
Public Hearing

before

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE

“Recent increases in the price of gasoline”

LOCATION: Committee Room 12
State House Annex
Trenton, New Jersey

DATE: May 7, 1996
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Alex DeCroce, Chairman
Assemblyman Anthony R. Bucco
Assemblywoman Clare M. Farragher
Assemblyman Joseph Charles Jr.
Assemblyman John S. Wisniewski

ALSO PRESENT:

Amy E. Melick
Office of Legislative Services
Aide, Assembly Transportation and
Communications Committee



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ASSEMBLYMAN ALEX DeCROCE (Chairman): Good morning ladies and gentlemen. My name is Alex DeCroce, and I Chair the Transportation and Communications Committee. With me today is Assemblyman John Wisniewski, Assemblyman Tony Bucco, and Assemblywoman Clare Farragher.

We're here today, more or less, to try to get some information from the oil industry in order to allow the public to have a clear understanding, or at least a better understanding, as to why the necessity for these increased prices in such a short period of time.

I'm alarmed by the increases, and I'm sure many of you are. It seems as if, May 1st, an average price here in New Jersey was somewhere around \$1.25 per gallon, and you can go to different parts of the State and find prices anywhere from \$1.45 to as much as \$1.79.

Now, somebody has to have some clear and concise answers as to why this happened. Certainly not because we had such a cold winter, because despite the fact we had a lot of snow, the winter temperatures were not any different, or not that much of a difference, from the last several years. Therefore, we're not convinced that that was the necessity to increase all of these prices.

Secondly, if the industry itself knew that there might be a necessity to increase prices, I think we should have been forewarned. Obviously, six months back, seven months back, or three months back there should have been someone speaking for them to indicate that this might be happening. Now, I don't recall, frankly, any public announcement from anyone that this might be coming down the pike.

So right now we find that the wholesalers have increased their prices. Friends of mine that are in the retailing business are taking it on the chin from the general public, because the public doesn't understand why this has to happen, and I'd like to know why it's happening myself.

We're understanding also that the Federal government today is considering, in all probability, to reduce a 4.3 cent package of taxes that were placed on the gallon of gas several years back, and already the industry is saying we may not feel it. We feel it when it goes up. I want to know why we don't feel it when it goes down.

So somebody has to have these answers, not for me, but for the general public, so we all have an understanding of why this is all so necessary, and frankly, I haven't heard any of those answers as of this time, and that's the purpose of this hearing this morning.

We're going to give all of you an opportunity to speak on the subject, and we're prepared to stand here and stay here and listen to all of the discussion on the issue.

Now, some people might say, "Well, what's your purpose?" Our purpose is to get the information out to the general public.

If necessary we can, in all probability, create some legislation if it's necessary, but we're not going to talk about that at this point. We will be prepared, at a later date, if necessary.

But for now, we want to get a clear understanding to the general public as to why all these increases had to happen in such a short period of time. Now with that, I'm going to allow Assemblyman Wisniewski to make a short statement.

John.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Chairman.

First, I want to acknowledge your concern on this issue, by calling this hearing of the Transportation Communications Meeting.

It's important for us, as legislators, not only to be able to respond to our constituents on this very crucial issue, but also to, as legislators, have the necessary information so that, as policy makers, we can implement what is necessary in order to address this issue, if that is what's called for.

I am concerned by the increase in gasoline prices. All of us drive to get here in Trenton, and we observe these increases as much as anyone else. I am glad to see that there are a number of individuals who will be testifying today, because this will enable us to obtain the information that we need to obtain.

Last week, I had called upon the Governor to institute an investigation of this, and by the Attorney General, she has instituted proceedings with the Board of Public Utilities through Commissioner Tate, and I think that, along with these hearings, will enable us to obtain the information that the public demands and that we, as legislators, require.

Thank you, Mr Chairman.

ASSEMBLYMAN DeCROCE: Thank you, John.

I will -- Commissioner Tate will be here sometime this morning. He's on his way right now.

I'd like to acknowledge Assemblyman Charles came in.

Thank you, Assemblyman, for stopping down.

ASSEMBLYMAN CHARLES: Mr. Chairman.

ASSEMBLYMAN DeCROCE: First one on our list to speak today will be Assemblyman Blee, from Atlantic County.

Thank you for coming up this morning.

A S S E M B L Y M A N F R A N C I S J. B L E E: Mr. Chairman, members of the Committee, thank you for allowing me to testify.

Mr. Chairman, in particular I'd like to commend you for holding this hearing in such a timely fashion. As you know, we -- in fact, you, along with Assemblyman LeFevre and myself, issued a statement last week that we're concerned about these gas prices, and since then, it not only has become a State issue, but an awful lot of national media attention. So I commend you for bringing this Committee together in a timely fashion and addressing such an important issue.

For the record, Mr Chairman, I have a prepared statement from Assemblyman LeFevre. Assemblyman LeFevre, probably at this moment, is in Atlantic County with Governor Whitman cutting the ribbon on the new Atlantic City Airport Expansion, otherwise he absolutely would have been here. I know it's a very, very important issue to him as a member of the Tourism and Gaming Committee, and as you know, he's been one of the driving forces behind these hearings today. So if I could, I would ask you to enter that into the record.

ASSEMBLYMAN DeCROCE: We will do that.

ASSEMBLYMAN BLEE: Thank you.

ASSEMBLYMAN DeCROCE: Thank you.

ASSEMBLYMAN BLEE: As the other representative from Atlantic County, you know how very critical tourism and gaming is, not just to Atlantic City, but all the Jersey Shore.

In past years, when there have been gas crises, when gas prices have risen dramatically, it has had an absolutely devastating effect on tourism industry, not just in Atlantic County, but all throughout the State of New Jersey.

At this point, Mr Chairman, when I leave here, I'll put on my other hat and go back to the Appropriations Committee, and wherever they were penny-pinching, we're fighting whether or not there will be cost-of-living adjustments and really squeezing every dollar we can out of the budget. At the same time gas prices, in some places, have gone up as much as 20 percent, and we think this is -- we just don't understand, and I know today, as legislators, we're not always called to have the right answers, but I think today, through your leadership, we will get to the bottom of it. You'll bring experts forward who can give testimony and at least give us a handle on why this is happening.

Once again, I would just like to point out that when you're talking about gas prices that are rising between 10 percent and 20 percent, the effect on our industry, especially in Atlantic City with the casinos, as you know the dynamics, and we're trying to change things, but still to this day, by and large, Atlantic City is the most heavily traveled destination resort in the country. Over 30 million visitors come every single year. However, at this point, the dynamics are such that we have an awful lot of day-trippers or overnighters, and with the price of gas, the first things that are cut out, as you know from past experience, are these overnight vacations, these driving vacations. They

seem to vanish, and if that happens, I think we will have an absolutely devastating effect on the tourism industry. I think it's so very important that we get a handle on that now.

Here we are in May. Memorial Day is coming up and the summer season will start. So with that being said, I won't take anymore of your time, but I just once again implore you to know the absolute critical importance of this issue to all the Jersey Shore, all tourism, and I trust, through your wisdom and your expertise, that you will get to the bottom of this, and I thank you for having me here this morning.

ASSEMBLYMAN DeCROCE: Thank you, Dr. Blee.

Let me ask you this, can you tell me what your average prices are in the Atlantic City area right now? Because obviously, it does impact on tourism in your area, and obviously people have to leave Atlantic City to go back to wherever they're going. What are the outgoing prices, lets say, or the general prices?

ASSEMBLYMAN BLEE: Yes. Yes, you would probably have a better handle on that than me, you quoted some prices earlier.

I know for a fact that I have been contacted by constituents who are in the retail market, and they're a little upset, you know, and I know you are going to hear testimony and try to get to the bottom of it today. They feel that the consumer is really pointing the finger at them. I know they have some concerns and some -- I'm sure they'll provide testimony today, but--

ASSEMBLYMAN DeCROCE: We do have the retailers coming in, and probably we'll get some better information with regard to area prices I would assume.

ASSEMBLYMAN BLEE: Yes.

ASSEMBLYMAN DeCROCE: Thank you, again, for coming in. I don't know if anybody has a question for Dr. Blee, but if you do -- John, or anyone here?

ASSEMBLYMAN CHARLES: No. No questions, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thank you very much.

ASSEMBLYMAN BLEE: Thank you.

ASSEMBLYMAN DeCROCE: Back to Appropriations.

I'd like to call on James Benton, Executive Director of New Jersey Petroleum Council, and his team.

JAMES E. BENTON: Good morning, Mr. Chairman, members of the Committee.

ASSEMBLYMAN DeCROCE: Good morning, Jim. How are you this morning?

MR. BENTON: Fine, thank you.

If you'll just give us a brief moment to set up.

ASSEMBLYMAN DeCROCE: Take a minute.

MR. BENTON: Thank you.

Good morning, Mr. Chairman and members of the Committee. My name is James Benton. I am the Executive Director of the New Jersey Petroleum Council. We're a trade association representing petroleum interests here in the State of New Jersey, and I look forward to visiting with you on this issue and exploring the gasoline marketplace in New Jersey as it's presently operating.

The Petroleum Council is a trade association representing the petroleum companies. We operate the refineries, provide the product through the marketing interest, transport the product to our State, and engage in research and development in New Jersey. Indeed, some of the world-class petroleum research facilities are located right here in the State.

As the Chairman mentioned, we are happy and actually welcome the opportunity to participate with this Committee in describing the current petroleum product picture in the State of New Jersey.

As you are aware, Mr. Chairman, there has been much discussion and understandable public concern expressed about recent gasoline prices. As you are aware, Governor Whitman recently called on the major trade associations representing gasoline supply and marketing interests for background data and a review of the market conditions.

Yesterday we met with the Board of Public Utilities President Herb Tate and representatives of his staff to discuss the situation. This activity supplements hearings and reviews by the United States Department of Justice and the United States Congress.

Let me assure you, the New Jersey Petroleum Council and the American Petroleum Institute stand ready and able to cooperate, and I intend, Mr. Chairman, to remain here through the day in your hearings to answer any additional questions that may come up after my testimony.

The petroleum industry is one of the world's most competitive industries. We are confident that your review will conclude, as have had previous such inquiries at both the State and Federal levels, that gasoline and

other product prices are set by the marketplace and respond to the basic laws of supply and demand.

A major reason why recent price increases appear to be large is that they have started from such a small base. Gasoline prices last year, for all grades, adjusted for inflation and including Federal and State taxes, were at their lowest level since price statistics started being collected.

Indeed, in April, we issued a notice that gasoline prices adjusted for inflation had reached their third consecutive year of record low prices. In fact, in 1995 this achievement marked that, in spite of changes to environmental requirements for cleaner gasoline and the fact that Federal and average State taxes on gasoline in 1995, when adjusted for inflation, were at their highest level in 22 years.

The fact is, again, that the market generally works for consumers. As crude, expenses, inventories, and demand fluctuate, retail prices do adjust accordingly.

What I'd like to show you in your kits that you have and by charts here today is an illustration that during the past five years, the average retail price of gasoline, compiled by our New Jersey Board of Public Utilities and supplemented by the United States Department of Energy, has ranged from a \$1.01 to \$1.22 per gallon, reflecting different circumstances: the Persian Gulf War, in January of '91; weather conditions, as illustrated in our current record winter in the Northeast; environmental regulations, such as the introduction of oxygenated fuel in November of '92; the low prices, as a result of crude oil falling to \$16.00 a barrel record low in April of '92; and one that

you may not have heard about, the Colonial Pipeline rupture, when the Colonial Pipeline was severed in Houston during October of '94.

Our point in presenting this chart to you is that the price does regularly fluctuate from highs and lows depending on a number of disparate conditions.

We focus in on today: Today the single most important reason for recent pump price increases nationally has been higher world prices for crude oil, the raw material from which gasoline is made. World crude prices began going up in early February, because production from both the Persian Gulf and the rest of the world turned out to be less than expected and also because of the extended cold winter here in New Jersey and the rest of the northern United States.

In previous years, by contrast, when world prices changed either up or down, gasoline pump prices have followed in the same direction, although with a lag. Thus far, that has been the pattern this year.

Refiners anticipated a United Nations/Iraq settlement that would have resulted in an additional 700,000 barrels per day of crude oil on the world market, thus effectively lowering crude costs. This did not occur and has not occurred to this point, and the result was a rise on the commodities market of crude oil and the products as supplies changed.

There was a significant increase in petroleum demand due to the severe winter here in New Jersey and the rest of the northern sector of the country. As a result, refiners were forced to produce more heating oil for a longer period of time, because of the unusually long and cold winter.

I know you mentioned that, Mr. Chairman, in your opening remarks. Let me be more specific.

The average United States temperatures were 4 percent colder than normal and almost 15 percent colder than our previous winter. Further, as many of you recall, the weather started colder and stayed colder much later than usual. This forced refiners to produce more heating oil than motor fuel for an extended season.

What happened during that period was, in late 1995 and early in 1996, an unusually large worldwide increase in demand and a reduction in anticipated supplies forced petroleum companies to draw down their inventories at high rates in both quarters. Ultimately, then, they had to replenish their supplies by purchasing more crude oil in world markets, thereby putting upward pressure on prices.

Let me turn now also to the components of gasoline pricing. As you'll see in this chart, which is included in your kits, taxes make up a large part of the price that consumers pay for gasoline. State and Federal taxes on gasoline in New Jersey total 32.9 cents per gallon. Therefore, excluding taxes, the average price of regular, unleaded gasoline in New Jersey is 87 cents per gallon.

I think it's also important to note, as I've included in your kits -- is a simple chart depicting the disparity in our neighboring states of their gasoline taxes. For example, in New Jersey, our tax rate, as I previously mentioned, including Federal taxes, stands at 32.9 cents.

By contrast, in New York, the New York State taxes are 48.29 cents per gallon; neighboring Connecticut, 54.4 cents per gallon; Pennsylvania,

almost a dime difference at 42.8 cents per gallon. The reason why I mention this specifically is oftentimes media reports emanating from the State of New York, New York City, Connecticut, by chance, impacting northern New Jersey or in the Philadelphia area -- in Pennsylvania will talk about their retail prices--

As policy makers, you need to consider that these taxes do dramatically impact, by some cases at least a dime, by other cases much higher, the prices in the other states. Contrast, when consumers hear this news, they immediately anticipate that those prices may in fact be coming to New Jersey when that is not necessarily the case because of this component of prices.

ASSEMBLYMAN DeCROCE: Can you tell me the New Jersey amount, the taxes that New Jersey takes on?

MR. BENTON: New Jersey pays, right now, as illustrated on this chart in the red, 32.9 cents per gallon when you combine both Federal and State taxes.

ASSEMBLYMAN DeCROCE: What's just the State?

MR. BENTON: The State is 14.5 when you include our State's motor fuel tax and the petroleum products gross receipts tax, which is a factor of a percentage of average gasoline prices.

In New Jersey, gasoline pump prices have also been impacted by our State's commitment to require a new, cleaner burning gasoline, known as Federal reformulated gasoline, which was introduced to the State in January 1995.

Reformulated gasoline contains important improvements that work to benefit our State's air quality. Reformulated gasoline contains more

oxygen than regular gasoline, a reduced amount of pollutants, and has a lower volatility.

The introduction of Federal reformulated gasoline has made our State's retail distribution of gasoline less flexible. To highlight this increased complexity of environmental regulations on the product, in addition to Federal reformulation, there are now multiple specifications for vapor pressure and oxygenates that change seasonally.

Again, let me turn your attention, just briefly, to the information that I've enclosed in your kits. Most average consumers here in this State might very well recognize that the gasoline distribution system -- and this is included in your kits -- contained your conventional gasoline, which adjusted seasonally for both wintertime, to help you start your car, and summertime, so it doesn't evaporate, along with the oxygenated fuel requirements, resulted in demands on the suppliers to provide these different types of products: unleaded regular, unleaded intermediate grade, unleaded premium.

Okay, beginning with the introduction of Federal reformulated fuel, the complexities of the marketplace and the distribution, adjusted accordingly, required pipelines and distributions to adjust for these types of varieties in product distributed nationally.

My point, very simply, is this makes the gasoline distribution network less flexible to adjust to our product requirements.

Let me turn now, as I know you will be interested in recent developments-- Crude costs, as measured by spot prices, which are featured in this chart which is included in your kits, began increasing in early February.

Pump prices, as I've remarked earlier, did not begin changing noticeably until three weeks later. However, by mid-April, the net increases for both crude oil and gasoline were about the same, 17 cents per gallon.

In late April, spot crude oil prices declined by about \$2 per barrel, suggesting that world supply may already be catching up with demand and confirming that price increases of the previous weeks did not presage a major disruption in our oil supplies. Previous experience indicates that all other things being equal, the recent fall in crude costs will lead to a decline in retail prices.

Mr. Chairman, not too many months ago gasoline prices in New Jersey were closer to a \$1 a gallon at many service stations throughout the State. These low prices were driven by the same market forces we're talking about today: crude oil costs, demand, and inventories. Yet neither this Committee, nor anyone else called us and asked us to explain why. However, this information is routinely available, and we're happy to provide it.

Simply put, as I stated earlier, the marketplace ultimately does work for the consumer interests. I hope this information is helpful to you and the members of the Committee in understanding the recent increases in gasoline prices. We stand ready to assist you in providing whatever additional information we have to help you better understand this situation.

With that, Mr. Chairman, I'd like to thank you for the courtesy of testifying. As I said earlier, we have much information that we're anxious to share. We were pleased to visit yesterday with the Board of Public Utility President, Herb Tate, and we're happy to answer any additional questions you may have.

ASSEMBLYMAN DeCROCE: Thank you very much, Mr. Benton.

Let me just say to you, with regard to your statement, that we didn't contact you when the prices began to diminish. The fact of the matter is, it's unusual for us to do that. However, when they increase, they increase to everyone. Our concern, certainly in the State level, is continuation of the economy, number one, jobs, number two, and the inflationary conditions your particular industry create when you increase prices.

My point to you is, if you saw down the line several months back that these conditions were going to occur based on the past winter, the so-called embargo on oil from Iraq, why weren't we notified? Why didn't somebody tip off the government, the states, so that we could be prepared for these increases that we're facing at this point? We never heard from anybody, and frankly, that should be your obligation.

MR. BENTON: Mr Chairman, in response to your question, we were aware of the increases in our wholesale costs through crude oil increases that were a factor in the recent price increases. However, there are a variety of factors at work that we can now review that combine to make this particular situation occur.

I think what you need to recognize is that it is not alone a combination of one of the elements that I've referenced. It takes the combination of increases in world crude oil prices, coupled with winter conditions, coupled with additional stress on the marketplace to all add up to the current situation that we find ourselves in.

However, the crude oil prices and prices in the commodities of gasoline and heating oil are well noticed and published in routine articles disseminated by major publications, such as The New York Times, The Wall Street Journal, and do, in fact, receive attention from those in the petroleum marketplace and consumers around the nation.

ASSEMBLYMAN DeCROCE: That may be true, but I don't really believe that the average painting contractor, nor the local housewife, nor those who are in general businesses, frankly, maybe have that paper available to them so that they watch it on a daily basis.

MR. BENTON: Mr. Chairman, I--

ASSEMBLYMAN DeCROCE: I am sure very few read that, as few read the New Jersey Register when they find out we have new rules and regulations, yourself, probably including myself, in that category.

MR. BENTON: I join you in a request that there would be a wider dissemination of all types of interests that impact consumers from this type of commodities information to who their local elected official may or may not be. I wish there was a better understanding of that.

ASSEMBLYMAN DeCROCE: But don't you think your industry has an obligation to us to indicate when you see an increase coming six or eight or ten months down the line, based on certain worldly conditions, that we should be notified publicly, so the people, businesses, and states have an opportunity to understand why these increases may be happening?

It's concerning, because this came as quite a surprise. I mean, here we are the 1st of May, \$1.20 a gallon; here we are two to three weeks later, you can find the price anywhere from \$1.40 to \$2.00, depending on where you

are in the State of New Jersey. That's concerning, and the one thing I'm concerned about, if this is necessary that's fine, and I don't have a problem with the oil industry declaring reasonable dividends on their stocks, but if I see later on down the line excessive bonuses here and there, I'll tell you, I'm going to be very upset.

MR. BENTON: Well, Mr. Chairman, let me respond to your concerns, because I think it's important to underscore that we do routinely communicate, through regular channels, with both State and Federal governments.

I think it's important to recognize that we regularly provide information to the Federal agencies such as the Energy Information Administration in Washington -- again through normal channels -- through the State Board of Public Utilities, in this case their Energy Office on a routine basis, which was a part of yesterday's meeting, to dramatically underscore our openness. We routinely disseminate these statistics that go into the commodities marketplace.

Very clearly, the change in the weather; the change in the crude supply which, as I said in my testimony, was anticipated to be able to be met as a result of the U.N./Iraq negotiations, which are currently ongoing; the Norwegian Union strike, which is dramatically impacted that element of our supply--

Again the world crude price picture is a very complex one and one that can adjust very quickly with very quick notification -- or little notification, excuse me. The routine communications that we regularly participate in are

available and are regularly communicated. We're committed to continue to do that throughout the situation.

ASSEMBLYMAN DeCROCE: Okay, Jim.

Jim, I am going to interrupt you at this point, but I'm going to bring you back for questioning before the Committee, if you don't mind.

MR. BENTON: Do any of the members have any other questions?

ASSEMBLYMAN DeCROCE: Well, I'm sure they will. I'm going to bring you back, but I want-- President Tate is here--

MR BENTON: Oh, excuse me, certainly.

ASSEMBLYMAN DeCROCE: --and I'd like to bring him up for his testimony, because I know he has to get back to Newark. So if you'll excuse us we'll bring you back in, okay?

MR. BENTON: By all means.

ASSEMBLYMAN DeCROCE: Thank you, Jim.

MR. BENTON: Thank you.

ASSEMBLYMAN DeCROCE: Please bear with us.

I'm bringing in President Tate, and I am sure some reporter must have gotten him outside, hanging him up probably, but he should be in any second.

Good morning, President Tate.

HERBERT H. TATE: Chairman DeCroce, thank you very much for the invitation to come before your Committee today.

ASSEMBLYMAN DeCROCE: Very short notice, but I want to tell you, I truly appreciate your coming down this morning.

I had to call him early this morning because I wasn't at all sure that he was definitely coming. He made a break in his schedule to come down here, and I appreciate you doing that.

MR. TATE: Well, I didn't have enough time to even check the price of gasoline on the Turnpike today, but I understand that you've been having some full hearings to give you some facts today.

I'm glad to announce to you and to the other Committee members that we have a report that was taken from yesterday's meeting with the members of the New Jersey Fuel Merchants Association, New Jersey Petroleum Council, and the Gasoline Retailers Association, which I've issued to the Governor, and we're making this public here at this Committee meeting today.

ASSEMBLYMAN DeCROCE: Thank you for that. If you'll follow through on your information, we'd be glad to hear it.

MR. TATE: Well, thank you.

I don't know if you want to just ask me some questions or if you'd like me to give you an opening statement at this point, but--

ASSEMBLYMAN DeCROCE: Why don't you give us an overview of what you accomplished yesterday. We'll go into questioning from there.

MR. TATE: Certainly.

Yesterday the Governor had directed that I, the President of the Board of Public Utilities, meet with these various association members, a number of whom have been here today to testify before this Committee, to ascertain, number one, are we in a situation where we would have some concern about supply, whether or not the rise in prices is a short-term phenomena, or whether or not we have any concerns going into the summer

months that would affect transportation and availability, particularly during our tourist season.

From the meeting that we had with the members, there is concern about the worldwide supply that has been available and some of the purchasing strategies have not been able to keep reserves up to the levels that they historically have done in this time of year. That has created a shortage, which then had a run-up in prices on the crude oil market. I believe that that price rise went from \$17.50 a barrel to as much as \$25 a barrel, during the spring -- the late winter, going into the spring season.

As a result of that, there has been a significant run-up, 20 cents or better, on regular gasoline at our gas pumps. The concern has been, how long will this last?

There is nobody who is, with certainty, saying that we have peaked. However, we have noticed since the middle of April that the price of crude oil has been dropping, although if you look at day-to-day predictions, sometimes it goes back up and sometimes it comes down, but overall I believe that that high price of \$25 has come down within the \$20 to \$21 range.

We have looked at this from the standpoint of, when will, if these prices continue to decline, they be realized at the pump? Our primary concern, like yours, is that savings -- that is cost savings -- in purchasing power gets translated to the consumer and the consumer does not get gouged. The consumer does not continue to pay high prices, where, in fact, the oil companies or the distributors are beginning to realize some savings.

We are not in a position today to make any conclusions about that, but I have been instructed by Governor Whitman that the Board of

Public Utilities will continue to monitor this situation and report on a biweekly basis to her office in terms of any problems that we may see with any drops in prices and then not seeing some commensurate drops in prices at the gas pumps.

So my charge, over the next two months, is to monitor this situation very closely to make sure the consumers, in fact, are not going to be paying above what they should be paying.

ASSEMBLYMAN DeCROCE: One of the things I'm interested in, the Federal government is talking about reducing their tax -- their 4.3 cent tax -- that they put on us about four years back. Already I hear industry spokesmen saying that we may not even see the reduction. I don't know why that should happen, and I'd like somebody to be able to tell me. Maybe that's one you can certainly monitor. Because I've got to tell you something, we always see the increases. We seem not to see the reductions for some reason or another, and I don't know where those reductions are going. Nobody has explained that to us.

MR. TATE: Well, certainly the reduction in the gas tax was a matter that Congress had to deal with, but there is a disagreement, I think, between the association members, particularly the Gasoline Retailers Association. They do feel that since the tax is collected at the pump, that if there is a reduction in the gas tax, there shouldn't be any delay or any lag, that it should be something that is seen immediately by the public.

We're going to look into this, but we're going to monitor the situation. I welcome your call for us to take a close look at this, and we will certainly, as we report to the

Governor, be glad to report to your Committee on the situation as well.

ASSEMBLYMAN DeCROCE: Now, let me say, with regard to the retailers, one of the reasons this meeting is being held today is because I've been in stations where some poor young fellow is taking the heat from some operator of a vehicle because of increases overnight.

So if we can reflect those increases, somebody has to show us a reduction, and when we see that reduction, should it come from the Federal government, that should automatically be reflected as well, so that the general public has an understanding that when the increase may be necessary, but now that there is a reduction, we also get the benefit of that reduction as well.

Now, that bothers me when I hear the industry spokesman already -- the decrease hasn't even come -- but already saying we may not see the reduction in the pump prices. Who takes the heat? Me, you, and the retailers. They're the ones that deal with the general public everyday of the week, and it's not fair.

MR. TATE: Well, Chairman DeCroce, I completely agree with you, and I believe Governor Whitman, as well, has a very similar concern that we do not run into a situation where, as prices do come down, particularly on the crude oil market, that there is a commensurate reduction in prices as we get closer and closer to the pump.

What we've been looking at are some of the historical trends. Normally, when crude oil prices go down, there is about a two-week lag between that and then what wholesales will start to charge. After that, from the wholesale down to the retailer, there's about another two-week lag. So under historical data, we've seen about a four-week lag in the drop of prices at

the pump from the time that the crude price drops. If there are other circumstances, particularly circumstances when we're getting into our summer months when demand goes up-- We have a lot of tourism that takes place here in the State of New Jersey. We want to make sure that there is an availability of supply, that the prices in fact are going to be reflective of the world crude oil market.

ASSEMBLYMAN DeCROCE: Is there a role that BPU plays with regard to a regulatory role concerning, let's say, gas prices increasing, as well as a possibility of concern for gouging?

MR. TATE: Well, we don't directly regulate prices that come from the oil refineries or the oil suppliers and manufacturers. What we do, do is, we monitor the price situation. If we think that there is a problem, we have available to us reference to the Attorney General's Office, so that they could conduct some investigation if they needed to with the assistance of the Board of Public Utilities.

Our role, primarily, is one of monitoring and recommending to the executive branch of government, that is, to the Governor and, thereby, to the Attorney General.

ASSEMBLYMAN DeCROCE: How do you monitor, Mr. President?

MR. TATE: Well, how we will monitor is, we get all the reports on gas prices from crude oil, wholesale, distribution, retail. We have that compiled on a regular basis. We review those reports. We do analysis. We look at other parts of the country as well. We look at contiguous states. We analyze the situation with the refineries, that is, their output capacity as well.

All these have factors on the supply and demand of gasoline, as well as home heating oil. We compile that information and then make recommendations as to whether or not we feel that there are some changes that need to happen.

ASSEMBLYMAN DeCROCE: Okay. Does anyone have a question of the President? John?

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Chairman.

Mr. President, you just spoke about the Board's role in monitoring gasoline prices. Has this always been a role of the Board of Public Utilities, or is this as a result of the Governors directive to look into this issue?

MR. TATE: No. The Division of Energy within the Board of Public Utilities has historically had the role of monitoring energy prices, which would include home heating oil, as well as gasoline. This has been a function that the Board has performed for years. We generally issue annual, as well as seasonal, reports made available to any member of government or to the public.

ASSEMBLYMAN WISINEWSKI: Thank you, Mr. President.

One of the prior witnesses before yourself mentioned the severity of the winter that we've just gone through and indicated in his testimony that temperatures were 4 percent colder than average and 15 percent colder than l a s t y e a r ' s w i n t e r .

You mentioned that the Board monitors home heating oil prices. During the past winter, do you presently have any information about the affect the winter temperatures had on the price of home heating oil? Was there an increase or decrease during that time?

MR. TATE: Well, there were certainly seasonal increases that occurred on home heating oil. I don't have the specific months in front of me, but I can make that information available to you.

I do believe that most people that have been monitoring this situation do recognize that the reserves of oil that go for home heating and/or gasoline have been depleted. Part of the explanation for that has been the fact that we have had a more severe and colder winter than normal.

The other explanation that has been initially delivered to us, however, is that there was a purchasing strategy that was to be employed by most of the oil suppliers dependant upon a settlement between the United Nations and the Iraqi government. That prevented a certain amount of oil supply not coming onto the market, which these oil suppliers were looking at buying at a much cheaper rate, and because they got caught short not being able to get that supply -- the reserves that were left around to buy up -- that's when the price of oil shot up from somewhere between \$17.50 a barrel to as high as \$25 a barrel.

ASSEMBLYMAN WISNIEWSKI: You mentioned the observation that the reserves had been depleted. Are the reserves something that the Division of Energy monitors?

MR. TATE: Yes.

ASSEMBLYMAN WISNIEWSKI: And when did the Board or the Division of Energy become aware that the reserves had been depleted?

MR. TATE: Well, we monitor the situation on a weekly basis, and we've been seeing that there has been a diminution, not to the point that we

are in any danger of supply or capacity. Normally, we would make mention or note of it if we thought there was going to be some dislocation in the supply of home heating oil during months when the winter was severe or if there was going to be a short of supply at the gas station.

Reserves are down. They're down to levels that, historically, would be considered to be low, but there is no threat to capacity or supply at this point.

ASSEMBLYMAN WISNIEWSKI: Was there a point when the Board became aware that the reserves were down?

MR. TATE: Yes.

ASSEMBLYMAN WISNIEWSKI: When was that?

MR. TATE: Two weeks ago. We were looking at the situation much closer because of the price spikes, and we saw then that the reserves were going down. But the control of that has a lot to do with oil suppliers determining what kind of refinery capacity they want to employ.

One of the other restrictions on supply has been the fact that a lot of the refineries in this area have gone through maintenance schedules, which transition from out of the winter into the springtime, so their capacity output has been somewhat lower than it would be on a normal annual basis. A couple of examples: It's not a great amount, but some capacity could be as high as 92 percent, and we've been monitoring that some of the refinery capacity has dropped to about 88 percent, 87 percent. Now, that has an impact, but not enough to cause any alarm or any real concern about the matter.

ASSEMBLYMAN WISNIEWSKI: And in terms of the monitoring of the reserves, does the Board or Division of Energy have any

historical data about reserves reaching a certain level and, thereby, triggering price increases?

MR. TATE: Well, we do see that when there is this correlation between supply on the world market and demand of consumers -- you know consumers change their patterns at times-- If the price goes up to a certain amount, people will tend to use less or buy less. We do see that this happens on a pretty seasonal basis. This is a time of the year where you will have historical increases in prices. What makes this different this year is that this has been significantly higher than the seasonal increases that we have experienced in say the last three to four years.

So there is concern. There is deep concern that when these prices go up, which could be from regular market forces, that they just don't stay up there too long, too high and the public has to pay exorbitant rates for gasoline.

We will look to see whether or not the seasonal trend follows, where prices, after spiking in this time of the year, begin to recede again, and that's what Governor Whitman has asked us to do is to now provide her office, and certainly I will provide it to you and to the Committee, with the biweekly reports as we monitor the situations of crude oil prices, supply, reserves, and refinery output.

ASSEMBLYMAN WISNIEWSKI: And one last question.

In terms of the observations that the Board makes, or through the Division of Energy, monitoring reserves, monitoring increases, or hopefully decreases in gasoline retail prices, is there any mechanism or trigger that at some point in time, a notice or an alert is issued, either to the executive branch

or to the legislative branch saying, "We see reserves going low and you should be aware that there's a potential for price increase."

MR. TATE: Yes. We would -- certainly in this situation, because of the direction of the Governor -- we would make that kind of an alert if there was to be a significant problem in pricing, that is, prices continue to rise to historic levels.

We've had some experience, Assemblyman Wisniewski, about -- with the Colonial Pipeline disruption. We had an alert that went out when that pipeline broke. We weren't quite sure how much dislocation of our gas and oil supply would occur from that. Fortunately, the industry was able to take care of those supplies for us so that we did not experience a major disruption. But at that point in time, we did issue an alert that we should be on the watch to make sure that there wasn't going to be a dislocation of supply at the gas pump or a shortage for home heating oil.

ASSEMBLYMAN WISNIEWSKI: And that alert is just some type of notice to the executive branch?

MR. TATE: It would be an emergency alert that would go out to the Governor, and the Governor would then issue a statewide notice, as she would do in any emergent situation.

ASSEMBLYMAN WISNIEWSKI: And in this particular situation, with the 15 cent on average increase in gasoline prices, was any such alert issued?

MR. TATE: Not under these circumstances. Again, there's a lot of concern about the rise in prices. Normally the emergency revolves around

shortages, that is, where public health, safety, transportation would be disrupted -- public service.

We don't see ourselves in or near that kind of a circumstance right now; however, the Governor, as well as the Assembly now, is very concerned about price gouging, that is, the rise in prices and prices staying up high.

So we will now include that within any alert if we thought that there was that kind of activity that was going on, where there wasn't a commensurate drop in prices on the retail level, where in fact, there may have been significant drops in prices on the crude oil market or the wholesale level.

ASSEMBLYMAN WISNIEWSKI: And just one last question.

In terms of the observations made by the Division of Energy on the retail level of gasoline prices, is there any information that the Division of Energy obtains as to what the retailer margin is on average or in particular, in any particular case?

MR. TATE: Yes. We do get that information, and we can make that available if the Committee so desires.

ASSEMBLYMAN WISNIEWSKI: Through the Chairman, I would think that would be useful information.

MR. TATE: That would be fine.

I will make sure that my office gets Chairman DeCroce any and all information this Committee desires.

ASSEMBLYMAN WISNIEWSKI: Thank you, President Tate.

ASSEMBLYMAN DeCROCE: If you send it down to us, we'll disseminate it to each of the Committee members.

MR. TATE: I have, available for the Committee members here today, the report that was issued by myself to the Governor, and we'll make that available to all the Committee members here before I leave.

ASSEMBLYMAN DeCROCE: We appreciate that.

Any other questions? Assemblywoman Farragher, I believe you had a question.

ASSEMBLYWOMAN FARRAGHER: Yes. Thank you, Mr. Chairman. It's more an observation.

Good morning, Chairman Tate.

MR. TATE: Good morning.

ASSEMBLYWOMAN FARRAGHER: President Tate. I've never been president of anything. (laughter)

I think that for me personally, this issue came to the fore when one week it cost me \$13 to fill my tank and then, just this week, it was \$18. You know, except for traveling out to Trenton, I don't need to fill my tank up that often, unless we have to be out here. So to me, it was rather sudden. For others, they may have noticed it at a more gradual way.

But if I understand correctly, what we have heard here this morning from yourself and from the industry is that because it got colder earlier in October, and people needed heating oil longer -- in fact, my heat was on this morning -- that the refineries spent their resources on producing home heating oil and diverted that from creating gasoline and, also, coupled with that, was the price of crude. Have I got that right?

MR. TATE: Yes. Those are some of the factors that were related to me yesterday at the meeting.

In addition to that, again, I mention the fact that there was some anticipation by the industry that there was going to be a settlement on the embargo with Libya, and that settlement did not occur.

They anticipated that if that settlement had occurred there would have been a run on the supply market of additional 700,000 barrels a day. That was the figure that was quoted to me. That would have then represented their purchasing strategy for that oil in order to bring their reserves back up. That didn't occur. They had to find oil other places, and the price of a barrel went from \$17.50, which I think was sometime in December -- I may be off there -- to as high as \$25.00 by mid-April. That's part of the reason why I think that we're experiencing such a dramatic price spike in gasoline.

ASSEMBLYWOMAN FARRAGHER: Thank you, Mr. President.

Also could you tell this Committee, if you're aware, how was the home heating oil price during this time?

MR. TATE: I don't have that information with me, but I can make it available to this Committee.

I do believe that there were, again, spikes in that price over the winter. They occur at sometimes the beginning of the winter, as well as in the months of January and February historically.

So those are things that I can make that information specifically available to this Committee for your review. If there are any further questions that you would have, I would be more than willing to answer them.

ASSEMBLYWOMAN FARRAGHER: I, unfortunately or fortunately, have gas heat, so even though I know my heat is on, I don't have

a handle on the home heating oil price, and I would appreciate seeing what that did over the same period.

MR. TATE: Well, I do heat my home with oil, and I can tell you that my March bill was the highest that I have received in terms of the price per gallon. Sometimes I ask not to get anymore deliveries until -- after the month of February, until maybe the next October. But I forgot to make that phone call, another 300 gallons came in, and when I looked at the price, I was apoplectic like you were.

ASSEMBLYWOMAN FARRAGHER: I can imagine.

I did have oil heat when I lived in a different house, unfortunately, well fortunately -- I don't know, that was 20 years ago. I guess we don't see those prices anymore.

But I thank you very much for clarifying the issue for me. Thank you.

ASSEMBLYMAN DECROCE: Let me just say the fuel merchants are here, and I'm sure we will get some information from them with regard to recent prices.

In the meantime, I would like to call upon Assemblyman Charles, who would like to ask you a few questions, President Tate.

MR. TATE: Sure.

ASSEMBLYMAN CHARLES: Good morning, Mr. President.

MR. TATE: Good morning, sir.

ASSEMBLYMAN CHARLES: From what you've heard during your meetings yesterday and other analysis that you've made of this issue, what is it the BPU can do to prevent even these spikes that we're seeing now?

Is there anything that you can do? Was there anything that the companies can do to avoid the consumer having to experience these kinds of peaks -- precipitous peaks -- that we're seeing now?

MR. TATE: Well, the Board doesn't regulate prices, and certainly we don't have any authority over their purchasing of supplies -- the strategies that they employ.

I think the role that the Board of Public Utilities can play is, one, to monitor the situation and make sure that the accurate information is made available about the reasons for the price increases and also to make sure, as I think everybody is concerned about, is that these price increases are not artificial, that they don't remain in the retail market when in fact they are lower in the crude or wholesale market.

So I think at this point in time, we have information to give to the public. We can do analysis for the public, and then we can make recommendations to appropriate bodies that would be in power to take action.

ASSEMBLYMAN CHARLES: Is there any agency, Federal or private or whatever, that does any analysis of the purchasing strategies of the oil companies, doing some sort of a critique of whether or not there's good basis for analysis for purchasing strategies or there's bad basis for that, or do we accept, on at face value, what the companies do by way of their strategy in purchasing?

MR. TATE: No. I don't think we do accept face value. I think, first of all, the Federal government, right now, has been commandeered to have both the Department of Justice, as well as the Department of Energy, analyze and to monitor the situation to see whether or not there may be any price

gouging or price fixing that could occur as a result of this seasonal problem that they're having right now with the price spikes.

I think the State can, at the same time, play a collaborative role by working with these agencies making analysis, providing it for the individual State, and making sure that we have a good handle on the same type of situation.

Our prices along the chain -- the distribution chain, the wholesale market, the supply market of crude -- are those prices reflective of natural market forces, or are there other artificial concerns that are coming into play?

Then, are these changes and fluctuations in market price being reflected accurately at the gas pump? That is, if they come down in the wholesale marketplace, come down in the world supply market for crude oil, will they come down in the retail market, which gets the consumer in the pocketbook?

ASSEMBLYMAN CHARLES: Do we have any notion at this point or is it too early to know how long we should be experiencing these peak prices that our consumers now are having to pay?

MR. TATE: Well, historically, these types of price increases have occurred during the spring months going into the early part of the summer. There has been data that we've looked at which has shown that near the end of June you begin to see a lowering of prices, and it goes back to the statement I made earlier about when the price of crude oil goes down and the production levels of refineries goes up -- to put cheaper oil, cheaper gas on the marketplace -- there's generally about a four-week lag before you actually see that happen at the pump.

ASSEMBLYMAN CHARLES: So when we leave here today and our constituents ask us, “Well, what’s going to happen with the prices at the pump?” we can tell them that historically you should see some sort of relief by the end of June.

MR. TATE: Well, historically, but again, we have to-- You know I am no expert on oil futures. If I was, I might not be sitting here right now. But I think what we have to understand is that we need to make sure that there is adequate supply in the world market. We need to watch the purchase price of crude. We have to make sure that the refineries are operating at their optimum capacity to provide the level of gasoline that our consumption rate is going to need.

I think we can’t predict right now that gasoline prices have peaked. We think that they have, but we can’t say unequivocally, because even today I believe that there may have been some upswing in the price of crude oil on the world market that came about from yesterday or the day before.

ASSEMBLYMAN CHARLES: All right. So when I leave here today and that same consumer/constituent asks me the question, I’m going to have to tell them I don’t know. We don’t know if it’s still going up, and if it’s going to go down, we don’t know when it’s going to go down. That’s what I’m going to have to tell our consumer. That’s pretty hard for the Chairman and I to do without incurring the ire of our constituents.

MR. TATE: Well, it is a dilemma for all of us, Assemblyman Charles, because without having a regulatory authority over the companies that set the prices, or any of those groups in the chain to which it gets to the pump, I’m a little reluctant to try to make predictions.

That's why the Governor has asked us to monitor this on a weekly basis so that if we can see some trends -- some positive trends -- in prices coming down, we can get that information to you and to the public as quickly as possible.

If there are prices that go down in certain parts of the market, but don't get to the gasoline pump within a reasonable period of time, then I think we've got another situation and set of circumstances on our hands which may require additional action.

ASSEMBLYMAN CHARLES: Thank you, Mr. President.

ASSEMBLYMAN DeCROCE: Let me ask you one additional question before you leave.

Do you consider gas a utility, and if not, why not?

MR. TATE: That's an interesting question.

Under the State of New Jersey, obviously, the law, a gas company is not considered a utility, and I'm following the law.

Normally, you look at utilities as companies that have been historical monopolies; that is, they have an exclusive franchise. They have an obligation to serve all members within that franchise regardless of market conditions, and they thereby have to have their prices regulated.

There are certainly those that believe that the oil industry is a free market system, and therefore they have competitors where consumers will have choice. If they want to buy their gasoline from one company or the next, depending upon a price fluctuation, consumers have choice. So that would mitigate against the traditional definition at what a utility has been regulated in the State of New Jersey.

ASSEMBLYMAN DeCROCE: Well, there are several different phone companies, and we regulate them. I don't see why we can't consider, in the future, regulating some of these gas companies.

MR. TATE: Well, we regulate only the local exchange carriers here in New Jersey, and we regulate the local exchange carrier which has an exclusive franchise market. That's beginning to change dramatically.

As you know, Assemblyman DeCroce, we're now under the mandates of the Federal Telecommunications Act of 1996. We're conducting hearings for the establishment of full competition in the local market, as well as the local toll market. So I think our roles are changing in terms of regulation now.

ASSEMBLYMAN DeCROCE: In closing, let me advise that this Committee stands ready to assist you should you feel that in the future there is any type of legislation that may be necessary in order to assure the industry that we're watching closely and will take whatever actions necessary to maintain certain controls with regard to pricing.

MR. TATE: Mr. Chairman, I welcome that, and I welcome working closely with your Committee on monitoring this situation and trying to take some lessons learned in what we can do better to serve the public, and I'd like to thank the other members of the Committee as well.

ASSEMBLYMAN DeCROCE: Let me thank you for coming down today, too.

MR. TATE: Thank you.

ASSEMBLYMAN DeCROCE: That was a special trip and we appreciate it.

Thank you so much.

MR. TATE: Thank you.

ASSEMBLYMAN DeCROCE: Now I'd like to call back Jim Benton, if you will, and his partner to answer some additional questions of the Committee, if you will, Jim?

Let me ask Assemblyman Wisniewski to address the questioning now to the Petroleum Council.

MR. BENTON: Thank you.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Chairman.

Mr. Benton, you had a chart up there until recently that showed the cost of -- it was this chart, "U.S. Gasoline and Crude Oil Prices." I'd just like to ask you a couple questions about that chart to begin with.

Am I correct in my review of this that the dotted line reflects crude oil prices, the red line reflects gasoline prices?

MR. BENTON: That's correct.

ASSEMBLYMAN WISNIEWSKI: And that's \$40 and \$100, that's by barrel?

MR. BENTON: Cents. Forty cents per gallon.

ASSEMBLYMAN WISNIEWSKI: Forty cents. I see, okay.

My question to you is: It seems that the crude oil prices fluctuate; there's a distinctive up and down to the price levels. The gasoline price, however, seems to stay pretty much steady on an upward trend. Is there an explanation as to why we don't see the same type of reflexive behavior in the gasoline price?

MR. BENTON: I think, Assemblyman, what I'd like to emphasize to you that actually what we're looking--

ASSEMBLYMAN DeCROCE: Is your mike on, Jim?

MR. BENTON: I thought so. Let me get a little closer.

I think what I'd like to do is put the two of these charts together, Assemblyman. What we're really looking for in the chart that you looked at right here -- there is a disparity between the price of crude and the retail price, which is generally meant to include the other components which are yet on the third chart, which was the cost of taxes, manufacturing, transportation to the product--

ASSEMBLYMAN WISNIEWSKI: Correct.

MR. BENTON: --what you're really looking at in 1996's chart, by week. I think a better illustration of what you'd be looking for are the longer term trends which you do see move and correspond, working through a more historical pattern of 1995 through 1996 and I think up through 1995. I think that gives you more of the actual fluctuations than the price of West Texas Intermediate, which is the benchmark crude that was used in that case.

ASSEMBLYMAN WISNIEWSKI: So the difference is, that represents a shorter frame of time than the chart to my right, to your left?

MR. BENTON: Correct.

And again what you're dealing with is the actual price of West Texas Intermediate, a specific commodity, and you're dealing with average United States retail prices.

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. BENTON: You know, so the charts do smooth a little bit.

ASSEMBLYMAN WISNIEWSKI: Okay. Now I'd like to ask just a couple of questions.

You were here and you heard President Tate testify, and I just wanted to ask you a couple of questions based on his testimony.

One of the things he mentioned was a four-week lag, and he was referring to changes in the crude price being reflected in the retail price. Does that four-week lag-- First of all, do you agree with the testimony that it's a four-week lag, or do you think it's longer or shorter?

MR. BENTON: Assemblyman, I agree with President Tate's assessment. I would urge you to consider it in this context however, that his assessment is an average reflection, and specific market factors, costs, can influence that type of an assessment.

I think, what he was giving you was a general statement, on average, historically, that when there are movements in crude oil pricing, typically, again on average, all things being equal, that flows through to the wholesale market and to the retail market, and they do respond accordingly.

Now there are many factors on an individual snapshot basis which may influence that, but on an average that's a general rule.

ASSEMBLYMAN WISNIEWSKI: I understand we're dealing in averages.

MR. BENTON: Statistically, that does measure.

ASSEMBLYMAN WISNIEWSKI: Does that four-week lag work both ways in terms of prices going up and then prices going down?

MR. BENTON: Generally, that is the case. However, again, there are specific marketplace conditions in a given instance which may influence or

accelerate that. What we're suggesting -- we're comfortable with suggesting -- is, on average, the marketplace factors which influence those three commodity prices do move sequentially, albeit not exactly, through the process, if you look at it in terms of averages.

ASSEMBLYMAN WISNIEWSKI: Okay. President Tate testified about the Division of Energy within the BPU collecting data. Is your organization involved in any way providing that data to the BPU?

MR. BENTON: Yes, sir. Routinely, and I thank you for mentioning that. Routinely we disseminate nationally to every interested party. I'd be happy to make copies available to this Committee. We routinely do communicate more frequently with the Energy and Environment Committees; however, we're happy to include this Committee in those types of information dissemination.

But it's a weekly statistical bulletin. I would suggest that the detail level provided in this bulletin is probably more -- again the Chairman and I were talking before -- than the average person and perhaps even the average legislator would be interested in knowing. However, this information is available.

We also provide monthly and quarterly summaries which is more a trend analysis of this types of information. But this is routinely picked up by the commodities exchange, by the newspapers. Indeed, I brought today's articles that appeared in The New York Times and The Wall Street Journal as evidence of where the marketplace is today, which I think would help Assemblyman Charles' question regarding where we currently stand that was mentioned before and do fit in.

It shows, for example: refinery operations, motor gasoline production, stocks, jet fuel, distillate fuel -- the home heating oil -- residual fuel. It talks about imports, stocks, and balance. I think that also it's supplemented by a breakout as far as sectors, and it's part of the information that we routinely disseminate to the energy office in New Jersey and the national -- the Federal Energy Information Administration.

ASSEMBLYMAN WISNIEWSKI: Thank you.

And through the Chair, I think that information may be helpful to the Committee.

Mr. Benton, would you agree with me that the two components that affect the pricing of gasoline in New Jersey -- since there has been no change in the taxes -- would be the crude oil costs and the refining, the transportation, and marketing costs? Those are the two areas where prices can be affected on the cost of retail gasoline in New Jersey.

MR. BENTON: Well, there are many other factors that do also influence the cost of the retail product that consumers purchase here in New Jersey. You have, as I mentioned earlier, environmental regulations. You have environmental considerations regarding the operation of the station, for example, underground storage tank compliance requirements.

You also have competitive factors which influence how a retailer prices their product, a dealer prices their product on the street.

ASSEMBLYMAN WISNIEWSKI: Let me just--

MR. BENTON: You also -- and there will be others that can talk to that issue. You also have, for example, transportation and distribution factors, as you mentioned before, and then crude costs, yes.

ASSEMBLYMAN WISNIEWSKI: The competitive issue, though, really reflects the retailers' margin. Would that be correct? I mean if the retailer wanted to gain an advantage over a competitor or a chain wanted to gain advantage would that be reflected in a reduction of the margin?

MR. BENTON: The retailer, ultimately, is responsible for pricing their product appropriately on the street. They share-- They have that responsibility.

ASSEMBLYMAN WISNIEWSKI: Okay. In terms of the crude oil cost, which your chart -- "Retail Gasoline Price Component" shows, in the last year an increase of 44.3 to 55.1. What do you particularly attribute that increase in?

MR. BENTON: We attribute the run-up in the crude oil cost to an improvement in the overall world economy, as I mentioned in my testimony. You see it again, petroleum product is a worldwide commodity.

We saw a very strong response in not only North America, but particularly in Europe. We saw the demand level go up. We also recognize that there would be additional supplies coming on the marketplace which were not realized and, as of yet, not been realized, and I think those, in combination with the winter season that we had here in the northeast, in New Jersey, were contributing factors.

ASSEMBLYMAN WISNIEWSKI: Winter season. Did that result in a reduction of reserves because of the increased reliance on home heating oil and other heating products?

MR. BENTON: The winter, as I testified earlier, statistically was colder than normal. It was 4 percent colder, on average, and 15 percent colder than last year. That was a contributing factor.

I think you need to recognize that refineries, in responding to that, did make more heating oil -- turned their focus to heating oil, in contrast to gasoline. And I think at that time also, the world market -- crude oil prices began to shift, hence the drawdown in inventories.

What we saw was, obviously, a price increase. President Tate said from \$17.50 a barrel to \$25 at the peak at this point, and I think what you saw was a drawdown in inventories to lesson the impact to consumers at that point, to defer buying the higher priced crude, hence the drawdown on inventories.

Then when that inventory level became a low, you did have additional movement in the marketplace to purchase that higher cost product.

ASSEMBLYMAN WISNIEWSKI: Can we equate the word reserves with inventory?

MR. BENTON: Yes. In a general sense.

ASSEMBLYMAN WISNIEWSKI: Okay. So when we're talking about drawing down on inventories, we can also be talking about a reduction in the reserves, either gasoline or heating oil because, as I understand it, they're utilizing the cheaper stock first before buying the more expensive crude.

MR. BENTON: An analogy was made yesterday at President Tate's meeting regarding any type of an appliance you might have, for example, a refrigerator. If your refrigerator breaks down and you know you

need a new refrigerator, but you also know a sale price is coming up, you might try to make the existing refrigerator do until a recognized sale is coming up.

If, in fact, that sale does not occur, you're forced to either buy the high price or perhaps make do even a little bit longer. I think the same thing can be said regarding the worldwide situation regarding crude oil prices -- a similar analogy could be made.

ASSEMBLYMAN WISNIEWSKI: Thank you.

MR. BENTON: I think it's important just to underscore the role of inventories here, however, because I don't want the Committee to take away the role that inventories do play.

Ultimately inventories do, on average, provide only 2.2 percent of fourth quarter supplies. In other words, roughly 98 percent of U.S. fourth quarter supplies of crude oil and product in recent years come from fourth quarter imports and production, in contrast to inventories.

ASSEMBLYMAN CHARLES: Fourth quarter is what? Calendar year?

MR. BENTON: Fourth quarter is October, November, December, the calendar year.

ASSEMBLYMAN WISNIEWSKI: The drawdown in inventory or the reduction in reserves -- would that be something statistically reflected in that survey data that you had held up earlier?

MR. BENTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Okay. And when would that reduction in inventory or reduction in reserves first have been reflected in that survey data?

MR. TATE: As indicated in my testimony, approximately February.

ASSEMBLYMAN WISNIEWSKI: February of this year?

Okay. Thank you.

Moving on to the refining and transportation and marketing costs on this chart here -- the refining and transportation costs. When we're talking about transportation, is that the cost both of bringing the crude in and sending out the refined product?

MR. BENTON: That's correct.

ASSEMBLYMAN WISNIEWSKI: And the crude that's brought into refineries in New Jersey, how is it brought in?

MR. BENTON: Well, the primary vehicle for moving product into New Jersey is still, at this point, water transportation -- barges, ships--

ASSEMBLYMAN WISNIEWSKI: And--

MR. BENTON: --the Colonial Pipeline. The pipeline also plays a considerable role -- just to fill out your question.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Is there a breakdown in terms of percentages? How much comes in Colonial? How much comes on waterborne transport?

MR. BENTON: It's a rough approximation.

ASSEMBLYMAN WISNIEWSKI: Sure.

MR. BENTON: Two-thirds by water and one-third by pipeline, which is why the Colonial Pipeline rupture and the notification that President Tate pointed out was such a serious consideration at that point.

ASSEMBLYMAN WISNIEWSKI: Okay. I notice that in the last year, from May '95 to May '96, there's been a slightly less than 2 cent increase in the refining and transportation costs. Could you explain to me how, if at all, that increase is reflected as a result of the lightering process you must go through, because of the dredging that must be done in the ports?

MR. BENTON: I'm well familiar and would appreciate the opportunity to respond specifically to the dredging costs and lack of dredging, because I know this Committee, in particular, through its transportation responsibility, has a keen and demonstrated interest in that, and indeed we've tried and appeared before the Committee before on that subject.

I think it's difficult, however, Assemblyman, to directly equate an average like this with direct costs of dredging. Clearly transportation component is an issue.

Currently -- and I'll defer to my colleague and associate John Holtz to specifically direct the dredging, to discuss with you the dredging issue, as he's most intimately involved in that -- but currently, we have 12 facilities in the New Jersey, New York Harbor area that are waiting their dredging permits. And truly the developments there, the frustrations of attempting to move through a very complex dredging permitting process and to engage in appropriate environmental disposal of dredging material is reaching a critical point.

John, would you like to expand on that?

JOHN F. HOLTZ: Sure.

I know, Assemblyman, this is a particularly important issue to your district and some of those facilities that Jim mentioned are located in your area there, which reach Perth Amboy.

I think, as you're attempting to make the case in general terms, the cost to make and deliver gasoline and heating oil is going to be reflected in what the customer pays ultimately, and as Jim started to mention, you know with the dredging situation you have facilities that have been literally stuck in the mud for about seven years waiting to dredge. And it's costing them anywhere from \$2 million to \$4 million dollars a year to move their product, to get it to New Jersey customers and consumers throughout the Northeast.

You mentioned the term lightering. That's a big part of it. They also have to use other extraordinary means like making arrangements with neighboring terminals to get things back and forth.

I can't tell you right off the top of my head how that might translate into the price of a gallon of gasoline. But let me give you an idea, using a different petroleum product, of how it is affecting the customer -- the end user.

In this case it's the State of New Jersey. The Perth Amboy Chevron Refinery is primarily an asphalt refinery. In fact, it's the primary supplier to the State of New Jersey for asphalt and road materials.

Because of what it's costing them, the extraordinary means -- lightering and other methods to get their product in and out -- it's costing the State of New Jersey almost \$2 million more a year in asphalt costs.

So there's probably somewhere along the line a higher price on gasoline because of the dredging blockade.

ASSEMBLYMAN DeCROCE: You know, I know all of these things are factors, but I don't want to really get into dredging today, because I can play on that one all day long, and we all have in the past. I really want to get into--

MR. BENTON: We could join you with that, Assemblyman, also. We appreciate your efforts to date on that.

ASSEMBLYMAN WISNIEWSKI: That was the extent of my question. I just was curious as to whether all of the hoops they must jump through has any impact on the ultimate price.

ASSEMBLYMAN DeCROCE: Well, of course it does. Listen, when you talk about reserve tanks, they have vats down there that are empty. I've been through that area, and I can tell you, we can probably create a hell of a reserve right there if we had a way to get the gas into our ports. But that's another issue that we'll take up at another time.

Right now we'll go on to Assemblyman Charles.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: I think the Chairman laid out in the beginning what the fundamental issues were.

One was just why is it that we're having seen this spike at the pumps now, and number two, trying to figure out how we, as public policy makers, can give warning and notice of this spike to our constituents and to the public so that they know what's coming and how to better -- well, at least are informed when they drive up to the pump -- know why it's happening.

In connection with that, you've talked about some data that you submit on a regular and routine basis to President Tate's outfit and to the

Federal agencies -- lot of statistics -- a lot of stuff. A lot of people get them and probably look at all the detail, and some people will analyze them. Some don't because of crunch of business.

Is there any way, with all of that data, that you could say to an agency, such as President Tate, his BPU, "Listen, these trends say that we're heading for an increase in gasoline prices at the pump;" so that we don't just have data about how much it costs here, and so on, we have something that relates to impacts in a practical way on the consumer, i.e., increase at the pump?

Is there some way, at some point in your collection of this data, that you can make that statement and give that alert to President Tate or some other public agency?

Do you understand what I'm saying?

MR. BENTON: Yes, sir.

Assemblyman Charles, we do routinely communicate with the department--

ASSEMBLYMAN CHARLES: Let me start with, then, do you say, "Listen guys, a month from now expect 10 cents increase at the pump"? Do you say things like that?

MR. BENTON: Well, specifically to that, no we don't, and I'll tell you why we don't, because of antitrust considerations regarding predictions of prices -- exactly where they may be going. The Federal antitrust laws do prohibit us from exactly predicting what prices are.

However, we do routinely communicate the trends that we see developing in the industry, factors of which could contribute to increased

prices. I think you'd agree that the number of combinations and varieties of factors that we've highlighted for you today do give an early warning to people in hindsight of these types of developments, and what we do is routinely communicate that to the agencies, as evidenced by our meeting with them yesterday.

ASSEMBLYMAN CHARLES: Let me see if I understand you. You mean if I took the-- They're submitted on -- what? -- a monthly basis, those reports?

MR. BENTON: These reports specifically come out on a weekly basis. There are also monthly reports that do come out.

ASSEMBLYMAN CHARLES: All right, if I took those weekly reports and I analyzed them from, let's say, November through March of this year, I'd be able to determine from those reports that in May, or sometime there about, we could expect to see gasoline prices jumping from where they were at the beginning of the month until where they are now?

MR. BENTON: You'd be able to draw an assessment where the market stands and where the market may be likely to move.

However, that's what's known as a speculation and the types of exchange that President Tate had with you that quite honestly the markets are not always that easy to predict.

ASSEMBLYMAN CHARLES: Well, that's what I'm trying to get to. I'm saying, is it purely speculative, or is there some way that you can reasonably predict, and not in any hypothetical or speculative way, but more on a statistical basis -- a more probable-than-not basis -- that you're going to see an increase in prices? Because if it's the latter, it seems to me that we then

may be in a position, as public policy holders, to be able to give some kind of alert to our consumers and our constituents if that's going to happen.

MR. BENTON: Exactly, and we'd like to help you do that. The way we can help you do that is to point out to you the services that are available to allow you to draw that type of conclusion.

For example, I did mention the commodities exchange in both The Wall Street Journal and The New York Times. I mentioned earlier our statistical information that is disseminated.

I would also highlight to you from time to time -- and again this did come out on the beginning of the week. This was the articles that appeared in USA Today on why gasoline prices have soared: crude oil prices have risen, the environmental factors, the winter weather, and the inventory picture, which would help you to draw -- okay, this is where we are, that's gone forward. Then I would turn to, for example, there is information that comes out in the Federal agencies in addition to the State.

ASSEMBLYMAN CHARLES: Well, let me see if I can stop you, Jim.

MR. BENTON: There's a Federal Energy Information Administration Report that does specifically talk about where consumers can expect gasoline prices to go.

ASSEMBLYMAN CHARLES: Is there some legal way, within the parameters of the antitrust laws and whatever other laws are applicable, that the Petroleum Industry Council, or some other agency that's on top of this, could send some sort of a communication to Jim and DeCroce and to the other members of this Committee -- and not all these newspaper articles -- which give

us notice that some things are happening that are going to affect our constituents at the pump?

MR. BENTON: The Board of Public Utilities does have the staff experts here in New Jersey. We meet with them and discuss their information with them, and they have those experts that should be prepared to make that type of informed judgement.

ASSEMBLYMAN CHARLES: Is that correct?

Can you make judgements based upon that data about probable increases? For example, 5 cents, 10 cents -- as opposed to 2 cents or 3 cents? Or even better, I would think that -- have some sort of measure of what c o n s t i t u t e s a s p i k e .

I mean 1 cent, 2 cents maybe not. We may determine as a Committee that a 10 cent increase over a short period of time then equals something that might be alarming to consumers. Is there some way that, based upon the data, you can say, more probably than not, that we can experience that 10 cents -- or whatever we set the standard to be -- increase within the next month or two or whatever, from the data that you give on a weekly basis?

MR. BENTON: I think there are staff and economists that are willing to make that judgement. But again, I must caution you, Assemblyman, that oftentimes they're wrong, and I think the important element to underscore, for example-- Let me just mention two quick instances.

ASSEMBLYMAN CHARLES: Okay.

MR. BENTON: The Iraq War that was highlighted here on your charts -- I think there was widespread expectation that was going to lead to very dramatic increases in prices, and in fact, when the war broke out, if you

may recall, gasoline prices actually fell because of appropriate inventory and refining and worldwide factors had come together to contribute to the price of gasoline actually falling.

Similarly, when Colonial Pipeline was severed in the Urban Houston, inventories came in quicker -- water transportation. So oftentimes -- and that's what makes the marketplace ebb and flow, that type of speculation. They're not always wrong, but I think you can make some informed judgments.

For example, from our statistical analysis, currently, we are seeing a similar pattern to what developed last year, strictly from a statistical perspective.

In May 1995, at that time the crude oil price peaked in early May, wholesale prices fell approximately two weeks after that, and approximately two weeks after that -- this is last year -- the price of retail gasoline did peak.

ASSEMBLYMAN CHARLES: Did it go up, up as much as it did this year?

MR. BENTON: No, it did not.

ASSEMBLYMAN CHARLES: How much more has it gone up this year then?

MR. BENTON: Because those factors of crude oil price increases, the other winter season--

ASSEMBLYMAN CHARLES: Could you have predicted that the increase that we were going to experience this month of May was going to be as great as they have been this May and much greater than they were last May?

MR. BENTON: When the price of crude oil began to move, you could easily see, depending on your time frame of which point you looked at that, that in fact the retail price was going to be impacted.

ASSEMBLYMAN CHARLES: As greatly as it has been? I mean when I say greatly as it has been, I mean much greater than it was for the same period of time last year?

MR. BENTON: Well, crude oil only went up approximately 3 or 4 last year seasonally and in this case, obviously, crude oil has gone up much m o r e t h a n t h a t .

Again, while you can make an informed observation, the best types of judgements are usually made on a little more distant reflection.

ASSEMBLYMAN CHARLES: Okay. Thank you.

ASSEMBLYMAN DeCROCE: Thank you.

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman, I just have one follow-up question.

ASSEMBLYMAN DeCROCE: Yes.

ASSEMBLYMAN WISNIEWSKI: Mr. Benton, I noticed in Commissioner Tate's report to the Governor a reference to scheduled spring maintenance among the refineries. Is that a pattern that is industry-wide to schedule maintenance of refining facilities in the spring?

MR. BENTON: I think it's, again, a generalization that, in fact, normally the spring period is an opportune time for routine maintenance for refineries that obviously run 24-hours-a-day, 7-days-a-week, and that's normally an opportune time for those types of what we call turn-arounds -- routine maintenance -- as no piece of equipment works, in order to avoid

accidents, safety considerations, and make sure they operate at peak performance.

Normally spring is the time. However, this is not necessarily a normal period of time, and yes, there are routine maintenance--

ASSEMBLYMAN WISNIEWSKI: My only question is, why is that the preferable time or the optimum time? Why spring as opposed to the middle of the summer?

MR. BENTON: Usually it's a period of lower demand when the industry can best work in that routine schedule.

ASSEMBLYMAN WISNIEWSKI: Thank you.

ASSEMBLYMAN DeCROCE: Assemblywoman Farragher.

ASSEMBLYWOMAN FARRAGHER: Thank you, Mr. Chairman.

So then, if I can sum up what I've heard here this afternoon: The prolonged heating season, which the industry then drew on the existing reserves that they had to avoid the \$25 cost, okay; the fact that the heating season is now all the way into May -- I remember snow in April and all that; that all this coupled together with the pipeline thing; knowing that the crude suppliers know they make their most money in the winter, that's why it went up to \$25, okay; the fact that you needed more for a longer period of time; therefore, you were forced to go into the \$25 market, which you could have sat out if, perhaps, it had gotten warm in March, correct? Okay? You following what I'm saying?

MR. BENTON: Generally, yes.

ASSEMBLYWOMAN FARRAGHER: Right. Okay.

So that now you were forced into a situation where you don't have the cheap reserves. You have the \$25 situation where you're now having to produce more gasoline because more people are now getting into -- we're supposed to be sliding down on home heating, increasing gasoline, getting ready for the summer, so that's why the price went up.

Crude prices are going down, not as much as they normally would, if I'm reading this correctly. The crude prices are not dropping as much as they did last year, so gasoline in about three weeks may go down, but not down as low as it had been. Have I got that?

MR. BENTON: That's a very generalized statement, but yes, it's essentially correct. Right now the marketplace for crude oil does stand at \$21 a barrel. That's today's price, and yes, that is a softening trend.

ASSEMBLYWOMAN FARRAGHER: So then, through the Chairman, then that would explain why, even if the Federal government does take off the 4.3, we're not going to go back to \$1.00 a gallon. I think that's the point that the industry is trying to make -- the retailers are trying to say. That's why we won't see that 4.3 difference at the pump. It'll go down, but not down to what it was.

MR. BENTON: The anticipation of the 4.3-cents-per-gallon tax reduction at the Federal level is something that is anticipated. It may pass Congress perhaps even today. Perhaps you can tell me better than that, signed by law and enacted by President Clinton.

That development will work its way through the system and ultimately be realized by the consumers at the retail marketplace. In addition,

should the price of crude continue to fluctuate, that will also be realized as a softening factor in the marketplace.

ASSEMBLYWOMAN FARRAGHER: But, through the Chair, we will only see that if crude goes down to say 17, as opposed to 21 where it is now.

MR. BENTON: I'm sorry. If I understood you correctly, you will see the 4.3 cents per gallon. It won't be an immediate thing.

ASSEMBLYWOMAN FARRAGHER: Okay.

MR. BENTON: You will also see, as we've testified, the retail market generally tracking the crude oil price movements.

ASSEMBLYWOMAN FARRAGHER: Right. But if the crude price stays at 21 for a while, we're not going to see the prices that we had a month ago at the pump--

MR. BENTON: That's correct.

ASSEMBLYWOMAN FARRAGHER: --when it was like a \$1 or \$1.01.

MR. BENTON: That's correct.

ASSEMBLYWOMAN FARRAGHER: Yes.

MR. HOLTZ: It's really, as Jim showed you before on the charts, it's going to follow with the crude oil prices.

ASSEMBLYWOMAN FARRAGHER: Right.

MR. HOLTZ: But the other thing -- the other word of caution about that 4.3 cent gasoline tax rollback is, it doesn't change the worldwide factors that have affected gasoline and crude oil prices right now.

It doesn't change what happened with inventories. It doesn't do anything about the U.N./Iraq agreement. It doesn't do anything about the Norwegian oil workers' strike. It may be short-term relief, but it's not going to change the bigger marketplace factors.

ASSEMBLYWOMAN FARRAGHER: Thank you, Mr. Chairman. That's what I wanted him to say.

ASSEMBLYMAN DeCROCE: Thank you, Mr. Benton, Mr. Holtz. We appreciate you coming forward. We'd appreciate you hanging in here today, in case we have any further questions, if you don't mind.

MR. BENTON: Thank you, Mr. Chairman.

Let me just briefly close, by just offering just a quick observation, and we appreciate the Committee's interest in helping us communicate to the public the nature of our business and the current state of gasoline prices.

Let me just also add one quick little element, because I think it lends itself to communication. Behind the general headlines of where crude oil costs stand and the role of the various factors are the manufacturing issues that do come from the companies that operate right here in New Jersey, whether it's the routine maintenance that was suggested or perhaps the difficulties of some of the companies.

I know there's a refinery that operates here in New Jersey right now that has been discussed that is looking for an additional partner. I think there's announcements of maintenance. There's the Chevron asphalt facility here that was once a full refinery and now just concentrates on asphalt.

We mentioned the dredging problem. We mentioned various pipelines. But I think we would like to underscore, as we have, and you've

been very gracious to us in your time, Mr. Chairman, to say that the marketplace does work and does serve the interest of the consumers, and hopefully that will be recognized.

ASSEMBLYMAN DECROCE: We recognize it. We just--

MR. BENTON: Thank you.

ASSEMBLYMAN DeCROCE: We recognize it. We just want you to warn us a little better than you have in the past so we don't get these spike shocks every two or three weeks.

MR. BENTON: Thank you, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thank you.

I'd like to now call on the Executive Vice-President of Fuel Merchants Association, Mr. Fred Sacco, and his team.

FRED J. SACCO: Thank you very much, Mr. Chairman and members of the Committee.

I'd like to thank you for giving us the opportunity to visit with you, and I know you've spent a lot of time with this, but I think there are some other points that would be helpful to clarify this.

First of all, Fuel Merchants Association has a little more than 300 members. They are the family run businesses within the State of New Jersey. We'd like to call ourselves little oil as opposed to big oil.

Of those, 103 of our members sell both motor fuels and heating oil. Then we have about 29 who are pure motor fuel marketers, and I have 3 of them here today.

We sell a billion gallons of home heating oil to 800,000 customers across New Jersey. We sell 600 million gallons of motor fuels. That represents

about 19 percent of the market, so you can see the influence that the major oil companies have in the motor fuels market. And, Assemblywoman Farragher, actually it's unfortunate that you use natural gas because heating oil is less expensive than natural gas in this marketplace.

ASSEMBLYWOMAN FARRAGHER: It came that way when I bought it. (laughter)

MR. SACCO: I know. The reason I know this is I did the same thing, but I'm in the heating oil industry so I had to take the gas unit out, and I went from \$1100 a year to a little less than \$700, so I saved roughly \$430 by switching. So I had to get that in since you gave me the opportunity.

ASSEMBLYMAN CHARLES: I heard the commercial this morning on -- every morning on the radio. (laughter)

MR. SACCO: But it's critical that the legislatures in this country begin to realize what's happening in the marketplace, and the legislatures will need to talk to Congress, and Congress will need to talk to the National Petroleum Council, because that's the organization that's on a national plane that represents the military, the producers, the manufactures. If you were looking at the Petroleum Council's weekly statistical bulletin, as I was back in October, there was some clear signals.

The problem that I have in going to the media is the little boy that cried wolf, number one. Number two is, I'm under the same Federal Trade Commission constraints that Jim Benton is under, so I have to be very careful how I talk to the media or to people, that I'm not sending a signal to the marketplace.

But the critical number was 105 million barrels of distillate inventory. That's the floor. That's the floor that the National Petroleum Council has established as problematic. So the picture was there.

So I did go talk to my members who are in the heating oil business, and I said to them, "If the weather is colder than normal, we stand a very good chance of seeing some price spikes.

So if you can utilize your storage capability" -- which is difficult today because we've lost 35 percent of our secondary and tertiary storage in the State, so we are subject to these whims -- "and if you can buy the price protection programs that the major oil companies offer you, you position yourself much better to deal with this, and you need to make sure that your interruptibles" -- those people who use natural gas when it's convenient, and then the natural gas utilities turn them off and force them to use heating oil, because it got too cold. If those factors don't become too severe, we won't see price increases.

We didn't actually see the price increases in the heating oil industry until about March. But we had already designed -- we have the largest number of heating oil dealers buy price protection programs. I never paid more than 99 cents a gallon because of the arrangement my dealer made with the supplier.

The other factor that our members did not do is they didn't buy. They simply say, "We will not buy the high price heating oil, because we can get by the season." We thought it was going to end in April, but we're already into May -- my heat was on, too, last night.

So these factors we have some limited control over. But if we're at 105 million barrels again next year and the same factors for crude oil and

gasoline continue at those floor levels, you could almost foretell that there's going to be a problem again.

The major oil companies are now positioning themselves to buy their raw material, provide their product to the marketplace only when it's needed, and that's a conscious business judgement. I don't really fault them with it. But it now makes the marketplace very tricky, and these occurrences can become a regular part of the marketplace rather than something that is unique.

So you need to look at the interruptibles down the road and say, "Hey guys, if you're going to be in the interruptible business, you need to buy oil and have it stored somewhere for you."

Now we move into April, and we saw the impact. They weren't selling any heating oil, so if you're going to make the profits that you designed your company marketing strategy around, you're going to have to raise those prices in gasoline. Then we saw it, and I have three members that can point to that.

But what's happening is that you, as legislators, are going to make some policy judgments in the months ahead, and you need to have this in the back of your head when you're making that call with legislation that's going to be coming from Assemblyman Corodemus' Committee and from Senator McNamara's Committee, and that's with respect to legislation you passed that said, you've got to change all the tanks by 1998.

That requires capital, and you're going to hear from my members that at the very time we need capital, our margins are being depressed. So that

makes our profit and loss statements unattractive to the traditional lending institutions.

So you've got to help us there and provide the capital, so that we can borrow the money from you because the banks won't give it to us in order to meet these environmental objectives that are worthwhile objectives and are something that we should be able to accomplish. Each of my members here are in various stages of completion.

So with that introduction, I'd like to move along and have each marketer give you a picture of where their prices have gone from their majors and what they're doing. Why don't we start with Gary Hough, who is our Southern Region Vice-President. We have Dave Gilbride, who is our Northern Region Vice-President; and we have Larry Ray, who is the President of our Association.

They represent the same kinds of things that are happening with about 100 motor fuel marketers across New Jersey.

Gary?

GARY HOUGH: Thanks for your time. My name's Gary Hough like Fred said. I'm President of Hough Petroleum. My business is located in Ewing Township, just like outside of Trenton.

We have 15 employees, and we market across New Jersey to 36 independent retail service stations. We're a branded Citco, Gulf, and Coastal distributor.

Since January 31, our suppliers have increased our cost of product 22-and-a-half to 23-and-a-half cents per gallon. Because of the highly competitive nature of our business, we've only been able to pass on 16 cents

of this increase. Therefore, as you can tell, my margins have decreased 6-and-a-half to 7-and-a-half cents in three months.

As you know, the oil industry posts its price every single day. The retailers post a price -- the consumer can see what they're paying. It's very competitive, and the consumer will go from one station to another for a penny or 2 cents, so you must be competitive at all times in order to sell your product. Otherwise you'll lose your volume.

I've given out a couple of charts which show the increase in rack prices, which is what I'm paying for product, and then a chart which shows the margins. As you can see by the chart, as the rack price has increased, the margins have decreased, and that's standard. Anytime prices go up, margins go down.

As Fred said, this impacts my profitability, and it also impacts my ability to borrow money and impacts my ability to operate my business on an ongoing basis, and that's my testimony.

I'll pass it on to Dave.

DAVE GILBRIDE: Hi. My name is Dave Gilbride. I'm President of Spartan Oil Company. We're located in Dover, New Jersey. We cover really the northern half of the State, although predominately the northwestern part.

Fred's comments on the environmental upgrades are sort of appropriate for us because, until two years ago, I was concerned with the price of home heating fuel.

We had 125 employees. We now have 15. We're no longer in the home heating fuel business, which we sold to finance the upgrades of the tanks

and the storage, so we're very far along in our own upgrade. And what we have now been doing -- essentially with operating profits -- is going out to service station dealers who themselves cannot get financing, who own their properties or own their family businesses and cannot upgrade, and assisting them.

In fact, we're just finishing a project in Irvington today I think, which -- where we did all the financing on the upgrade, and the dealer will simply allow us to supply him for about the next ten years.

This is coming to the halt. I've had to stop many of these kind of projects for the very same reasons that Gary was alluding to. Although we're supplied by Texaco, Citco, and Gulf, each of those suppliers had raised their prices, since the first of March, approximately 13-and-a-half cents.

We, as well, have raised our price, but have only been able to get 10-and-a-half cents, and since many of our customers are smaller volume-type stations, we're able to recover a little more of that than some of the high volume, very competitive areas.

Nevertheless, we're running now in the red and have for the last several months, because we've absorbed these increases. The retailers as well, I think, face the same situation we do, where they cannot pass along or do not feel comfortable passing along these increases at the same rate that they're coming through.

For example, some of our small locations may get a load of gas once every two weeks. In a two-week period in this environment, their increase is not a penny a gallon, in some cases it's been 6. It's a difficult transition for them to make and certainly for the public. That's all I have to say.

LAWRENCE S. RAY: Good afternoon. My name is Lawrence Ray, and I'm the President of RPC Inc., and RPC Inc. is a distributor of Mobile Oil and BP Oil Company products. It was founded by my father 34 years ago.

I'd like to preface my remarks with an observation I have made as a result of the 21 years of experience I've had in the petroleum business; and that is, when the petroleum prices are rising, the consuming public is upset about the price increases, and the marketing side of the business is probably not making any money and not able to pass along the price increases quick enough to recover them at the pump.

Having said that, I'll attempt to tell you the effect these price increases have had on my company's business. Since February 1996, the price of product we purchased from our suppliers has increased 17 cents a gallon. The bulk of the increase is 11 cents -- took place during the month of April 1996. March 1996 increases were about 3 cents; February 1996 increases were about 3 cents as well.

The effect these product cost increases have had on our margins -- the difference between what we buy the product for and what we sell it for -- is dramatic. Since February 1996, our margin had dropped about 5.6 cents a gallon.

In other words, the selling prices at the service stations we supply has to increase another 5.6 cents a gallon or the cost of the product -- the cost we pay for the product -- has to decrease 5.6 cents a gallon to put us back in the same place, at the same margin we were in February of 1996.

Hopefully prices will level off and drop off as the current shortfall in supply eases and our margins will return to normal.

Thank you for the opportunity to speak to you today, and I'd be happy to answer any questions if I can do so.

ASSEMBLYMAN DeCROCE: Thank you, Mr. Ray.

Anyone have any questions for Mr. Ray?

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman, I don't have questions for Mr. Ray; I have questions for Mr. Hough.

ASSEMBLYMAN DeCROCE: Okay.

ASSEMBLYMAN WISNIEWSKI: Mr. Hough, just with regard to the average margin chart, which I believe you prepared--

MR. HOUGH: Yes.

ASSEMBLYMAN WISNIEWSKI: --can you tell me numerically what these margins represent?

MR. HOUGH: That's company data. I wouldn't feel that's appropriate to give those numbers out.

ASSEMBLYMAN DECROCE: Why did you provide it?

MR. HOUGH: Well, I provided -- what I tried to provide was a relationship between rack prices going up and margins going down.

ASSEMBLYMAN DeCROCE: I see.

MR. HOUGH: That's what I was trying to show.

ASSEMBLYMAN DECROCE: I see.

MR. SACCO: If he gives you the actual numbers, he sends a signal to the marketplace.

ASSEMBLYMAN DECROCE: I hear you.

MR SACCO: They can beat his company in the street, so he has to be very careful about it.

ASSEMBLYMAN WISNIEWSKI: I appreciate that, and I certainly wouldn't want to put him in a precarious position. It's just, I guess, hard for myself -- I won't speak for anyone else -- to put this into perspective.

MR. HOUGH: Assemblyman, sir, well what I can--

MR. SACCO: Excuse me.

Would you give me the opportunity to make a composite and then provide that to the Committee, and I can do that rather than having just him isolated as a company.

ASSEMBLYMAN WISNIEWSKI: Sure.

MR. SACCO: I can bring in 20 companies and then we can see the picture, because the parallel would be very clear.

ASSEMBLYMAN DECROCE: Okay.

MR. SACCO: And I will do that going out. I'm sorry, sir.

ASSEMBLYMAN DeCROCE: That will be helpful, Fred.

Thank you.

ERIC DeGESERO: I think, just to put Assemblyman Wisniewski's question in perspective, if you hold the charts in this manner you'll see costs up this way, margin down that way, and it's sort of an inverse relationship that the members have described as being -- having a terribly negative impact on the profit abilities with their business.

Thank you, Mr. Chairman.

MR. SACCO: If you were looking at a gasoline retailer, you would see the same picture almost, but I can provide that data. I happen to have had another oil company-- I had another oil company that showed me the same

picture, and he's down 5 cents. So he hasn't passed on all the costs to his dealer as well. So therefore, the dealer has not passed through all of the costs.

ASSEMBLYMAN WISNIEWSKI: Mr. Sacco, through the Chair, when you provide the composite that you're speaking of, will that have average numbers?

MR. SACCO: Yes, sir. I'll put average -- the left hand column.

ASSEMBLYMAN WISNIEWSKI: So we'll know on average what the margin is--

MR. SACCO: Right.

ASSEMBLYMAN WISNIEWSKI: --without regard to any specific individual. That's fine. Thank you.

ASSEMBLYMAN DECROCE: Assemblyman Charles?

ASSEMBLYMAN CHARLES: When prices go down, when the petroleum suppliers lower their prices, and those costs of supplies to you are lowered, how soon does that lower price get reflected in your prices to whomever you pass it onto? I guess what I'm asking is, do you, historically -- have you made up for your losses in, I guess, lagging on the reduction of prices to the person that your passing it onto or the groups that your passing onto, or do you end up at the end with a loss that you never recover? Do you understand what I'm saying?

MR. RAY: The answer to your questions is, if the market allows us to recover those losses we can, and if the market does not allow us to recover the losses we won't. We are in a very competitive business. We post our--

ASSEMBLYMAN CHARLES: Well, how's the market treated you over time -- over the last years or so when we've had these ups and downs?

MR. RAY: Sometimes it does and sometimes it doesn't. I haven't yet recovered from the Iraqi War. But the fact of the matter is, it's what the market allows us. If it's good enough to allow us to recover the cost, we can, and if it's not good enough, we can't. I wish I could give you a better answer, but that's the truth.

MR. SACCO: The reality is, Assemblyman Charles, is that there is always a lag. Because if you had watched the history of the price spikes, you will see that early on the full impact of the price from the major oil companies does not get passed on, and so there's always a time lag in an effort to try to recover that cost. Sometimes you do it and sometimes you don't.

Our next biggest problem will be responding to the media, who will call us at the Fuel Merchants Association and say, "The major oil company prices are down, why aren't yours?"

So while Benton is in the barrel today, Sacco will be in the barrel tomorrow representing his constituencies. So that's a problem that we always face.

ASSEMBLYMAN DeCROCE: John?

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Chairman.

Mr. Sacco, in your opening remarks you mentioned a figure of 105 million barrels. Could you just explain to me, is that a base level that you looked at?

MR. SACCO: One hundred and five million barrels of distillate is a number that the National Petroleum Council put out sometime ago, that anytime our inventories reach that level it portends problems if things happen

in the marketplace. The Iraq incident, number one; colder than normal, number two; the interruptibles in New Jersey, number three. That factor did not impact on us until March.

ASSEMBLYMAN WISNIEWSKI: Distillate being what?

MR. SACCO: Heating oil and diesel fuel. There is the same floor, Assemblyman, for gasoline, and there is the same floor for crude oil.

ASSEMBLYMAN WISNIEWSKI: Same number or different number?

MR. SACCO: Different numbers.

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. SACCO: The crude number is in, I think, the 300 million barrel range.

ASSEMBLYMAN WISNIEWSKI: Do you happen to know the gasoline number?

MR. SACCO: Gasoline, I could get that. Wait a minute, I may have it, sir.

Okay, motor gasoline, during the week of April 12, were 201. They were down some 7 million barrels. So that 200,000 barrel number is around the floor for motor fuel. So we're at the floor with motor fuels.

ASSEMBLYMAN WISNIEWSKI: Around 200 million barrels is around the floor?

MR. SACCO: Right.

ASSEMBLYMAN WISNIEWSKI: Okay. Thank you, Mr. Sacco.

ASSEMBLYMAN DeCROCE: Maybe you should be raising the floor levels?

MR. SACCO: Well, that's a function-- That's why I said, Assemblyman DeCroce, that you need to talk to Congress, that needs to talk-- It's the international aspect of this industry and the national aspect makes it very difficult for a state legislature to deal with this problem.

ASSEMBLYMAN DeCROCE: I see.

MR. SACCO: But the Petroleum Council, they meet regularly. They got high powered people on there and somebody ought to say to them, "Hey, the major oil companies are flirting with a problem here. They're creating tenuousness." Somebody ought to send a signal to the presidents of the oil companies. There's a magic that a President of the United States can do, as a governor can do; it just seems to -- the magic seems to work sometimes.

ASSEMBLYMAN DeCROCE: Thank you very much for attending today. We really do appreciate your efforts.

MR. SACCO: Thank you for having me.

ASSEMBLYMAN DeCROCE: I'd like to call on Jerry Ferrara on the New Jersey Gasoline Retailers Association.

JERRY M. FERRARA: (speaking off microphone) I don't know if it's the best for last or the worst for last, but we're here.

ASSEMBLYMAN DeCROCE: You're here. That's what's important.

MR. FERRARA: I wanted to point out that they said they were one part of the barrel. We're at the bottom of the barrel. (laughter)

I decided I better write something up, because I'll be disappearing or you'll be disappearing-- (remaining comments indiscernible)

For the record, my name is Jerry Ferrara. Alongside of me is Bill Dressler, my Associate Director, who's been in the business too many years, too, and, of course, I've been around this thing, doing the work I'm doing-- By some miracle they caught me in 1968 to become Executive Director. I had been in the business because of investment possibilities.

One thing I want to clear up very quickly while it's fresh in your mind: You heard my predecessors talk about, they had 23 cents margin, and they had to give 6 cents away. They're talking about the distributor. My dealers do not have an 18 cent margin at this point. On regular, some are working at 5 to 7 cents. So I want it clear that when you're talking margins that we don't confuse it with them, and of course, then with the major oil companies, we're probably doing better yet.

I wrote a statement and underneath is a copy of the letter that we gave Tate yesterday, and I guess I can read it for the record.

The primary reason for the explosion of gasoline prices that the refiners, as well as the Wall Street speculators such as Philbro, believe that crude prices would be falling due to an influx of Iraqi crude pursuant to a relaxation of U.N. sanctions and other factors. Thus, the dealer community looks upon these events as "Saddam II." The companies profit and the viability of the independent dealer sector is further threatened.

Despite the advent of spring/summer driving season, inventories were drawn down to a level 100 million barrels under corresponding 1995 levels. I think Fred said similar to that. Neither the companies, nor the speculators, wanted to get caught with either inventory of or rights to what they perceived would be high-priced crude oil.

They were in a no lose scenario, because they rid themselves of the high-priced crude in the event that Iraqi crude made it to the market, and if they did not, they would still profit handsomely from the ensuing shortage.

In effect, they were betting with the house money, in this case, the money of the dealers and you the motorist.

Another major factor is the use by the major oil companies of what they call replacement cost pricing, and I'll explain that a little later on. What this means is best shown by an example.

Assume a gallon of gas costs the company a dollar to produce. They want to make 20 cents; therefore, one would assume that the dealer wholesale, or tank wagon, price would be \$1.20. This would be the case if pricing was based on production cost.

Under the replacement cost theory, the actual price of production is essentially ignored. Instead, the price to the dealer is based upon the cost to produce the gallon of gas that replaces, in inventory, the gallon they just sold to the dealer.

Thus, even though a gallon costs only a dollar to make, if the oil company decides, due to rise in crude prices, the next gallon will cost \$1.10, they will base the DTW on the \$1.10 figure and charge the dealer \$1.30, as opposed to \$1.20 under production cost pricing. They, thus, exacerbate the price spike, contribute to inflationary expectation, which drive prices up, and enjoy record profits, while profiting from the arrangement.

Now, let's take a look at what actually happened. You heard predecessors talk. There seemed to be in the fall of the year, the late -- November, December, that there might be a tightness in supply.

The major companies, because of capital advancements, had already lowered their inventory, and that's a good business investment. They didn't want to have that much capital invested, and that's an event that only happened in the last couple of years. Before it was a little bit different.

When the story of Iraq came, if you think people believe in fairytales or rumors, you had to watch what happened. Literally the thing crystallized almost in one week. Speculators heard about Iraq being opened, that all of a sudden we're going to have an influx of crude oil. They didn't want to get caught with it. They wouldn't know a barrel of oil if they fell over it.

The major oil companies do not deal on the open market. Major companies, the big majors-- There's only one major, if you're calling it major, that deals in the so-called futures market. The majors deal strictly under contract, and their crude oil would take anywhere from 30 to 90 days to reach their shore at a contracted price before it starts out. So that when a conceived shortage came and the Iraq thing happened, they took advantage of the marketplace, and that's the American system. I don't fault them totally, but they tried to explain in different words.

By releasing their inventory-- If they had -- use some numbers -- if they had had 800,000 barrels and they figured, "Let's feed it out a little at a time," the demand was there. It was like a domino effect. Even the European nations started to ship stuff in because they found they could make more money on it.

The independent sector of the market, if a tanker is offshore, and they're coming in on the open market, they could raise the price before it comes ashore. Conversely, the major oil company, no, because those are contract prices. Forget that they have their own wells, refiners, and the control of retail. They control, by lease or ownership -- they either own the property outright or lease it -- practically 60 percent maybe even 70 percent of the service station dealers, who they give a franchise to, when we had to write the Franchise Act -- I'm one of the authors -- to help protect the dealer from being put out arbitrarily. When that happened, they fed it.

Now, I'm talking about watching the crises since 1970. I'm not a novice. I've tracked this industry for 40 years. And you heard here about the summer season, you may not see a price drop. Historically, prices went up. There was only one summer -- I'm trying to remember whether it was four or five years ago -- that they made liars out of the so-called experts, that prices started to go down in June all through the summer.

Historically prices peak somewhere around the end of June and stay level for the bigger part of the summer. August and September it starts to go down, and they start to change over as they're building their inventories. That is what the situation is in this marketplace.

Our big gripe is that we saw the thing happen so quickly. Increases happen 2 cents on a Monday, and Friday you got another 2 cents a gallon. You have no idea where you're at.

I went after my own dealer. I looked at his price, I said, "You're below cost." He said, "What are you talking about?" I said, "You had two price spikes." He was so busy, bless him, that he had a good repair business,

he never looked at the sheet. When he looked at the sheet, he looked at the -- what they call E-mail -- was a Sun Station -- he found out that Sunday was going to be another 2 cents. So literally he still didn't take a piece of the action.

I've said publically show me one of my dealers, one of my members, or nonmember that took a piece of this increase for himself. I'd go out -- I wouldn't kiss him on the cheek because that would worry him a little bit. I'll pin a medal on him. We have not had a piece of this increase whatsoever. Our margins -- I would love to have the margins I just heard from the middleman caught in the middle, and we're at the bottom. But that is the story.

Now, I gave you a sheet there -- this sheet here. This was the price spike during the Kuwait thing, and apparently, I testified before a committee, now, at that time, and that illustrates the thing that we're talking about. The price goes up very immediately, but by the time the price conversely comes down, weeks have gone by.

Underneath is a copy of the letter. This testimony went to the Governor yesterday, and that's what we're trying to point out: the dilemma that you are caught in, as the consumer, we are, that the price hikes are reflected quickly. This is one of the most unusual years that I've seen where the rapidity of prices would come-- They'd come 2 cents -- same company would-- latter part of the week, and it caused confusion at the pump, because if a dealer got a delivery, he's a high volume dealer -- he saw the high price up, and the other one didn't. And they -- consumers were talking about each

dealer: “You’re a Sun dealer, how come you’re higher than the guy down the street?”

Basically that’s the history of this industry. There is nothing you’re going to be able to do to control this business from the well to the consumer. It’s been tried. Congress has tried it. I heard somebody ask about the tax, where that’s going to go. That’s a question you can ask if you want. You’re not going to control it. The best advice I had, to do what I did with my six daughters. I bought them oil stock some years ago. Three sold it when they bought a house. Three love me right now because it’s gone up, up, and up.

But it’s an industry of itself. You’re not going to -- you can talk antitrust, you can do anything you want. It’s been tried. It won’t work. All you can do is use political pressure, public pressure to try to keep the price fluctuations, whatever they may be, a little more equitable.

ASSEMBLYMAN DeCROCE: Jerry, that’s what we’re trying to do here. We’re trying to inform the public as to why these increases occurred, so that they have a better understanding and can comprehend the increases that we’ve all incurred these last two or three weeks. Because, as you say, they’ve come on us so rapidly without any expectation. Nobody warned us about it. I don’t read The New York Times everyday of the week, and I don’t read a lot of the other papers -- the petroleum papers or whatever -- that these trade associations might produce and indicate that there might be something coming.

So the whole idea behind this hearing was trying to get the message out and, frankly, to satisfy my mind, as a legislator, and John’s mind,

Clare's mind, so that when our constituents come to us, we have a reasonable, informed answer to be able to give them. It may not be satisfying to them, but at least we have a little more knowledge. They say a little knowledge is dangerous, and I do believe that.

But, by the same token, at least we have something to base the questions that may continue to come in and be able to give them a reasonably informed answer as to why these things occurred -- may not be happy about it.

What would bother me, frankly, is when I see excessive dividends and, frankly, excessive bonuses being handed out because somebody did a very damned good job in making sure the moneys came in, and some executives down the line receive some healthy increases. That would bother the hell out of me. Then I might call for an antitrust question.

MR. FERRARA: Well, it is as I said. I've been around it, and fortunately, unfortunately, I've been before Congress, the Senate, the House, you name it. The Commerce Committee -- I'm on a first name basis with the chairmans going back into the '70s. They do it by -- the only way you did it during the crisis. You did have the Department of Energy monitoring prices and saying how much increase could be passed on and down. That would only happen for a crisis and that was cost -- the question of where we were overseas.

These sporadic things that happen, do. You know, we couldn't control it in the '70s when the major oil companies themselves were complaining, but four of them were part of ARAMCO, and they would be complaining about the price increases. They were increasing the prices to themselves.

Now you got a different breed in that you have these other foreign East countries, so all you could monitor is that these major companies, and what they're buying and what they're selling, given the take to the market -- a reasonable show is made for us.

ASSEMBLYMAN DeCROCE: Tell me how come I can go around today, and I'll travel down 202, most of the major highways -- I don't mean the Federal highways -- see some of the gas station owners, and yet I can see some of these other gas stations selling gas at almost a dime's difference from what's being sold in, let's say, Exxon, Coastal, Shell, Texaco, Gulf. Yet the little independence, if you want to call them, Vanguard, Gas and Go, and a few others, come in at almost 8 to 10 to 12 cents difference. BP is another one that comes in a little cheaper.

MR. FERRARA: Well, when you get there, BP is considered a British company -- a major. They fluctuate. When you're talking about the so-called -- we call them unbranded markets, no name markets, they're another breed in themselves. The difference with them, they can buy from two sources.

One, they can buy supposedly on the open market. But they can also buy at the rack where the distributors are buying, and instead of them working on -- if they claim 20 cents, they can take that and they own the stations on the outlet. They can play with that part of the margin. We don't get that kind of a margin from the major oil companies when they give it.

Besides the fact that they use considerable pressure on the dealer to be "competitive," and you'll see dealers, they follow like the lemmings. You saw, first, there was reduced price on Mondays. The next company come on

Tuesday by high-test. Wednesday, Thursday, and sooner or later, everybody had it, and no dealer gave by one way or another countage.

They do have that choice of buying on the open market. For awhile there was a question about whether there was some tax-free gasoline, and I can admit now, I worked 10 years with the justice department in New York, and the fellow you had here came here. They had him here for awhile doing investigating, but he's been transferred someplace else in trying to trace down tax free. We did a pretty good job on diesel and heating oil but not on gasoline.

ASSEMBLYMAN DeCROCE: Jerry, John has some questions for you.

ASSEMBLYMAN WISNIEWSKI: Mr. Ferrara, in your statement that you read -- I was following through with you -- the second paragraph talks about inventories being drawn to a level of 100 million barrels under corresponding 1995 levels. Is it your position that at the beginning of this year gasoline inventories were drawn down to 100 million barrels?

MR. FERRARA: Yes, they drew it down, and then they continued it. They started out the last year or two, probably -- I didn't hear Benton say it -- whatever he showed you -- that they have decided to maintain a lesser inventory than they did before, because of capital investment.

In other words, instead of tying up \$1000 here, we'll tie up \$500. But then they drew down as they were going. So you had that lower inventory, and when the market came, they were in a good position that they didn't step up their refineries. A refinery run hasn't been picked up, as far as I know, up

through two or three weeks ago. I haven't read about any refinery runs increasing their production.

So they maintain that level and we're down. There's no real shortage. Now, when I say shortage, that we're desperate. That all of a sudden if something happened that we couldn't get no crude in, yes. It's there. It's their decision to keep it there, and they'll pick that up depending on what the imports do. Will they up the refineries? The refinery runs between shutdowns for repairs-- That no refinery that I know of -- and of course I'm not privy to the inside if they decide to raise it -- has raised their production, despite the fact that there's a so-called shortage out there.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Ferrara.

Your Association is made up of, is it membership gasoline retails?

MR. FERRARA: Yes. We represent approximately 3000 service stations. Although most of them are what we call franchise dealers, or lessee dealers, of a major oil company. Some are owned by the distributors, but we represent the guy in the streets so to speak.

ASSEMBLYMAN WISNIEWSKI: Okay. And earlier you had mentioned a 5 to 7 cent margin that gasoline retailers have on what they sell at the pump. Correct?

MR. FERRARA: On a regular gasoline out there alone, some of them are working as low as 5 to 7 cents, and that's actually -- they're losing money on it. They try to get the high test and pulley. Nowhere we've seen any piece of margin. The average dealer should be making anywhere from 15 to 17 cents -- this is gross margin now, not net.

ASSEMBLYMAN WISNIEWSKI: Right.

MR. FERRARA: He's paying ransom \$8000 to \$9000 some up to \$13,000 a month for the privilege of leasing that station for a major. Some of them are down that close that the extra investment of a couple of thousand dollars for the priced gasoline now has affected their bank account.

ASSEMBLYMAN WISNIEWSKI: When you say their gross margin should be around 15 cents--

MR. FERRARA: Fifteen to even 18 cents. Yes.

ASSEMBLYMAN WISNIEWSKI: Is that based on historical data the way it's been in the past?

MR. FERRARA: That's based on the need to come in their operation, to pay rents, labor, insurance, or whatever.

ASSEMBLYMAN WISNIEWSKI: Has it been 15 cents margin anytime recently within the last 5 years?

MR. FERRARA: On an average, some yes, many no. Most no.

ASSEMBLYMAN WISNIEWSKI: Is there any particular type of station that meets the yes as opposed to the no?

MR. FERRARA: No. It depends upon the dealer himself. First of all, if he happens to be an independent and own his own place, he's not under the same pressure, and then blessedly, we have someone -- dealers, too -- who, whatever the pressure they may get from their company representative, resist it because it's a question, do they go broke or they make a livelihood? Do they pay decent wages?

We have got a problem out there. As I said, you'll show me a dealer took a penny for himself, and I'll-- I can't kiss him -- I'm an Italian -- that would be bad. We'll pin a medal on him.

ASSEMBLYMAN WISNIEWSKI: Well, then that was the last question I had is that it's your testimony that the retailers are, and I think you used the word -- the phrase take advantage, none of the retailers are taking advantage of this situation?

MR. FERRARA: None of our dealers are taking advantage. As I said, the major took advantage of us and you by using -- raising the price to us, and whatever profit they're making, they use it to play the market.

ASSEMBLYMAN WISNIEWSKI: Okay. And the 5 to 7 cents, you said that's the gross market?

MR. FERRARA: That's gross.

ASSEMBLYMAN WISNIEWSKI: Okay. And out of that, would have to come things like--

MR. FERRARA: Anything.

ASSEMBLYMAN WISNIEWSKI: For instance, if they had to clean up an underground storage tank.

MR. FERRARA: Well, that's -- if he owns the property, that's another dilemma we got that was addressed there. As I said, 70 percent of the stations don't own their own -- don't own the ground. They don't have that particular problem. But of course in that case there, they need insurance. No. The margin would never address for the so-called real independent dealer, who owns his own property on margins he's making. He couldn't borrow money.

I'm working on three bank boards, starting with a rise and work your way down, and I served on the wrong committee so I would know what's going on, and I can't convince a bank to give them a loan, and recently I met

with the EPA and brought back the lender liability law that absolved the banks from any liability. They still won't lend money. Okay.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Ferrara.

Thank you, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thank you very much, Mr. Ferrara, for coming in.

MR. FERRARA: Thank you for the--

ASSEMBLYMAN DeCROCE: We do appreciate the fact that you're here today.

MR. FERRARA: Well, I'm very happy to be here, because from what I heard, you're representing us and the motorists out there because that's where we are.

ASSEMBLYMAN DeCROCE: Well, we're trying to represent everybody. We don't want anybody to take a bad hit on this thing. But it just seems like it came on us too fast to be able to accept the way it did.

MR. FERRARA: Absolutely.

ASSEMBLYMAN DeCROCE: That's why we thought the necessity for the hearing. To inform everyone.

Is there anyone else that might want to be heard today? If not, I'd like to thank you all for coming to the hearing. We do appreciate it, and thanks again, Assemblyman.

(HEARING CONCLUDED)