you are aware, senior citizens live on a fixed income, and every penny counts. You can be sure that our seniors here in Cape May County are hurting. Some seniors, unfortunately, have to decide between taking medication, paying bills, buying food, and now they have to worry about the price of gas.

As I travel through other counties, as I mentioned, to my dismay I see the disparity in gas prices. I consistently see a difference, as much as 10 percent to 12 percent per gallon. That 10 cents or 12 cents adds up to a significant amount of money at the end of the year in much needed money for senior citizens.

I would like to thank all of you for having this hearing today, for giving me this opportunity to say a few words, and I certainly hope that this

hearing will help solve the current problem that exists in Cape May County regarding gas prices.

Thank you very, very much.

ASSEMBLYMAN VAN DREW: Thank you, Mr. Callender.

Any questions -- I'm sorry -- for Mr. Callender? (no response)

Next we have Louis Emonds. He is a resident right here in Cape May County, and he is also a university professor at Rowan University, and we are very pleased and proud to have you here. And let me say, I don't even know what he's going to present. I know it's going to be good. I know he did it all on his own. There was absolutely no collusion. He didn't even tell me about it until we got -- I just saw you the other day. I really appreciate the good work that you've done here.

It's on. (referring to PA microphone)

LOUIS EMONDS: It's on.

I want to thank Assemblyman Van Drew, and I want to thank Mr. D'Amato and everyone else who is here for giving these people the opportunity to see what's going on.

If we can get the lights back here turned down a little bit. (referring to preparation of slide show presentation)

You know, in answer to your question, Mr. D'Amato, I lived in Atlantic County for 30 years, and I taught in Atlantic County for 30 years. I've moved to Rowan University for the last 5. I can tell you, categorically, that this county, all year long, is the highest priced any place you can go.

I travel frequently to five different counties to supervise student teachers or whatever, and this place has the highest--

ASSEMBLYMAN VAN DREW: We'll get these lights turned down for you.

I see Freeholder Mruz there. He should be an expert at this.

MR. EMONDS: I think this thing is a little too far away. I don't know how I'm going to do this. (referring to projector)

All I can tell you is what this thing says-- I wrote this letter to *The Press* back in February of last year. I've lived here in Cape May Court House for two years and prior to that 30 years in Atlantic county. What this letter says is I was buying gas in February for 89.9 cents in Vineland on the way to Rowan University. I've never bought a gallon of gas in Cape May County. I won't even buy a gallon for my lawnmower. At the same time they were selling it was \$1.13, \$1.21, and \$1.27 here in Cape May County. At two service stations on Dennisville Road and Route 9 are always exactly the same price. They went from Amoco to Sunoco, and one of them is Shell, but it doesn't matter, they're always the same price.

I have taken the liberty of taking pictures. These are all recent pictures.

ASSEMBLYMAN VAN DREW: And you know what? Just wait one second so we can get a little better contrast for you, Louis. We'll see if we can get some. Do you want the lights out a little more?

MR. EMONDS: Yes, if they would.

ASSEMBLYMAN VAN DREW: Yes. Let's see if we can -- we do.

MR. EMONDS: The light's back here perhaps.

ASSEMBLYWOMAN CRUZ-PEREZ: Is that the light right there?

ASSEMBLYMAN VAN DREW: Let's see how many assemblymen and how much staff it takes to figures this out. (laughter)

MR. EMONDS: We need an engineer.

That's right. I missed Lights 101 somewhere.

While we're looking for the lights, I took these pictures from--
The first ones are in Gloucester County.

ASSEMBLYMAN D'AMATO: Professor?

MR. EMONDS: Yes.

ASSEMBLYMAN D'AMATO: Wait for Assemblyman Van Drew to come back here.

MR. EMONDS: Sure. Sure will.

ASSEMBLYMAN D'AMATO: We'll wait one second.

MR. EMONDS: (begins slide presentation) I put this letter back up here to show Mr. D'Amato that the prices are the same all year round doesn't really matter. Okay. At the same time, they were 89.9 here, and up in Vineland and Millville, whatever, they were \$1.13, \$1.21, and \$1.31 here in Cape May Court House. If you look, they were 98 cents in Linwood, 98 cents in Vineland, Glassboro, and Cherry Hill only 99 cents, and Cherry Hill is a little bit more expensive place than here.

This is in Glassboro. These pictures were taken the day before the 4th of July. These were taken the last day of June, and some of them were taken on the 3rd of July. This is Glassboro. I want you to notice also that there's diesel fuel up here too, because that's really unbelievable down here. Here's another from Glassboro. Notice the price is still the same at \$1.23, \$1.47. You will not find a price in Glassboro--

This is a Mobil. I took all Mobils and Sunocos because that's what we have here in Court House, and I don't want someone accusing me of not making a proper comparison. So we have here the same thing. This is also on Route 47 in Glassboro in Gloucester County. Same thing here. This is the highest priced one I could find in Glassboro at \$1.27, which is still 12 cents cheaper than Cape May Court House.

Notice here, diesel at \$1.25. It's \$1.39 down here. This one is in Millville on Route 49 in Cumberland County. It's a different county. This one is also on High Street in the middle of Millville, \$1.24. This is on Route 49 in Millville, \$1.25. Still 14 cents a gallon-- Again, look at the price of diesel fuel, \$1.25.

This is a picture of a tank truck. The exact same tank truck was in Vineland. The exact same tank truck was in Millville delivering to Sunoco stations, right. They all buy at the same place -- \$1.26, Sunoco. This is on Route 49 in Millville. You'll notice that diesel fuel is \$1.27. This is in Vineland. This is what Mayor Leusner spoke about in Vineland at the Wawa. I'll show you one in a minute across the street. There's a Sunoco in Vineland. The same thing we have in Cape May Court House. Twenty-one cents a gallon difference between-- It's exactly 27.4 miles to this service station from here. Do you think I buy my gas here? No, I do not. All right. That may seem disloyal, but I'm sorry.

Dollar-twenty-one, dollar-thirty-one, dollar-thirty-eight, Route 47 in Vineland. Dollar-twenty-three. Look at the price of diesel fuel, \$1.21. This is in Hammonton, New Jersey in Atlantic County. This is Al and Larry's on Bellview Avenue. This is the Wawa on Route 40, \$1.22 in Cardiff, Atlantic

County. This one is also in Atlantic County. This is a Sunoco on Route 40 in Cardiff, \$1.23, \$1.39 is the highest.

Then we come down towards the shore a little bit more. We're getting closer to Cape May. We went up to Somers Point, \$1.26. The diesel fuel is still at \$1.29. If you recognize this station, this is Fairway Fuel, just as you come onto the Parkway, right out of Somers Point. You come down towards -- just before you get to the Parkway, notice how the price begins to jump. Now everything is a little bit more expensive.

This is a station in Rio Grande in Cape May County. This is the cheapest station I know of. Maybe you know of a different one. This is a Sunoco station, \$1.29, \$1.34, \$1.43. Yes, they do have Ultra, which is about another nickel, which would make it about \$1.48, which is still about 11 cents cheaper than the Sunoco.

This is the Parkway. I can remember as a kid, my father would stay off the Parkway. He would stay off the Turnpike because gas was more expensive there. You guys all remember that, right? Guess what? You'd better get on. Look at the price of diesel fuel in Cape May County on the Parkway. I mean, that's unbelievable. It's jumped 15 cents.

This station is right down the street here, on Route 9 in Cape May Court House. You all know where it is, right? They play games with the prices. If the two on the corner have \$1.39, \$1.49, \$1.59, this guy drops it 3 cents to make himself look good. The one across the bridge does the same thing there, across the Parkway towards Stone Harbor. There's one that sits there across from Burke Motors, and they do the same thing. They play games with their prices.

There are five service stations in Cape May County that all have the same extreme prices -- \$1.39, \$1.49, \$1.59. Ladies and gentlemen, I find that unacceptable. I find that-- That's a rip off. That's exactly what that is.

Here's one right here. Obviously, we all know where this is, right? This is a Texaco in Marmora, right over the bridge, right near to Cape May Court House.

She's shaking her head. She knows where it is. You didn't stop there for gas, though, did you?

ASSEMBLYMAN VAN DREW: She'll wait until she gets back to Camden County.

MR. EMONDS: This one -- I can understand this guy in a way. He's got the only station for miles. He's out on Dennisville Road, way out, but look at those prices. If a guy were to drive 14.5 more miles, he'd be in Vineland. He could get gas for \$1.17. But no, look at these prices. That's on Dennisville Road.

And then the most famous and infamous of them all -- Route 9 on the corner, Dennisville Road. The highest priced gas in all the area, every county. I've traveled Mercer. I've traveled all these counties. I can't find gas any higher than this. I think somebody did find it somewhere, but it's very interesting. And straight across the street, this is ironic. I can't believe this guy's got the same prices right across the street, the same price. And you know what? They had the same prices last February, last March, and now they decided that here's what they're going to do. We're not going to put the prices up every other week. Back in March, these guys put these prices up -- in March. Now, how many tank trucks have delivered gas at different prices

there, lower prices, since March. I wonder. But their prices are still the same. I took this picture before and after -- I've got another one at home -- the 4th of July weekend, because I swore that they would put this price up for the 4th of July weekend. They didn't because they don't need to. They already have it up there.

I want to show you a couple more things here, and I appreciate your attention. I think that these people are guilty of fixing prices. I think they're guilty of collusion between each other. I believe that there is a little bit of seasonal exploitation, but not now. They just leave it up there.

Yes.

UNIDENTIFIED SPEAKER FROM AUDIENCE: (indiscernible)

MR. EMONDS: I'm talking about the five stations that have it priced the same. I find that too ironic and too-- I can't accept that.

ASSEMBLYMAN VAN DREW: I certainly appreciate all your questions, and later on we will entertain those. It happens to everybody spontaneously, but if we just direct the questions here for now, thank you.

MR. EMONDS: If you look at the numbers here, if these people were making 15 cents a gallon and sell 30,000 gallons of gasoline a month, they would make a profit of \$4500 on 30,000 gallons of gasoline. But by putting it up an additional 21 cents, they're making a profit of \$6300, in addition to that, and will wind up with a profit of \$10,800 a month for 30,000 gallons of gasoline. And do you know who's paying the bill? You are. They're trapping the senior citizens because they can't get out of town.

To me it reprehensible for these businessmen to take advantage of retired people, working people, the people less fortunate than themselves for

the sake of these outrageous profits. I can understand how these station owners want to take advantage of tourists in summer session but to some extent, these take advantage all year round.

My solution is just don't buy gas in Cape May Court House. (end of slide presentation)

ASSEMBLYMAN VAN DREW: Okay. We have some questions from the Committee, Professor.

Go ahead, Chairperson Cruz-Perez.

ASSEMBLYWOMAN CRUZ-PEREZ: Mr. Emonds, you show a picture of a chart that you stated that showed the delivery of gas in Vineland and then came all the way to Cap May and delivered the gas in Cape May, the same truck?

MR. EMONDS: I can't say that that is the exact same truck. I can tell you that's from the same trucking company. The same trucking company delivers to every single Sunoco station.

ASSEMBLYWOMAN CRUZ-PEREZ: Okay, thank you.

MR. EMONDS: All right? Does that answer your question?

ASSEMBLYWOMAN CRUZ-PEREZ: Yes.

ASSEMBLYMAN VAN DREW: Are there any other questions?
(no response)

Thank you very much, Professor.

MR. EMONDS: Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

Next we're going to ask the Executive Vice-President of the Fuel Merchants Association, Eric DeGesero, to come forward please. I saw Eric, there he is.

Eric, you asked me when you came if there was going to be any unusual surprises. I told you that there were not.

ERIC DeGESERO: No. I haven't encountered any yet, Mr. Chairman. Thank you.

Good morning. For the record, my name is Eric DeGesero. I'm the Executive Vice-President of the Fuel Merchants Association of New Jersey. We have a statewide trade association that represents wholesale gasoline distributors and retail home heating oil dealers in the State of New Jersey.

Thank you, Mr. Chairman. Thank you, Chairwoman Cruz-Perez, Assemblyman Eagler, Assemblyman D'Amato.

We welcome the opportunity to discuss not only the retail pricing here in Cape May County, but all of New Jersey. The specific purpose of today's hearing is to discuss the prices in Cape May County and why they're higher in Cape May than the surrounding towns. Well, prices are indeed higher in Cape May County. I ask that members of the Committee and the public please not labor under the impression that our members are making a huge profit, or for that matter, any profit at all.

As I will detail, FMA's members are simply losing less money in Cape May County, but losing in Cape May County, nonetheless.

ASSEMBLYMAN VAN DREW: Eric, may I stop you?

MR. DeGESERO: Yes, certainly. Sure.

ASSEMBLYMAN VAN DREW: Just one quick question. I want to make sure I understand you right, because I know we talked about this, and I know you're going to have your viewpoint, but we would agree-- We are at the point that you would agree -- we may disagree with the reasons -- but that you would agree that the prices in Cape May County are higher than the other south Jersey counties?

MR. DeGESERO: I think that was shown here, yes.

ASSEMBLYMAN VAN DREW: Okay. I just wanted to make that point, because that wasn't always the case.

MR. DeGESERO: The question, though, Assemblyman, is relative. It isn't why it's high in one over five, but why it's low in four, relative to twenty-one, in terms of the counties in the State of New Jersey. Because the price discrepancies that we're showing here today, I mean, there's a station on Route 202 in Somerville that I drove past the other day that was \$1.37 for regular gasoline along that whole stretch. I can certainly understand and appreciate that in Cape May County, when you look at it relative to the others, there's an issue. But when you look at it relative to statewide, you'll see that the anomaly is not Cape May, but rather, it's Cumberland, Atlantic, Ocean, Burlington.

ASSEMBLYMAN VAN DREW: Camden.

Go ahead, I'm sorry.

MR. DeGESERO: That's okay. Thank you.

From a historic perspective, prices have always been higher in Cape May County. First, it's more expensive to truck product here, about 1.5 cents to 2 cents per gallon. Additionally, the extremely seasonal nature of

doing business in the county has meant that business owners who have only three months of good volume must cover their fixed costs of insurance, labor, property taxes, and all other incidentals and overhead year round. This would be no different than looking at seasonal natures of the price charts for other commodities or goods. I'm sure that a rental in Stone Harbor is less in December than it is July. It's just a matter of a seasonal nature of the business.

ASSEMBLYMAN EAGLER: Mr. Chairman, I don't think anyone can hear the speaker.

MR. DeGESERO: Hello. Can you hear now? I will enunciate a little better. Thank you.

ASSEMBLYMAN VAN DREW: You know, that's a wonderful idea. Can you speak at the podium?

MR. DeGESERO: Sure.

ASSEMBLYMAN VAN DREW: Because that is active. (referring to PA microphone) I hope everybody could hear everybody else. I don't know how far you can move it anyhow. That microphone is hooked in.

This is half-time.

MR. DeGESERO: Can you hear me now?

ASSEMBLYMAN VAN DREW: Okay.

MR. DeGESERO: There we go. Thank you.

Okay. So we've established that, from a historic perspective, prices are a little more for those for the seasonal reason as well as the transportation reason in Cape May. From a more recent perspective, however, the pricing discrepancy in Cape May appears to be greater, not because prices have increased dramatically in Cape May, but because locations in surrounding

counties have been forced to combat anticompetitive behavior in the retail marketing of gasoline which has dramatically suppressed the retail price of gasoline to the point that FMA's members are losing significant amounts of money in their continued operation as viable competitors is now being questioned.

Now I don't want to stand here -- and I never have come before a meeting of the Legislature or any government body in the state, of which I go before many, and suggest that tomorrow my members are going out of business. That's not what I'm here-- If this isn't changed tomorrow, they're not going to be around. But what we have seen is, over the past number of years, and probably the past three, four years is this behavior, the same type of competitive behavior has increased, the profitability of FMA's members has decreased.

What do I mean when I say anticompetitive behavior? There is a growing trend in the marketing of motor fuel, primarily by nontraditional participants, to use gasoline as a loss leader to drive traffic into convenience and big box stores where the loss on gasoline is more than offset by profit on other items such as sandwiches, coffee, bottled water, or lawn furniture. This is known in economic terms as contemporaneous recoupment.

If you look up here, you'll see I have seven, five-gallon gasoline containers, which represents the fuel capacity of a Ford Excursion. It might rival the Suburban. It might exceed it in terms of the single, largest fuel-tank vehicle on the road today. On top of the table is a 20-ounce cup of coffee and, I think, a 24-ounce bottle of bottled water. You may not believe me. You may not like it, but it is a fact that the profit margin on the two important liquids

on top of the table is much, much higher than the important liquid represented on the floor there. It's fact.

In New Jersey, using gasoline as a loss leader through below cost selling is prohibited by statute in N.J.S.A. 56:6-2b, which reads, "No retail dealer shall sell motor fuel at a price which is below the net cost of such motor fuel to the retail dealer plus all selling expenses." The statute was originally enacted in the 1930s to address the issue of major oil companies using their refining, exploration, and production profits to subsidize short-term losses at their retail operations and undermine competition from independent petroleum marketers.

Many states have similar statutes. In recent years, Florida, Alabama, and Wisconsin have revisited and strengthened their statutes. I'll return to that a little bit later. Even more recently than those, Governor Glendening in Maryland, two years ago, signed a statute. And currently before Governor Pataki -- if anyone is familiar with politics in New York state, they are certainly a more fractious bunch than we are here even in New Jersey -- legislation that the governor will call for soon passed unanimously. So it passed the Democrat-controlled Assembly, Republican-controlled Senate without a dissenting vote to look to address this very issue.

Before we get to specific retail sites, let's make sure we have a understanding of how gasoline is distributed and sold. Service stations will fall into two broad categories -- branded, which are the major oil company brands, and unbranded, which are all other locations, rather self-explanatory.

Branded locations could be owned by a major oil company, an independent wholesaler, which would be one of our members, or an

independent retailer. In turn, the station could be operated by any of these three directly or the major oil company or independent wholesaler could have a dealer operating the location for them. All gasoline sold at a branded location is purchased from the major oil company whose flag is flying at that site. At some locations, the gasoline is supplied by the major oil company. At some locations, it's supplied by the independent wholesale distributor.

Unbranded gasoline operates much in the same manner, but with two notable exceptions. By definition, major oil companies do not own or operate unbranded locations because they're branded. And gasoline sold at unbranded locations can be purchased from any retailer selling unbranded gasoline in the market. So, if you go to a Texaco station, you're getting Texaco gasoline, no two ways about it. If you go to unbranded stations, and you saw some examples of private brands or unbranded stations up there earlier from the professor's photos, those can be bought at the lowest possible price, most likely in the Philadelphia harbor, which would be in Philadelphia, in Delaware City, in Paulsboro, or in West Deptford at the Woodbury Terminal. Those are the four primary supply points for central and south Jersey.

Regardless of the type of station, FMA's members have played a vital role in the gasoline marketplace in New Jersey for generations. We have provided direct competition to the major oil companies in both branded and unbranded competition. So we compete even though we sell Texaco gasoline. We compete against Texaco directly. We sell unbranded gasoline. We're a factor in the marketplace when it comes to competitiveness.

Now let's take a moment and examine the price for gasoline in Cape May, Atlantic, and Cumberland counties on February 6, 2002. I was not

aware until the Chairman had indicated that there was another survey that was published or that was released this morning. In a previous communication with Chairwoman Cruz-Perez, that was indicated, February 6, was a date that a price survey was done in Cape May and the other surrounding south Jersey counties.

Enclosed with my testimony is a copy of the branded and unbranded rack prices. That's the price where a distributor buys his gasoline -- again, Delaware City, Philadelphia, Woodbury, Paulsboro. The rack prices for one of FMA's members that supplies both branded and unbranded products, Riggins, Incorporated. Riggins is a branded and unbranded wholesale fuel distributor based in Vineland and supplies gasoline to Atlantic, Cape May, and Cumberland counties. The prices that we distributed are for all prices in the Philadelphia market for the week of January 30 through February 6, 2002.

You will see that the lowest possible wholesale price the gasoline could have been purchased for sale on February 6, in the three counties, was 56.70 on January 31. So the lowest possible price anywhere at an unbranded, which is always historically a little bit lower than the branded rack prices, just as the unbranded retail price is generally a little lower than the branded retail price. So the lowest possible price that it could be bought at the wholesale level was 56.70. That was on January 31, and we're talking about the survey that was conducted specifically on the 6th of February.

To say the likelihood of a station having product in its tank on February 6 that was purchased a week prior on January 31, to say that's remote, is an understatement. But for purposes of this, we will grant that assumption. So even though the odds, slim to none, are a heck of a lot better

odds, but the odds we're going to give in the favor that the gasoline in that tank was purchased at 56.70.

On top of the purchase price of the product, you must add 32.9 cents for applicable State and federal taxes. That puts the product in three counties on the 6th of February at 89.6 before the truck leaves the terminal. The freight to the three counties varies from 2 cents per gallon in Cumberland to 3.6 in Cape May. Therefore, on February 6, gasoline in the tank at the service station varied from 91.60 in Cumberland to 93.20 in Cape May.

Now there needs to be an allocation for property taxes, utilities, and insurance. And to say that there has been a dramatic increase in insurance for our members is an extreme understatement. Members across the state are facing hundreds -- these are people that have a perfect history, no claims filed -- hundreds of thousands of dollars in premium increase for the liability insurance to run a petroleum distributorship in the State of New Jersey.

There has been a lot of talk recently in the medical field. I love obstetricians. They're very important in my life, certainly in that they have been in Trenton, in force, talking about the dramatic premium increases they've received for medical malpractice insurance. The exact same thing for us, hundreds of thousands of dollars in costs that needs to be allocated on a per gallon basis at a service station to address the cost of liability insurance.

So we've allocated, on top of getting the product there, we need to allocate for taxes, utilities, insurance, and other facility costs, and in the purpose of our demonstration, we're leaving out allocation for back office costs, secretarial, vacation, pension contribution, things of that sort. There's also another consideration that needs to be given, and that's the cost of labor.

In a state where we have self-service gasoline, and there's 20,000 jobs in the state that are provided for by pumping gasoline, the cost of allocating for labor is about a nickel a gallon. It can be as low as four, as high as six, six-and-a-half, but for purposes here in doing this computation, we used 5.2 cents per gallon to allocate for labor.

One significant cost not allocated for in the example that we're presenting here is the mortgage cost, which can vary anywhere from 3 cents to 6 cents per gallon depending on primarily how long you've owned it. No different than a house or any other commercial enterprise, how long you've owned it, how long the mortgage you have left to pay off is. And something very significant in the gasoline marketing industry, the amortization that stations are still doing in 1998, they had to comply with very stringent State and federal regulations to get their sites upgraded. The cost to upgrade a site at \$300,000, \$400,000, \$500,000 to bring those stations into compliance. We're just little business owners, and it takes us a long time to recover the cost that we had to go out and mortgage at each of those locations.

So now we know that the lowest possible price for fuel is 98.7 in Cumberland, 99.2 in Atlantic, and \$1.01.003 in Cape May. Again, with two enormous caveats -- a week-old price of gasoline and no allocation for mortgage.

Now we've looked at the wholesale and cost component. Let's look at the lowest street price in the three counties from a sample of Riggins that's comparable with the sample that the Chairwoman had done that same day on the 6th of February. In Cumberland County, the lowest price on the street was 96.9. The lowest in Atlantic County was 93.9, and the lowest in

Cape May was 1.01.9. As you can see, the price in Cape May County is 5 cents to 8 cents higher. However, when the street price is compared to the cost, you will see that in Cumberland County gasoline is being sold at a loss of at least 1.8 cents per gallon. In Atlantic County, it's being sold for a loss of 5.3 cents per gallon. And again, that's before allocating for mortgage, assuming a wholesale price of gasoline over a week old, not taking into account other costs, and not allocating for a profit.

I mean, I don't come before any Committee without blood on my hands, as the Chairman once admonished a group of people in a room. At the end of the day, we have to feed our children and educate them and pay our mortgages as well. So, if there's no allocation for profit in this either, no matter what kind of small business you're in, is something that's important.

How is this done? How is all of this factored into the mix? And keep in mind that in Cape May County that the actual penny and a half or a penny-point-six technically made in Cape May is a loss, because we haven't allocated for mortgage and assuming a week old price of gasoline. How is this done? Well, it could be that those selling at less than cost are doing so to drive traffic into their location and make up the loss elsewhere. Again, pointing up here to the other things that, one, as you look at the change in the motor field marketplace in terms of retail marketing of petroleum over the years, where you'll see that there are other profit centers and that our members, quite frankly, aren't in those. We're in the business of selling gasoline, providing automotive repairs, or the dealers that we supply provide automotive repairs.

As a matter of fact, the CEO of BJ's Wholesale Club told investors in May, and I quote, "BJ's main objective in opening gas stations is to increase

traffic and drive incremental sales in our clubs. We do this by indexing 6 cents to 10 cents per gallon below the average price in each market. Our projected returns on investment include these incremental sales in increased memberships.” We built an ROI, a return on investment, that is really based on gasoline stations not being profitable. That’s what we’re up against.

I’ll get to, in a minute, why that’s an issue, because so far I don’t think I’ve elicited a tear of sympathy from anyone in here so far. So what’s the problem? Who cares if FMA members go out of business so long as everyone can purchase inexpensive gasoline? Well, I respectfully submit no one is going to care as long as there’s a low price for gasoline.

However, how long will gasoline continue to be inexpensive when there are fewer competitors? According to a May 2, 2002, *Star-Ledger* editorial warning about the use of gasoline as a loss leader, the answer to that question is not long. This is a quote, “When they, the independents, leave the scene, suddenly there’s less competition than ever to hold down prices.” Furthermore, *The Star-Ledger* editorial recognizes the fact that on average retail gasoline prices in California are the highest in the country. Well, part of the reason for this and the reason most often cited is the fact that California has its own formulation of fuel, thereby limiting fungibility. It’s not the only reason, and we would respectfully submit, it’s not even the primary one.

According to Dartmouth -- formerly at Stanford and currently at Dartmouth -- Professor of Economics, Justine Hastings, the decline of independent marketing sector in California has been followed by higher gasoline prices. While the cause for the demise of independent marketers in California has more to do with mergers than selling below cost, the effect is the

same -- fewer independent marketers, less competition, higher retail gasoline prices.

I would also refer you to other examples of independent wholesale marketers around the country going out of business as the result of unfair competitive practices. On March 27, 2002, the *CBS Evening News* with Dan Rather did a feature on an independent marketer in Tennessee who closed his doors and deconstructed his little network of stations as a result of predatory pricing practices.

Enclosed with my testimony, I've submitted an economic study entitled, "An Economic Analysis of Motor Fuel Fair Marketing Laws," prepared by Dr. David Kamerschen, a distinguished professor of economics and the Jasper N. Dorsey Chair at the University of Georgia. Dr. Kamerschen's conclusion is that fair marketing statutes ensure that, in the ultimate, the winner is the consumer. I'm going to quote from Dr. Kamerschen's conclusion. "Granted, government regulation in the marketplace does not come without some cost. In the case of fair marketing laws, the cost comes from eliminating short-term subsidized retail gasoline prices. Although consumers in some local markets may benefit in the short run because of the low cost prices, normal market forces free from price subsidization will preserve a strong, independent marketing sector. This results in more competitors in more vigorous competition in the long run. It is my view that the benefits from fair marketing laws outweigh any isolated short-run costs, and the ultimate winner is the consumer."

Long term, the viability of a competitive marketplace and the viability of our members are one in the same. There are other issues to

consider if this predation is allowed to continue unchecked. First, how many of those 20,000 jobs will go away? Even if the overall volume of gasoline sold remains unchanged, there will not be a one-for-one pickup on jobs lost to stations closed. Additionally, those service stations that do automotive repairs will continue to be phased out.

So, as I'd indicated earlier, if New Jersey has a statute to prohibit this type of predatory practice, this anticompetitive behavior, why is it continuing? Before we answer that question, we need to ask, should there be a statute at all? Please note that a number of other states, as indicated before, do have these types of statutes. New Jersey also has similar statutes as it relates to the sale of milk and liquor. For example, you go into a store and see cigarettes sold at State minimum prices, you'll see that on the signs. So it isn't simply motor fuel that there's this type of statute.

FMA believes the answer to the question of do we need a statute is, unequivocally, yes. The justification can be found rather eloquently in the preamble to the existing statute on the books. This is current law and the preamble to the existing law in New Jersey that I will quote from. "Whereas such unfair practices, if unrestricted, will bring ruinous and chaotic conditions threatening the economic existence of retail dealers engaged in such business; and whereas, in exercise of the police power, it is hereby declared to be the expressed policy of the State of New Jersey that the retail sale of gasoline is affected with and shall be impressed with the public interest in order to eliminate the aforementioned abuses, conditions, and trade practices and to eliminate evasion of the payment of taxes; and whereas, it is hereby declared by the Legislature in the exercise of the police power reserved to the State, in

order to adequately protect public safety and general welfare of all the people, that this statute be enacted in the interest and for the preservation of the public welfare, public health, and public safety.”

The Legislature recognized, half a century ago, the message we bring to you today. In an industry such as the retail sale of gasoline, one with a history laced at points with anticompetitive behavior, the needs for some basic minimum safeguards to affect the public welfare is of paramount importance. The reason that the existing law is insufficient is it’s never been adequately enforced and is deficient in its drafting, as it does not define the term of net cost as I had read earlier.

In light of the conditions in the marketplace, the Fuel Merchants Association of New Jersey believes that now is the time for the Legislature to strengthen and modernize this very statute.

Enclosed with my testimony is a redraft of the existing Motor Fuel Unfair Trade Practices Act. The redraft is based on the Florida statute that I’d mentioned earlier and was authored by Jeffrey Schwartz (phonetic spelling), who is among the foremost authorities on fair competition statutes on motor fuel marketing in the country and the author of the Florida statute. I’ve also enclosed a law review article coauthored by Dr. Schwartz.

FMA believes now is the time for the Legislature to act to address the issues confronting the marketplace to ensure vibrant competition forever into the future. We’re afraid that if we don’t we’re going to be having hearings about gasoline prices in the state’s other 20 counties, as well, after long.

Mr. Chairman, Madam Chairwoman, members of the Committee, I thank you very much. I'd be happy to answer any questions to the best of my ability.

ASSEMBLYMAN VAN DREW: Eric, I have a few questions for you.

MR. DeGESERO: Sure.

ASSEMBLYMAN VAN DREW: Thank you for an extremely thorough review. I just want to sum up and make sure that I understand correctly what you're saying. In essence, what you're saying is that in past years, years ago, that there was a slight difference between the prices in Cape May County and the surrounding southern New Jersey counties. It was a little bit more here mostly due to a seasonal nature and a transportation nature. Would that be accurate?

MR. DeGESERO: Yes.

ASSEMBLYMAN VAN DREW: Okay. The problem is now worse, but we all think that it's because gas prices are too high here. But what you're saying, in essence, is because in surrounding counties, particularly Cumberland, to some degree Atlantic, though it's also true in Camden, it's also true in Burlington, that, in fact, it's not in our surveys, but Salem as well--

MR. DeGESERO: And Ocean.

ASSEMBLYMAN VAN DREW: And Ocean. That in those areas -- and in Gloucester, thank you -- in those areas, that it's not so much that our prices are too high here, but that they are actually selling gasoline at a loss or close to a loss, because they want to bring people in to buy their other products that are very highly profitable, and that they all don't really care if they run all

the individual merchants out of business. Is that, in a layperson's terminology, inaccurate?

MR. DeGESERO: As politically unpopular and counterintuitive, the answer is unequivocally yes.

ASSEMBLYMAN VAN DREW: Okay. And what you're saying is that this Legislature should look at laws -- and again, in layperson's terminology so everybody understands -- that would crack down on those who are using unfair gas pricing too low, below, again, what their cost may even be as a loss leader, because that's going to put all the smaller companies out of business, which eventually will lead to higher prices in the end, you maintain, because then there won't be a level of competition.

MR. DeGESERO: Yes.

ASSEMBLYMAN VAN DREW: Okay. I just wanted to make sure I understood that. I appreciate your being here.

Actually, we're going to have maybe some questions later, but the questions have to come through--

MR. EMONDS: Is he going to be here? (speaking from audience)

ASSEMBLYMAN VAN DREW: Yes, he will be here. Yes.

MR. DeGESERO: I promise you, Mr. Chairman, I will stay here until I get fully beat up.

ASSEMBLYMAN VAN DREW: And we also promised him safety. We promised him safety. Okay. He was nice enough to be here, and we appreciate that. This is an actual Committee hearing of the State Legislature. You have to realize that. So this is a very formal process that we have to go through. While many of the town meetings and other meetings I've

had we've been very informal, we need to go through that process at this meeting today. But afterward, I believe almost everybody will still be here.

Are there any other questions from the members here?

Assemblyman D'Amato.

ASSEMBLYMAN D'AMATO: Thank you, Mr. Chairman.

Sir, the survey that you gave us -- the selling prices of regular gasoline on February 6, 2002, you have for Riggins Wildwood Service Station, it's \$1.01.9 and you have for Citgo Wildwood Causeway 0.01.9. What is the pure profit per gallon out of that price, just pure profit after the excise taxes, employment figures?

MR. DeGESERO: The sale in the information that I've submitted to the Committee today, and it was submitted actually previously to the Committee, that represents, if you're referring to Cape May County--

ASSEMBLYMAN D'AMATO: Yes.

MR. DeGESERO: --that was 1.9 cents above cost. There's no profit in there, because as I indicated, we did not allocate for mortgage. We did not allocate for the fact that we are using prices that probably are higher than what we used in our example. I never, as I'd indicated earlier -- we're not coming here looking to cry on anyone's shoulder. People aren't going to care if we go out of business, as long as they can continue to get gasoline inexpensively. But Assemblyman D'Amato, respectfully, this is no profit in there, and that's the point that I'm trying to make. I don't know what, when you look at it averaged out seasonally how long you'll be able -- because at some points in the year you're going to be making something, but in the

specific request from the Chair that our members responded to that was the facts as they stood on the 6th of February in the three counties--

ASSEMBLYMAN D'AMATO: If I may, let me ask you differently, and let's see if we can simplify it. In February 2002, what was the average cost of a gallon of gas in Cape May County, the cost to the consumer?

MR. DeGESERO: I would refer to the Chair.

ASSEMBLYMAN D'AMATO: Is it \$1.08?

MR. DeGESERO: You should have it.

ASSEMBLYMAN VAN DREW: On February 6, yes, it was \$1.08, \$1.08.9.

ASSEMBLYMAN D'AMATO: Now you've heard testimony here that the prices in the last couple of months have been \$1.36. We have \$1.47. Now why are these prices going up so dramatically like that?

MR. DeGESERO: Again, I have not seen this most recent survey and had a chance to go back and run the numbers as we did for the earlier one. But I would submit that you have (a) the seasonal factor that we're in in the summertime, when you have more volume, just as seasonal rentals, just as maybe the cost of an ice cream cone increases more at this time of year, but you're also having to make up for the fact that you have lost-- We have members who are losing tens and hundreds of thousands of dollars and that you need to recoup. You still have to meet a payroll every Friday, even if you're not making the money at that point in February. This gets to the very issue of the long-term economic viability of our members in terms of if you lose a lot here, you're going to try to make it up at another point in time. It's just that simple.

And again, I haven't had an opportunity to see these precise numbers, but-- Yes.

ASSEMBLYMAN VAN DREW: We literally did do them just last night.

MR. DeGESERO: Chairman Van Drew, we've met and discussed this and have had a good dialogue on this issue. We might have a disagreement as to how it should be resolved, but that doesn't mean that we haven't had a good open and frank discussion.

ASSEMBLYMAN VAN DREW: Chairwoman Cruz-Perez.

ASSEMBLYWOMAN CRUZ-PEREZ: He was before me.

ASSEMBLYMAN EAGLER: Go ahead.

ASSEMBLYWOMAN CRUZ-PEREZ: I just have a question. You keep saying that they're losing money. In Camden County, between Pennsauken and Camden City, there are four gas stations on Route 130. All of them, that's where I buy my gas from, have pretty much the same prices -- 1.22 for regular. I use the mid-grade, which I just put gas in my car. It was 1.29. I'm probably at about 1.37 for premium. You keep saying that they are going to go out of business. Those gas stations have been there for -- I've been in Camden City for 12 years. They have been there forever. They still have the same prices. They haven't gone out of business. They don't really have mini-marts. Two of them don't even have a mini-mart. So that's not an excuse for people to get up and buy anything in sight at the mini-mart, like the Wawa.

I'm trying to understand your point, and we have discussed this in Trenton. We have sat down together to discuss this, but to me it doesn't

make any sense that you're saying that they're losing money. Why are they still in business after 12 years if they're still losing money?

MR. DeGESERO: Because this phenomenon is of a more recent nature in terms of the competition from non-traditional corporations in the marketing of motor fuel, and that it's simply a matter of time. We've seen it in other parts of the country. You're beginning to see it in New Jersey and south Jersey, although there's examples, quite frankly, in Clifton in Assemblyman Eagler's district, where there is a big box retailer that earlier this year was selling gasoline at 11 cents less than what it was delivered to their tank for.

It's just a matter of time. So it's one of time because this type of competition is more recent, again, the past three years, maybe four years.

ASSEMBLYMAN VAN DREW: Thank you.

Assemblyman Eagler.

ASSEMBLYMAN EAGLER: It's not so much a question as a comment maybe. I was hoping that your testimony would shed some more light on the subject, but it appears I'm more confused. And I would hope not to be confused in public, because I believe the public, hearing when it says why are the costs so high, and then the question you're raising is, yes, we do need to change the law because your merchants that you represent are getting a kick in the tail because of the Wawas and the BJs.

While I live in Passaic County in Clifton, I'm a frequent visitor to Cape May County, not only because of recreational reasons, but as I worked for the Parkway for 25 years. For the first 10 years, I was the safety inspector. The colleague that would travel with me, we did the surveys of gas prices in the

area. And as the professor stated, the Parkway gases were cheaper than the local area. Now granted the Parkway doesn't pay taxes to the county or to the municipalities. So there was a little bit of a discrepancy there, but it shouldn't have been that much of a discrepancy. No matter what time of the year it was, the gas prices at the Parkway were always cheaper than the gas prices outside, and that's continued.

My question is, I still don't understand why. I understand the seasonal factor, but the season gets longer every year, and we don't need any studies to know that, because we know the traffic gets more every year. The season starts earlier every year because people promote it earlier. Let's face it, this was a very good winter and there was more people traveling to their summer homes this winter because, "Well, let's start earlier this year and get it fixed up earlier because it seems the weather is working with us."

So I just think the season gets longer. Certainly the counties are doing a good job of promoting tourism in the county, and the season stays longer. The senior citizens come down here in September and into October. The firemen come down here. If the season, as I said, gets pushed into the big weekend for the Irish Festival in North Wildwood, it's a big attraction. Like I said, it gets longer, the season, so I would think that the prices would be coming down, but it seems the prices keep going up. I don't have in your testimony any reason to understand why they keep going up, because you're saying the people are tied into a three-month, June, July and August, but the season, like I said, gets longer and longer each year.

MR. DeGESERO: Assemblyman, while there are certainly specific things, after what we consider the traditional season, such as the Firefighters Convention in Wildwood every year--

ASSEMBLYMAN EAGLER: And the Irish Festival gets more and more bigger each year.

MR. DeGESERO: But you don't have the critical mass of consistent tourism that you do during the months of the summer. There's plenty of reasons to come to Cape May. It's a beautiful county. It's a very nice county. I come from the opposite end of the state in the northwest corner, where it's equally as beautiful, and I certainly am not sympathetic to--

ASSEMBLYMAN VAN DREW: Gas prices are probably lower. No, I'm only kidding.

MR. DeGESERO: I paid \$1.33 in Warren County this morning on my way down, so I don't know where that fits with what we did.

ASSEMBLYMAN VAN DREW: Thank you, Eric.

There is one very important point here, and I would say this. There is some good out of all this. For probably over a year, there was an argument or a discussion, and people would not agree that for whatever reason gas prices are higher in Cape May County. If some of you remember -- I know I remember -- that when this all started that there was considerable questions from the industry -- not you, not you -- but from some folks in the industry that perhaps these numbers weren't accurate, perhaps they were being fudged, perhaps that this wasn't true, that the prices in Cape May County are the same as they are everywhere else throughout the state and everywhere else

throughout southern New Jersey. And for a while, some of us were really just crying out in the wilderness.

The good point of all this, the one point that we all agree on, is that the prices are indeed higher in this county than the other south Jersey counties. So I want to leave that with that. I understand we have a difference in reasoning why and certainly respect that.

MR. DeGESERO: If I could just say one other thing. I do see the representatives from the State here, the State Division of Consumer Affairs. Our members participated with the requests that they -- I guess it was last summer, towards the end of last summer that were made. For a small business person to open their books like this and show what's going on is not a very comfortable thing. And again, I just leave with the fact that we're looking at this from two different perspectives. Respectfully, the fuel merchants suggested isn't one county over top of five, but it's four counties over top of twenty-one in terms of pricing.

Thank you, Mr. Chairman.

ASSEMBLYMAN VAN DREW: Thank you, Eric.

We now have the President of the Cape May County Chamber of Commerce, Joyce Gould.

JOYCE GOULD: I would say good morning, but we're into afternoon. Good afternoon, gentlemen, ladies. Thank you very much.

My name is Joyce Gould, and I'm the President of the Cape May County Chamber of Commerce, and presently we have no gas or service station owners that are members of the chamber. Most of my information that I'm going to give you was gotten from gasoline station owners. I can only

venture an opinion as a consumer as well as a shopper, and as a good shopper. I, as many of the people in the room, will go to a certain supermarket that has items on sale that I wish to purchase. Just as I would also go to a gas station that has gas prices that I would prefer to pay if I had the time, as well as not running out of gas, to get to the station.

Because of the electronics involved in so many automobiles nowadays, most of the service work done on cars, probably from 1990 on, is done by the dealership where you bought it. Therefore, we find that service stations are becoming a thing of the past and are finding more and more gas stations. You even have places where they ask you to pay to put air in your tires now. To me it seems logical that the service stations who have to employ several mechanics to work on the cars here charge higher gasoline prices as compared to those who just sell gasoline.

There is a chain of command for gasoline. There's the oil company. There's the driver. There's the station. And then there's us, the consumer. Companies such as Exxon and Mobil buy their gas from a driver, who, in turn, buys it from the owner, who probably owns the refinery and processes the crude oil through the pipeline, owns the truck that delivers the product to the retail station that the company owns. Some gas stations in Cape May County, such as Citgo and Riggins, are cheaper in the price of their gas. I'm not exactly sure, but I've been told that there is a higher oxygen level in that particular gas.

The octane level that we all know about measures the antiknock characteristics of any of the motor fuel, regular at 87, mid-grade at 89, premium at 92. This octane level measures the price of gasoline which can

vary. In Cape May, at the Mobil and Exxon stations, it's 1.37 for regular, 1.47 for mid, and 1.55 for premium.

And certainly not to disagree with the professor, however, sir, you're wrong. The highest prices are at the Wildwood Texaco station where it's \$1.43 for regular, \$1.53 for mid, and \$1.63 for premium.

I can choose to buy gas where I wish and pay what I feel is a fair price in Cape May County. However, if you go to other counties, such as Camden on Route 73, on a Wednesday or a weekend, you will find premium prices at anywhere from \$1.20 to \$1.31. I feel and fear we will be getting more and more just gas stations such as at Super Wawas and eventually service stations will turn into automobile repair shops.

I do not dispute that the prices are higher here, but the solution, fortunately or unfortunately, will be left to all of you.

Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

Any questions for Ms. Gould? (no response)

Next we have Frank Dominguez who is from the Attorney General's Office, the Division of Consumer Affairs.

FRANK DOMINGUEZ, ESQ.: Thank you, Mr. Chairman and members of the Committee. My name is Frank Dominguez. I'm representing the Attorney General's Office. Actually, today representing the Division of Consumer Affairs. We've spoke to the Assemblyman about this issue and recognize the concerns that it raises. The Division of Consumer Affairs is prepared to go forward with a full investigation of the gas prices in Cape May County. We look forward to working with the Chairman. I've an investigator,

actually, from the Division of Consumer Affairs with me today. We've been enjoying the testimony and look forward to hearing more.

ASSEMBLYWOMAN CRUZ-PEREZ: Okay. Thank you, Mr. Dominguez.

All right. Next we have -- is Jim still here -- Jim Benton. Yes, here we are. Jim, come on board. From the New Jersey Petroleum Council, Mr. Jim Benton.

Just for those of you who don't understand the difference, Jim would actually represent the oil companies themselves. Eric actually represented the individual gas station owners that own gas stations.

Thank you, Mr. Benton, for being here. I guess you should speak, as well, at the podium, if you could.

JAMES BENTON: Sure.

ASSEMBLYMAN VAN DREW: Thank you.

MR. BENTON: Good afternoon, Assemblyman and members of the Committee. Assembly Chair Lady Cruz-Perez, our appreciation for the opportunity to testify. Good afternoon, ladies and gentlemen.

My name is Jim Benton. I'm the Executive Director of the New Jersey Petroleum Council. I've been the representative for the oil industry for over 22 years here in New Jersey. My colleague, John Maxwell, seated right here, joins me in making our testimony today regarding the New Jersey gasoline marketplace and several specific observations about Cape May County.

Let me say at the outset that we're happy to be here in Cape May County. We traveled down from our offices in Trenton this morning, and

we're happy to join the Committee in an effort to find some facts regarding gasoline marketing in New Jersey and specifically some observations regarding Cape May County. Let me just begin with restating the fact that we have participated since, Assemblyman, you first drew this issue to our attention in some discussions regarding gasoline prices, specifically in Cape May County and generally in New Jersey. We've also met already with the Division of Consumer Affairs, and we've also exchanged in dialogue basis with many of you as legislators and certainly through the Chair.

What I'd like to do is basically start out by describing where we are in the summer season in gasoline marketing. It's important to get an overview of where gasoline prices are right now and where they might be going. We have good news on that front that refiners have produced a record amount of gasoline over the past five months. Right now our gasoline inventory stands higher than a five-year average at this time. So despite the initial concerns generated largely because of summer driving season, some of the tragedy from September 11, retail gasoline prices have stabilized.

As a matter of fact, according to the United States Department of Energy, the prices of gasoline in New Jersey are down substantially from a year ago. The rise in gasoline prices that took place in March and April basically reflected the crude oil price increases which are and continue to be the single most important factor influencing the price of gasoline.

Just to give you the overview, world crude oil prices rose sharply earlier in the year, as major producing countries restricted their production, and world economic activity began to pick up after September 11. That added to the demand. Crude oil prices have recently averaged about 50 percent

higher than in mid-January of this earlier year 2002. As a matter of fact, if you chart from that point, gasoline prices have risen because crude oil prices have gone up about \$11 a barrel to their current rate of about \$25 per barrel. That's about an \$11 increase from where we were in January. That represents about 27 cents per gallon in direct charges through to gasoline and all the other costs, diesel fuel, jet fuel.

That translates approximately to about 30 cents per gallon at your local retail gasoline station. Right now -- we checked in yesterday with a survey that's run by the Daily Fuel Gauge Report. Gasoline prices in New Jersey presently average about \$1.32 for regular, unleaded gasoline. And again, that's almost 27 cents per gallon lower than this time last year. So there is good news on that front from a macro view.

Although current gasoline supplies are adequate, potential disruptions can still affect the reliability of gasoline supplies for consumers, as we have experienced in the past few years. Among the factors that lead to this volatility include world crude oil prices, uncertainty about producing countries decisions, and the pace of economic recovery. Hopefully, as our economy begins to pick up, we'll continue to make pace.

There is an additional factor that there is a strain on refineries. Currently, we do not have the refining capacity from the refineries to make the kinds of gasoline requirements. It's not the same old gasoline that we used to buy even a short time ago, 10 years, 20 years ago. Gasoline has continued to improve, largely due to constraints of the Clean Air Act. The kind of gasoline that we are burning here in New Jersey, statewide, is consistently the most clean gasoline mandated by federal law anywhere in the nation.

California has its own set of environmental standards impacting that gasoline marketplace, but New Jersey has what's called Federal reformulated gasoline II, which is the cleanest burning fuel gasoline required by federal law. There are 16 other different varieties of gasoline formulations in the nation, just by way of educational background.

Consumers are, as you can tell by the hearing today, and, Assemblyman, as you have demonstrated, keenly aware and understandably concerned about gasoline prices. We appreciate that concern, and we're here to address any questions they might have regarding it. Gasoline is the essential commodity to our economy and our way of life. The good news is today gasoline remains and is consistently a good value.

For example, in New Jersey, the gasoline marketplace is highly competitive. It always has been. Gasoline prices reflect market fluctuations and supply and demand. Prices are the mechanism that allows the market forces to work. In New Jersey, we have a present motor fuel tax rate of 14.5 cents per gallon. Added to the federal tax of 18.4 cents per gallon, New Jersey's total combined motor fuel tax is well below our neighboring states of Pennsylvania, Delaware, and of course, New York. It is important to underscore when a consumer buys gasoline in New Jersey you're paying exactly 32.9 cents per gallon of motor fuel tax on top of a retail price. Now when that retail price averages, approximately, as it did yesterday, \$1.30 statewide, approximately 25 percent of the product is due directly to government taxes, both in New Jersey and nationally. I don't know of any other product that has a high level of tax like that as a consumer product.

The New Jersey Petroleum Council and the member companies that support the Council--

ASSEMBLYMAN VAN DREW: I was going to kid you, Jim, and say cigarettes.

MR. BENTON: Well, that's just a recent action, Assemblyman. They're getting up there, but I appreciate the remark.

The New Jersey Petroleum Council joins with members of the Assembly Consumer Affairs Committee in this fact-finding effort. We also seek to encourage a very competitive marketplace, one that we have in New Jersey and would like to continue to retain. We believe it benefits all New Jerseyans in making their choice as to the purchase of gasoline. A pro-consumer marketplace further encourages, as it should, new investment, which results in the continuing competitive marketplace.

Permit me now to offer a few observations about the Cape May marketplace. Again, keep in mind we represent the major oil companies that provide gasoline for suppliers, wholesalers, retailers throughout the state. As legislators, you should be aware that due to federal antitrust law the Petroleum Council does not have information regarding pricing policies of individual marketers in the Cape May area, nor are we privileged to their policy decisions or strategies of the independent retailers that operate in the venue.

We would, however, observe that the Cape May marketplace would best be described as a seasonal marketplace located at the southeast corner of the state. It's one that enjoys a higher volume of gasoline trade during the summer months, as tourists and summer demand flock to the beauty and the warmth that is Cape May County. We further recognize that

space in Cape May County for development of retail gasoline stations may be somewhat limited due to available commercial land, environmental restrictions, and appropriate land use restrictions. As a result, new development of gasoline marketing facilities may be somewhat constrained. However, it is important to note that there are approximately 40 retail gasoline stations available to serve the public in Cape May. These retail locations determine their own individual price policies, based on the present cost to provide the mandated service, the price of the product, and the potential return on that business.

Observations made by the Daily Fuel Gauge Report which takes snapshots of prices from around the state -- it's provided through AAA -- indicate that consistently the Atlantic-Cape May metropolitan average which they post on their Website are below the statewide average for New Jersey and almost every section of the state on a consistent basis. That includes Passaic County, Camden County, and Atlantic County.

For example, yesterday we went to look at it, again, provided by the Fuel Gauge report. It showed that, on average, prices in the Atlantic-Cape May area are at \$1.31 yesterday. In Bergen and Passaic, they were at \$1.32.4. In Middlesex, Somerset, and Hunterdon \$1.33. Again, that's a snapshot of prices around the state based on their surveys that they do conduct. It is important to note that the prices in Cape May are consistently below the statewide average for New Jersey and almost every other state.

In closing, we would encourage the members of the Assembly Consumer Affairs Committee to become familiar with gasoline marketing and certainly take the time to understand the complex nuances and compare things on a reasonable and consistent basis. We believe that you share our goal of a

proconsumer competitive marketplace. We encourage the Committee to avoid simplistic-sounding solutions. Oftentimes well-intentioned solutions put forward are, in fact, anticonsumer and pose challenges to creating a more competitive marketplace.

I thank you very much. I'd be happy, based on my experience -- I know my colleague, John Maxwell, joins me in our efforts to present this Committee with the information that it requests in a fair and consistent manner. We'd be happy to answer any questions you might have. I appreciate your attention and that of the consumers here today.

ASSEMBLYMAN VAN DREW: Thank you, Mr. Benton, for being here. I do have a few questions. I'm sure the other Committee members do, as well.

When you talk about the Atlantic-Cape May market prices being less or lower than the surrounding areas, I would maintain that that is, number one, because Atlantic is mixed into that. Primarily, Atlantic County's prices are significantly lower than ours. When you mix that in, Atlantic and Cape May, certainly you then lower the average for the entire mix.

Secondly, it would seem to me that your testimony would significantly differ from the Fuel Merchants Association's because they will say at the outset -- and I guess I'll ask you this question at the outset -- then you would maintain that our prices in Cape May County are not higher than all the surrounding southern New Jersey counties? I don't mean to contradict you, but I would be glad to get in my Chevy Avalanche with you, which burns a lot of gas, and take you out, and I'll do the survey with you.

MR. BENTON: No, I would--

ASSEMBLYMAN VAN DREW: I don't understand the point of that Atlantic-Cape May survey which says to us if the prices are -- not only are they not higher here, but that they're lower. That just is not accurate. That is, I guess, because Atlantic County is mixed into it. But we've done these surveys every which way. We might disagree as to the cause, but even the Fuel Merchants Association will unequivocally agree with us and with this Committee that the prices are, indeed, substantively higher in Cape May County. I guess I want us all to come to at least that common ground.

MR. BENTON: I'd appreciate the opportunity to respond and to certainly clarify comments that you may have made. When we talk about an average, that's exactly what it is. The AAA puts out a snapshot of an average for Atlantic County and Cape May. I don't disagree with you that, in fact, that blend may, in fact, work to a lower benefit. And certainly the prices in Cape May may on average be higher than they are in the surrounding counties of Atlantic and, perhaps, Cumberland. We don't have those numbers. The barometer that gives you a consistent picture is the one that's put forward in this instance by the AAA Gasoline Price Gauge Report. That to us represents at least one of the best barometers universally measuring where the prices currently stand.

As I indicated in my testimony, also, there may be some very legitimate reasons why Cape May gasoline prices may, in fact, be higher than they are in other areas of the state. So, I think if you listened and if I was able to express myself correctly enough, I don't find disagreement in your statement that, in fact, gasoline prices in Cape May may be higher than the surrounding areas. Where we do disagree is that according to the information provided,

gasoline prices still may be on the average provided by the Cape May-Atlantic County seasonal gauge, consistently below those prices that you find in Bergen-Passaic or in other parts of the state.

ASSEMBLYMAN VAN DREW: I've maintained all along that, indeed, prices may be in Bergen-Passaic higher. Everything is more expensive. No question about it. The cost of buying homes, rentals, just about everything that you purchase in Bergen-Passaic is more expensive without question.

MR. BENTON: Right.

ASSEMBLYMAN VAN DREW: And the only comparison that I can use that I think for me is valid, personally, that I believe, Chairperson, for the Committee, is valid, or surrounding south Jersey counties. We did go as far as Salem, Camden, Cumberland, Atlantic, Ocean. These are the counties that surround us. It is a different region. It would be as if we said that the cost of housing in Cape May County is going up. It is, but it is still less than the cost of housing in Fort Lee. No question about it that housing is less in Fort Lee.

So I guess we have to compare region to region. And the fault that I find with that particular part of the AAA comparison there is that I don't really see Cumberland and Salem and Camden and Ocean and Burlington in that mix. So I, personally, just from one Assemblyperson's viewpoint, I don't particularly find that in this particular instance with the particular situation and problem that we have to me is being valid. I just want to make that point clear.

But I thank you.

Other Committee members, do we have any other questions here?

Assemblyman D'Amato.

ASSEMBLYMAN D'AMATO: Thank you, Mr. Chairman.

I really have a comment and a question of both Mr. Benton and Mr. Maxwell. You do appreciate that Cape May County is unique in that it attracts a higher number of senior citizens who chose to retire here because of the unique and beautiful quality of life here in Cape May County? You do acknowledge that, correct?

MR. BENTON: Correct.

ASSEMBLYMAN D'AMATO: Even though I'm an attorney, you're probably more knowledgeable about the federal and state laws regulating the distribution and sale of gasoline than I am. Here's my question. If the senior citizens of Cape May County, perhaps, with the guidance of AARP, were to select certain service stations in Cape May County and say to those service stations, "We senior citizens will come to your place exclusively if you lower your prices and make it competitive or equal to, say, Atlantic County." Would that action by the senior citizens of Cape May County be a violation of any state or federal law that you know of?

MR. BENTON: Not that I'm immediately aware of. In terms of consumer buying purchases, you see certain consumer trends such as notices in the paper. Certainly in other counties, you see gasoline price watches. It may not seem immediately transparent to the consumer, but again there is a lot of investment and a lot of attention paid to attracting customers to their store to purchase gasoline, whether it's through advertising, whether it's through the promotion of an identity, whether it's through aggressive pricing,

whether it's through service. There's a lot of effort, maybe, in what may be one of the more casual buying decisions of the day, where I buy my gasoline.

In addition, I don't know of too many, even including cigarettes, where you have notice on the street before you even pull into the location of what the price may be. Certainly on the retailer's side of the equation, a predictable, consistent volume of business is one of the integral components to any retail trade of business. And again, while it may have been overlooked in my statement, respectfully, Assemblyman, Atlantic County is a very seasonal-- Or excuse me, Cape May County -- speaking to the Assemblyman from Atlantic County. Cape May County, the county of discussion here, is a very seasonal marketplace in contrast with that of Atlantic County, where you have one of the world's greatest destination resorts, with the necessary support to get volume of traffic in and out of Atlantic County on a very consistent year-round basis.

ASSEMBLYMAN D'AMATO: I wasn't being critical of your testimony. I'm saying these people here have the power to organize and say, "We're going to go to certain select places if you lower your prices." Correct? They can do that.

MR. BENTON: There is certainly no restriction behind that that I'm certainly aware of, and one of the keys is always consumer interest and consumer power to certainly to turn and support those institutions that are giving the best price. We certainly see that as a freedom of trade. We embrace that.

ASSEMBLYMAN D'AMATO: Thank you.

MR. BENTON: What we have concern with is artificial means to restrict that trade. The answer is not to raise gasoline prices in other areas. The answer is to lower gasoline prices throughout the State of New Jersey.

ASSEMBLYMAN D'AMATO: Thank you, Mr. Chairman.

ASSEMBLYMAN VAN DREW: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: You mentioned Passaic and Bergen County, and I come from Passaic County. First of all, and foremost, the taxes in Passaic are much more expensive than they are here in Cape May.

MR. BENTON: Excuse me, Assemblyman.

ASSEMBLYMAN EAGLER: The taxes are more expensive.

MR. BENTON: Local property taxes?

ASSEMBLYMAN EAGLER: Local property taxes.

MR. BENTON: Correct.

ASSEMBLYMAN EAGLER: So according to your numbers that you gave, the average price was \$1.33. Even if you take the two average prices on the reference charts that was made by Assemblyman Van Drew's Office, it's still \$1.31 for Cape May, and for Atlantic County, it's still much higher, even though the property taxes down here are much cheaper. So there is a discrepancy.

MR. BENTON: Well, again, it's difficult for me. I don't have any familiarity at all with Cape May property taxes.

ASSEMBLYMAN EAGLER: And up north, we also have, like, Tuesdays and Thursdays, 5 cents a gallon cheaper or 7 cents a gallon cheaper to bring customers in. On Wednesday, it's ladies day. I never see that down

here. I never see those types of promotions. Are the members of the industry open to that suggestion?

In continuation with what Assemblyman D'Amato said, if seniors are going to go shopping, call it seniors day. Anybody that comes in and shows that they're a senior gets gas cheaper, or any tourist day for any tourist that comes in. Is that part of the promotion that ever has been discussed down here in the County?

MR. BENTON: Well, again, I can't speak for individual marketers. You have to ask the individual retailers and/or their suppliers that type of a question. For me to answer as an association executive across the board-- But the response is that they are interested in selling gasoline. If gasoline isn't moving through that retail location, they become very concerned with the viability of that location, and the answer is, yes, they will go to promotional types of opportunities, whether it's nickel off days as you suggest. I doubt very seriously they would do it for a specific age category. But as I'm certain you see-- I see it where I presently live in Mercer County. I grew up in Bergen County, and obviously, I vacation at the Jersey shore on a regular basis. We see those types of promotional issues throughout the state--

ASSEMBLYMAN EAGLER: It's a common thing up north.

MR. BENTON: --and there is no reason why there couldn't be other types of promotional incentives, save for the fact that the Legislature does restrict them through laws.

ASSEMBLYMAN EAGLER: Well, I don't think there's any restriction for someone to say that their gas prices are 5 cents cheaper on Thursdays or Fridays.

MR. BENTON: That's correct.

ASSEMBLYMAN EAGLER: We do it up north. It's a common thing. People shop around. People talk to each other when they go to various meetings and say, "Oh, I just got gas at the Texaco on Dunellen Avenue because it's 10 cents a gallon cheaper."

MR. BENTON: Right. But there are restrictions regarding discount coupons, for returning customers. For example, hypothetically, under the suggestion referenced by Assemblyman D'Amato, if you wanted to give a familiar customer a coupon in New Jersey for a return -- for a discount on that return on the price of gasoline, that would not be allowed under current law. There is legislation before the Committee amending that law. I would encourage this Committee to take a look at that.

ASSEMBLYMAN EAGLER: But you don't need any type of legislation to say, "Wednesdays and Thursdays gasoline is 5 cents and 7 cents a gallon cheaper." It's done up north all the time.

MR. BENTON: Correct.

ASSEMBLYMAN VAN DREW: Respectfully, I think part of the problem here is lack, to some degree in this particular county, is there's just less of a competitive edge, and there's lack of competition. So there really is no need. Assemblyman D'Amato's suggestion is very good. But on the other hand, what happens here as well with that is people end up buying their gas out of county. That's the way that most of the local people in Cape May County deal with the issue. Whenever they're in Cumberland, whenever they're in Atlantic, whenever they're anywhere else, they buy their gas. I would say that, hey, once in a while that presents a difficulty, because you may

need gas when you're in county, and secondly it presents a difficulty because senior citizens don't, as often or as much, frequent areas outside the county. They get stuck within the county.

The marketplace, and you know this better than I do, Jim, really drives this. So, if it's worthwhile for individual stations to do that, they will do it. And generally, it has not happened in Cape May County. It hasn't been fruitful.

I thank you very much for being here.

MR. BENTON: John, is there anything perhaps I've overlooked.

ASSEMBLYMAN VAN DREW: Mr. Maxwell, was there anything you wanted to present?

JOHN MAXWELL: I would. I would like to thank the Chairwoman and you, Assemblyman, for having this hearing. I love coming to Cape May. I think it's a great county. It's a treat being here, and I thank you very much. We'd be happy to come back here any time you want, even if your gas prices are a little higher.

ASSEMBLYMAN VAN DREW: Thank you very much.

Next we have Mr. Mike Brogan, from the Cape May County Office of Consumer Affairs.

MICHAEL BROGAN: Good afternoon.

Before I give my presentation, which is a very short presentation, I have this observation to share with you guys and ladies. July 1 at the Villas Riggins gas station, the price for a gallon of gas was raised from \$1.28.9 to \$1.31.9. At the U.S. Gas station at Rio Grande and 47th, the price went from \$1.26.9 to \$1.28.9. I had the occasion to be in Washington Township -- I

think it's Camden County, about 64 miles from here. The U.S. Gas station in that location, the gas price for a gallon of regular gas was \$1.20.9. The point I'm trying to make here, of course, is that July 2 was a prelude to July 4, which was the beginning of the tourist season here in Cape May County. That's my point.

Thank you very much for giving me the opportunity to speak here today. More importantly, thank you for coming to Cape May County to allow us to give this presentation.

As Director of Consumer Affairs for Cape May County, I'm certainly concerned about the gas prices, as I am concerned about other prices to the consumers here in Cape May County. My concern is that enforcement of the Consumer Fraud Act, as related to gas prices, other than an unconscionable act or price gouging, there is no enforcement that I am aware of that my office has to intercede for the consumers living here in Cape May County or visiting here in Cape May County.

I have no idea what determines the price of a gallon a gas. Although some of the previous speakers tried to explain that to me, I don't quite necessarily understand it or necessarily agree with it. However, I do know that when Assemblyman Van Drew conducted his investigation in June of 2001, the gas prices in Cape May County not only stabilized but also went down on several occasions, which leads me to believe that if properly regulated and properly legislated, the gas prices throughout the State of New Jersey can be regulated and enforced.

What I'm asking of this Committee here today is give the 21-plus offices of Consumer Affairs in the State of New Jersey the proper legislation to enforce gas prices in the State of New Jersey.

Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

Mr. Brogan, I have one quick question. Price gouging, is there a specific definition for that? Is it a percentage?

MR. BROGAN: Ironically enough, no. It's an unconscionable act. What constitutes an unconscionable act? It's the interpretation of the offended person as what is an unconscionable act. Gas gouging or price gouging is open to interpretation. If everybody does it, it doesn't appear as price gouging. If one or two does it, then there might be a comparison that you can make that would constitute gouging.

ASSEMBLYMAN VAN DREW: So currently very difficult to prove.

MR. BROGAN: Absolutely.

ASSEMBLYMAN VAN DREW: Okay.

MR. BROGAN: And I subscribe to you that we do need legislation to enforce that type of activity here in the county.

ASSEMBLYMAN VAN DREW: Okay.

MR. BROGAN: Thank you.

ASSEMBLYMAN VAN DREW: Thank you.

Assemblyman Eagler has a question.

ASSEMBLYMAN EAGLER: Just one question.

Mr. Brogan, while you don't have the right to do anything about the gouging, if there is gouging, you do have the right to check the octane levels.

MR. BROGAN: Correct.

ASSEMBLYMAN EAGLER: Do you do that?

MR. BROGAN: Only upon request. If a consumer came to us and feels that he paid for high octane gasoline and his vehicle didn't act as though it was high octane gas, we certainly can go to that gas station, take a sample, send it to the State, and have that octane evaluated. Yes, we can enforce that particular statute.

ASSEMBLYMAN EAGLER: Because as a county freeholder last summer, we checked the octane of a number of gas stations in Passaic County, and we found out that they were not operating at the proper octane. They were duly fined. But you only do it at the request of the consumer.

MR. BROGAN: And that's because we don't have the capabilities or the devices to do that actual testing. So we do it upon the request of the consumer, and we send it to the State for that particular process.

ASSEMBLYMAN EAGLER: Maybe we can borrow some of ours from Passaic County to do that service.

MR. BROGAN: Absolutely. Sure.

ASSEMBLYMAN VAN DREW: Thank you, Assemblyman.

Any other questions? (no response)

Okay. Thank you, Michael.

MR. BROGAN: Thank you.

ASSEMBLYMAN VAN DREW: We have, I believe, still four gas station owners that are here. I hope I'm doing this in the right order. I don't know if any of you want to speak together or at the same time.

First I have Albert Cremin. I believe he was first. Yes. If you would like to come forward first that would be fine.

I have Roland Bonner, Derrick Tomlinson, and Gary Rash, as well, but I don't know that you all came together or wanted to speak together. I believe that you came separately. You may even have separate viewpoints. That happens up here once in a while.

A L B E R T C R E M I N: My name is Al Cremin. I operate a service station in North Cape May, and I've been there for 25 years. Presently, I'd just like to note -- I'd like to thank my wife for running the day-to-day operations for the past few years because of an injury I've had. But lately, a lot has come to question with price. What I've found, the biggest thing that brought it to my mind is the biggest differences we see here in the county. I know, firsthand, it's not the dealers making the profit, just from being in this business all these years.

There are times during gas shortages and things like that the margins have been increased, but it's never been that way on a normal basis, where you've seen--

ASSEMBLYMAN VAN DREW: What was your -- I'm sorry. I forgot what your brand was. Is it Sunoco?

MR. CREMIN: Oh, okay. I was Sunoco.

ASSEMBLYMAN VAN DREW: Right.

MR. CREMIN: I've recently debranded, in fact, due to problems with pricing.

ASSEMBLYMAN VAN DREW: Okay.

MR. CREMIN: One of the things I discovered that led to my decision to even debranding was my margin and not making any money myself. At one point on March 22, I was Sunoco brand. The Sunoco at 9th and 47th was selling product at that time at \$1.14.9. My wholesale price from my supplier who promised to be competitive was \$1.19. There was no way I could compete with that. This went on under conversations and conversations with that.

What led to my actual changing of brand, I had someone down from my supplier. I mentioned gas price again, and they made a remark stating, "I'm letting you make 10 cents a gallon." I thought about that that weekend, and that was it. That Monday I debranded and covered up my signs.

The other situation we've had is that's been a constant thing. I think that other dealers go through the same thing with suppliers, but customers don't see it.

I'm trying to think of the other point I was going to make here. It was regarding to price. There seems to be a difference between Vineland and Cape May County, as everyone has said, of about 20 cents a gallon. It's been my thought that we've been paying the higher price on the backs of the discounts in Vineland. I believe the only way, as has been discussed here today, that's going to help remedy that is going to be some type of new legislation that's different from what you have now, which is older legislation that was drafted back when oil companies owned most of the properties. They

had legislation that said a dealer would not sell product below their tank wagon, plus cost, price.

Now that most stations are privately owned, were owned by supplier/distributors, that law really doesn't fit any more. So I think in order to stabilize things what you need is some type of legislation that says to suppliers running multiple outlets that if you sell product in New Jersey you will sell it at the same price within a percentage span. In other words, if you sell gas in Vineland or Cape May, you would be roughly within 5 percent of each other, giving them room for price differences in different areas but not letting them have these widespreads where one county is subsidizing another county's gasoline.

I believe, just as a dealer, that's what we're seeing. We may be subsidizing it. North Jersey may be subsidizing it, but somebody is paying for the low prices we see in Cumberland County.

The other thing that caught my attention with my current supplier that led me to believe -- well, not my current supplier -- that there were problems in Cape May County or with possibly my supplier was I was requested to send in or fax in price surveys three times a week of my area. That to me seemed like a form of price fixing. I wouldn't do it. I was surprised I was asked of that.

ASSEMBLYMAN VAN DREW: Al, I just want to make sure I understand that quickly. You're telling me that Sunoco -- with Sunoco?

MR. CREMIN: It was a distributor of Sunoco.

ASSEMBLYMAN VAN DREW: A distributor of Sunoco was asking you to do a survey of the price of gas stations in your area?

MR. CREMIN: To send in surveys three times a week.

ASSEMBLYMAN VAN DREW: Three times a week.

MR. CREMIN: In fact, what I have to leave with you is written copies of all that, signed by the supplier, so that you have the actual written evidence of that. I can leave this with you, and you can do what you need with it. The other thing I have is a copy on the March 14 that I spoke of, gasoline price, where I was paying \$1.19. I have my written proof of that and a video to leave with you of the stations that I videoed selling below my cost.

ASSEMBLYMAN VAN DREW: Thank you very much.

MR. CREMIN: Thank you.

ASSEMBLYMAN VAN DREW: Do you have any questions?

ASSEMBLYWOMAN CRUZ-PEREZ: Mr. Cremin, did you ask you supplier why the difference between the gas station you were getting, Sunoco, the difference between Cape May and Cumberland? Did you ever ask why they have -- like back in July 8 it was \$1.29, and in Cumberland it will be \$1.17. Did you ask them? How can they have lower prices?

MR. CREMIN: Well, they'll have all different answers. I went around with this many times.

ASSEMBLYWOMAN CRUZ-PEREZ: I would like to hear some of them.

MR. CREMIN: I've asked in the middle of winter time, "Why is our price higher?" They're reply is, "You don't sell as much as they do so you pay a higher price for it." I've asked in the middle of summertime, "Why is our price higher?" I hear, "You'll sell it anyway no matter what we charge you,

because the tourists are here, so you'll pay it." They're the answers that I've gotten from suppliers. That's the bottom line.

ASSEMBLYMAN VAN DREW: The interesting question even more is why, if I understood you correctly, and I've heard this before from some of the other -- what I'll call small guys, for lack of a better term -- is why you were literally paying more at the wholesale level than other people were able to sell it at at the retail level.

MR. CREMIN: Yes. Well, my biggest problem, or at least the thing that upset me the most, was when I was paying more than a company direct station was selling it at. That to me seemed to be a violation of current law for the Petroleum Marketing Practices Act. Although I'm not sure because I was buying it through a distributor, so that may have broken the chain between me and the direct marketer. Of course, at that rate, I couldn't survive, if I was paying a nickel more than they were selling on the street.

ASSEMBLYMAN VAN DREW: You would have been better off buying gas retail over at your competitor.

MR. CREMIN: Yes. Well, if I could buy a truck, I'd send it to Vineland now. I'd make more money.

ASSEMBLYMAN VAN DREW: You see, I think, again, it's the competitors all within the area. You could also send it to Camden or you could send it to Burlington.

MR. CREMIN: Maybe. I just see Vineland because I drive through there, like you do, and see it 15 cents to 18 cents to 20 cents cheaper, and I feel the same thing everybody else does here. But it's frustrating when you're right there, and there's nothing you can do about it. All you see is the

customers that come in that are upset paying the higher price. The worse part is when they think it's the guy on the corner doing it, and you're sitting in the middle of all this.

ASSEMBLYWOMAN CRUZ-PEREZ: I know.

MR. CREMIN: I mean, I actually contemplated for a while before changing, debranding, of closing the pumps down. If you're in another operation like repairs like I am, you don't want a name for charging high. When people see that, you're kind of caught in the middle. So, I'm just hoping for me that this debranding works.

ASSEMBLYMAN VAN DREW: Thank you. And the reasons you articulated are exactly the reasons that we're here, because there's something not quite correct. Thank you.

MR. CREMIN: Thank you.

ASSEMBLYMAN VAN DREW: Roland Bonner.

ROLAND BONNER: Good afternoon.

ASSEMBLYMAN VAN DREW: Good afternoon.

MR. BONNER: I've been in this business for over 20 years in one form or another. The professor had a nice shot of my station up there. I have Marmora Texaco. I've been there for 10 years. I agree with you that the prices are higher in Cape May unquestionably. I just wanted to echo some of the comments made by the previous speakers that, particularly in the Vineland area, it seems like the market over there is very tight. There are a lot of gas stations there. I think a lot of it has to do with the structure of the companies where a lot of the companies own the stations, and they eliminate the middlemen. You don't have, let's say, an oil refinery selling to a supplier,

selling to a wholesaler, than selling it. They eliminate a lot of that cost in the middlemen.

So competition is, I think, the big part of what's happening in those other areas and, of course, the incidental costs, the travel costs, and that kind of stuff with the retail structure. Also, the aggressiveness of wholesalers. Right now, probably the most aggressive one out there is Wawa, and they're coming down this way. They've been approved to put a station in Marmora. Unless I can renegotiate with my supplier, I don't think I can compete. I don't think I'm going to be able to continue to do business there.

I don't want to charge a higher price. Just like Al had just said, a lot of times I am charged more at wholesale level than they're selling it for in Vineland. I mean, I live in the area too, and I'm here to tell you-- I don't want to put the blame anywhere. I'm just here to help, I guess, but I'm here to tell you that -- to put a face to the guys on the corner and tell you that I'm not making gobs of money. It's not me.

Another issue that I've been privy to is a lot of these stations are run or owned by foreigners, and I don't think they pay the same taxes that we do.

Is there any questions?

ASSEMBLYMAN VAN DREW: Roland, I want to thank you. Let me make it clear, I hold the opinion, and I believe the Committee does that the residents of Cape May County are victims of this, as well as the small gas station owners. You, as well, I believe, are victims. I've spoken to many of them. Quite frankly, you think that you all would be mad at me, and many of them are my friends. I've spoken to them, and they've explained to me over

and over again. I believe it's accurate that they're literally paying more for gas here, the reason they have to charge more. I don't think it's the small gas station owner, without question, and let me make that clear.

MR. BONNER: Well, I agree with you previously, and I just wanted to make it clear to the citizens also, because I don't think that that has always been or made crystal clear. As far as the pricing structure for the season, that's going to go on. That goes on with hotels and everything else. I don't participate in that myself. I just hope that in the summer I make more money by selling more gas at the same price margin, because there's more people in the area.

ASSEMBLYMAN VAN DREW: Thank you. Thank you for being here.

MR. BONNER: Thank you.

ASSEMBLYMAN VAN DREW: Any questions from the Committee? (no response)

Thank you.

MR. BONNER: Thank you.

ASSEMBLYMAN VAN DREW: Derrick Tomlinson.

DERRICK TOMLINSON: Good afternoon, Assemblyman Van Drew.

As we spoke the very first time that we met in February in your office, I responded to one of your letters that was in a local gazette about retailers overcharging the residents in the area of Cape May. As I explained to you in the office that I was not going to come here with a prepared statement, you were having trouble with people answering your questions or telling the

truth about the situation. From what I gathered from our conversation at the time when you started your investigation, you were not aware of a dealer-direct owned station, independent station, or a station that was leased by a gas distributor and in turn would be leased to an individual.

For one example, the professor over here showed a video of the Sunoco station in Vineland on Sherman Avenue. That Sherman Avenue station is owned by Sunoco itself. I had a station approximately 3.9 miles -- a Sunoco station that I leased from a gas distributor. Our price was 8 cents a gallon more expensive than what they were selling for at the pump, to run with the Wawas. We called Sunoco numerous times. The last time I saw you where I filled you up we since left then, because we could not compete with the dealer directs up there and the Wawas. It's just too of a cutthroat market.

There's no doubt in my mind that Cape May County is higher priced on transport. There's no excuse for it, but the independent owners like myself -- I have another station in Woodbine -- yes, we are being charged more to compensate for the cutthroat dealing that's going on in the city of Vineland because there is so much competition up there.

I have proof today that I will be more than happy to give to the Attorney General's Office that I can prove that the gas supplier, which I did share with Mr. Cremin. I also debranded myself in Woodbine because of the unfair practice of what they were selling it for will prove that Cape May County is being charged anywhere from 3 cents to 7 cents a gallon more than an individual up in Vineland.

The biggest thing that I want to point out was the fact that Cape May County does have a population problem. When I came to your office,

Mr. Van Drew, I showed you what I did at the end of the summer. I approximately pumped 2000 gallons a day by myself from 7:00 in the morning until 10:00 at night. I made 15 cents a gallon, which I'm not ashamed to admit. But when winter time came, I went down at 375 gallons a day. I showed you in your office that I went to work at 7:00 in the morning until 10:00, and I made \$37.

So, if an independent retailer can make 10 cents or 15 cents a gallon year round, it's because they need to. The average gas station in Cape May County is pumping a tanker a day, which they do not transport 10,000 gallons in the State of New Jersey. It's illegal. It's 8900 just to clear that up. But when winter time comes, especially after Halloween, that man who was pumping a tanker a day at 8900 gallons a day, the average now goes down to one tanker for every 10 days. So there are individuals out there that, yes, I believe that did overcharge people. I don't agree with that.

My station was the cheapest in Cape May County all of last year, and I was the first to break the 99-cent barrier. Honestly, I'm sorry I did that, because it put me in financial trouble, which I used to live across the street from Mr. Mruz, and I had to sell my home. So the general public, when they drive down the street, and they see this guy is \$1.22 and this one is \$1.29, each station is different. If you go to a Sunoco station in Rio Grande Boulevard right now, that's owned by Sunoco. If you rent a Sunoco-owned station, not from a distributor, from the company itself, you are given anywhere from 4 cents to 8 cents a gallon rebate at the end of the month for high volume.

When I was Sunoco at Woodbine and also in Vineland because I was not a Sunoco-owned station, I had no rebate. So each station has to be judged individually. Is it a dealer-direct station? Is it a leasing company or is it a distributor? Are they leasing that station and putting another individual in there, or the guy is an independent, like I am in Woodbine now? You're going to get three different price categories. The more people involved, the higher price it's going to be.

Like I told you, Doc, I have no problems. I wasn't going to sugarcoat anything. If you have any questions, fire away, because I have nothing to lose.

ASSEMBLYMAN VAN DREW: I appreciate your being here.

Thank you.

Does the Committee have any questions? (no response)

Very good. Thank you, Derrick. Good.

MR. TOMLINSON: Okay. And you can share that with the Attorney General.

ASSEMBLYMAN D'AMATO: Jeff?

ASSEMBLYMAN VAN DREW: Do you have a question?

ASSEMBLYMAN D'AMATO: No, I just have a comment to make.

ASSEMBLYMAN VAN DREW: Sure. Assemblyman.

ASSEMBLYMAN D'AMATO: With the permission of my colleagues here, our colleague, Nicholas Asselta, couldn't make it here today, but he did have his representative, his legislative aide, Victoria. She's here just

in case anybody has any comments for Assemblyman Asselta, they could pass them on to Victoria.

ASSEMBLYMAN VAN DREW: Thank you.

ASSEMBLYMAN D'AMATO: Victoria, why don't you stand up so everybody can see you.

ASSEMBLYMAN VAN DREW: Thank you, Assemblyman D'Amato.

Gary Rash.

G A R Y R A S H: Thank you, Assemblyman and everyone involved. I'm not a public speaker, so bear with me please.

I'm a server, and that's what every service station owner is, is a server.

ASSEMBLYMAN VAN DREW: Where are you located, Gary?

MR. RASH: My name is Gary Rash. I operate a 9th Street Mobil in Ocean City, New Jersey. I used to operate a Texaco at Avalon Boulevard and Route 9. I used to operate the Dennisville Mobil station on Route 47. At one time, we operated three places. We discontinued the operation of both of those gas and goes, so to speak, because we were pumping gas for someone else and getting paid so much per gallon to pump that gas. Out of that, we had to take out all of our expenses.

As it's been said by my other colleagues who were here, we don't get rich in this business. If we do get rich, it's because we serve people, and we get rich that way. We don't get rich financially. Why do we do it? I guess why does anyone do anything that they do. Is everyone in this room rich financially? No, but they've done something in their life because they may

have been called to do it. I don't even know why I'm saying this, but maybe I was called to say this. They're called to do that. That's what we do.

So, when we hear stories like they lost money in the business, they either need to take business courses which cost money or I don't know what to say. I don't make a lot of money either. In the winter time, we lose money because we serve, and that's what we're called to do.

I won't bore you with some of the details of the things that the gentlemen have said about how they're priced. Your explanation of gas pricing is very good, but it was very fast. I think it went over some peoples' heads. I'm sorry everyone isn't here who was here in the beginning of the meeting. Because a lot of the people that left are senior citizens, and that's a soft spot in my heart -- is senior citizens. That's why I have a station in Ocean City. That's why I've stayed there. It's very expensive to operate there. That's why we're there.

Pricing of gasoline can differ as you have heard by how we buy it. We buy it from the wholesaler or we buy it from the company, all of these things changed. My thought of coming here is to find out where this Committee's minds were as to where the blame is being put and who's to be either penalized for or investigated on. But when you wake up in the morning, like I did this morning after working 14 hours yesterday, for about the third day straight, the first thing I heard was the news forecast about the investigation of gas prices in the State of New Jersey. I thought I've had enough of hearing that. No one has called me on the phone and asked me about my gas prices.

I've pumped your gas, Assemblyman Van Drew. You have been at Wawa across the street from our Texaco location. You have never come over and discussed this with us. You're a busy person, I understand. But I would say if you want the facts, go to the people who are on the firing line.

ASSEMBLYWOMAN CRUZ-PEREZ: With all due respect, I think that's why we're here today.

MR. RASH: Okay.

ASSEMBLYWOMAN CRUZ-PEREZ: To hear from you and from the people.

MR. RASH: We serve the public. We have to put up with different price structures. I'll try to wrap this up completely. We've put up with different price structures. We put up with expenses that other businesses don't necessarily have -- environmental expenses.

The first thing I did want to mention -- I did forget -- is I want to thank you for supporting non-self-serving in the State of New Jersey. I don't know how many people in this room have gone into different states and had to pump their own gas and wait in the 7-Eleven line like I just did in Florida two weeks ago for 20 minutes to pay for my gas. That's all I wanted to do was pay for my gas. So, if I say anything about self-serve, it's not what it's cut out to be.

We have a lot of senior citizens in this room and in this county. It's been mentioned over and over. Self-serve can be easy. We can sit in a booth. We can pay a guy \$5.75, \$6 an hour to sit in a booth and watch senior citizens get out and pump their own gas when it's two degrees outside. We

don't. Self-serve isn't inexpensive. Support non-self-serve. Believe me, it's worth it.

So, in saying that is, it costs money to run a gas station. It costs money in payroll, insurance for these people because these people want insurance. They have to support their own families. All of this comes out of the pricing that you did not hear which you could not put a figure on of what it costs to pump a gallon of gasoline. So now we have -- everyone buys gasoline at a different price. You have different prices. You have different prices.

Vineland is a different price than here. We have a different employee structure around here. We have a hard time finding employees around here. Maybe Vineland and Burlington County and all that, they have more people that will work for a lower dollar. That's all the things figured in the price of the gallon of gas. I'm telling you all this because we're on your side. I said we're servers. But I do get a little upset when I don't hear about any other so-called price gouging of businesses. Why is gasoline always the one on the front line that's being challenged? Why not motels? Why not stores? Ice cream places? Your vending machines? Why aren't these people challenged as to why your rates go up?

I did a little homework between 7:30 this morning when I was headed to work and when I got here. I have the facts here of what a motel room costs in a seasonal basis. Some of them triple. My gas has been the same price, price structure wise, all summer long. I do not raise my prices on the Fourth of July. I don't know what other stations do. I'm talking about my station.

I know some other stations have not raised their prices. However, I pay my employees time and a half to work Fourth of July. The gallons extra I pump does not pay for that extra money. But we do it because we're expected to be there by all of you people right here. And when I hear, "Don't buy gas in Cape May County," it gives me goose bumps, man, because I say go to your station man and find out what his price structure is. What kind of service station do you want? Do you want gas only, where if your tire is low no one notices it? I can't tell you the amount of people come into our station -- my station is right by the boulevard leaving Ocean City -- I can't tell you the amount of people come in. I look at their tires. We're mechanics. We say, "Your tire is not going to make it across the bridge." "I didn't know that." They got out and looked. We saved a life. So it goes deeper than just pricing.

Now you have to decide what kind of service station you want. Do you want gas and go? Do you want a Wawa on your corner, pay \$1.17 a gallon? Go right ahead. Vote them in. That's wonderful. I'd like to pay those prices for everything. I know everyone has a fixed income. But look at the service station you want on your corner. If you're a senior citizen or even if you're not a senior citizen, you want service. Come into my station, I guarantee you you'll get served. That's what we're there for.

So now we have a distinct difference between you want just gas. That's what Wawa is and BJs and all these ones coming down the pike. These major marketers, that's what they are -- is gas. You'll go in, you'll get your gas, and you'll leave. You'll have to clean your windshield. You'll have to see if your tires are low. Now we're talking safety issues. So do you want just gas, or do you want service? Service costs money.

I have a free air tank, a free air tower at my station. Every other station in town sends people to my place for air. Do I put a meter up? No, I've decided not to because I'm just old-fashioned, and I believe in service. That costs me money. It costs me money for squeegees. I do windows. So do other people that I know. So when you see a service station decide, "Do I want to pay the bottom line for gasoline, go in there, get my gas and leave, or do I want some service?" What is it worth to you? What is it worth to you knowing that someone who is going to pump your gas can also fix your car?

There are stations, contrary to the young lady who was from, I think, the Chamber of Commerce said, that most service stations nowadays can't fix the new cars. Some of us do. Some of us send our men to school. Some of us do get involved with new equipment, thousands of dollars of equipment, to fix the new cars because we believe in full service. You come in. You can get your gas there. You can get everything done. If that's the trend that's disappearing, then we're all going to be disappearing. That's a shame, because that's a pretty good trend.

But just speaking from the service stations around Cape May County, I think because we're a lot of senior citizens and all, I think people want the service. I think if you looked deep in your heart you'll find out you want the service. You'll like the guy that you see 12 months a year come out, pump your gas. So, when it comes down to pricing, I want to make it crystal clear that it's not the guy pumping your gas that's ruining the price. So don't holler at him. Discuss it with him. And if meetings like this come up, bring your friends out. These people up here are here for us and here for you to get this pricing situation straightened out. I want to make sure you understand

that the pricing starts from the top, not from us. We're out there pumping the gas in the snow and the rain and the heat. They're not. They're in their offices making all the money.

When these prices went up 18 cents last year when you saw all the prices go up to \$1.30 and \$1.60, those gas prices were jumping as much as 13 cents to 18 cents a gallon to me. But I did not put it on the street at that because I knew that I would be insulting my customers. We ate a lot of money.

As far as the seasonal thing, we keep the same price structure, and everyone else that I know of in the business keeps the same price structure 12 months a year. If there's other stations that do it differently, I don't know about it. I'm not concerned about them. But most of the people that I know in this business keep the same percentage. And you people think we're making a lot of money on gasoline. I'm not one to publicly show all of my figures and the letters that were sent out saying that we're going to be subpoenaed to show our numbers and all of this. I kind of took offense to that. If you want to sit down and discuss it with me -- we have an organization. We would like to invite you to our organization. We would like to discuss the prices there, but we don't feel we should have to expose to the public all of our numbers because other businesses don't.

Does anyone investigate a hotel? I've got the figures here as to why it costs three times as much to rent that same motel room in the summer as it does in the winter. Does anyone investigate that? No. Does anyone investigate why a 16-ounce soda last year in the Cape May County Park, inside the park, costs \$1.75 for a can of Pepsi for 16 ounces -- \$1.75. And now you

want to talk about ripping people off. You want to talk about gouging. That's gouging.

My daughter had to pay that because she was about ready to pass out with the heat. She had to pay \$1.75. Sounds like a little number, doesn't it? Would you all pay \$1.75 for a 16-ounce soda? You would have gone and told somebody about it. I sell a 20-ounce for \$1 in my station, if anybody wants to know. And by the way, that's cheaper than Wawa.

ASSEMBLYMAN VAN DREW: Thank you.

MR. RASH: All right. So look at the all the facts. Look at the service you get. What service do you want? Do you want service? Do you want to go into one place and get your car serviced, the man you know 12 months a year? And how much is that worth? Is it worth 5 cents? Five cents. The average tankfulls maybe 15 gallons to 18 gallons of gasoline, even if it's 20 gallons. Do the math. It's not a lot of money for service folks. And when you come into my place, you don't pay for every single thing. You don't pay for my opinion to you -- do you think I should keep this car? Do you think I shouldn't? Things like this.

These are all the things that are worth it to have the kinds of stations you have in Cape May County. We're different than Vineland. We're different than some of the other counties, because in this county-- It's been mentioned here, senior citizens are coming to this area. They're coming to this area. They like the tranquility. They like the peacefulness about it. They like dealing with one place for all of their needs. Unfortunately, it costs a few dollars to do that.

If you come into my station and you say, “Can you check the air on my tires?”, it means a lot to some of you. Some of you I know can’t get out a car to check your own air. I’ll do it for free. Will any other station do it for free? Someone was mentioning about foreigners. I don’t like using the word because we’re all foreigners really, but for lack of a better term, non-English speaking people who are waiting on you. You can’t even get satisfaction from that. I just touched on that because their stations are generally known to be a lot less in price. Maybe that should be investigated why. Okay.

People next door to me in a Getty station have been foreign owned for so many years, I can’t tell you how many owners have been in that place. They come in, make their money, and go back to their own country. They take your profits and go back to their own country. I don’t know if they pay enough in taxes or not. I’ve never investigated that. Maybe that should be looked into. Are they paying the same tax structure? Are they allowed to live in the back of a gas station? Maybe the local ordinances should check that, because we’ve seen that happen. They live in the gas stations. They live in homes where there’s 20 people living in one bedroom. They take the money and go back.

So these are the things that make up your profit structure. So don’t always think that we’re making lots of money. We make on the average of 10 percent to 13 percent on our gasoline. How many businesses you know can support their lifestyle on 10 percent or 13 percent profit?

ASSEMBLYWOMAN CRUZ-PEREZ: Mr. Rash, let me tell you something, and I’d be unfair if I didn’t say this. When Assemblyman Jeff Van Drew came into my office and said, “I want to hold a public hearing in Cape

May because the gas stations owners are forced to sell gasoline at prices that are higher at anywhere else in the State of New Jersey,” he had the consumers and the gas stations owners in mind saying that someone else is to be blamed. By no means, by no means, was he blaming you guys for having the prices you have.

We want to investigate -- this public hearing is to do that -- to find out why they're selling the gas so high to you guys and why the consumers have to pay the price. That's why we're here.

So thank you for your testimony.

MR. RASH: I appreciate your saying that because that's what I wanted to hear when I came here. I'm sorry. I know I talked too much, because I have a lot on my mind. But the bottom line is is that if you want to know your service station guy, get to know him and know that he's not making a lot of money. But if the services you want are there, pay the extra money for it. I don't really want to hear statements, "Don't buy gas in Cape May County because they're ripping me off." They're trying to make a living, please.

ASSEMBLYMAN VAN DREW: And just to touch up a little on what the chairperson said, the purpose of this meeting was precisely for that, to determine the reasons why. I would beg to differ a little bit. There is a difference between hotel and motel rooms and gasoline. People, for better or worse, need gasoline to survive. They need it to go to their job. They need it to go to the store. They need it to survive. I commend you for having a station that's a full-service station. They are very rare these days. You don't see all that many full-service stations.

So I have to be honest with you. There probably would be many individuals in the county who would say they rolled into the station, nobody checked their tires, nobody checked under the hood, nobody discussed the condition of their car, whether they should sell it or buy it, and they still paid more gasoline at a quick station that put them in and out that wasn't even owned by a local owner. The two don't necessarily go hand in hand.

And as you just said so before yourself, the price that you're charging is similar to the prices around you, and many other stations around you are sending people to you to get their air filled up. So it varies from station to station. I commend you for that. That doesn't mean they all are that way.

And as far as what sparked this hearing and this meeting, there has never been any issue ever, ever, that I've been involved in 13 years of government service as a township committee member, as a mayor, as a freeholder, or as a legislator that has sparked more of a response or more of a concern from my constituents than this issue and also made it abundantly clear that we do not blame the little business person. We've made it abundantly clear that the purpose of this meeting and all these meetings and this discussion is to find out exactly why what we all know intuitively and now factually that the prices are higher here. For people to be concerned with that is a valid concern. They should be concerned, and we will continue that process.

And respectfully, we would certainly welcome you to be involved in it. Thank you.

I have one more person. I think that was Russell Wade. I think he got worn out. (laughter)

That is it. I want to thank you all for being here: All the gas station owners, all the constituents, all the seniors, all the representatives, everybody who spoke. I especially want to thank these Committee members.

ASSEMBLYMAN D'AMATO: Thank you.

ASSEMBLYMAN VAN DREW: I know it was a long morning and afternoon. And most of all, the Chairperson, who has been so kind and so gracious.

(HEARING CONCLUDED)