Volume III

P U B L I C   H E A R I N G

before

ASSEMBLY LEGISLATIVE OVERSIGHT COMMITTEE

on

ENERGY CRISIS

Held:
July 6, 1979
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Kenneth A. Gewertz (Chairman)
Assemblyman Dean A. Gallo
Assemblyman Walter J. Kavanaugh
Assemblyman William J. Maguire

ALSO:

William E. Halsey, Research Assistant
Office of Legislative Services
Aide, Assembly Legislative Oversight Committee

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I N D E X

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ASSEMBLYMAN KENNETH A. GEWERTZ (Chairman): On behalf of the Assembly Oversight Committee, I would like to thank everyone for coming--some on very, very short notice. I hope that the information you will be able to furnish us will be helpful in our determination to issue a comprehensive report to the Legislature with specific recommendations that could possibly promulgate various changes which may be necessary in order to meet the problem that we are presently facing. So with that, Mr. Halsey, if you will call the first witness please.

MR. HALSEY: I would like to call the Department of Energy Commissioner, Mr. Joel Jacobson.

JOEL JACOBSON: Mr. Chairman and gentlemen of the Committee, I appreciate very much the opportunity to be summoned here and I think the most constructive thing I can do this morning is to give you a report of where we are. I would like to talk about supply problems for gas and number two heating oil, and price problems for those products. I will try to be as brief as I can.

First, I want to register a degree of optimism. The lines appear to be thinning out significantly. Frankly, it was our prediction that it would take about two weeks for this to happen and that was based on the empirical data of what happened in 1974 and again what happened in California earlier this year. The panic has subsided. It is my judgment that the combination of odd-even and, primarily, minimum sales was responsible for the thinning of the lines. The half-tank regulation was ignored. It was very difficult to enforce. As soon as the minimum sales regulation was substituted for it, we saw a noticeable thinning out of the lines. I think those facts, plus the fact everybody is obviously driving less, have made the situation much better.

I am encouraged by what I read in the paper this morning that gasoline stocks on the national level are up. Just two weeks ago, they were at 224 million barrels. In the report in the paper this morning, they are at 231 1/2 million barrels. This is an encouraging sign. It appears also that the refinery utilization figure is up; the low figure that we had been critical of appears to be up. All in all, my feeling at the moment is one of optimism.

Governor Byrne has submitted to the Federal Department of Energy an analysis of their faulty regulations which have served to shift significant quantities of gas from New Jersey primarily to the Sun Belt states. We anticipate a ruling today by the Federal Department of Energy that will replace that regulation with a more sensible regulation that will permit us to get our fair share of gasoline.

I must tell you that there have been a great number of suspicions, which I have shared, as to the accuracy of some of the storage capabilities. I have asked the four major oil companies with storage capacity in New Jersey to provide me with information concerning storage data. I am happy to report that the Chevron Company, the Mobile Company and the Exxon Company have indicated cooperation; and I am delighted for that. As soon as the information is completely collated, we will be able to make some judgment as to how valuable it is, although I offer the caveat that I have been told by many people that reports from just four refineries in one state will not be significant. In any event, I think that should be our judgment as to whether it is significant or not. I must tell you that the Texaco Company is still maintaining a genial silence with regard to our request. I hope that geniality will soon be converted into conversation. But I do want to commend the three companies that have indicated cooperation with us and I am very happy about that.

There are two items dealing with the price that concern me. As you know, the federal price regulation is one of the esoteric, incomprehensible items that really makes it virtually impossible to identify the legal price and even more impossible to enforce any violation of it.

On July 12th, next week, I will be testifying on behalf of the Governor before the Department of Energy urging the replacement of that incomprehensible regulation with a simple, logical regulation. And we hope this will enable everybody in the State to know what the legal price ceiling is and enable us to enforce it. It will provide both the dealer and the consumer with an opportunity to know exactly what he is being charged and what he is getting. We will recommend that at the hearings.

One of the problems we have been faced with is the necessity in some instances of responding to the request by dealers to permit them to charge by the half gallon. This has been caused by the fact, of course, that many of the pumps do not permit them to calculate a price in excess of one dollar a gallon. Frankly, I have resisted this with a great deal of vigor. The dollar-a-gallon price is a price that I don't like to see in our State and I don't believe there is a heavy justification for it, although I must tell you that if those price regulations are invoked and if the dealer keeps accurate records, some of them could prove prices as high as $1.40 a gallon. My recommendation to the Attorney General and Weights and Measures was that we do not grant authority to any dealer to charge by the half gallon unless he comes in with an affidavit indicating that there is legal justification for the price in excess of a dollar. This shifts the burden of proof from my department, which has six auditors to audit 5100 stations, to the dealers who must therefore provide an affidavit.

If the price is legally justified on a case-by-case basis, not a blanket exemption, but case-by-case basis, the half gallon price may be permitted. That will be a decision made by the Division of Weights and Measures. But I have strongly urged that the burden of proof be placed on the dealer to justify that price. And, by the way, I am hoping that after the conclusion of the hearings next week when we present what I think is a more intelligent regulation, the dollar-a-gallon gasoline price may not be legally justified. That is with regard to gasoline.

With regard to home heating oil, we have been concerned with the supply, as you have read in the newspapers. The requirement to meet the demands of a normal winter is that there be stocks of number two home heating oil by October 1st of about 240 million barrels. At the present time, there are 142.2 million barrels of number two home heating oil in stock. Last year at this time, we had 157.3 million barrels. Now this is considerably below last year's figure and for a long time I feared that there would not be the required 240 million barrels by October 1st. Again, I am happy to report that for the first time this past week, these stocks have been replenished at the rate of a million barrels a day, which is what is required to meet that quota by October 1st. But before this week, they were only being replenished at the rate of one-half million barrels a day. At that rate, we would have the 240 million barrels by May 1st, obviously too late.

The fact that the replenishment this past week has been at the proper level and the fact that the costs of refinery utilization have gone up, I think augers well. Again, I am somewhat optimistic that, if this continues, we may not be faced with the problem all of us fear, a lack of home heating oil in the fall.

One last point, Mr. Chairman, we have received a number of reports from the jobbers for number two oil, that their normal supplies are being dried up for a variety of reasons and that either contracts or arrangements that were in effect heretofore are either being cancelled or rearranged now. The complaints are that these people are not getting sufficient supply to meet the needs and demands of this winter. Frankly, we have received a number of reports - and we are currently investigating every one of them. The only reason I point this out to you is that we feel that there should be a requirement at two levels by the Federal Department of Energy which we will again be urging. The first is that the allocations be returned for home heating oil. In June of '76, both the allocations and the prices were removed by the then Federal Energy Administration. I was severely critical of it at that time. I think the events of the last two and one-half years, almost three years, have justified that criticism. Not only do we find that the dealers now can't get their normal supplies, but the price has increased from something around 40 cents a gallon currently to close to 70 cents a gallon. And everybody is predicting that the price will be 80 or 85 cents a gallon this fall.

I would point out if I may be permitted one partisan comment, which I have been trying dutifully to avoid ---

ASSEMBLYMAN MAGUIRE: You have been doing very well up to this point.

MR. JACOBSON: Thank you. Not partisan - controversial. Had controls not been lifted in June of '76, we would not have the problems of the supply allocations being eliminated for some dealers and I don't believe we would have seen a doubling of the price. I would again in the future extend my vigorous opposition to any decontrol of domestic crude because if the pattern of the increase in price of number two oil is repeated, the $1.50 gasoline may very well be legal in this State and I don't think that is justified by economics, morality or anything else.

What I am saying is that we are importuning the Department of Energy to do several things with gasoline which I enumerated before and with home heating oil, certainly to replace the lack of controls with another allocation system so that the dealers can be assured of a fraction of their supplies of last year, hopefully a high fraction, and that the price controls be reimposed so that the consumer in the State of New Jersey can afford to buy the oil he needs to heat his home.

That, Mr. Chairman and members of the Committee, is my report as to where we are today.

ASSEMBLYMAN GEWERTZ: Commissioner, just several points, on this sale of half gallons, could you briefly explain to us how that is going to work and how it will avoid confusion with the consumer who may go from station to station and find himself in different sets of circumstances?

MR. JACOBSON: The recommendation is that the price on the pump be the actual price: $1, $1.10 or whatever it is, but the calculation on the pump be at the half gallon so he can then compute it.

ASSEMBLYMAN GEWERTZ: Is it a universal type of situation or is there an application procedure?

MR. JACOBSON: We will require each dealer to make an application to justify the increase. That is exactly what I talked about before. I have vigorously opposed any blanket exemption. Every dealer must justify with legal affidavit his need to charge in excess of $1.

ASSEMBLYMAN GEWERTZ: I would make this comment for your edification: Texaco has furnished us with updated total data which we are going to compute in our calculations and which we will be happy to furnish the department for its internal use.

MR. JACOBSON: Fine. My only comment is that I don't know why they refused to give it to us and they have given it to you. But I will be glad to get it anyway I can get it.

ASSEMBLYMAN GEWERTZ: All I can say is that we did not have any problem.

MR. JACOBSON: You are more persuasive than I am.

ASSEMBLYMAN GEWERTZ: Not really. The other thing, Commissioner, is when you were computing storage capacities, it really falls into two categories, the refinery storage capacity and the non-refinery storage, vis-a-vis, wholesalers, distributors, etc. Are you getting the information on both?

MR. JACOBSON: Yes, we have asked for both. Frankly, my staff has been working on it and I have not yet seen what has come in. But they inform me that they are getting cooperation from three or four companies.

ASSEMBLYMAN GEWERTZ: But you are getting it on both levels: non-refinery and refinery?

MR. JACOBSON: Yes. I must point out again though, Assemblyman, we have been told by a number of people that even if we have this exhaustive data that it is going to signify nothing. That may or may not be true. My only point is that we should make that judgment as to whether it does or not.

ASSEMBLYMAN MAGUIRE: Commissioner, I would like to pursue just for a minute the half-gallon pricing structure. Let's take Exxon stations. If their sole source of supply is Exxon and if one station can prove to you that it should be allowed to price at the half gallon, why would that not apply to all Exxon sellers?

MR. JACOBSON: Because each station, sir, is able to put a different price on it. The open-ended calculation is the banking process. What that means is, at the time when there are controls on the price, if the legal price, for example, a month or two months ago was 70 cents and the dealer is only charging 65 cents, he can bank that nickel and apply it now. It may be that one station was charging 65 and banking a nickel and that another station was charging 70 and wouldn't have a bank. Therefore, it is possible now for a legal price to range anywhere from 90 cents to $1.40.

ASSEMBLYMAN MAGUIRE: I don't understand that.

MR. JACOBSON: I will try again. It is complex. Say the gasoline dealer is supposed to post on the pump the legal price ceiling. The legal price ceiling at the present time is calculated by the following formula: - this is going to confuse you more because as I relate it to you I am confused - the price as of May 15th, 1973, the increased product price since then, 3 cents for inflation, a percentage recovery for increased rent, a percentage recovery for vapor recovery mechanisms, and unrecouped costs based upon the bank. This, Assemblyman, would require a certified public accountant with three days time and accurate records to compute the legal price ceiling. I have seen some of our auditors go to a station and say to the guy, "Let me see your records." Then he opens up a drawer and says, "Go ahead. Take anything you want." It really is unenforceable and unworkable. But the problem is, as you indicated, if a man has kept accurate records and he computes these bank costs, he can justify a price well over a dollar. Therefore, if he can do that, perhaps he should be entitled to charge at the rate of a half gallon. The fellow who can't, I don't believe should be permitted just a blanket exemption to do the same thing. Therefore, we make that distinction. Did I explain it?

ASSEMBLYMAN MAGUIRE: I heard what you said, but I don't understand it all. Are these federal regulations ---

MR. JACOBSON: Yes.

ASSEMBLYMAN MAGUIRE: --- or State regulations?

MR. JACOBSON: They are federal. If they were so difficult, by your own admission, for you to understand initially, how in the hell is the guy who runs a gas station going to do all this?

MR. JACOBSON: You are absolutely right. That is why we have vigorously been urging the replacement by a very simple formula. I can give you that in a minute. The formula, in my judgment, should be the wholesale price, what the man pays for the gasoline. Two, the federal-state taxes, which in this State amount to 12 cents. And, three, a margin of profit. That can be computed either on a cents per gallon or percentage of the wholesale price. It can be fixed either way. But here are three figures that can be easily calculated, easily identified, and everybody will know what they are doing.

ASSEMBLYMAN MAGUIRE: And you believe you should be given the authority to regulate the amount of profit a service station operator would get?

MR. JACOBSON: Not me - the Federal Department of Energy should set the margin.

ASSEMBLYMAN MAGUIRE: One last question. When you appeared before us a week or two ago, you said in response to a question that I posed to you that our loss of crude from Iran amounted to only 5 percent. I followed that up by asking you what effect that had on the spot market. You didn't respond to that. Are you saying again now this morning that the loss of supply from Iran amounts to only 5 percent?

MR. JACOBSON: Yes, sir. The short fall of imports into this nation as a consequence of the Iranian situation amounted to 5 percent. The argument given by the companies is that they have sent a great deal of their normal supplies to European countries. If that is true, one can respond to it differently. My response would be I am not sure that is an act of humanitarianism because there are much higher profits to be made in Europe than there are in this country. I suspect the profit motivation may have been one of the reasons for those shifts.

ASSEMBLYMAN GALLO: There has been a great deal of discussion and I have read an awful lot in the paper lately about the short fall or the percentage that we are not getting from the feds. Has that been admitted by the feds that they are or have shortchanged us?

MR. JACOBSON: There is a great deal of confusion about what we are talking about because we are really talking about two different things. Let me talk about the one that I think is significant in terms of gasoline. The Federal Department of Energy adopted recently a second regulation by which to compute how much gasoline you are entitled to. It provided the retailer with two bases: either the record of his supplies the month of the year previous or the average between October 1978 and February 1979 if that were 10 percent greater than the other. Everything is confusing, Assemblyman. The motivation behind this was to provide for growth, they said.

What happens is, if you are selling gasoline between October and February, you are selling much more if you are in a Sun Belt state because that is where the tourists are. As a consequence of this additional regulation, we have seen gas which would normally be coming into our State going to the Sun Belt states as a result of this shift. We have vigorously opposed this. My estimate is - and I can't give you a precise, surgical, clinical calculation --- but my estimate is that we are losing probably 9 million gallons of gasoline as a consequence of that shift. And we have urged them to review that.

The confusion has come in when the Federal Department of Energy for some reason that I don't know did not include in its report a report that we received in our State with regard to distribution of gasoline by one company. It appeared to some inexperienced observer that this was a dimunition of gasoline coming into the State. It was not. It was merely a clerical error that was done at the federal level and has since been conceded by them.

ASSEMBLYMAN GALLO: When you talk about the 9 million gallons, is that the total for the year, a month or what?

MR. JACOBSON: That would be a month.

ASSEMBLYMAN GALLO: Nine million a month you estimate that we are being shortchanged as a result of their calculations during the period of October through February.

MR. JACOBSON: --- as a result of using that second base period. That is my calculation.

ASSEMBLYMAN GALLO: Has the federal government understood or do they understand the figures and how you relate to those figures, that nine million; and have they admitted that there is a shortfall to the State of New Jersey?

MR. JACOBSON: They have admitted there has been a shift. And the fact that they are considering and are supposed to announce today a revision of allocations would be a recognition of that fact. I don't know what they are going to do. It appears to me in light of the fact that we have long lines in the eastern industrial area and no lines in the southeastern part of the State, if logic dictates a decision, it should repeal that particular group of regulations.

ASSEMBLYMAN GALLO: If, in fact, the service stations were receiving a percentage of their allocations, what is the average percentage that they are receiving due to that change with each company?

MR. JACOBSON: On the change with each company, the average in the State - and this is going to confuse you more - in June, it was 78.45 and, in July, it was 78.44. The reason it confuses you is that allocation is one figure and actual supply is a percentage of last year and is another figure. That is the allocation. What happens, Assemblyman, is that certain customers have top priority. The military, agricultural and other emergency vehicles. So they get 100 percent. If they are getting 100 percent and the average supply coming into the State is about 90 percent, obviously somebody is getting less. And that is what is happening.

ASSEMBLYMAN GALLO: One question I asked you last time - and this will be my last question - was in reference to the gas storage, the capacity of storage, and then also what that capacity is at the present time. You have indicated you have heard from three companies. Have those companies indicated or can you indicate what you have in storage capacity as far as those three companies are concerned and what the storage is at this stage?

MR. JACOBSON: As I reported earlier, my staff has this information and they are currently looking at it. I have not had a chance to evaluate it. Very frankly, we have been working kind of hard lately.

ASSEMBLYMAN GALLO: Thank you.

ASSEMBLYMAN KAVANAUGH: Commissioner, I guess I have kind of vacillated in my love for State government and the Department of Energy, and what have you, over the past few weeks. I think it was advantageous to some of the legislators to take the opinion of the public and go after them. But I think realistically we see the problem is more at the federal level than the State level. They are the ones who are causing us the distress here in New Jersey. So you have been kind of a fall guy in this emotional issue. I was wondering if for the record you could enlighten us here. Since your department started, could you tell us the number of staff you had when you started and your present staff, and your budget then and your budget now?

COMM'R. JACOBSON: We have around 80 people on our staff. Because of the austerity problem I have not added anybody to my staff. As a matter of fact, I have frozen quite a while ago existing positions. We supported the Governor in his desire to merge the Department of Energy and the PUC. I want to emphasize this was not an abolition of the Department of Energy. We merely put together the two departments to eliminate something like 10 or 12 jobs dealing with administration, personnel and budget, which were sheer duplications. The budget allocation for us this year is higher than last year. So I am telling you, under the restraints of austerity, at the present level, we can do our job.

The only request I would make and have been making is for increased clerical work to help us answer the thousands of letters and requests for exemption that we have received. There is a table outside my office that was piled up. I estimate we get something like 600 letters a day in the last two weeks. Frankly, we have been reduced to the necessity of responding with a form letter because it is just impossible to respond personally.

ASSEMBLYMAN KAVANAUGH: Have you given any consideration to requesting the Executive Branch or the Legislature an emergency allocation to enable you to be more definite in your approach and have additional staff to get the job done?

COMM'R JACOBSON: We have been told we are going to get an allocation from within the existing budget and there will be no need for a supplemental.

ASSEMBLYMAN KAVANAUGH: We have discussed in the past the DEP here in the State and the EPA on the federal level in regard to diking and having environmental regulations on storage tanks. It was brought out when we reviewed this with a number of people that a lot of storage tanks were abandoned within the area because they don't meet the EPA regulations. Has there been any request made by your department for a waiver of some of the regulations so that these unused tanks could be used if any spot market fuel became available?

COMM'R JACOBSON: That is something we are discussing with the Department of Environmental Protection. We are aware of the fact that they have the records on all the existing tanks in the State. It is something we will be discussing with them.

ASSEMBLYMAN KAVANAUGH: You say now the lines are down with the odd-even system. Driving down here today, it seemed the lines were down in the stations with the green flags. I only saw one station with more than five cars. And just down the street there were two stations with no cars. I am just wondering about the end-of-the-month problem. What do you have in mind for that? Are you going to work off of the August allocations?

COMM'R JACOBSON: Well, the Governor was able to arrange for earlier delivery at the end of June from the July supply on the contingency that the stations would remain open last Sunday and July 4th. I think that was a wise move because it obviously loosened up the tight situation. I don't believe there is going to be any serious consequence at the end of July, primarily based on the figures I reported earlier and obvious conservation being exercised by every American. Really what happened was an advance delivery of one or two days.

And I don't see any adverse consequence at the end of July.

ASSEMBLYMAN KAVANAUGH: Last week when we were in Washington, we discussed the problem of Iran, after you had mentioned the 5 percent. I would just like to reflect with you a moment on some of the information that we have received and get your comment. It is something I don't want to get into a debate on. Now we were told that approximately 2.8 percent of the oil imported to the United States was produced in Iran. But a much larger share of the imports were handled by a group of companies, a consortium, that operated the Iranian oil fields. Because of the exchange agreements that these people have through the international oil supply chain and what have you, it ended up eventually that 17 percent of the U. S. oil was indirectly involved with Iranian oil. It is not necessarily true that we lost that amount. But they estimated that we probably lost somewhere between 10 and 12 percent.

COMM'R JACOBSON: I have seen those figures, Assemblyman. I am going to repeat what I said before. I am not sure that is an act of humanitarianism. I am really trying to avoid being controversial because I think we should be concentrating on solving the problem and point the finger of culpability later.

But I must point out that one of the major companies - I don't want to name it - in its 1978 income statement reported that earnings from domestic operations were down 5 percent and earnings from foreign operations were up 35 percent. Maybe it is humanitarianism, but it is also very profitable.

ASSEMBLYMAN KAVANAUGH: One other question - and I don't want to get into a debate.

ASSEMBLYMAN GEWERTZ: Please don't. We have a lot of people here this morning.

ASSEMBLYMAN KAVANAUGH: Another thing is that it has been in the papers the last few days that President Carter with his staff and through the press, as far as getting information on confidential material --- they haven't released it but it was given to the cabinet members that there is a silent agreement among the countries that he has just recently met with to have a forced 5 percent reduction in usage here in the United States. What effect do you think that is going to have on us?

COMM'R JACOBSON: I think it is a wise move. As a matter of fact, the Governor several weeks ago directed us in the State government to use 5 percent or less. I really don't believe that is going to cause any widespread alteration in our lifestyle. I think it is a small sacrifice to make to meet an impending crisis. That presents no problem as I see it. The truth is, sir, I have been coming to Trenton by train now and the trains are noisy and crowded, but I seem to be surviving.

ASSEMBLYMAN KAVANAUGH: We had two trainmen here last week and both of them had hearing aids. Thank you.

ASSEMBLYMAN GEWERTZ: Commissioner, the statistics that our staff has compiled indicate that crude imports are up considerably over last year, but that the production of domestic crude oil is down. So we don't seem to be suffering from a lack of foreign imports. In fact, we go all the way back to 1977 and it seems in the last eight months it has run over the prior imports.

COMM'R JACOBSON: I have the U.S. Department of Energy's weekly petroleum status report, dated June 22nd, in front of me. They estimate for the first 165 days of this year as compared to the first 165 days of last year that total imports are 5 percent higher this year than last year.

ASSEMBLYMAN GEWERTZ: So we are not suffering from a lack of foreign crude oil?

COMM'R JACOBSON: I find it difficult to attribute the situation to a lack of crude because the statistics don't bear that charge up.

ASSEMBLYMAN GEWERTZ: In fact, we intend to have some people from OPEC in the next couple of weeks.

COMM'R JACOBSON: With sheets.

ASSEMBLYMAN GEWERTZ: I don't know, however they come.

I think what we are mainly concerned with, as far as the Department of Energy is concerned - and I think Assemblyman Maguire touched on it - is the formula for the half-gallon sale. We would strongly urge that we not adopt something so complicated that the average person dealing in different stations is going to have to take a little computer to figure out what is the right price. Is there an auditing system that you are going to pursue; and, if so, how is your department going to be in a position to audit 5100 dealers to say, "You have had so much vapor waste"? It reaches a point where it becomes totally unenforceable. To be honest with you, I don't know whether it is better or worse; but it would appear that we would be better off with one uniform system that is a simple system to the average person to contemplate so that as he goes into a place to buy gasoline and it is the same supplier or the same brand, he will know whether or not it is reasonable or whether or not it is improper. By being able to do that, he will be able to bring to the attention of the proper authorities that it is not what it is supposed to be.

I understand there can be an emergency declaration by the Superintendent of Weights and Measures to allow for the half-gallon type of sale without a complex system that we would not be in a position to audit at this point in time. To audit 5100 stations, you would have to have a couple of hundred people on the street daily.

COMM'R JACOBSON: I agree with you completely that the regulation should be replaced. I have said that several times and I am going to testify about that next week.

Now, with regard to the request to charge by the half gallon, if we were to say that after the dealer does it, we would have to audit to find out whether it is legal, you are absolutely right; you are absolutely right in saying it could never be done. So we have done precisely the reverse in an attempt to resist that regulation. We have said to a dealer, "You are not going to get it merely by asking for it. You have to come in and demonstrate that you are legally able to charge over a dollar. If you do, then you will be permitted to charge by the half gallon."

By putting the burden of proof on the dealer, I tell you very frankly it is an aggressive attempt to resist charging over one dollar.

ASSEMBLYMAN GEWERTZ: But how is the public going to be able to verify this when they go to the pumps because you don't have the staff to go around and check once they have filed this declaration as to its accuracy?

COMM'R JACOBSON: Weights and Measures Department has 150 people on its staff. They are much more capable of monitoring that particular regulation. I think that can be done by virtue of the fact that their staff is much larger than ours.

ASSEMBLYMAN GEWERTZ: Of course, the country's refinery output seems to be somewhat down and the east coast refineries seem to be down substantially more than what the national average would show. Do you have any idea or insight as to why we have that decline in refinery output on the east coast?

COMM'R JACOBSON: No, I don't. The only information is federal figures. The refinery utilization in this particular document dated June 22nd indicates for the week ending June 1st, it was 85.9 percent; June 8th, it was 84.1 percent; June 15th, it was 84.5 percent. I would refer you to the fact that in June of 1978, it was 87.7 percent, considerably higher; in June of 77, it was 91.4 percent, considerably higher. I must also say that I read in the paper this morning that the utilization is up as high as 89 percent. In my judgment, for whatever reason, the utilization of refining capacity has been increased considerably lately. It may be because some critics have been talking about tankers and other things like that.

ASSEMBLYMAN KAVANAUGH: Could there be any possibility that the refinery capacity is down in order to increase reserve?

COMM'R JACOBSON: You are getting into an area that is controversial. I will be glad to answer it.

ASSEMBLYMAN GEWERTZ: Do you want an answer?

ASSEMBLYMAN KAVANAUGH: If you would.

COMM'R JACOBSON: Could I take a minute to give you some statistics.

ASSEMBLYMAN GEWERTZ: Sure.

COMM'r JACOBSON: On January 1st of 1977, crude oil stocks were 294 million barrels.

ASSEMBLYMAN KAVANAUGH: How about '76? Do you have '76 figures there because there was a period when'77 was up and '78 down?

COMM'R JACOBSON: I don't know, but I have '78 and that is the point I am going to make. 294 for '77; 340 million barrels for 1978. My theory is --- I'll call it a theory; it is not a theory; it is a fact because I heard it reported by the president of a major oil company. The major oil companies anticipated in 1977 an increase in the OPEC price. As a consequence of that, they started to build up their stocks. I am told this is good business. If you build up your stocks anticipating a price, when the price finally comes, you can enjoy inventory profits. For some peculiar reason OPEC fooled everybody and did not increase their price and the stocks were then very high. In 1978, several things happened. Imports were down considerably. In fact, I have a figure here that in the first quarter of 1977 imports were as high as 10 million barrels a day. In the first quarter of 1978, imports were as low as 7.9 million barrels a day. So imports were down. Production was down. Utilization refinery capacity was down and there was a heavy draw on inventory. The reason that could be, or was, that somebody decided to repeal the law of supply and demand. Because if supply is high and demand is constant, the price is supposed to come down. But that didn't happen and the inventories were going down, production was down, imports were down, and the price was then bolstered by a heavy draw on inventory.

A miscalculation was made by the industry as a consequence of this heavy drawdown on inventories. The miscalculation was that the fall of 1978 was warmer than usual and there was a continued heavy drain on gasoline. The winter of 1978-79 was very cold and there was a heavier drain on number two heating oil. So what was a low inventory problem because of their drawdowns to compensate for the heavy inventory before was exacerbated by heavier demand and then, on top of that, the Iranian situation. There is no way that the shortfall from Iran could have caused this problem. But the combination of drawdown of inventory, a miscalculation of demand because of the weather, and the Iranian situation, plunged us in the position where we are.

I have to complete the scenario inasmuch as you have opened the door. All the while this was going on, the administration is recommending decontrol. If decontrols are on the horizon, what incentive is there to accelerate production and refinery utilization because, if you wait, there is going to be a higher price? My judgment is, Assemblyman, that this scenario is precisely what happened. It is not a conspiracy. It is just, in my judgment, placing the economic interest of the company against the public interest.

ASSEMBLYMAN KAVANAUGH: Wasn't that when they got involved in O'Leary's rule? Wasn't that a situation that came about when O'Leary told them not to go into the spot market; it was $5 or $6 higher than the OPEC prices?

COMM'R JACOBSON: That's right. By the way, you recall that two years ago we were running around this State tearing our hair looking for natural gas. There was a shortage, I was told. I denied it. Now there is a flood. Apparently I was right.

ASSEMBLYMAN KAVANAUGH: I hope you are right again.

COMM'R JACOBSON: Frankly, I would just like to see these lines disappear and people get back to normal. I can always point the finger of culpability at a later time.

ASSEMBLYMAN KAVANAUGH: Except for that poor young kid who is selling coffee and rolls on the line. He is not going to have money for school.

ASSEMBLYMAN GEWERTZ: Thank you, Commissioner.

COMM'R JACOBSON: Thank you very much. I appreciate it.

I would like to call the representatives from Texaco: H. C. Tenny, General Manager, Petroleum Products Department; Mr. Larry Utke; and Mr. F. Handy.

HERBERT C. TENNY: Good morning. My name is Herbert C. Tenny. I am the General Manager of Texaco's Petroleum Products Department, U.S.A., for the Northeastern Region of this country. Accompanying me is Mr. L. V. Utke, our General Attorney. I want to thank Mr. Gewertz and his committee for the opportunity to appear before you today to discuss the current oil supply problem. Among many other assignments I have had with Texaco, I was once the manager of our Eagle Point Plant Refinery which, as you know, is in Assemblyman Gewertz' district.

I would like to open my statement by drawing your attention to the fact sheet which I have given you. This, I trust, will answer the specific questions which I believe you are interested in. I got these by telephone communication. I may have missed the mark on some. But I am not going to take the time of this Assembly to run through all these numbers. I would be glad to address any questions that you have on them at the end of my presentation.

We are convinced that the present shortage of gasoline and the threat of a fuel oil shortage this winter is due primarily to federal regulations. The current federal energy policies, instead of strengthening the country's position, are making it increasingly reliant on petroleum imports. Unless these policies are changed, domestic crude production is expected to continue to decline and be replaced by imports that are projected to reach 12.5 million barrels per day by 1990 or 59 percent of the U. S. demand. Price controls, the centerpiece of current energy policy, inhibit the oil companies from discovering, producing and refining of large amounts of oil that remain in this country. American oil reserves may be slowly declining but the United States is by no means running out of oil. There is probably at least as much oil left in the ground to be developed as when it was first discovered in this country in 1859. However, current U.S. price controls simply do not permit companies to generate the huge amounts of capital needed to carry out the job.

I feel it is appropriate to discuss federal regulations with you because most changes in these regulations begin at the grass roots level, and the State of New Jersey can help to change them.

Unfortunately, a variety of inconsistencies complicate the present energy regulatory climate in the United States.

First, the federal government has called for the development of alternate energy sources. But then it holds the price of natural gas and petroleum so low that commercial development of alternate fuels is not economical.

Second, government officials acknowledge the need for new technology and large investments in the development of alternate fuels, but then supported legislation that would keep the oil companies out of the coal and nuclear and other energy businesses, which I must say we are well qualified to enter in terms of our technological experience.

Third, government officials demand that the oil companies develop the most efficient refining methods to get the most out of a barrel of crude. But then they directly subsidize inefficient refineries through the small refiner bias.

ASSEMBLYMAN MAGUIRE: What does that mean, sir?

MR. TENNY: In the regulations, there is a rather complex manner by which oil refineries which are below a certain level in size are subsidized by the large refineries. The smaller they are, the more the subsidy. This has led to a proliferation of small, inefficient refineries built just to cash in on this bias because it is far outweighing its intent, which was to help small businessmen.

ASSEMBLYMAN GEWERTZ: Mr. Tenny, when you say it is subsidized by the larger refineries, by what method?

MR. TENNY: Through the entitlements program. We could take the rest of the afternoon and show you how this works. But the entitlements program originally basically was designed to equalize the cost of crude that oil refineries run, regardless of whether it is domestic, old oil, new oil, imported oil, so it would arrive at the refinery at about the same cost. This is done by certain refineries passing money to other refineries or refiners, based on their cost of crude. Now, wrapped into this is a bias which shifts some of this money in favor of the small refiners.

ASSEMBLYMAN GEWERTZ: Are we to assume if Texaco, for example, being a large refiner, bought crude oil at a more reasonable price, that you, in fact, would have to pass on a portion of dollars, the difference between what a small refiner might be buying crude oil to that refiner?

MR. TENNY: Yes.

ASSEMBLYMAN GEWERTZ: And that, in turn, would increase the cost or equalize the cost of your crude oil and thereby cause you to charge higher prices?

MR. TENNY: Than we otherwise would, yes.

ASSEMBLYMAN GEWERTZ: That is very interesting. That is federal regulation.

MR. TENNY: As you will see in your fact sheet, in this entitlements program, Texaco has been forced to pay to other refiners since 1975 $520 million. This is money that we might have invested - certainly would have invested - in our own business.

ASSEMBLYMAN GEWERTZ: Is it conceivable you might have passed some of that on to the consumer?

MR. TENNY: Yes, that is conceivable because, as an example I can cite where we have a small refinery --- Mind you, this bias does not pertain to a small refinery owned by a large refiner. So in one part of this country we have a small refinery across the street from one, the same size, the same configeration, running the same crude, selling into the same market. That refiner meets us in the market five to six cents less per gallon than we can afford to go into that market because of this small refiner bias.

ASSEMBLYMAN GEWERTZ: Thank you.

MR. TENNY: Fourth, government regulators acknowledge the need for huge increases in capital if the oil companies are to find domestic sources of oil and construct new plants. But they continue a system of price controls and taxation that make impossible the generation of adequate capital.

Five, even after the President pledged to decontrol crude oil prices, the industry continues to receive less than $6 a barrel for much of its domestic oil while its imported oil now costs more than $20 per barrel. At the same time, a concerted effort is being made to tax away most of the increase in funds that decontrol would make available to the industry for exploration and development of additional supplies.

Six, the federal government is trying to control inflation, but at the same time preserve the system of expensive regulatory activity, which by their own estimates added three-quarters of a point to inflation last year alone.

It should also be pointed out that it is extremely counter-productive for public officials in leadership positions to make unfounded and unsupported accusations about the industry. Rather than trying to fix the blame, it is imperative that we get on with fixing the problem.

The only hope for correcting the shortage now facing us is through the cooperative efforts of industry and government.

Only the industry can produce, refine, and distribute the oil. The government's role is to create the climate in which this can take place.

This bring me to the subject of permits. If the government at all levels - federal, state and local - does not cut through the bureaucratic red tape that has been generated over the last few years, it is probable that no major refinery will ever again be built in this country. It is becoming increasingly doubtful that we will be permitted, under the present proliferation of controls, to add to existing refineries the increased capacity, the octane improvement facilities, and the processes for handling heavier and higher sulfur crude oils that the country is so badly in need of.

When the question is raised as to what we can do right now to ease the current supply crisis, Texaco would recommend the following steps. And these are short-range.

First of all, we must convince our constituents - and remember ours and yours are the same people - that there is a problem, a problem to be approached rationally and without panic, a problem which will require restraint and a problem which will not be resolved overnight. Unsubstantiated allegations of supply withholding by oil companies do not contribute to this effort.

Second, promote conservation. If convinced there is a problem, the American public would voluntarily conserve. The President has urged that we drive 15 miles less per week - and that would be easy - reduce heating and air conditioning use, and avoid energy waste.

Third, put some teeth into the enforcement of the 55 miles per hour speed limit. The Department of Energy estimates 200 thousand barrels of gasoline per day could be saved.

Fourth, suspend the schedule for a mandated phasedown of lead in gasoline and allow the introduction of new cars requiring unleaded gasoline to accomplish a natural phasedown. This would be in addition to the postponement of the lead phasedown scheduled for September, which we highly recommend because the DOE estimates that this would save 300 thousands of barrels per day.

Fifth, relax the sulfur limitations in residual fuels and heating oils, which will in turn allow for greater use of the heavier and higher-sulfur crudes which are in greater supply worldwide. Texaco supports this country's environmental objectives, those that are reasonable and that do not exact an excessive and unwarranted penalty in economic costs or energy supply. What we are suggesting here are temporary relaxation measures that will help the nation through a difficult period.

Sixth, allow U.S. prices to rise to world levels to encourage the industry to compete for products on the world markets.

Seventh, treat imported unfinished oils as crude oil for DOE entitlement purposes, allowing their processing in available cracking and reforming capacity to produce more distillates and gasolines. If they were treated in the entitlement program like crude, we would be able to come nearer to affording them, recognizing that they are bought out of a free market where the price of crude, the basic item, is uncontrolled.

Eighth, remove unreasonable and unnecessary regulations. Have we not experimented enough with regulating the petroleum industry to learn that constraints do not produce gasoline and heating oil? Should we not try market economics as our regulator?

We can do these things that I have mentioned and they will help alleviate the current situation. At the same time, the present shortages need to be seen in a longer-term perspective. The chronic shortages of the 1980's will require longer-term programs. Texaco has repeatedly identified essential elements to a sound national energy policy.

Longer-term actions we would like to see are these:

1. Obviously, use less energy. Conservation is nothing more than using energy efficiently.

2. Produce more energy in the United States. The phased decontrol of oil is one step in the right direction. Accelerated leasing of onshore and offshore acreage is another.

3. Develop reasonable environmental regulations to reconcile the sometimes conflicting goals of environmental concerns and energy development.

4. Develop alternative sources of energy. Commercial development of alternative fuels has been discouraged by price controls for oil and gas at artificially low levels.

5. Restore the free market. It has worked in the past. Experience has shown that bureaucratic fine-tuning cannot substitute for market economics in responding to the public's demand for goods and services.

The President has proposed we bring U.S. crude oil prices up to world levels by 1981. The decontrol of domestic crude oil is a significant step, but it should not be undermined by an unnecessary tax on revenue, sometimes improperly called a windfall profits tax.

Washington's failure to construct a thorough-going and sensible energy policy has made the United States more susceptible to energy disruptions with each passing year. We had a fine example this week of another one, another failure. The oil embargo in 1973 created a major reduction in supplies but this was just a temporary warning. Succeeding events, such as last winter's shutoff of Iranian exports, have resulted in further reminders of our precarious dependence on politically unstable countries. We can no longer afford to deal with this matter from a standpoint of political expediency within our own country.

Without a realistic energy plan, the United States will continue its downhill drift. Given an energy policy that is consistent, stable and realistic, our nation can count on the men and women of its petroleum industry for a major contribution in solving the energy problem.

I trust that New Jersey's lawmakers understand the full implications of our present energy situation and will exert their influence to help bring about a cooperative effort between government and the oil industry.

That concludes my prepared statement. I would be happy to entertain any questions.

ASSEMBLYMAN GALLO: On page 2, you indicated that it is your feeling that the United States would have as much oil left to be developed as we started with. What do you base your facts on?

MR. TENNY: I said there was probably as much oil still in the ground as has been produced. Now, as you produce these increments, it becomes more and more expensive. You have to drill deeper. You have to go offshore. You have to use secondary and tertiary methods of recovery, which are very expensive. So these additional barrels are never going to be cheap. They will be progressively more expensive and it depends on how the value increases with respect to the cost of producing that will determine how many of these barrels will finally be produced.

ASSEMBLYMAN GALLO: What about shale oil?

MR. TENNY: Shale oil is a very reasonable source of additional crude supplies. It has not progressed because the price of petroleum has been so far below the cost of producing it by that method that it just hasn't gotten off the ground.

ASSEMBLYMAN GALLO: Maybe this isn't a fair question. But you mentioned this in your statement. Is the world market the price that would make that a reasonable exploration for getting more fuel? What is the dollar amount that it has to reach before it ---

MR. TENNY: That is a good question. At one time, people predicted that if the cost of crude got to $10, it would surely spur the production of oil from shale. But by the time it got there, inflation had taken its toll and ten dollars wouldn't do it anymore; and it hasn't happened. Every time there is a significant increase, it requires a completely new assessment of the relative economics, of what you are going to put your money into. Certainly, the most recent OPEC price increase is going to have everyone taking a look at this.

ASSEMBLYMAN GALLO: If we could use today as a barometer, today's prices, to make shale available - when I say "available," I am talking about it being profitable too - what would you estimate the cost would be, as far as the cost of gasoline?

MR. TENNY: I really have no figures to answer that.

ASSEMBLYMAN GALLO: In other words, you couldn't give me a figure of

$1.50? You couldn't say $1.25?

MR. TENNY: Let's say - I haven't done these calculations and I haven't seen them done on the basis of present prices - if the cost of crude today would pay for the processing of oil shale into gasline, then it would follow that the cost of gasoline made from that source would be similar to the cost of gasoline made from crude. I am running around in a circle, I realize.

ASSEMBLYMAN GALLO: Well, tell me this: What would be the cost of development of that at this stage into crude from shale?

MR. TENNY: I cannot answer that question, only to say that we have certainly come closer to having a price of product nearer to being able to support the cost. There is one other aspect of this that worries people who are going to invest their money in oil shale. It is a long-term proposition. You can't do these things overnight. It takes several years to build a plant and get the mine in operation and so on. We all worry about what might happen to the cost of crude in the meantime. You can write a scenario that says that the cost of products becomes so high that use is curtailed to the point where crude prices are forced down and become a gut on the market again. At this point, the shale-oil operator may find a market that no longer supports his operation and he hardly gets started. People in Washington are thinking seriously about underwriting a product cost in such a way that we can overcome this inertia and get past this point.

ASSEMBLYMAN GALLO: I have a question here. Can you give specific examples of federal regulations most important in dictating refining operations?

MR. TENNY: I think that I probably mentioned the significant ones. The entitlement program, while it drains off some of our money, it only has an indirect effect because it prevents us from perhaps improving our plant. One way that we would like to improve is to be able to handle higher sulfur crudes because they are easier to obtain in a tight market.

ASSEMBLYMAN GEWERTZ: Mr. Tenny, could you speak into the microphone.

MR. TENNY: Sorry. Further, in parallel with the entitlement program is a mandatory allocation of crude, actual barrels of crude from one refinery to another. Texaco has been directed by the DOE to supply over 4 million barrels so far this year of our crude to other refiners, even though we do not have enough crude in our system to run all our refineries at full capacity.

ASSEMBLYMAN GALLO: Are you at full capacity now?

MR. TENNY: We are in our New Jersey refinery. In the country as a whole, we are about 6 percent under full running as limited by crude availability.

ASSEMBLYMAN GALLO: You made a statement before that with the current federal regulations that it would be very improbable that there would be another major refinery developed. What regulation are you referring to when you say that? Are you talking about the Department of Environmental Protection regulations?

MR. TENNY: Primarily, yes. The Environmental Protection Agency and a number of following groups that they have spawned sometimes take totally unrealistic approaches to the problems presented. There was a refinery proposed in Virginia. There was one proposed in Maine. Mind you, this is on the east coast where we are seriously dependent on refineries elsewhere. Those have been in the mill for five years or more, attempting to get through the regulatory-permit maze. They haven't made it yet.

ASSEMBLYMAN GALLO: Mr. Tenny, when was the last new Texaco refinery developed?

MR. TENNY: The last new Texaco refinery was built in Louisiana and started up in about 1968.

ASSEMBLYMAN GALLO: And you have not built any other refineries?

MR. TENNY: That's right.

ASSEMBLYMAN GALLO: I would assume that the need is significant for new refineries by Texaco?

MR. TENNY: Yes. Even though we are short of crude in the short term, we are optimistic. We would entertain the idea of increasing the capacity, in fact, are engineering such projects now, with the idea some day in the not too distant future crude will be made available. But we are much concerned that we may never get the necessary permits to make it possible.

ASSEMBLYMAN GALLO: Thank you.

ASSEMBLYMAN GEWERTZ: Assemblyman Maguire.

ASSEMBLYMAN MAGUIRE: Mr. Tenny, have you built any refineries overseas since - what was it '68?

MR. TENNY: 1968, no we have not.

ASSEMBLYMAN MAGUIRE: If the federal government is telling you that you have to sell some of your crude now to other refiners and you are not operating at full capacity, why would you even want to think about building another refinery?

MR. TENNY: I prefaced that with the idea that we are hopeful that additional crude will become available and it is prudent for us to get on with the engineering. You have to realize between the moment you decide you want to do something like this and the time that it can be accomplished, not allowing for delays in permits, it could be as much as five years.

ASSEMBLYMAN MAGUIRE: I am familiar with that. Sometimes it takes 25 years to build a new road. How many tankers do you have laying off the coast now waiting for the price of gasoline to go to $1.25 before you bring them in? That has been reported you know.

MR. TENNY: None at all and that is one of the myths that people choose to invent to help explain the circumstances that they don't understand.

ASSEMBLYMAN MAGUIRE: On page 2 of your fact sheet, I don't quite understand the breakdown of figures. For example, the manufacture of lead-free gas, is that included in the total production?

MR. TENNY: Yes, that is included in the total.

ASSEMBLYMAN MAGUIRE: I haven't finished my question. Is that included in the total production at the Westville Plant for the first six months of this year?

MR. TENNY: The number shown for lead free is included in the number just above it, which is total motor gasoline. It might be interesting to note that the lead-free was 31 percent of the total motor gasoline made last year. It is nearly 45 percent of the total gasoline made in the first half of this year. This is a reflection of the increase in the market requirement.

ASSEMBLYMAN MAGUIRE: Would you tell us the extent to which refining operations are subject to federal regulation? I guess this is expanding on the question that Assemblyman Gallo asked you.

MR. TENNY: So far, the DOE, while they have threatened, have not except for one occasion a couple of years ago, made any regulatory move towards determining how a refinery was operated with respect to the product mix. I think this is what you have in mind. The one occasion was to direct that aviation jet fuel be contained in heating oil in the upper mid-continent during a particularly severe winter when the transportation system couldn't move because of the ice and the snow in the area.

ASSEMBLYMAN MAQUIRE: I will pass for a moment.

ASSEMBLYMAN GEWERTZ: Assemblyman Kavanaugh.

ASSEMBLYMAN KAVANAUGH: I have a few questions. Starting with the problem today, does Texaco see in the refineries you have - and you have a new one in Louisiana --- But in the refineries you have that are operational, could you give some insight to the Committee with regard to the problems that you have with the various grades of crude oil in refining them? For example, people talk about the Alaskan oil.

MR. TENNY: That is something that we certainly wish was more widely understood, that crude oil is not just simply crude oil. Refineries are built and designed to run a certain type of crude, not necessarily a specific one, but a certain type, one limited perhaps by sulfur content or by the gravity, which is an indication of how much gasoline is naturally in the crude or not. So, in the case of the West Coast, when Alaskan crude came in, which is rather high in sulfur and low in gravity, many of the refineries on the West Coast could not run it, either because they don't have the metallurgical protection to handle the sulfur and its corrosive effect or because their fractionating equipment cannot handle the high percentage of heavy oil that comes out of those crudes. Consequently, when we have an interruption in normal supply systems, such as the Iranian, recognizing as Mr. Jacobson said, that this oil is exchanged and it is rather hard to follow through any one company's system, there is a more significant disruption than appears. Some countries like Japan become a little more panicky than we do because they depend 100 percent on imports. So they jump into the market and try to tie up as much crude as they can.

If we have sour crude and we need sweet crude, we trade. But in times of short supply, you may have to trade off more than one barrel of sour to get a barrel of sweet. This is part of the reason why you can never take that cutback in Iran and translate it into product shortage in the United States. It is not that simple.

ASSEMBLYMAN KAVANAUGH: Are you involved in the Alaskan pipeline?

MR. TENNY: No.

ASSEMBLYMAN KAVANAUGH. How about on your imported oil that you bring over, do you get any bad oil, for instance, the Saudi-Arabian oil with brine in the field, and what have you? Have you had oil come over here that you can't use?

MR. TENNY: No. It is true that sometimes we do get more water than we would like to think we transported across the ocean. But our main problem with Arabian oil today is that the Arabs are insisting that we take an increasingly large percentage of heavy oil along with the light oil. We would much prefer - and our refineries were designed to run light Arabian oil. But we are being forced to take a certain percentage of heavy, which means that we make more fuel oil in these same refineries of a higher sulfur level, which becomes a marketing problem.

ASSEMBLYMAN KAVANAUGH: What percentage of your crude supply is imported and what is domestic, approximately?

MR. TENNY: It is just about half in half.

ASSEMBLYMAN KAVANAUGH: Do you export any of your domestic crude?

MR. TENNY: No, that is illegal.

ASSEMBLYMAN KAVANAUGH: I didn't know that.

As far as the stations to which you supply gasoline are concerned, is there any anticipation on your part of any company plan or policy being established that you would take over independent dealers, going into that market?

MR. TENNY: I don't think I understand your question.

ASSEMBLYMAN KAVANAUGH: For example, I don't believe Texaco presently has any company-owned stations in New Jersey. Is that correct?

MR. TENNY: We have very few in the country, none in New Jersey.

ASSEMBLYMAN KAVANAUGH: Is there any policy being established whereby you may go into the distribution?

MR. TENNY: No. If there was one thing we probably did right, it was to get out of that business.

ASSEMBLYMAN KAVANAUGH: Another question -- your attorney is alongside you.

MR. TENNY: He probably just kicked me.

ASSEMBLYMAN KAVANAUGH: Today we call them the modern bodyguards.

I am wondering whether he would comment or you would care to comment on this. We have been told confusing and conflicting stories regarding the State set-aside. Last month, of the approximately 300 million gallons or 285 million, anywhere between 13 1/2 million and 15 million gallons or 5 percent were State set-asides. We have been told that if you were a Texaco dealer and went to Texaco and the Texaco set-aside was used up, you could then use some of Shell's, or what have you, because it was now transferrable. When we inquired whether this was a federal or a state regulation, we were told it was a federal regulation. We went to Washington and asked the regulatory agency where it was in the book and they said, "It is not a federal regulation." They said that is up to the state to decide. Today, there is still some confusion. Steve Peco said he has been told by his attorneys it is a federal regulation, but no one can find the regulation. Being one of the major oil companies, maybe you could tell us the percentage you put in the state set-aside and whether you believe it is proper for the State to transfer within the state set-aside so that whatever we have in the state set-aside we can give to anyone as long as there is a need?

MR. TENNY: I will defer to my lawyer on that subject.

MR. L. V. UTKE: There are no specific DOE regulations that prohibit that type of thing. The problem with it is that, first of all, you run into trade-mark problems, mislabelling, misbranding type problems. If someone receives in a Texaco service station gasoline that came from Getty or Mobil ----

ASSEMBLYMAN GEWERTZ: Could you use the microphone, please.

MR. UTKE: (Continuing) --- when the retailer sells the gasoline, then sometimes you have problems with, say, contamination of the product. For instance, if there is lead in unleaded gasoline, there is a liability problem that follows this. It gets very complicated because of the EPA, the environmental regulations, the liability regulations, if you have contaminated product, to trace it back.

ASSEMBLYMAN KAVANAUGH: Isn't it the practice within the industry, during the winter months, if you have problems in one refinery or the other, that you transfer product from one to the other. Say, if Chevron is closed down or you are closed down, Chevron will get product from you or you will get product from Chevron, or Exxon, or Mobil?

MR. UTKE: What kind of product are you talking about, fuel oil or gasoline?

ASSEMBLYMAN KAVANAUGH: Fuel oil.

MR. UTKE: I thought we were talking about gasoline.

ASSEMBLYMAN KAVANAUGH: Is there any different regulation in one or the other as far as transfer is concerned?

MR. UTKE: Product is sometimes exchanged during times of shortage or for other reasons, say, to save transportation costs.

MR. TENNY: Let me clarify that. It is common to exchange products between companies. When we take a product out of another company's refinery, it is made to our specifications. If we buy it in the free market, we make sure that its specifications meet ours and that the additives that make our product different from others is added to it before it goes to our customers. This is the type of thing that you are protecting in the gasoline business. If it were not for this, brands would have no meaning, I suppose.

ASSEMBLYMAN KAVANAUGH: Do you do that in fuel oil also?

MR. TENNY: We do the same thing in the fuel oil, except that there are not these significant differences in fuel oil. Particularly, I am talking about residual fuels; they are sort of a by-product, what is left after you boil off the lighter ends. And they come out fairly similar, except that they have specifications to be met, particularly in sulfur and in viscosity, and sometimes in heating value. Here again, you have contractual commitments to provide certain specification oil to your customers and you have to be certain what you receive and pass on to your customers is, in fact, such.

ASSEMBLYMAN KAVANAUGH: Do you think one thing we in the State could do is, say, give you a waiver or give you more latitude so that in times of emergency you could, by transfer, use other gasoline?

MR. UTKE: I am sorry. I don't understand the question.

ASSEMBLYMAN KAVANAUGH: Would you like something, such as a waiver, if there is any problem, to limit your liability? Is there something we could discuss on a State level, something that would give us the benefit of that reserve or that standby, to allow some flexibility?

ASSEMBLYMAN GEWERTZ: Something like a product liability waiver in the event that one company is short and its stations are unable to remain open because the refiner or the distributor or the wholesaler is unable to supply the product, by using another company's product in a transfer process, with a product liability waiver, whether or not that would assist in making more fuel available where one company would have a surplus as opposed to another and being unable to furnish his dealers?

ASSEMBLYMAN KAVANAUGH: It would allow the State then to control the State set-aside.

MR. UTKE: I, until this time, never heard of this type of proposal. I think such a thing would be very complicated. Aside from the liability questions, there are some other things involved, for example, the credit. If you sell the product, say, at a Texaco service station and they use Texaco credit cards to buy the product and then the customer doesn't pay, we end up having to pay the retailer for a product that wasn't even our product to start off with in the beginning. So we run a credit risk of carrying the credit and sometimes not getting paid for that.

ASSEMBLYMAN GEWERTZ: I don't understand. How would that affect someone, because many of the major oil companies will take another oil company's credit card?

Some of the stations - or, at least, at one point they did this; maybe that has changed - take a multiplicity of major credit cards. If you were a Texaco station and, as an example, you had to use someone else's product and someone came in with a Texaco credit card and bought that product, how would that have any effect on Texaco when Texaco is, in fact, approving the credit of that credit-card user prior to the issuance of the card?

MR. UTKE: We are not selling the product at the service station. This is being sold by a retailer.

ASSEMBLYMAN GEWERTZ: All right, a retailer.

MR. UTKE: The retailer operates the business. If he has acquired product that he is selling at that service station that he didn't buy from Texaco - correct?

ASSEMBLYMAN GEWERTZ: Yes.

MR. UTKE: He brings it in. He didn't get the product from Texaco.

ASSEMBLYMAN GEWERTZ: Right. But the credit card that he is using, whether he is buying Texaco fuel or Mobil or Gulf, or whatever it may be, that company by the issuance of the card is, in fact, at least to the best of their ability, warranting that the fellow is a good credit risk. If he doesn't pay his bill, obviously you revoke the card and there is a number of mechanisms for collecting.

ASSEMBLYMAN KAVANAUGH: Couldn't it be solved by having the State guaranteeing the State set-aside?

MR. UTKE: I suppose that is possible. If the State would indemnify the companies against any loss in use of product or if labels were changed at the service station, I suppose that this is possible. I didn't realize that the distribution of the 5 percent allocation that the State has available was creating that much of a problem frankly.

ASSEMBLYMAN KAVANAUGH: Well, it could because it is going to be all used up. There could be a problem. If Texaco is not a large producer at a certain time and Texaco people are short, then they go to the State set-aside. But the State may say, "we have used up all of Texaco's product, but we have another 4 million of Exxon," but you can't use it.

MR. TENNY: Could I say something about that?

ASSEMBLYMAN KAVANAUGH: Sure.

MR. TENNY: I think you are looking at the hard way to solve the management of the State set-aside. The State set-aside is made up of 5 percent out of every company's pie and if it is distributed as time goes on more or less equally, since we have a wide distribution of service stations for all major companies throughout the State, it could be nothing but poor management if you run all of Texaco's stations out of the possibilities while leaving all of Hess's in their tanks. I see no reason why you should ever have to have such a serious situation that you need to put one company's gasoline into another company's service stations.

ASSEMBLYMAN KAVANAUGH: Well, we have lost 20 percent of our service stations. We lost a thousand service stations.

MR. TENNY: I think really that you could help yourself more by putting some of that 5 percent back in the market. When they raised it from 3 to 5 percent, they were not doing the public any good because they took 2 more percent of what is a normal distribution chain and upset the market to that added extent. And when the State tries to put it back in, it can only be at the expense of somebody else. Then the argument starts. Since there was a system there, you see, to distribute gasoline where people wanted it when they wanted it, the fact that there isn't quite enough to go around has, I think, caused a little overkill with respect to State set-aside.

ASSEMBLYMAN KAVANAUGH: One final question regarding the federal regulations and the State regulations, if you could walk away from here today and say, "I gave them a solution to the problem," what is the major change in regulations, the state and federal regulations, which could be effected to alleviate the gasoline situation?

MR. TENNY: Are you talking long term or short term?

ASSEMBLYMAN KAVANAUGH: You could give me two answers then. If you have the answers, give me both short- and long term.

MR. TENNY: If I had the answers, I wouldn't have to walk away from here, I would be carried away on shoulders. I have given you the points that we believe constitute a proper approach and it is not one thing. There is no one thing, aside from decrease in consumption, that can help us out of our short-term position. Unfortunately, it appears that people have had to be forced into conserving. In other words, when the gas lines became onerous enough, they cut back on driving. Now that is most unfortunate. I think it stems from lack of leadership to get across to people that we have a real problem and they have got to help solve it.

ASSEMBLYMAN KAVANAUGH: So you are saying that you are not being stymied by federal or state regulations, only by supply. Am I correct in assuming that?

MR. TENNY: We are talking now about the very ---

ASSEMBLYMAN KAVANAUGH: On the short term, federal regulations are not interfering with your operation?

MR. TENNY: Yes, they are interfering with distribution.

ASSEMBLYMAN KAVANAUGH: Then what changes could we make in federal regulations to alleviate that problem?

MR. TENNY: My most recent suggestion was that we reduce the State set-aside and put some of the product back in normal distribution channels.

ASSEMBLYMAN KAVANAUGH: That would be State. Then at the federal level?

MR. TENNY: At the federal level, we were pointing out that decontrol is really the final solution to our problem. But decontrol is not going to immediately solve the problem that we are in. Controls have brought us down a long road and it is going to be a long road back. But we are not going to get started on that road until we start letting the free market decide who gets what, how much they are willing to pay for it, where it should be distributed, how it should be made, and which products should appear where in the market.

The government has shied away from one thing so far, and that is deciding a tough question: When do you start maximizing furnace oil? And the answer is: How cold is the winter going to be? - which is another question. Now we are faced with decisions like this all the time and we know how to make them. The secret though for the people is that when oil companies individually make those decisions, they are not all going to make the same mistake. But God help us if the federal government makes decisions like this for all of us and they make a mistake.

ASSEMBLYMAN KAVANAUGH: That is true.

Another thing, is there any possibility or have the oil companies considered anything in regard to public relations? You have tremendous advertising agencies. We are still in the horse and buggy days as far as nuclear energy. I notice since the Three Mile Island situation what is happening. In my own town, there was a big spread in the paper last night about a young fellow who is starting an anti-nuclear organization. People are getting on that bandwagon. Certainly we are all concerned about the dangers of nuclear energy. But 30 years from now, as we look back, we may kind of smile over what we thought was a major problem today, although waste is certainly a problem. With Salem Two ready to come on line with a daily savings of close to 2 million gallons of residual fuel, I was wondering if there is anything in your future to do things to convince people that maybe that is one of the directions to go.

MR. TENNY: Whether nuclear energy should be pursued? We are really not in that field and I don't believe that it would be proper for us to devote our advertising budget to that sort of thing. I do say categorically that we are going to need to develop every source of energy that we can think of. That certainly is one of them and it has progressed further than most other alternatives,other than petroleum.

ASSEMBLYMAN KAVANAUGH: Thank you.

ASSEMBLYMAN GEWERTZ: Mr. Tenny, what does your company do when you have a station that closes and they don't use that allocation any longer because they are no longer in business - or a wholesale distributor? What happens to that fuel?

MR. TENNY: It goes back into our supply and permits us to raise our allocation fraction by just that much.

ASSEMBLYMAN GEWERTZ: To each of the remaining ones?

MR. TENNY: It is spread out equally over all our other customers.

ASSEMBLYMAN GEWERTZ: Because there seems to be a distinct problem in some areas where we have had not necessarily Texaco stations but a multiplicity of retail outlets that for one reason or another have closed. And there is still the same amount of cars in that area that relied on those service stations for fuel. It would appear for some odd reason the fuel doesn't seem to be available.

MR. TENNY: I guess that is one of the great things about a free market. Assuming again that we get our demand back in line with our supply, someone will enter a market like that where there are cars that need serving.

ASSEMBLYMAN GEWERTZ: One of the criticisms obviously that has been directed to the major oil companies is the foreign market as opposed to supplying the needs of the people here. Now, if I understand you correctly, if there are a number of stations that close or there seems to be a surplus of product, it is not guaranteed that that product will find its way into the American market; it could very well be exported at a better price; and, subsequently, the short supply still remains here. Is there an obligation ---

MR. TENNY: Again, there is a law that prohibits export of petroleum crude oil products from this country, except for certain exceptions.

ASSEMBLYMAN GEWERTZ: What are the exceptions?

MR. TENNY: Petro-chemical feed stocks, lube oils, that sort of thing.

ASSEMBLYMAN GEWERTZ: Everything else is excluded from export?

MR. TENNY: Yes.

ASSEMBLYMAN GEWERTZ: Does the Texaco Plant in Westville receive domestic crude oil as well as foreign crude?

MR. TENNY: No. It runs entirely on foreign crude.

ASSEMBLYMAN GEWERTZ: With that in mind, I notice by the information that you have furnished us, there seems to be an increase in the use of Algerian crude as opposed to Sumatran and it would appear that the Algerian crude is considerably more expensive in price than the Sumatran oil. Why is that shift in the source at a higher price?

MR. TENNY: There was a period in the first half of this year in which the Sumatran crude available to Texaco was reduced. It had to do with the government usurping a certain percentage that they have a right to.

ASSEMBLYMAN GEWERTZ: The Sumatran government?

MR. TENNY: Sumatra - the Indonesian government. Now, heretofore, in times of flush supply, they had difficulty in selling that crude and they had more of it on the market than they knew what to do with and Texaco was permitted to acquire some of that. When the market became tight, the Indonesians found they could sell all their crude and suddenly we weren't getting as much as we had been. That was a temporary situation and, at present, we are back to running just about 50-50.

ASSEMBLYMAN GEWERTZ: Would the American automobile manufacturers and/or the federal regulations concerning the type of fuel to be used --- For example, it would appear you can get more leaded fuel from a barrel of crude oil by whatever the distillation process is than you can lead-free fuel. And it would appear that the regulations requiring the use of unleaded fuels in most of the cars manufactured for a long period of time to meet the pollution qualities have really caused you to get less gasoline per barrel than what we were previously getting. It would appear to me that with our technology there doesn't seem to be any reason, since many of the foreign car manufacturers are able to meet our pollution control standards and the cars are burning leaded fuel as opposed to unleaded, that American cars could not do the same. How much of an increase in the availability of gasoline could the use of leaded fuels as opposed to unleaded fuels produce?

MR. TENNY: Over all, I believe - and please don't hold me to this number --- but I believe the number is probably in the neighborhood of 500,000 barrels a day for the country if we could use lead as we have in the past. Long ago, it was determined that the cheapest way to acquire octane was with tetra-ethyl lead. Octanes measure the amount of compression ratio that you can stand in an engine and compression ratio determines how efficient that engine is. So tetro-ethyl lead in gasoline equates to efficient use of petroleum. When you take it out, you decrease the compression ratio to keep it from knocking and you have a less efficient engine. When you try to get those octanes back other than with tetro-ethyl lead, you have to do it with more expensive refining processes which cost of lot of money to build in the first place and they are tremendously energy intensive. They burn up a lot of the barrel carrying out the process. That is why you wind up with fewer barrels of lead free.

ASSEMBLYMAN GEWERTZ: One last thing, the Commissioner complained that Texaco had not been very cooperative in furnishing them with detailed information. Is there any particular reason for that or would you care to comment on that?

MR. TENNY: Is Mr. Jacobson still here?

ASSEMBLYMAN GEWERTZ: No, he dashed out.

MR. TENNY: I will publicly apologize to him for Texaco. There was a misinterpretion of the questions that he asked. We did send in some information which was not responsive to the questions. But he will be getting our information just as soon as I can get it together. I just discovered this today.

ASSEMBLYMAN GEWERTZ: Thank you. I have nothing further. Thank you, Mr. Tenny.

MR. HALSEY: We would like to hear from the representatives of Exxon now, please: Mr. T. E. Whaley, Manager of the Bayonne plant, and Mr. B. L. Conner, Manager of Retail Marketing in the Northeast.

THOMAS E. WHALEY: Good morning. I am Thomas E. Whaley, Manager of the Exxon Plant in Bayonne, New Jersey. With me this morning is Bernard L. Conner, who is Retail Sales Manager for New Jersey and Metropolitan New York.

We are pleased to appear before this Committee today, but regret that the notice for the hearing was so short that we will not have all the answers that you requested. If the Committee has questions beyond those that we address today, we will be happy to try to answer them later on.

ASSEMBLYMAN GEWERTZ: Thank you.

MR. WHALEY: Because of the short notice, I am also not prepared to hand you a written statement or a written set of numbers, but I would also be glad to furnish that if you would like next week sometime.

ASSEMBLYMAN GEWERTZ: Thank you.

MR. WHALEY: What I planned to do this morning was to go down your questionnaire and answer as many of the questions as I can and then respond from there.

ASSEMBLYMAN GEWERTZ: Fine. Thank you.

MR. WHALEY: The first question - and we will walk right down your agenda - A-1, total refining capacity expressed in barrels per calendar day. We took that question to be New Jersey east coast oriented; and Bayway Refinery in Linden, New Jersey, has a capacity of 290 thousand barrels per calendar day.

The second question: Total crude oil and petroleum products storage capacity at refineries. At the Bayway Refinery in Linden, we have the following crude oil storage capacities, crude and product: crude oil, 4,200,000 barrels; motor gasoline, 4,527,000 barrels; heating oil, 3,662,000 barrels; diesel, 343,000 barrels; and residual oil, 834,000 barrels.

I would add a note to those and say that those are typical capacities. The actual capacities in a particular service, say, motor gasoline or heating oil, depends on the tankage assigned to that service, primarily depending on the season of the year. We would have more motor gasoline storage capability coming on to the summer than we would have going out of the summer when the tankage would have been converted to heating oil storage.

ASSEMBLYMAN KAVANAUGH: Excuse me. You are saying on the crude, you have 4,200,000?

MR. WHALEY: 4,200,000 barrels.

ASSEMBLYMAN KAVANAUGH: Crude supply.

MR. WHALEY: Of crude tankage.

ASSEMBLYMAN KAVANAUGH: But you could convert some of it in the winter season. You say it is transferrable.

MR. WHALEY: The most commonly transferred tanks are those between motor gasoline and heating oil.

ASSEMBLYMAN KAVANAUGH: But you have about 10,000,000 gallons of storage total?

MR. WHALEY: For which - those two?

ASSEMBLYMAN KAVANAUGH: For gas, oil, crude residual, diesel, your total is up to about 10,000,000 gallons.

MR. WHALEY: Barrels.

ASSEMBLYMAN KAVANAUGH: Barrels - excuse me - ten million barrels.

MR. WHALEY: These are dedicated tanks to crude and product. There are some other intermediate product storage in the refinery.

ASSEMBLYMAN KAVANAUGH: So you have about 12 to 13 days' supply of crude storage.

MR. WHALEY: Of capability - not normally at that level.

ASSEMBLYMAN KAVANAUGH: This would be an answer to the situation when you had slow-going out the front door why possibly you had an extra tank around.

MR. WHALEY: That is a rare happenstance. What you are suggesting is that a tanker is not able to discharge because the tanks were full. It has been a long, long time since that occasion has arisen.

ASSEMBLYMAN KAVANAUGH: I am thinking back to the truckers' boycott on that.

MR. WHALEY: If you couldn't get out, that potential would be there. But that did not have any impact on us.

The second series of questions in the questionnaire had to do with the first half of 1978 in comparison with the first half of 1979. The first question was percent of capacity at which refineries were operating. Here again, my answer is the Bayway Refinery in Linden, first half, 1978, was 95.5 percent of capacity; the first half of 1979 was 69.0 percent of capacity. In each case, the refinery was operating at the capacity based on the equipment available to it. Those percentages are of the 290,000 rated capacity.

ASSEMBLYMAN KAVANAUGH: Weren't you shut down for a period?

MR. WHALEY: Yes. I am going to tell you why those numbers are different. The first half of 1978, capacity was reduced by scheduled shutdowns for the maintenance of pipe stills, which are the primary distillation units for the refinery. The first half of 1979, capacity was reduced by refinerywide curtailment for maintenance work and, unfortunately, for the need to rebuild prior damaged equipment. But we had approximately almost two months of the maintenance work and started up, had a fire and were back down for two more months for the fire rebuilding. So that is why the 69 percent looks the way it does.

The second question in that series is the percent of capacity at which storage tanks were full. I am going to give you a couple of points in time here and these are percents of the typical storage capacities which I indicated before. If we look at January 1, 1978, versus January 1, 1979, crude oil in 1978 was 55 percent and, in 1979, it was 50 percent. Motor gasoline, in 1978, it was 51 percent; in 1979, it was 41 percent. Heating oil, in 1978, it was 87 percent; in 1979, it was 68 percent.

As I look at those same numbers several months later and compare June 1st of each year - June 1, 1978 to June 1, 1979 - crude oil, 67 percent in 1978; 59 percent, in 1979; motor gasoline - 40 percent in 1978; 42 percent in 1979; and heating oil - 24 percent in 1978 and 21 percent in 1979.

The next question had to do with sources of crude oil and quantities purchased on the spot market. The typical Bayway Refinery crude sources are, as follows: From the area of the Persian Gulf, three principal locations -Abudhabi, which is one of the United Arab emirates, Iran and Saudi Arabia; from Africa - Algeria, Libya, and Nigeria; and other locations, principally North Sea and Venezuela; no domestic crude.

I don't have the information on the quantities in the spot market for you at this time.

The next two questions dealt with the barrels of crude purchased from each source and the price paid for crude from each source. I don't have that information for you today either.

The sixth question is petroleum product mix. Here again, I refer to the Bayway Refinery. Let me run down the first half of 1978 and then I will run down the first half of 1979. I am going to talk about four products. The first half of 1978, refinery gas, which would include chemical feed stocks and things of that nature, 27,500 barrels a day; motor gasoline, 131,600 barrels a day; distillates, 86,100 barrels a day; bottoms, 65,200 barrels a day - for a total of 310,400 barrels a day. I should indicate that the numbers include fuel consumed in refinery operations and,in the first half of 1978, they also include products in the output from 30,000 barrels a day of gas oil, which was not processed with crude.

In the first half of 1979, by comparison, refinery gas was 14,300 barrels a day; motor gasoline was 71,700 barrels a day; distillates were 58,100 barrels a day; bottoms, 52,800 barrels a day - for a total of 196,900 barrels a day.

You can see in that comparison the dramatic effect of the fire on us.

The next question had to do with profit from refining operations. Exxon profits in the United States on crude oil and natural gas operations during the first quarter of 1979 were 348 million dollars - that equates to 3.5 cents a gallon - compared to 366 million dollars, or 3.7 cents a gallon, in the first quarter of 1978. Therefore, there was a slight decrease in '79 versus '78 in the United States.

The United States refining and marketing earnings of 38 million in the first quarter of '79 were down from 59 million in the first quarter of '78. Higher costs of both imported and domestic crude oil, increased purchases of products, and higher operating costs more than offset the positive effect of small volume increase and higher selling products for most products.

The next question, number 8, had to do with sales of crude oil or petroleum products on the spot market. I don't have the data available for you today on that, but I believe that the answer is zero. We don't normally sell in the spot market.

ASSEMBLYMAN GEWERTZ: Mr. Whaley, not to interrupt you, but some information has come to the attention of the Committee that,in fact,there is an offer right at the moment as we are sitting here made by one of the representatives of Exxon for the sale of some 50,000 barrels of regular gasoline that is in New York Harbor, 89.9 octane, at a price of 97 cents a gallon. In order not to get a whole todo going, I will furnish you privately with the name of the individual employee, representative of Exxon, who has made this offer on the spot market.

MR. WHALEY: I have no knowledge of that. We would like to have that information. We are not certain that it is a representative of Exxon that you are talking about.

ASSEMBLYMAN GEWERTZ: One of the problems that we see is that, on occasion, when there is an overabundance of product, for one reason or another,that seems to find its way not into the tanks of the dealers but into some private offering, which basically pushes the price of the fuel up and deprives maybe some legitimate sources of the availability of those supplies. As an example, you could have wholesalers that had an allocation from the company of x, y, z gallons, based on their customers, but over a period of time they have lost a number of those customers, and it would appear that nobody seems to verify whether or not they still have the customers to warrant the allocation. What they do sometimes is take that allocation, that surplus, and put it on to the spot market where there is a great deal of money to be made in a relatively short period of time. So one of the concerns that we have is whether or not the companies are making a sincere effort to verify the actual need or the actual use by the wholesalers where you are using that entity to supply various customers and service stations and, where they have lost the customer, that fuel then should be made available to normal retail outlets rather than giving someone the opportunity to make massive profits at the expense of the public.

MR. WHALEY: I am going to ask Bernard Conner to respond that.

MR. BERNARD CONNER: I would like to have the information that you have available.

ASSEMBLYMAN GEWERTZ: I am going to furnish you that.

MR. CONNER: There was some indication yesterday that there was some product available for sale in the harbor, but it was not a major brand of product. This is rumor and I would be more than happy to entertain the information you have.

ASSEMBLYMAN GEWERTZ: Well, it happens not to be a rumor. I don't know whether it is Exxon product, but it is being offered by an Exxon representative. But we will furnish you with that and we would expect you then to furnish the Committee with a response, after having properly looked into the matter. But I can furnish you with the name.

MR. CONNER: I would appreciate that very much.

MR. WHALEY: Continuing on with the questionnaire, the ninth question in that section was the effect of the entitlements program on Exxon. Since the inception of the entitlements program in November, 1974, Exxon has purchased 592,400,000 dollars of entitlements under the federal DOE program.

The tenth question - the percentage of products marketed through integrated company operations and through independent jobbers, distributors and retailers. I am going to ask Bernard Conner to respond to that question.

MR. CONNER: The way that I understand the question is the products that are marketed through the integrated company operation, assuming this to be at retail. There are two refined products primarily that are marketed at retail during the time-frame expressed in the question. Those two products are motor gasoline and heating oil.

I would like to address first motor gasoline. Comparing the period 1-1-79 through 6-30-79, we placed 105 percent of the '78 period's volume into the New Jersey market. During both periods of time, only approximately 10 percent of this volume was marketed through our company-operated chains, a majority of which was marketed through our high-volume stores on the New Jersey Turnpike and the Garden State Parkway. The remaining 90 percent of this volume was marketed through the independent businessmen.

Now, addressing heating oil, we provided through the marketplace in the '79 time-frame, 106 percent of the volume made available in the '78 time-frame. In the '78 period, 14.9 percent was marketed through our retail oil heat operation. In '79, 3/10ths of one percent was marketed through our retail oil heat operation. We are currently out of the retail oil heat business and 100 percent of this volume is marketed in this State by independent businessmen.

MR. WHALEY: Going to Section C, the first question was: Give the description of the extent to which refining operations are subject to federal regulation? The United States petroleum operations are significantly affected by federal regulations. The industry has been under federal price controls since 1971 and under allocation controls since 1974. Regulations have been in place controlling domestic crude oil pricing, average crude cost to refiners - that is the entitlement program - allowable cost passed through for the purpose of determining product sales prices, and the proportion of products to be delivered to various classes of customers. Some of these product controls have been removed, so that today motor gasoline is the principal controlled product.

Other federal regulations also have substantial impact on refining operations, chief among these are environmental regulations which control such things as fuel oil sulfur limits, octane additives for motor gasoline, and the construction of new refinery facilities.

The second question in the series is citation of specific examples of federal regulations most important in dictating refining operations. Federal product price controls have had a large impact on refining operations. Price controls have not permitted refiners to earn a return on new investments and have, therefore, discouraged investments for new octane capacity to meet unleaded gasoline demand and for refinery modifications to process heavier, higher-sulfur crudes. The small refiner bias in the entitlements program encourages the construction of small, inefficient refineries which do not generally make the product mix required by consumers.

I am going to skip questions three and four on opinion concerning knowledge and ability of regulators and go to number five, which is, opinion concerning causes of present gasoline and fuel shortage. The cause of the present shortage is quite simply a worldwide shortage of crude oil to meet demand. Iran's production is now back on stream but at a lower level. Some of the OPEC nations, particularly Saudi Arabia, helped offset the lost when Iranian production was cut off entirely. But they have dropped their production to previous levels. The net result is that the free world's supply this year will be short a normal demand of about 1.4 million barrels a day, according to our current projections. The U.S. will bear a substantial portion of this shortfall.

During the first quarter of the year, U.S. demand was met by an abnormal drawdown of inventories. But those inventories have to be rebuilt if we are to have adequate supplies to meet heating needs next winter. In order to make adequate progress in rebuilding inventories in the face of a continuing crude shortfall, we estimate the country will have to cut its demand for petroleum products over the summer by about 3 percent below 1978 levels or as much as 500,000 barrels a day.

The country has options that are more than adequate to reduce consumption by the 500,000 barrels a day we need to balance demand with supply and to maintain prudent inventory levels. They include thermostatic adjustments in buildings, stricter speed limit enforcement, maximizing the use of electricity from nuclear or coal-fired generators rather than those that burn oil, lead phasedown waivers for refiners, temporary relaxation of sulfur and particulate limits on heavy fuel oil, and permitting the use of natural gas and propane to replace low-sulfur fuel and distillates.

At Exxon, we view gasoline rationing as a last resort and we don't believe it is necessary at this time. But we do believe that a stand-by plan should be developed.

The root problem, of course, is our country's heavy and still growing dependence on imported oil from a small number of countries. Until this dependence is reduced and the country has more adequate, diversified and dependable sources of energy, our economy will remain vulnerable to supply interruptions that can result from any of a large number of developments, of which the Iranian revolution was only one of many possible examples.

The last question in the series is: Opinion concerning gasoline and fuel oil conditions for the remainder of 1979, 1980, and long term. Exxon is striving to supply customers with refined products close to the levels we supplied last year, and also to build distillate inventories to provide adequate protection for next winter. We anticipate being able to build heating oil inventories this summer for use next winter. Whether supplies will be adequate depends on consumer conservation throughout the year and the severity of the weather. We hope to supply heating oil throughout the year at close to 1978 levels.

We must all recognize that there is a real shortage of available crude oil and that it is likely to be with us for a long time. Every sector of the economy needs to reduce oil consumption. It is difficult to see why any major sector or oil user cannot reduce its use to some degree. Since product supply availability is tied to worldwide crude supply, I think it is clear that gasoline availability will be tight for the balance of this summer.

The immediate oil shortage problem can be overcome by actions readily available if the national resolve exists to do so. For example, as I mentioned earlier, three degree temperature change for commercial and residential buildings, a reasonable increase in airline load factors, and enforcement of the 55-mile-an-hour speed limit, could reduce oil consumption in this country by approximately 500,000 barrels per day or most of the forecast supply shortage for this year.

There is also a lot that could be done fairly quickly to substitute other fuels and, thereby, ease the immediate problem. These fuel substitution steps viewed in total can be achieved largely by removal of existing regulatory restraints, coupled with a little encouragement. They do not require more regulations. For example, immediate removal of the Environmental Protection Agency's accelerated phasedown on lead additives, judicious relaxation of opacity in sulfur restrictions on heavy fuel oil, to permit utilities to use more readily available regular sulfur heavy fuel oil, the use of available natural gas to substitute for oil used by utilities and industries, switching to coal in dual capability utility boilers, and wheeling of electricity from coal-fired generating utilities to oil-using utilities. The fuel oil returned to the supply system by this latter step could be converted by U.S. refiners into other products. These fuel-substitution measures might make as much as 700,000 barrels of added oil supplies available. Together - the demand for restraint and supply substitution steps which I just outlined - add up to 1.2 million barrels a day, or about twice the shortage, of gas for this summer. Consequently, even if our energy-saving estimates are off substantially, the near-term problem can be managed.

While these actions will improve the short-term supply and demand balance, it is also clear that our country's energy problem is not solely a short term one. The long-term, fundamental energy problems of the United States will remain to be solved. Prompt action on long- terms solutions is also necessary to reduce our growing dependence on foreign oil supply. Serious, large-scale energy conservation on a long-term basis is a must. The full replacement cost of energy needs to be exposed and borne by all of us rather than being subsidized and hidden. Domestic oil and gas production need to be maximized. Crude decontrol, more rapid access to prospective lands and a reduction in the legal, environmental and other regulatory roadblocks to energy development in this country are needed.

In addition to oil and gas development, all forms of available, domestic energy resources need to be developed aggressively both to meet the needs of the next decade or, two, and as a part of the necessary transition to a substantial different mix of fuels for the future.

To sum up, the current oil shortage is real. It is expected to continue at least through this year unless prompt steps are taken to reduce oil consumption and substitute other energy supplies for oil. Such steps are practicable in the near term largely by removing existing governmental impediments. New allocation or control schemes will not help. They are likely to worsen the problem. Moving the deficiency from one group of consumers to another will not solve it. Overlaid on the current short-term problem is the basic deteriorating energy situation which has been recognized for years and which continues to deepen as little progress is made towards its solution.

The fundamentals of the longer term solution are to reduce energy usage and to develop aggressively all practicable U.S. energy sources, with a view toward a transition to significantly different fuel mix for the future, while still maintaining access to needed energy sources from other parts of the world.

That concludes my prepared remarks. Are there any questions?

ASSEMBLYMAN MAGUIRE: Mr. Whaley, I don't necessarily disagree with anything you have said. I am sure that your sentiments are going to be echoed by others in the petro-chemical industry. As a product myself of the private sector, I find it very difficult to accept the fact that your industry has done such a poor selling job with decision-makers,as it pertains to EPA requirements, and Department of Energy heads. I have knocked heads with Joel Jacobson several times and I suspect that I will as long as I am here because our political philosophies are at opposite ends of the spectrum.

But when is your company, if you know, going to take a more progressive approach to selling the problem and the solution to the problem? Nobody believes you. They all know you are making too much money and they quote these statistics that are published in the Oil and Gas Journal. Maybe you are; I don't know. But when are you going to take a more aggressive position to sell the problem to the American people?

MR. WHALEY: To the public in general? I think you saw a little bit of that a couple of weeks ago with some of the ads we took out in the New York Times, the Star Ledger and other papers with regard to the May gasoline situation. That was not the kind of ad you normally had seen from us before. But I think you will be seeing a little bit of recognition of that. I have to agree with you that we haven't done all that effective a job in selling our position.

ASSEMBLYMAN MAGUIRE: If you know, how many tankers do you have waiting off the coast of New Jersey for the price of gas to go to one dollar and a quarter before you bring them into the refinery?

MR. WHALEY: None. The point that everybody misses in that story is that even if you were holding it out there, it doesn't do any good because the federal price control regulations will only allow you to recover the cost of it. So if you hold it out there until the cows come home, you don't make any more money on it. So that is kind of a foolish statement to make.

ASSEMBLYMAN MAGUIRE: One other question - and I hope your answer to this is no - but do you think that any new laws should be introduced in the State of New Jersey to help the problem? Can you think of any legislation that should be studied?

MR. WHALEY: No, not really.

ASSEMBLYMAN MAGUIRE: Thank you. That's enough.

ASSEMBLYMAN GEWERTZ: Assemblyman Gallo.

ASSEMBLYMAN GALLO: Mr. Whaley, when we were talking to Texaco, we discussed the Alaskan pipeline. It is my understanding that you do have an interest in it - yourcompany has?

MR. WHALEY: That's correct.

ASSEMBLYMAN GALLO: It also has been related to me that because of the lack of refineries in California that you are selling part of your crude to Shell.

MR. WHALEY: In California?

ASSEMBLYMAN GALLO: Yes.

MR. WHALEY: Let me back up in answer to that "because of the lack of refineries in California." There are plenty of refineries in California. The problem is they can't handle Alaskan crude oil because, according to some of the comments made earlier, the incentives for them to make hardware modifications in their refineries have been absent from the regulations. They would have to spend money on which they are denied a return on investment and take the lower cost of a higher sulfur crude and pass it on to their customers. They would get stuck holding the bag, so they haven't done it.

ASSEMBLYMAN GALLO: One of the statements you made was that more crude is needed. It is my understanding - and correct me if I am wrong, but these are the figures that were given to me - 46 percent of the crude coming out of the Alaskan pipeline is owned by Exxon. Part of that is sold to Shell and the other part of it is tankered to Japan.

MR. WHALEY: Frankly, the situation is that the output of the pineline is about 1.2 million barrels a day and, as I understand the numbers, about 800,000 a day of that goes to the West Coast and 400,000 a day goes through the Panama Canal to the U. S. Gulf Coast and some to the U. S. East Coast.

ASSEMBLYMAN GALLO: Nothing goes to Japan?

MR. WHALEY: No, sir. It is not legal for it to go to Japan.

ASSEMBLYMAN GALLO: In your professional capacity, could you answer this question: Would it not make a great deal of sense to have the continuation of a pipeline to a source, say, in Texas or in an area where you would be able to pipe that crude - more Alaskan crude?

MR. WHALEY: Yes. We have for five, six or seven years been trying to support a pipeline from the West Coast, the one you are referring to, into the western part of Texas. The regulatory morass that has basically killed that project is incredible, the hundreds and hundreds of permits required to do that.

ASSEMBLYMAN MAGUIRE: Could I follow up on one question that you asked, if I may? In response to the question, what is happening to the Alaskan crude oil, I quite frankly was under that impression that some of it was going to Japan because refineries did not have the capability of refining Alaskan crude. But now you tell me that is not the case. But you should tell everybody because I can tell you the average guy sitting in the gas line is asking, "What is happening to the Alaskan crude?" He believes it is all being exported.

MR. WHALEY: I think you have a good point. It is against the law for it to go to Japan.

ASSEMBLYMAN MAGUIRE: But I didn't know that, and I am supposed to be an expert.

ASSEMBLYMAN GALLO: Is there any interchange between Japan with this Alaskan crude?

MR. WHALEY: No. It is against the law. No Alaskan crude can leave the country, except to contiguous countries, which means Canada and Mexico.

ASSEMBLYMAN GALLO: Does any go to Canada?

MR. WHALEY: Not to my knowledge.

ASSEMBLYMAN MAGUIRE: Does any go to Mexico?

MR. WHALEY: Not to my knowledge. It is all in the United States.

ASSEMBLYMAN GALLO: Is it true, referring back to the extension of the pipeline, that there are some 700 application forms?

MR. WHALEY: Yes. I understand that the permits are around seven or eight hundred.

ASSEMBLYMAN GALLO: Would this be an area where you would be looking for some relaxation from the federal government?

MR. WHALEY: That would certainly pave the way for that kind of a pipeline. That is what it took to build the Alaskan pipeline.

ASSEMBLYMAN GALLO: How much of the crude coming now from the pipeline is being refined in California out of the 1.2 million barrels you were talking about?

MR. WHALEY: About 800,000 a day is being refined on the West Coast. That is not all in California. Washington and --- I guess, Washington is the other place.

ASSEMBLYMAN GALLO: Then the balance is being shipped to the East Coast?

MR. WHALEY: Through the Panama Canal, primarily to the Gulf Coast, some to the East Coast. We have run some to New Jersey, but that is a long way.

ASSEMBLYMAN GEWERTZ: What would it save if you were able to get the pipeline extended to Texas, rather than having to transport it by tanker via the Panama Canal to the East Coast, the Gulf Coast, etc.?

MR. WHALEY: I really can't answer that question.

ASSEMBLYMAN GEWERTZ: I don't mean in dollars, but in generalities.

MR. WHALEY: It is a substantial amount of money you are talking about because the oil is going from the United States to the United States, if you will, and it has got to go in American-flag tankers, which are fairly expensive tankers to operate. If you bring it to California and pipe it across instead of hauling it all the way through the canal in a small ship, the cost saving would be significant.

ASSEMBLYMAN GEWERTZ: So it is reasonable to assume that some of the federal regulatory procedures are, in fact, driving the price of some petroleum products up by the inability of the companies to get the pipeline extended, say, to Texas.

MR. WHALEY: That could be one possible result, yes.

ASSEMBLYMAN GALLO: Has there been an attempt by your company to add refineries in that area so that the crude that cannot be refined in excess of 800,000 barrels --- Has there been any effort by Exxon to do that?

MR. WHALEY: No. We had looked at an expansion of our California refinery at one time, but that is no longer planned.

ASSEMBLYMAN GALLO: Because it would seem to me rather than having the added expense of moving that over to the East Coast or the Gulf Coast, it would be more realistic to take it from the source there and refine it at that point. May I ask what the reasons are? You say you have evaluated that. Were those reasons environmental reasons?

MR. WHALEY: I honestly don't know what they were. I wasn't that close to that project.

ASSEMBLYMAN GALLO: Thank you.

ASSEMBLYMAN GEWERTZ: Assemblyman Kavanaugh.

ASSEMBLYMAN KAVANAUGH: As I mentioned earlier to Mr. Tenny, we are here today because it is the gasoline time of the year. As far as initiation of programs, we talk about conservation and all, but certainly you are farsighted enough to be talking about setting up your home heating oil supplies in reserve now. I think if we didn't answer some of these things at the present time, come January, people will be saying, "What happened when you were there in July?" Exxon has always in the past been the leader as far as whether the market moved. When Exxon went up a penny, all the rest rushed to raise gasoline a cent, or whatever it might be. If next December, let's say we have cold weather, I believe you said that you thought you were going to have ample supply. You are going to give your distributors what percent of last year? Do you have any idea at this time?

MR. WHALEY: I don't know the answer to that question. What I indicated earlier was we hope to make about the same amount available as 1978. With the right amount of conservation and absence of a very, very severe winter, we hope that that is the volume that is needed. We really can't sit here right now and tell you that it is enough.

ASSEMBLYMAN KAVANAUGH: With the OPEC contracts that you have, do you see any other increase? You know, it is kind of set. The thing that concerns me is that the price of home heating fuel escalated from somewhere in the 40-cent to close to 70-cent a gallon range for the homeowner without the barrel price increasing that much. Do you see that same increase in the immediate future or do you think it has somewhat stabilized?

MR. WHALEY: Projected price is not something that any of us can do all that well. The OPEC increase has not made itself felt, the most recent one, in the marketplace. It is hard to speculate what that will do.

ASSEMBLYMAN KAVANAUGH: What percentage is home heating oil within Exxon's profit structure?

MR. WHALEY: I don't know the answer to that.

ASSEMBLYMAN KAVANAUGH: What percentage is home heating fuel of your total business? You can limit your answer to New Jersey.

MR. WHALEY: I just can't give you that off the top of my head.

ASSEMBLYMAN KAVANAUGH: I wonder if in the future you could give the Committee, using New Jersey figures, the percentage?

MR. WHALEY: If I go back to something like refinery production, which I relate to a little better than the market, motor gasoline would be about double what heating oil is.

ASSEMBLYMAN KAVANAUGH: I am just wondering how you arrive at a price per gallon, both for gasoline and home heating fuel. If you were an accountant, you could move those figures any way you want, as far as profitability for your corporation. I think people now are adjusted to the gas lines - you see them on TV and read in the media - and they really don't care how much it costs. Assemblyman Gallo alluded to this and wondered when this was going to stop - would it be when it gets to $1.50 a gallon? These are questions people are concerned about.

If we can give people some answers, that is where we get credibility both on the corporate level and the legislative. We are rather concerned that some irresponsible statements have come out of State government. We have had individuals making statements and people are frightened. Now the situation has been helped with the odd-even, and even more so by the $5 or $7 minimum, because at stations in my area, as high as 30 or 40 percent of the people coming in were getting $2, $3, or $4 worth of gas. They were panicking. I believe if people were made aware of the problem, it is within the capability of Americans and New Jerseyans to reflect on this and say, "We have to do a job." But when someone comes out and says, "look, you have 10, 15 or 20 tankers sitting out there in the harbor waiting for the price to go up ---"

MR. WHALEY: Besides not being true, it doesn't help the general public.

Just as an aside on your observation on amount of gasoline purchased by people, if you move the average gasoline tank from half full to three-quarters full, you take off the market about 21 million barrels, which is three days supply of gasoline, if you did that with every car in the country. So once you start to panic, it grabs pretty hard.

ASSEMBLYMAN KAVANAUGH: We were told of the pipeline effect when we were down there, that they are talking 4 billion barrels, between tanks and cars and everything else, daily. There are 4 billion barrels ---

MR. WHALEY: In motion?

ASSEMBLYMAN KAVANAUGH: --- in motion.

MR. WHALEY: I can't relate to that number. I have not thought of it in those terms.

ASSEMBLYMAN KAVANAUGH: Thank you.

ASSEMBLYMAN MAGUIRE: It has been reported in some circles, Mr. Whaley, that the gasoline companies themselves are putting all kinds of impediments in the way of developing this automobile out on the West Coast - and there are supposed to be 75 in operation now - that is breaking down water and using the oxygen to power the car. Are you?

MR. WHALEY: I have never even heard of this car.

ASSEMBLYMAN MAGUIRE: Have you heard of the Mazda down in Florida that gets 75 miles to the gallon?

MR. WHALEY: A Capri? Yes.

ASSEMBLYMAN MAGUIRE: Is it a Capri?

MR. WHALEY: I think that is right.

ASSEMBLYMAN MAGUIRE: It is also being said in some circles that the oil companies were going to make sure that engine was never produced.

MR. WHALEY: We watch it with interest, and I am going to look and see where I can get one.

ASSEMBLYMAN MAGUIRE: How closely is the industry working with the automobile manufacturers to produce an engine that will burn a fuel that is less expensive and more readily available?

MR. WHALEY: You are outside my area with that question. Other than engine testing in the research company, which is of prototype engines, or something like that, I don't know of anything of any closeness with them in developing engines.

ASSEMBLYMAN MAGUIRE: Do you do any work in your research and development lab trying to develop a more efficient engine or do you work with the stock models?

MR. WHALEY: We work with the stock models. But we play around with some of the optional things that we can change also like the fellows in Florida did only it sounds like they did a little better.

ASSEMBLYMAN GEWERTZ: Mr. Whaley, what would happen if there was a find of oil in the Baltimore Canyon? Under the present federal regulations, it would appear that nobody would be encouraged to either expand or build a new refinery, say, in New Jersey. Which means now, should there be a substantial find of oil, it would not appear at this point in time that we would get any benefit from it because it would have to somehow be tankered somewhere else, assuming that the existing refineries in the State of New Jersey would not be in a position to process that oil because of the limitations of the capacity that the refineries have. Where would it go?

MR. WHALEY: I think you would find in New Jersey and in the Greater Philadelphia area, there is more than enough refining capacity to run whatever is likely to be found out there. Assuming that the State lets it come on shore, it will most likely be done in the area.

ASSEMBLYMAN GEWERTZ: That is one of the other problems.

MR. WHALEY: Most of these refineries are running 100 percent foreign crude in this area.

ASSEMBLYMAN GEWERTZ: Has there been any discussion with any of the State agencies in the event that there would be something of any substance found there as to what would happen to it once you found it, whether or not it was going to be piped in here?

MR. WHALEY: I have seen some plans from the Department of Energy where they were looking at pipeline offshore and what kind of pipeline reach might be used or the rights of way of perhaps expressways and parks that might be used.

ASSEMBLYMAN GEWERTZ: But nothing really has been formalized.

MR. WHALEY: No, not to that extent.

ASSEMBLYMAN GEWERTZ: All right. I have nothing further. We are going to take about a ten-minute recess.

Mr. Conner, do you have something to say?

MR. CONNER: Yes. I would like to respond to your earlier comment concerning the availability of product by Exxon or an Exxon representative in the harbor.

Your assistant did provide me with the name of the party that you had mentioned. A check of our files indicates that this is not an Exxon employee, nor can we identify any connection with Exxon.

ASSEMBLYMAN GEWERTZ: Would it be a wholesaler or someone that deals with ---

MR. CONNER: Our records indicate that it is not associated with Exxon.

ASSEMBLYMAN GEWERTZ: It is not an Exxon product.

MR. CONNER: We are not selling any motor gasoline on the spot market at this time. In fact, my information also tells me that the brokering activities in the harbor right now indicate that there are many more buyers than there are sellers.

ASSEMBLYMAN GEWERTZ: I would assume that would be the fact.

MR. CONNER: The point that I meant to make is that it is not an Exxon product and that Exxon products are not available for sale on the spot market, and the person indicated is not an employee of Exxon nor can we find any connection with Exxon.

ASSEMBLYMAN GEWERTZ: That is why I didn't make mention of names because sometimes things that come to the Committee are not always 100 percent accurate.

MR. CONNER: Yes.

ASSEMBLYMAN GEWERTZ: I appreciate that. If we can further track this, I will get back to you. Thank you.

We are going to take a ten-minute break at this time.

(Short Recess)

MR. HALSEY: Mr. Jerry Ferrara of the New Jersey Gasoline Retailers Association.

J E R R Y F E R R A R A: I am Jerry Ferrara, Executive Director of the New Jersey Gasoline Retailers Association. With me is Mike Ventola, the newly-elected President. He is a dealer in East Brunswick.

As I guess everybody who preceded me, I had a little difficulty putting the answers together on the short notice that we had. I will endeavor to answer them and respond to any questions you may have on some of the prior testimony you heard that leaves some room for questions to be asked.

In New Jersey, there are approximately 5,000 service stations, of which we represent approximately 3,000.

As far as company-owned retail service stations, you will have to qualify that question. We are talking about company-owned and operated stations where they own the station and have managers selling gasoline. Combined jobber- and company-owned or operated service stations: approximately 500.

The number of service stations in New Jersey that are owned or lease-controlled by the major oil companies or jobbers or independent distributors is approximately 85 percent of the 5,000 stations. Let me qualify that. Company-owned would be where they owned the land and the building, and then lease it out to somebody else. Lease-control would be where they lease the property to any one of us, an individual like yourself, and then, in turn, re-lease it to a franchized operator. These leases usually run 15 years with maybe two five-year options. So, in effect, the question you ask, as far as independently-owned stations where you have individuals like myself or Mr. Ventola here, only about 10 percent - it is getting a little higher - about 12 percent of the 5,000 stations are actually owned and run by an independent from the ground up. Most of the others are owned or lease-controlled by other people.

The question about gallons of gasoline sold at company-owned service stations, if you are talking about company-managed stations, I would guess that would be a question that should have been directed to them, as well as the number of gallons sold at independently-owned stations. It is rather difficult to break it down. We do about 2.5 million gallons a month and that is divided up by various companies. Exxon has predominantly 25 percent of the market and they range between 55 and 58 million gallons a month. Then you drop down to the next tier where they are all about 11 or 12 percent. In there, you could put Hess, Shell, Sunoco, Mobil and Gulf, all in the 20 to 24 million gallons. There is a big drop there. It is about 11 or 12 percent of the market. The major company in New Jersey, of course, is Exxon with 25 percent of the market.

The cost of gasoline to company-owned stations - again, we are talking about the company-run stations - is one that is hard to pinpoint because they claim it is a transfer price, in that they transfer the cost of gasoline, and one company in particular will bill their station for the retail price of gasoline that that particular station is selling it for. So, for a bookkeeping transaction, they have to know how many dollars they can retrieve from that station for the sale of it. That is an issue that even on a national level is subject to investigation. I might point out to this Committee, in the Petroleum Marketing Practices Act, which was passed and was signed June 19th by the President, which is a take-off on the New Jersey Franchise Act, not as strong as the New Jersey Franchise Act, but is a sort of Franchise Act nationally, and which I had a great deal to do with, being the Legislative Chairman of our national group, there was a section put in there that mandated an investigation - they call it Title 3 - as to the extent of company-owned stations, jobber-owned stations, the method of subsidizing their stations, whether it be fair or unfair in subsidizing a station as far as selling gasoline, the type of control, and any rent favors they may give. That has been mandated to the FTC, the Justice Department and the Department of Energy. They wanted to return it by January of the coming year. However, as you know Washington is famous for never getting off the ground, they have already now put that off for three months. There is a serious concern on the national level that the control of the so-called independents, fellows like my colleague alongside of me and others, and the method of unfair competition are wiping out the smaller dealers. Congress wanted to address that, so they mandated a study.

Originally they wanted to tie on a bill that would divorce the companies from retail operation. But a compromise was made to have this study.

The cost of gasoline to the average service station in January of 1978 averaged approximately for regular gasoline, including the 12 cents New Jersey tax, 53.7 cents. The average selling price in January, 1978 - and this is taking the average; there were many lower that this - was 63.7, roughly about 10 cents a gallon. Prior to that, the average margin for the dealer had been about 7 cents, but some as low as 6 cents. In June of '78, the average cost to the station of regular gasoline was 55.7 and the average selling price was 65.7. The cost of unleaded gas in January of '78, was 56.7 and was sold at approximately 10 cents a gallon above that, 66.7. In June of '78, it climbed to 58.7 and the selling price was 70 cents.

The dramatic change came, of course, in January of 1979. It really started in November of '78. But you asked for January of '79, so I will try to give you those figures. Regular gasoline in January of '79 had climbed to 57.7 and as high as 60 cents a gallon. That is dealer-tank price, including tax. You began to see a disparity for the first time where there was 3 or 4 cents difference. It had been inherent in the trade that the difference in wholesale gasoline prices never varied by a cent a gallon. Not being knowledgeable 20 years ago, I could understand how they could all compare prices without it being called a conspiracy, because within ten days of one moving, everybody would move. I got an education and I learned two words which I have never forgotten. The companies testified before the Federal Trade Commission that that is called conscious parallelism.

ASSEMBLYMAN GEWERTZ: What is that again?

MR. FERRARA: Conscious parallelism. Those words intrigued me no end, being uneducated, as I was, to hear them. I found out what they meant, which is that we are aware of what our competitors are doing, so that if you decided to raise the price, you had the same cost factors, you had the same labor factors, so you took advantage of it. If the price went down, you went down. This was historic. You can go years back and never until the last year, could you see any disparity of much more than a half a cent between wholesale tank wagon. In the last year, you see the difference. Now it starts to vary. Whereas in January, as I explained before, regular was 57.7 to 60 cents a gallon; unleaded was 60.5 to 62 cents a gallon, in June of '79, it went from a low for regular of 57.7 to 71.3 - and this is the wholesale price - to as high as 77 cents a gallon for regular gasoline. Unleaded jumped from 60.5 in January, '79, to 74.3, to a high of 81 cents. There the disparity continues to this date.

ASSEMBLYMAN GEWERTZ: Why?

MR. FERRARA: They explained it by telling you in this case that they were buying spot market crude and factoring it into their prices and that this was the reason.

ASSEMBLYMAN GEWERTZ: I understood them to say that they weren't buying any spot market crude?

MR. FERRARA: Well - let me get to what fouled up the country, which is down at the bottom of your questions. Maybe I ought to switch a little bit. They didn't buy spot market for a short period of time after the Iranian crisis. That was the foul-up. The government asked them not to buy on the open market in order to force the prices up. If they claim they are not buying spot market, then somebody better get a hell of a better explanation why we are getting higher prices because they do buy higher foreign crude and they do buy spot market price. Sunoco announced that they were paying as much a $1.20 a gallon for gasoline in order to supply their dealers. I am not being critical of what they are doing. But that gives you some of the disparity in price.

Let's take it the legitimate way and just talk about crude. Crude prices went up. They were buying crude at whatever the marketplace would bear. They would buy some from Lybia, some from Saudia Arabia, and prices were different. They factored that into the domestic crude and they averaged it out and that is how the price is arrived at. That is how they would claim the disparities in prices arise. Now Sunoco is the highest priced on dealer-tank cost. It goes to as high as 77 cents. Their answer to me was that they had to go out on the spot market and buy it. They are not one of the seven sisters, so to speak. They do buy from the seven sisters in order to get supplied. With the international market the way it is, they are in a position that they can control many of the other companies who are buying crude from them to supplement their own supply.

I think we can get back to the questions now, as far as prices at company-operated stations, the problem you had here prior to "the crisis," was that you could have a company-run station or jobber-run station selling gasoline at almost what it was costing one of the dealers they supply. Now the majors weren't as guilty of that as perhaps the jobbers were. The majors would be 2 cents or 3 cents above the dealer tank-wagon. But how can a dealer compete with them when he is being charged rent that ranges anywhere from 2 to 3 cents a gallon for the use of the station or the facility that he is leasing? So he is boxed in to start with. When the market was free and easy back in '77 and '78, the kind of competition you got from company-owned stations or jobber-controlled stations was that type where it was really unfair competition.

Now, if you argued with one of the companies, they would tell you that they were beating competition, which could be somebody down the street. Now, doing that, they were able to get higher allocations for the new stations they brought on stream. In '77, nobody was worried about gasoline. So you went out and you knew the ropes. You took the book work in and you got a higher allocation. It was a peculiar way you got it. You got it because you built or renovated a station. You put a few extra pumps in it. Then you say you are a new type station coming on stream and you needed an allocation for 150,000 gallons. Then you went out and you lowered the price. You had three months and you reached 150,000. You justified it. Meantime, you did that with a low price. If you didn't take it away from your own brand, you took it away from another brand, who in turn had one of their company stations or favored sons that had a special allowance on rents, etc. taken away. So that was the reason for some of the high allocations. And the jobbers in New Jersey were just as guilty of that - not all of them. Everybody isn't of the same cut. Unfortunately, if you have one bad apple, it permeates the others.

As far as storage capacity, the average station has about 12,000 storage capacity, some much smaller. Some of the smaller dealers or the old-time stations might only have as much as 8,000. But the average station having three grades would have 4,000 gallons for each. The high-volume multi-pump stations that they built or renovated would have as much as 20,000-gallon storage. So they would be able to have a larger supply on hand.

At no time, except at the immediate time of delivery, would the average station have his tanks anywheres near full. He would buy it when he could take a delivery. They don't like to deliver less than a full truckload of gasoline, which is 8,000 to 9,000 gallons. And with today's problem, where you have a smaller station with 8,000- to 10,000-gallon capacity, he has to literally be dry before they would deliver. Economically, there is a reason for that. But, today, with the short supply, they could keep a dealer out for a length of time until he can take the whole delivery.

To give you a little bit of background so you can frame your questions accordingly, the industry has been plagued by the desire of the major oil companies to eliminate the smaller, neighborhood-run stations. When I say "to eliminate," I mean that with capital letters. There is no way they can disclaim it because I will simply point to you some of the things that we have to step in about. If you want to get out of a location because it is unprofitable - say you leased it or you owned it, either way - and you didn't renew the lease, from a business standpoint, I can't quarrel with that. You say it is uneconomical, it is costing you too much and you are not getting enough back from the dealer. The crux of the matter is that when we said a dealer would buy it or the dealer would, in turn, lease it to a private operator, many of the companies didn't want to serve it. Now they can follow me and tell you, yes, we will serve them. But we had to step in there and threaten to institute a law suit because they were discriminating against the dealer. Now, fortunately, one of the only good features about the crazy control laws we have is that they cannot pull out of a station without at least offering to serve the guy for one year. We know that. But the individual dealer, if he doesn't call us, he quietly packs his bags and goes away. I say to you it doesn't cost any more to deliver an 8,000-gallon truck to a small gas station than it does to a major, high-volume station.

The theory of the business has been that high-volume gasoline stations were the wave of the future, up to now anyway, and supposedly we go into self-service later on. The reason for that is very simple. It is much more conducive to direct operations to have 100 thousand-gallon stations selling gas where you have to put just a few attendants in there than to run a full-rounded service station. And the proof of why you need these full-rounded and smaller stations is the crisis today because the allocation formulas which we will address in a few minutes are so discriminatory that the neighborhood stations --- Most of you now are getting letters written by your constituents asking why the stations don't stay open - how come they are only open two hours a day. Let's find out what is happening. They haven't got the gallonage because they lost it to the high-volume stations in the allocation formulas, as we will point out to you.

But if we eliminate those small stations in times of crisis, then in times of need for the motoring public, they are gone. Take gasoline, for instance. Let's say you have five stations. Four of them are neighborhood stations. You have five lines. One closes down. He has a formula whereby he can only sell 1,000 gallons a day in order to stretch it out. The second one also closes down. You still have those five lines. They feed into the high-colume stations. Where you find the long lines is at stations pumping six or seven hours a day on your major highways and major thoroughfares. And that is the type outlet that the companies want.

Translate that into real emergency repair if those small stations are wiped out and they don't get gasoline. This will happen when and if all controls go off. I tell you - and you will be around to see it - that you won't have neighborhood stations. You may say the entrepreneur system will take over. There was testimony in a court case by a marketing vice president to the effect that an entrepreneur will find a place to erect a garage and service the public. That's true. But it could be on the outskirts of town, the same as a car dealer. Who services the average number of cars? Seventy percent of the repair business in New Jersey is done in the local independent garage. The car dealers couldn't cope with it. The car dealers are mandated now by their companies to build these large edifices on the outskirts of the towns. If you want a quick road call and we are on the outskirts of town, you are going to wait for it and it is going to cost you more.

We are not the most popular guys in the world all the time. If you call a small independent dealer when it snows and he isn't there before you wake up to start your car, you get annoyed. We haven't got all angels out there. But they are trying to do their best.

That is the background of the business as it exists. I don't think that is what you called me here for today, but I thought I ought to give you a foundation.

ASSEMBLYMAN GEWERTZ: Jerry, what happened to all of the "cut-rate" stations that there used to be back in 1972 and 1973?

MR. FERRARA: Well, the private, independent brander, he got a little bit of a squeeze too because they were trying to frame up the market and he had to fish for supplies. The companies, themselves, have come on-stream now. Every new station built in the last five years, is a gas-only station with a little cinder-block building - I call it a bomb shelter - all hooked in for self-serve, company run and company owned from beginning to end. They are not leasing those stations out to anybody. That is the wave of the future. Now Shell has shifted to auto care. They say they have got to have a balanced thing. Every company has come on-stream with direct operations, some worse than others.

Now those old cut-rates, even if they exist today, they are high priced. Even the cut-rate brand of station that you saw a year ago today is the one who is causing us the grief because he has found a loophole in the law that we never educated our dealers about because we didn't think they needed it - they were given the gasoline that way anyway - what we call bank costs. That is a company theory that what you can't pass on today --- if the cost of gasoline is 50 cents a gallon wholesale and I can only get 48 cents, the companies were permitted to put 2 cents aside in the proverbial piggybank. When the first opportunity came around, they could pass it on. And they did so.

We have had a running feud with the Department of Energy and Schlesinger, which the New Jersey congressional delegation got in on about two years ago, demanding that the so-called bank costs should be checked out immediately, if, in fact, they were justified. If they are justified, let us know about it. But Schlesinger answered me - and I can furnish the letter to you - and said he would look from '76 on back. I wanted him to look at '77 and '78 because if they are unjustified, there is no question of whether somebody misunderstood the rules, we could have adjudicated, the consumer would get the lower price downstream. Now we get an alleged $5 billion of overcharges. By the time they get done hassling that, you don't know where you are going. One company was accused of $82 million of overcharges. They settled for $42 million. I say to you, I would like to rob someone of $84 million, settle for half, and not go to jail. The question of why they settled is not before this Committee or even the courts now. It is settled. But the dealer found that bank and the fellow who was discounting prior to this year has learned that he can accumulate that bank.

We have applied now to the Department of Energy and have been fighting with them since January to adjust the dealer margin so that we can update it from being locked in at 74, and bring it up to the cost of living, so we can live as well as his fellow citizens, and wipe out that bank. That way every dealer will know what he is going to make, whether he is going to make 14, 15 or 16 cents - that's it. The banks would be wiped out.

You all know the extent to which service station operations are subject to dictates of owners. I would just quote the famous judge, Judge Wisdom, - and I didn't realize how famous he was until every lawyer told me he is like part of the bible in legal circles. He said that the company is not only your supplier and landlord, but in many instances, your banker, where he has extended credit on you. The inherent control is there. Up until the time that this Assembly saw fit to pass the Franchise Act of New Jersey, which was the first in the country - and I am proud of it - you were subject to 10 days cancellation notice and out you went. The only time we did things - and that was the function of my job --- I would ask the dealer to give me everything he bought or sold for ten or fifteen years. I would meet on a one-to-one basis with a regional manager and show him the man's record. He would say, "He's a pretty good dealer." Then I would flip it and show him the record of cancellation he got from the district manager. He couldn't understand it. We settled many of those. Today, of course, that type of cancellation - again thanks to the Franchise Act - is not as prevalent.

Here is how they do it in dollars and cents. Let's take a full service station. They come down to you and tell you, "Look we are not getting a fair return on this piece of property. We are going to get a higher rent. After all, it's an investment." When a dealer calls me and says, they talked to me about gasoline, I read to him the exact words over the phone that he is being told and he thinks I am fantastic. It is nothing new. They do it to you; they did it to everybody else. We get affidavits from the dealers signifying that. So they say, look, we have to get $3,000 a month, or here is your rent for three years: $1100, $1900 and $3000 in the third year. We are glad we are getting three-year leases; we used to get a one-year lease. The fellow says, I'll never make it. I am only doing $50 or $60 thousand worth of business and you are going to come out with the equivalent of almost 3 1/2 or 4 cents a gallon rent, because that is the medium we used to use. They say, well, if you went to gas only, the volume would increase and maybe we could lease out the bays to somebody else. This is the offer they give them: The first year here, we will give you $900 rather than the $1100; the second year, $1400; and the third year, $1900. What does a dealer do, especially if he is on a highway? I have two stations in mind whose numbers I am using. He is on a highway so he converts to gasoline only. Lo and behold, those who did it in the beginning, one company they have three months free rent. That was a free gift. Three years later, that started to change for those who signed those deals. The squeeze is on again.

In order for you to satisfy their needs, you were told to be very competitive. You have got to lower your price. You would have a series of stations on a highway - take 22 or Route 3 --- On Route 3, the gas-only stations worked so well as a result of pressure on those dealers that we invite people from New York to visit our Meadowlands Complex. If you were to get a flat or breakdown on that highway, you could not get that flat fixed anywhere from the Lincoln Tunnel past the Meadowlands. There is not a station there that is full service at all. They are all gas-only stations. That little stretch of highway is the epitomy of what the future is going to bring. They used that kind of pressure on the dealers.

ASSEMBLYMAN GEWERTZ: Not to interrupt you, but specifically what we are concerned with is: (a) What has happened to the availability as far as allocation to the dealers? (b) Why the increase in costs, if you have any information? (c) When you have closings of stations, what happens to that fuel that normally would have been distributed in that area? Where does it go? Does it go into the jobber's pool? One of the things that we have prime concern about is where you have a jobber that has been servicing a number of stations or accounts and where over a period of time those stations close, and the accounts go to some other supplier, whether or not the oil companies are checking the records close enough to determine that that individual really doesn't have the demand for that allocation of fuel - that's the jobber - and instead of redistributing that fuel where it is needed in the pumps for the consumer, whether or not it gives the jobber the opportunity to now sell that fuel on the spot market for some phenomenal amount, since there is no regulation concerning spot-market sales.

MR. FERRARA: Well, let's take that issue. Allocation is something that they fouled up. To answer your specific question, no, there is no check. If a jobber closes the station, he can take that gallonage and do anything he sees fit with it. A major company can switch that gallonage to one of their company stations - so can the jobber. The jobbers now are complaining that some of the companies are attempting to get them to testify and certify that they are actually selling that gasoline to an individual dealer that the allocation is for. For example, there is one jobber who bought a large number of stations and closed them out. He fed three or four of his own stations. So he had high volume and was open and that meant that he was able to make the profit all the way down the line. That is true.

ASSEMBLYMAN GEWERTZ: Are dealers being forced in some instances to buy from a source other than their normal supplier because the supplier cannot furnish them with the fuel?

MR. FERRARA: The dealer has a problem trying to buy from other sources, even if he wanted to. That was part of the problem they were trying to address with the State set-aside being shifted. If he buys from another source, he gets accused of co-mingling. That is a federal offense and he could lose his station. That is one thing under federal statutes that he can lose his station for. We told them, if a company absolutely refuses it, the best they can do if they want to take a chance is cover the name on the pump. But no dealer is going to do that because he is afraid he could be charged with co-mingling and/or they will put the pressure on him and he will lose his lease because they can come back and probably find additional charges. So if he does it and closes his eyes and puts another load of gasoline in, he is taking a chance.

Now the unbranded can buy from anyplace. That even goes for the Values and the Merits that are technically branded. They can buy any gasoline because they are selling it as Merit. They bless it and it becomes Merit gasoline as it goes through the pump. So they are able in the current market to keep their stations supplied by buying on the open market.

ASSEMBLYMAN KAVANAUGH: You made a statement in answer to Assemblyman Gewertz's question that if a station closes, the jobber can take that gasoline back and do what he wants with it. Isn't it a federal regulation that, if a station closes, they have to take that gas and go around to the other people? Then, if they refuse it, they can put this on the market.

MR. FERRARA: It might be a regulation, but it doesn't work that way. The monitoring system is such that they can't. If he takes it back and puts it through one of his stations - it is technically his. It should be re-distributed, but it doesn't work that way. In fact, I don't think the DOE would ever be able to catch up with it.

ASSEMBLYMAN KAVANAUGH: We asked that question of the Director, as to the regulations. He used an example of an area with five stations, each pumping 100,000 gallons. If one station closed, the other four stations would have the opportunity to take that gallonage before they put it back in the market.

MR. FERRARA: If they were all the same brand, it might work that way. But if one brand pulls out of there, that community is deprived of that flow of gasoline, absolutely.

ASSEMBLYMAN KAVANAUGH: That gasoline then would have to be given out to other branded stations?

MR. FERRARA: Technically, it if were Exxon, it is supposed to go back into a general pool and come out in total among the other stations. But when a jobber does it, he has his own little advantage because he hasn't got the accountability and he can shift it. He can take it from there and shift it to ---

ASSEMBLYMAN KAVANAUGH: Illegally, he can do it.

MR. FERRARA: I guess you could call it illegally. If he owns and operates the station himself, it is not illegal. In other words, if the jobber has four stations and closes one, that gas is his and he can go any place he wants with it. That is the argument we had on the Turnpike when Exxon was giving higher gasoline allowances on the Turnpike vis-a-vis the Parkway. They could have shifted that gallonage from the Turnpike to the Parkway if they saw fit to do it, because they are in control of all the stations.

ASSEMBLYMAN GEWERTZ: I had a meeting with some people down at the shore. Evidently, there were three marinas at one point in time, all of which were getting their fuel from Gulf. Two of three closed down because they sold the ground for some development purposes. The third remaining one has not gotten one gallon more, even though he has to supply all of the other boats in the area that were previously being serviced by the other two with the same brand. He hasn't gotten a gallon more allocation.

MR. FERRARA: Well, the DOE says you can apply for a change of circumstances. You have to fill out a lengthy application. It is sent over there and it never comes out again.

You want to know what is wrong with the system, the Department of Energy in Washington with 20 million people are worse than when we had 3 thousand back in '74. You can't get an answer. And you are talking to somebody who deals with them at least every week on a one-to-one basis. They have loused up this thing so bad that in times of shortage --- They weren't geared for short supply. Notwithstanding, what they are trying to tell you now that they were seers and saw this coming - and I don't care what end of the political spectrum they are on - they were gearing this country for decontrol. They said the answer was decontrol. You heard Texaco here saying decontrol was the answer. The Department of Energy geared everything to decontrol. They actually almost stopped ordering people to do things. The theory was: Let the free marketplace take care of it. So they did nothing. We talked controls. Dr. Schlesinger, for all his intelligence, said to me that people are going to be paying $2 a gallon by 1980, whether they liked it or not. I told him he took me back to my high school history when Marie Antoinette said, "Let them eat cake." It didn't phase him in the least. He took his pipe and he left the room. He was leaving anyway.

As to the allocations of the Department of Energy, we were to testify on the allocation formula in January and February of last year. In March, out of the clear blue, they picked an allocation formula which was discriminatory to New Jersey in one way and discriminatory to the small dealers in another way.

Here is what happened. They took the year of '78 and the only ones who testified for '78 were the major suppliers. The dealers testified that we wanted a choice of '72 or '78. Sixty-eight percent of New Jersey dealers would be better off with '72; 12 percent with '78; and the rest, it wouldn't make any difference. Nationally, 70 percent of the dealers would be better off with '72. This is the explanation: '72 was the last normal year. You had all the smaller neighborhood stations. With the advent of '75 and '76, you started to get these high-volume discount stations, dealer run too. So the volume shifted. Now, with a shortage, the volume has come back to the small dealer. We have never had our health inquired about so much as we have in the last couple of months. Everybody wants to make sure we know they are a customer. Here we are caught with 200 customers last year enabling us to buy 40,000 gallons. Now we have 450 customers and we only have 30,000 gallons. The disparity in times of shortage is why you have all the smaller stations closing down. We tried to get '72. In March, they made an arbitrary decision - no hearings - and that was our friendly gentleman who left New Jersey who made that one, Dave Bardin.

ASSEMBLYMAN GEWERTZ: The apple man.

MR. FERRARA: The other clause, I nicknamed publicly the sunflower clause.

That is the clause we hear so much about in the papers today. That was only brought about because we threatened to go fishing because of the discriminatory tactics.

ASSEMBLYMAN MAGUIRE: May I ask you a question?

MR. FERRARA: Yes.

ASSEMBLYMAN MAGUIRE: If I read you right, you are saying the bottom line here, which is really what we are interested in, is that the problem that we are faced with now is federal regulations which dictate the distribution of fuel.

MR. FERRARA: That is true.

ASSEMBLYMAN MAGUIRE: Is that the bottom line?

MR. FERRARA: That is the bottom line as to why New Jersey has the gas lines. The Boston-Washington corridor has been shot down on that basis. Here is the other cause: My base in '78 was 40,000 gallons, which means in '79 I will get 70 percent of 40,000 gallons. But, if from October of '78 through February of '79, I added up those five months and my average came to 50,000 gallons, I can substitute the 50,000 gallons for any month. Let's see what happens. Now I substitute 50,000 gallons for June. The other way, I had 40,000,and 70 percent was 28,000, for my allocation. Substitute the 50,000 gallons and 70 percent is 35,000. Who did this help? It did help the southern states, the tourist areas, and the ski resorts. It would be tantamount to taking the New Jersey shore gallonage of June, July and August and saying, "Okay, fellows, that is your base for the entire year." In February, we would be swimming in gasoline. We here in the Northeast were discriminated against completely. You could go to Northern New York, north of the first couple of counties, and you could go downtown and buy all the gas you wanted. because it was a ski area. I know this because we had a convention up there. It was around Lake George. I think Dan Weissman of the Star-Ledger wrote them up.

ASSEMBLYMAN GEWERTZ: It makes sense that if New Jersey's peak demands are through May, June, July, August and September, in December or January we really don't need as much fuel because you don't have the people travelling as they do during the summer months. What you are telling us is that you only can get it on a month-by-month basis. Suppose they took the total gallonage under an allocation - and it was an equitable allocation - to a station by the year and said to you, your demand for this month - maybe it is 75,000 instead of 50,000, but maybe in December you only need 25,000 instead of 50,000. Is there any provision to give the latitude to order in accordance with what the demands are during a set period of time?

MR. FERRARA: Basically, that is what the allocation formula was supposed to do, that everybody would base it on a given period of a year so that you would get more in June when you have more demand than in February. You would get a higher gallonage because you would have a percentage of a higher figure. But with that other clause, using that 5-month average, they gave the seasonal ones who had peak seasons from October to February the advantage of using that all year round. So you only of this section --- We are in contact with 47 affiliates throughout the country and they kid us. They have no gasoline lines, only isolated incidents - Houston, Texas; Boston -a few big metropolitan cities like that.

ASSEMBLYMAN MAGUIRE: Do you think the major refineries contrived the situation we are faced with in the Northeast if it is not happening in the rest of the country?

MR. FERRARA: Contrived is a pretty strong word. They had the option ---

ASSEMBLYMAN MAGUIRE: It has been used quite freely.

MR. FERRARA: Yes. They had an option which they already turned down that they could have changed tiltage 5 percent. Forget the regulations, as lousy - pardon the expression - as they are. They could have tilted 5 percent to wherever it is needed. Now you heard that Governor Carey made the announcement that he was getting 30 million gallons. But he didn't get 30 million gallons. Carter did not give them the same privilege he gave Jerry Brown. He did not order the oil companies to do it. And, as far as I know, there is only one company in New Jersey agreed to tilt that extra 5 percent, to exercise their judgment to retrieve it from other areas and give it to New Jersey.

Now it seems strange that in the last crisis the Boston-Washington corridor was the one hard hit then and we hollered discrimination then. I would say that it was within their province to correct this. If you want to accuse them of contriving it, you may be right. We hear the old story that we are represented by more Congressmen in that particular corridor than the whole country put together. These are the rumors you get out there. I am not proclaiming this to be a fact.

ASSEMBLYMAN MAGUIRE: But you are closer to the situation obviously than any of us are. Just a few minutes ago, you indicated that the source of the problem is really the federal regulations which are so difficult to understand and implement. Secondly, you are indicating now that maybe the major suppliers of automobile gasoline in the Northeast area have contrived to bring about the shortage that we faced two or three weeks ago and we may face again two or three weeks from now. Is that a fair statement?

MR. FERRARA: I think it is within their province to adjust it, at least within 5 percent, and that would be enough to get us over the end of this month. That would give us 15 million more gallons. Fifteen million more gallons will definitely keep the lines as short as they are now, all things being equal, people not driving as much, etc.

ASSEMBLYMAN MAGUIRE: Do you have any personal opinion as to why only one refinery used the tilting process, which amounts to 5 percent of their production? Is it because gasoline is selling for more money in other areas?

MR. FERRARA: Pretty much the selling prices throughout the country dealer tankwagon are similar. They only vary by fractions. I couldn't fairly say that. But they don't treat any particular state --- we are just an object. One president of a multi-national in 1973 told me: "We're a multi-national company. We don't play politics." That's the way he put it. In the next breath I asked him about dollars and cents and he said, "Profits were the name of the game." I feel that the companies should have foreseen this present crisis and taken care of the Northeast. I think it was within their province to do it. Nevertheless, I don't want to take the Department of Energy off the hook. They made that sunflower clause. Nobody testified on that. Where the heck that one came from I don't know. And one man could change that regulation. It is within his province. They wouldn't have to have any hearings on it. Dave Bardin or Schlesinger or a combination of any of them could change that allocation like that. And they see fit not to do it.

ASSEMBLYMAN GALLO: When these regulations were promulgated by the feds, were we represented down there by our Department of Energy? It seems to me that we have received the short end of the stick. It also seems pretty clear that we knew this problem was starting to develop. When I say "we," I am talking about the Department of Energy in the State of New Jersey. We had an opportunity to speak with the Commissioner and he indicated his first knowledge of the regulations was when they crossed his desk, which amazed many of us, because as the Commissioner of the Department of Energy of the State of New Jersey, I would think that his principal job would be to protect the State of New Jersey and make sure that the State of New Jersey did not get the short end of the stick but was handled fairly. Now was our Commissioner down there when this was going on?

MR. FERRARA: In all fairness to the Commissioner as well as to people like myself who are on the scene, that regulation was literally - believe me, gentlemen - picked out of the air. The Federal Register called for something entirely different.. That is why I say I am so up tight about it. The judgment was made by Davd Bardin, or whoever; it was published; and that was it. We had no opportunity to testify. We have all testified on it since then. But it didn't really get out of the closet until about three or four weeks ago when the dealers in this area decided to make an issue out of it.

ASSEMBLYMAN GALLO: When did that go into effect, Jerry?

MR. FERRARA: March.

ASSEMBLYMAN GALLO: Is there not a regulation that rules promulgated by the federal government have to be posted and listed for so many days before they are in force?

MR. FERRARA: Well, that is the way it is supposed to be. The regulations are open-ended since October to give the economic regulatory agency - Dave Bardin - the emergency power. Then in January, they published a set of rules and changed it again. The Federal Register was the legitimate way to go. But under his emergency powers, he negated all of that and said, "This is it." This is strictly a one-man rule; and, right now, he refuses to change it. I will make bets that before the weekend is over, he will change the sunflower clause. But he is so adamant about the '72 - '78 --- and, of course, the oil companies want the '78. They don't want the '72. They claim it is too complicated, etc. They testified for the '78. He made the changes, which favored them. The first rules when this started were we would have June of '77 through June of '78. I won a fifty-dollar bet that he would change it to '78 - and he did. That was just a sop to us that we were going to have part of '77. Then he changedit to all of '78 and threw in - pardon my pet expression - the sunflower clause. I can't blame the Department of Energy. I will give them credit here that they did a lot more screaming and hollering than some of the others. New York is getting into the act now. But taking the country as a whole, I will take New York's and New Jersey's Departments of Energy over any of the others as far as trying to fight the issue, as unpopular as it may be.

ASSEMBLYMAN GEWERTZ: Jerry, do you think that there might be a little maneuvering by the administration to indirectly force the oil companies to import less foreign crude by all of these little movements that are going on?

MR. FERRARA: The administration has vascillated so much. In fairness to the majors, they were told not to buy. Then Schlesinger told them to buy. Part of the reason we got this shortage was the fault of the majors, in that we had so much gasoline and crude flowing around in '78 that they drew down on their inventories to firm up the price. That is current knowledge and admited to by almost all the experts. But they drew down too much. Then there was the question of price - what you could pass through and couldn't pass through. Gulf got caught passing through more than they should. So they ended up owing the public and they pulled that maneuver in December to cut back on their gasoline supposedly because of the refinery breakdown, which was only part of it. But that was one way of making up the deficit. Assemblyman, when you get into the question of bank costs and money, it gets so damn complicated. But the bottom line that we are addressing today is the allocation formulas. They are wrong. They are discriminatory. And they will continue to be so unless we change them.

ASSEMBLYMAN KAVANAUGH: Jerry, when you were talking about the growth clause, did you say that went into effect the first of March? I thought it was the first of May.

MR. FERRARA: No. The clause that he put in, the growth clause, was done in March.

ASSEMBLYMAN KAVANAUGH: But it was effective May 1st.

MR. FERRARA: Yes.

ASSEMBLYMAN KAVANAUGH: It is based on the period from October to February.

MR. FERRARA: October to February.

ASSEMBLYMAN KAVANAUGH: And those hearings are still open until the end of this month.

MR. FERRARA: I think the hearings on the allocation were closed last week.

ASSEMBLYMAN KAVANAUGH: But they accept testimony until the end of July. They stated, as of last week, there were only about 50 pieces of testimony that had been submitted throughout the country.

MR. FERRARA: Assemblyman, there has been so much testimony put in there that I wouldn't even bother going down and giving new testimony. We gave it to them last year. We sat with them ---

ASSEMBLYMAN KAVANAUGH: Regarding this growth clause?

MR. FERRARA: That's right.

ASSEMBLYMAN KAVANAUGH: They have about fifty names of people who have submitted testimony.

MR. FERRARA: Our testimony is in there. We testified back in November as to the allocation formula. We wrote letters to Dave Bardin on the sunflower clause. Primarily, we are after the '72 - '78.

ASSEMBLYMAN KAVANAUGH: On the growth clause, Commissioner Jacobson said, because of the growth clause, we lost approximately 6 percent. Do you agree with that figure?

MR. FERRARA: That could be a fair assumption. It is hard to pinpoint. It is kind of a guess. He would have the numbers available. It could be a fair assessment.

ASSEMBLYMAN GEWERTZ: We are going to save you the trouble of going back to Washington. My intention is to get Brother Schlesinger here.

MR. FERRARA: If you can get Secretary Schlesinger here, I will donate $1,000 to any charity you name. AM-New York has been trying to get him on with us and he will never come up.

ASSEMBLYMAN GEWERTZ: We may be more persuasive.

ASSEMBLYMAN KAVANAUGH: At one time we were talking about opening self-service gasoline stations so that people could drive their car in, fill their tanks and go out. In your testimony today, you tend to say that that would have been the death of the gasoline industry if it had been put into law here in New Jersey.

MR. FERRARA: I still hold to that. If you want to see what has happened to self-service stations in relation to the public, go out and look at them now. They are closing down those islands and selling the gas at the higher prices in most states.

ASSEMBLYMAN KAVANAUGH: I don't know whether you were here earlier when we were talking about the transferring of State set-aside. We were told the reason Hess was allowed to get that million gallons was that they hadn't made any request to have their State set-aside. So they took it and opened up. It was the feeling throughout the State on the part of a lot of people that the reason Hess was open was because of a campaign contribution given to the gubernatorial campaign of the Governor. It was profitable for Hess having that million gallons of fuel. Did the gasoline people feel that that should have been distributed to all people so everyone would have the same opportunity? Do you know the reason why ---

MR. FERRARA: I can give you an explanation for it. But if you think everybody was annoyed --- sitting alongside of me is a gentleman who reached me when I was up at our convention - I had gone up a day earlier - at 11:30 at night, screaming about that million gallons and where it came from. He wanted to know why he couldn't get a piece of it. The State set-aside works on the basis - and I have heard questions whether it is permissive or not - that they distribute it in their own stream. Hess only has approximately 90 to 100 stations here, all high volume. So it has a very high State set-aside. There was a million gallons in there. It was a good PR deal for Hess. Some of the stations didn't want to be open. They were offering them 9,000 gallons. Some stations got 15,000 gallons to stay open the two days. It was a profitable deal for the dealers. Hess retrieved its State set-aside. There were 900,000 gallons of another company's, the largest marketer. They didn't know how to distribute that because you would have us screaming if they picked and chose some particular station.

The only reason the State set-aside can't shift the gallonage the way you suggested is that the question would arise whether we were co-mingling it. I am sure every Texaco dealer wants all the Texaco gallonage in there. With the exception of Hess, which seems to have surplus, I am sure a Citco dealer needs that State set-aside rather than have it go to a Texaco dealer or a Sunoco. We have some Sunoco dealers. Apparently the State set-aside reached the point where they didn't know what the devil to do with it and they just divided it up and gave 3,000 gallons to each dealer.

The New Jersey State set-aside for years worked pretty well. By the way, they really didn't have the authority until March to give that gasoline out to gas stations. The State set-aside was supposed to be for police, fire and emergency vehicles. I might say Texaco refused to honor the State set-aside deliveries in the past six months on the basis that legally they couldn't do it. In March, they were given the authority in the Department of Energy - and this expires in December - to put the State set-aside back into the dealer's stream.

ASSEMBLYMAN KAVANAUGH: Now we see a lot of frustrated dealers. We see signs "no more gas," "closed down," etc. They are going to lose that allocation if they don't use it. Is your organization doing anything to contact those frustrated dealers to make sure, if a Citco dealer in Bloomfield closes, that they switch the gasoline that he is not going to use to a Citco dealer in North Plainfield?

MR. FERRARA: Well, we haven't found any case where this has happened.

ASSEMBLYMAN KAVANAUGH: There is a dealer on Route 206 in Somerset County who has a sign "no more gas." He has allocation, but he just won't pump it. There is a Chrysler dealer that somebody claimed was getting preferential treatment. So he just said, "The hell with it. I will just shut down and nobody will get gas."

MR. FERRARA: If we catch up with them, we will find a way of getting that gas on stream. Initially when allocations first started --- and I have in mind a dealer down at the shore who had been a very low-priced dealer last year. With the shortage, he got educated and decided he had better make some money. The shortage wasn't as bad as it is now. For instance, in March, he had an allocation of 140,000 gallons; but at high price, he was only selling about 80,000. He lost that allocation. We made some deals back there when we sent the tank truck in, pumped it out of his ground and gave it to another dealer. But that stuff is not available right now. I wish it were.

ASSEMBLYMAN GEWERTZ: Thank you very much. You will have to come back for Schlesinger.

MR. FERRARA: I would appreciate one thing, that you will keep in mind that '72 - '78 explanation I gave to you as being something that is serious and something that you could put your efforts behind. It would be one of the things that would be the biggest help if we are going to have the shortage continue.

ASSEMBLYMAN GEWERTZ: We are going to do that.

I would like to call members of the Fuel Merchants Association.

D I C K   C H O D O S H: My name is Dick Chodosh and I will try to cover this as quickly as I can.

I am an independent fuel oil dealer in Rahway, New Jersey. I am also President of the Fuel Merchants Association which has approximately 600 members in the State of New Jersey and we supply about 50 percent of the State's residential heating needs. I am not a large dealer. I am a medium-size dealer.

Before moving to the list of specific questions supplied by the Committee, let me say that there are two major points that this and any other discussion of home heating oil supplies in the state and the nation should revolve around. And I am only going to talk about home heating oil. I don't know anything about gasoline.

Number one, the stringent environmental rules enacted and enforced by the State Department of Environmental Protection and the National Environmental Protection Agency are having a severely detrimental effect on the availability of fuel oil.

Number two, the much publicized national stock-piling goal of 240 million barrels will have little beneficial effect on the home heating oil situation in New Jersey this coming winter if that stock-piling is done only at the refinery or primary level and not at the dealer and customer level as well. I will expand on those if time allows me a little later on.

Residential heating oil known in the industry as number two oil, burned in New Jersey, comes from various domestic and foreign sources. Although I do not have precise figures, studies recently have demonstrated that approximately 60 to 65 percent of the heating oil burned in New Jersey is imported either in a crude state or a finished state. For exact figures on the domestic and import mix, I think you ought to ask the New Jersey Petroleum Council. They should know.

A majority of suppliers - that is major refineries or not major refineries, people that sell oil to me and my fellow dealers - are not providing written contracts for retailers at this time. Those that are have limited retailers to certain conditions, usually restricting their purchases to the amount actually purchased last year or to the amount of last year's contract, whichever is less. So we are in a constant vice. Even that, however, does not guarantee the retailer that he will actually receive the product in either of these two amounts. Most of the major suppliers have imposed allocation fractions on dealers which reduces available product, in one case that I know of as much as 50 percent. Furthermore, financial terms have become extremely stringent. Whereas historical practice dictated a 30-day net payment contract, the trend now is for a 10-day-payment deal with the supplier. There aren't too many of them around, but we have a feeling it is coming more and more. The resulting cash-flow problems have literally driven some independents from busines and are the primary reason independent retailers have tightened their own accounts-receivable procedures with their customers.

In my own case, I buy from seven suppliers. Historically, six of these have offered me contracts. To date, I have not received any. I repeat, not a single one of my seven suppliers, all of whom I have done business with for many years, has offered me a contract. Two have promised me a written contract which I fully expect to get. Several reasons stop me from seeking other sources of supply. The majors have established unofficially, but most completely, a freeze on the taking of new customers. I cannot go to Exxon that I do not buy from or to Texaco that I do not buy from and buy one gallon of product. They won't even discuss it with me.

The spot market, which we have talked about here today, is also available in our market. I could go out if I needed additional product and buy market on the spot. However, currently, spot market prices exceed, for me to buy wholesale, what I am charging my customers retail.

ASSEMBLYMAN GEWERTZ: Where does the fuel oil that is going out on the spot market come from?

MR. CHODOSH: I don't know. In all truth, I don't know. I watch the news and I see that it is from Rotterdam or Venezuelan oil that is shipped out to Rotterdam and then back. But I really don't know, Assemblyman.

ASSEMBLYMAN GEWERTZ: Maybe there should be a law that states that any spot market fuel has to contain the source of origin.

ASSEMBLYMAN MAGUIRE: You mean another federal regulation?

ASSEMBLYMAN GEWERTZ: No, I am not talking about a federal regulation. One of the mysteries is that we are short of everything, but yet, at a price, nothing is short. You can buy anything if you want to pay the price and go out in the marketplace.

MR. CHODOSH: Yes, you can. But, again, it is the bit of supply and demand. If you have a situation whether it is naturally or artificially contrived, whether it is done because of government regulation or because of Iran, whatever it is, where supply is much less than demand, you are always going to have a situation where somebody is going to say, "I can make a dollar out of holding that." I think that is probably true in the shoe industry or any other industry. And that is what is happening in our industry right now.

ASSEMBLYMAN GEWERTZ: But the unfortunate part about your industry and some of the others is the fact that people must heat their houses to some extent.

MR. CHODOSH: Exactly.

ASSEMBLYMAN GEWERTZ: You might be able to drive ten miles less a week. You maybe cut down the thermostat. But it reaches a maximum of what you can conserve. And if the price keeps escalating, people are going to be paying $1500 to $2000 in fuel bills to heat their homes for a season.

MR. CHODOSH: No question of it. Some people are practically there right now.

To answer some more of your questions, the 1979 heating season is defined, for purposes of this testimony, as November 1st, 1978 to April 15, 1979. Approximately 1.2 billion gallons of number two heating oil were distributed for residential use in the State of New Jersey during that period. Note that this figure is strictly for residential use. It does not include commercial, institutional, industrial, and certainly does not include transportation uses of diesel. The 1.2 billion gallons translates to approximately 30 million barrels or 12.5 percent of the federal goal of the 240 million-barrel stockpile in primary or refiner storage. In other words, New Jersey alone would use 12.5 percent of all the number two oil the federal government hopes to have stockpiled in the nation by October 1st, even though New Jersey is just one of 26 states that uses significant amounts of number two oil for heating - and we are nowhere near the largest.

At CPO, my company, we delivered approximately 5 million gallons of number two heating oil during the 1979 season. At the start of the season, the wholesale price - now this is a weighted average since I buy from seven different suppliers --- but the weighted wholesale price that I paid was 39.68 cents per gallon. We retailed it at that point at 52.40 cents, working on a percentage margine of 24.3 percent. The figures for this past April 1st were: 46.77, wholesale; and our marketing price was 61.6 or 24.1 percent margin. We were to have for you - and somehow it got missed in the shuffle back at the office - a month-by-month listing of the wholesale sale and retail cost. You asked for this and it will be mailed to you on Monday. I am sorry about that omission.

ASSEMBLYMAN GEWERTZ: That is quite all right.

MR. CHODOSH: What you didn't ask for, but I am going to give to you anyway, is my figures for July 1st. My average wholesale cost was up to 55.7. That is going up from 39.65 to 55.70. We are retailing at 73.20. Our percentage margin is 23.8 cents. As you can tell, while my retail price has skyrocketed some 20 cents since November 1st, my actual margin has decreased by half a percent. The price differential since April 1st has been even worse. My retail price has risen 11.6 cents since the heating season ended, but my margin has dropped by three-tenths of a percentage point.

As you can see, my gross margin has varied from 23 to 24 percent during this period. By contrast, historically, before the controls were put in in '73, my margin was between 35 and 40 percent. That was in a free, competitive market situation. That is a clear indication that business conditions in our industry are not really very healthy. Parenthetically, I would like to say that if you would ask some of the suppliers, good ones - Mobil is one of mine - they are demanding - and I think they have a damn good right to - letters of credit, personal signatures, on all purchases now because our business statements, our bottom lines, look so bad that they just will not accept the historical good-pay relationship that we had before.

Due to federal and state laws, I am not able to provide you with average figures for Fuel Merchants Association members during the heating season. It is illegal for the Association to compile such figures. But I do believe that my figures represent a fairly average price range and margins for dealers.

The Fuel Merchants Association is currently compiling a survey of its membership to determine the existence and/or extent of possible supply shortfalls this coming winter. A majority of those responding reported their storage capability, known as secondary storage in the industry, and their customers' storage, known as tertiary storage. We estimate this combined capacity to be in excess of 30 percent of the total amount of number two heating oil used in New Jersey annually. This translates to more than nine million barrels, or 378 million gallons.

It would take treatises as massive as the regulations and laws themselves to outline the effect federal and state regulations and laws have had on the operation of the fuel oil industry. In one word, however, the effect has been adverse.

I mentioned previously that most major suppliers have placed retailers on "allocations." These fractions range from 50 percent in the worst cases to as much as 100 percent in the best cases. Previously, they used to run over 100 percent.

Historically, in summer months, retailers would fill their customers' tanks in addition to filling their own storage. The majors, in fact, offered discounts and deferred billing to encourage this practice. This meant that secondary and tertiary storage was at or near full capacity as the heating season began. This is no longer the case.

One reason - and a good example of the disastrous effect of government meddling in the petroleum industry, is that the Federal Energy Department has ordered major refiner-suppliers to meet that 240-million barrel stockpile goal by October 1st. At the same time, the DOE has urged refiners to continue maximizing gasoline production. Obviously, something has had to be sacrificed in order to meet these twin goals. And that something was fuel oil distribution on the wholesale level and the filling of secondary and tertiary storage that such distribution would have resulted in.

ASSEMBLYMAN GEWERTZ: Could I ask you a question?

MR. CHODOSH: Surely.

ASSEMBLYMAN GEWERTZ: Rather than go through the prepared statement which we can refer to, there are areas that you have raised that cause some very serious concern. Do you have any thought at all that the stockpiling of what the President wants in fuel oil storage is actually coming out of your allocation?

MR. CHODOSH: Yes, we do. American oil is at 90 percent - this is a fraction of your previous consumption - ARCO, 70 percent; Chevron, 90 percent; Citco, 50 percent; Coastal, 75 percent - in fact, Coastal is wrong because they cut it to 70 percent and have said privately, "We have got to meet our goal that the federal government has set."

ASSEMBLYMAN GEWERTZ: So now, is it reasonable to assume that if the federal government is mandating that a certain amount of fuel oil be stockpiled and that is coming out of current production allocations which would normally be going to the fuel merchants, because of supply and demand, the cost gets driven up as a result of the availability of the product?

MR. CHODOSH: I am not sure if that relates because our price is based on whatever the refiner charges us.

ASSEMBLYMAN GEWERTZ: The other thing is the availability on the spot market of fuel oil. If it is coming in as an import from abroad, it would appear to me, at least from what I have been able to determine, that the price in Europe for petroleum products is higher than in the United States; and I can't conceive that foreign oil, particularly refined oil, would be coming in here when it could be sold in the foreign market for a higher price than what you could sell it for here. Again, we get down to the question of where does all this spot oil and gasoline emanate from?

MR. CHODOSH: Assemblyman, I can't answer that question. I watch 60 Minutes too. But I don't know these answers.

ASSEMBLYMAN MAGUIRE: Do you have any recommendations for a solution to the heating oil problem?

MR. CHODOSH: One of the recommendations that we have is in this report. We honestly believe that there should be, if not outright suspension, an easing of the sulfur content regulations in the State of New Jersey because that is definitely preventing availability of product that I think would ease both the supply situation and would ease the price situation because there would be more product available.

ASSEMBLYMAN MAGUIRE: What kind of a reception have you received from the Department of Environmental Protection when you made that request?

MR. CHODOSH: We have made that request in the past and I think we have received no encouragement at all.

ASSEMBLYMAN MAGUIRE: Does your organization plan on making that request this year?

MR. CHODOSH: Yes.

ASSEMBLYMAN MAGUIRE: I think it would be wise for you to include a carbon copy of your letter to Commissioner O'Hern to Assemblyman Gewertz.

MR. CHODOSH: I would be happy to do so.

ASSEMBLYMAN GEWERTZ: Assemblyman Kavanaugh, do you have some questions?

ASSEMBLYMAN KAVANAUGH: No. I have read through the statement. I think what Mr. Chodosh has recommended here would give some relief in this area. I think what we have to realize here is that we have state concerns that are federal issues. Somebody talking to Jerry Ferrara mentioned the Boston-Washington corridor. I think it is something that the people have to be stirred up about. The people have to know that there is a shortage and they had better get response from their federal legislators. I think there are too many of them that are complacent in Washington. They sit there and they are not really giving the representation to the people, not only in New Jersey, but in New York, Pennsylvania and the states contiguous to us. I think we have to put the blame on our congressional delegation. The Senators who represent the Northeast area have to be shaken up and they have to let the people in power know that the Northeast represents a very large bloc of votes. I think we have to take the glasses off - and it is hard for myoptic-visioned individuals - but when they do go to the polls in November, they had better let the legislators know that they are concerned.

ASSEMBLYMAN GEWERTZ: Let me ask you another question in line with what Walter said.

MR. CHODOSH: Sure.

ASSEMBLYMAN GEWERTZ: The federal government is not specifying where this surplus of fuel oil should be stored. Is that correct? They are telling it basically to the refiners that they have to have ---

MR. CHODOSH: --- primary storage.

ASSEMBLYMAN GEWERTZ: Would you think that one of the kinds of things that could be done is insist that there be also secondary storage within the dealers, to make sure that there is additional adequate supply?

MR. CHODOSH: I think the problem is, Assemblyman, that every time you ask the government to do something, whatever they do seems to cause more trouble than what was there in the first place.

ASSEMBLYMAN GEWERTZ: How much storage capacity in New Jersey would your organization have, assuming that the federal government would say, "Fine, guys, load up with all the fuel that you can store and likewise we will still insist that the refineries ---"

MR. CHODOSH: We try to find that out. It is very hard to do when you are dealing with independent men, many of whom are small. But we ran a survey that we haven't completed. We have had some 160 responses to date. The figures I saw represented 82 responses. I saw the figures at that point. Forty-three dealers, the largest ones, had a storage capability of 25 million gallons. They serve 80,000 residences in this State. Their current reserve, what is in the 25 million gallon storage capability, if my recollection is correct, was a little better than 5 million gallons, as of the end of June.

ASSEMBLYMAN GEWERTZ: What prevents you now from storing fuel?

MR. CHODOSH: Tankage is one thing. I cannot erect tankage in Rahway at all. I tried to do that a number of years ago. I wasn't allowed to. There are good tanks that have been abandoned and are not being used by many dealers because the EPA requirements were so expensive the dealers literally could not afford to do it and justify the cost. I don't know the figures, but I know there is a tremendous amount of tankage sitting idle in this State.

ASSEMBLYMAN GEWERTZ: But if you had the storage capabilities, you could buy the fuel oil?

MR. CHODOSH: At very expensive prices right now, but not from the major suppliers. They will only give you what they gave you last year or what your contract was last year, whichever was less, and very often with a fraction applied to that.

ASSEMBLYMAN GEWERTZ: If it got to be a particularly bad winter and people needed more fuel oil for whatever reason, how would they get it?

MR. CHODOSH: Then we would go out and buy it on the spot market and add what we have to add to market it. And the customers would be furious and you would be calling me. Everybody else would be calling me in and asking why fuel oil is so expensive. But in reality that is what would happen and we certainly wouldn't let the customers go cold because if I let them go cold, I would go out of business.

MR. RENNER: Assemblyman, I think a key point is that with our tertiary storage, that being our customers' tanks, we look, in the State of New Jersey among our membership, at 30 percent of the annual usage in the State being made up by that tertiary storage. If we can't fill that tertiary storage, which is a historical practice, we will be starting the heating season already in the hole. We would like to find out the following: Are we being limited and a fraction being applied to our capability of lifting or being supplied by the major oil companies to fill this 240 million-barrel reserve by October, the 1st? If that is the case, they can have 500 million barrels and if they release the valve on October 1st, we don't have the capability in the system to be able to handle the product at that point in time when we are going to need it. We need it now and we need it in the system now.

ASSEMBLYMAN GEWERTZ: I think without any further delay, we will have to get on to this fuel oil business before it becomes another crisis.

Are there any further questions? (No questions.) Thank you very much.

MR. HALSEY: We will hear now from the representative from Chevron.

P A U L   R U H T E R: Mr. Chairman, I would like to thank you and each member of your Committee for the opportunity to appear here today and to testify.

My name is Paul Ruhter and I am the General Manager of Chevron's Refinery in Perth Amboy. With me today is Carl Colburn, who is in the Public Affairs area in Chevron. He is here with me today to testify also.

In response to your request, we would like to submit the refinery information that you will find in our prepared testimony.

If you will turn to the second page of that testimony, we have some statistics that pertain to our refinery in Perty Amboy. It is the only refinery that Chevron, U.S.A. has in New Jersey or on the Eastern Seaboard.

The total refining capacity of our refinery is 168 thousand barrels per calendar day. We have next on this page a listing of the storage capacity under various categories that exist in the refinery. The first one that I have listed is crude oil and we have almost 2 million barrels of crude oil tankage. On the average, that tankage is about half full. If you look at it from that standpoint, we have, at our normal production rate, about one week to go from half full to empty, or one week to go from half full to completely full. Since we get all of our crude oil by tanker, this doesn't allow us a great deal of latitude in ship delay or early arrival. So, we feel that we really have pretty much a minimum amount of crude oil tankage.

We have about one million barrels of motor gasoline tankage in our refinery. About one-half of that is in finished motor gasoline. We have three grades and about one-half of tha t is in components that are in the process of being blended into finished motor gasoline grades.

We also have about one million barrels of heating oil tankage, eight hundred thousand barrels of residual fuel oil tankage, and about a little less than one-half million barrels of asphalt tankage.

During the first half of 1978, our refinery was operating at about 73% of the rate of capacity. If you look at the entire year, 1978, it would be closer to 85% of the rated capacity. The reason for the lower operating capacity during the first half of the year was principally because of scheduled shutdowns, or turn-arounds of processing units for maintenance and cleaning.

During the first half of 1979, our refinery operated at somewhat less of a percent of rated capacity. It was down to 68%. One of the principal reasons for that reduction was a lack of crude oil availability. We did not have enough crude oil to run the refinery at rated capacity. In addition to that lack, we also had some processing unit down time, again for maintenance and cleaning.

Looking at the storage tanks in the refinery, as I mentioned, crude oil tankage is kept, on the average, about one-half full, and you will notice that in both the first half of 1978 and the corresponding period in 1979, we had 45% and 44% of the tanks full.

Gasoline, in the first half of 1978, was at 67% of capacity. In the first half of 1979 it was down substantially to 41%. One of the principal reasons for this was because of federal price controls and the formula that is used to determine the price that we can charge for gasoline. Our prices for gasoline were depressed compared to other oil companies, so the demand for our gasoline increased. That resulted in pulling down the inventory substantially. Since heating oil can be exchanged or traded for gasoline, we also found ourselves in a situation where our heating oil supply, as far as refinery tankage is concerned, was also quite low, on average, during the first half of 1979, being down to less than

30% of full capacity.

Residual fuel oil, you can see, is roughly half full again, on the average. There is quite a bit of variation, but if you average the tankage and how full it is over a period of six months, it comes out to roughly half full. That varies between almost empty and almost full.

Asphalt was a little higher than half during both the '78 and the '79 period.

Turning to the next page, we have listed, for the two periods, the sources of crude oil that we ran in the refinery, the amounts that we ran, and thousands of barrels per calendar day. In the first half of 1978, we ran quite a bit of crude oil from the Persian Gulf, 41,000 barrels per calendar day of Arabian Light; 25,000 of Arabian Heavy; 7,000 of Iranian crude; and 4,000 of Sasson crude, which also comes from Iran.

We ran some low sulfur crude oil from Nigeria, 18,000 of Pennington and 5,000 of Nigerian crude.

We also ran a small amount of very heavy Venezuelan crude called Boscan. That crude is satisfactory principally for making asphalt.

Lastly, we ran, in that period, in the first half of 1978, 20,000 barrels a day of crude from the North Slope of Alaska, which came to us through the Panama Canal. We incurred a substantial transportation cost for that. Because of some particular processing irregularities in the refinery, that crude was extremely valuable to us at that time in meeting the commitments to our customers, including the commitments for asphalt.

In the first half of 1979, we ran somewhat more Persian Gulf crude, 60,000 barrels a day of Arabian Light; 28,000 barrels a day of Arabian Heavy; and a small amount, again, of Iranian Crude. Additionally, we ran some Pennington Crude from Nigeria and very small amounts of crudes from Libya and Venezuela. The total crude run, as you can see again from this listing, is down somewhat for the first half of 1979, compared to the earlier period.

Turning to the product that we produced in the refinery for those two periods, I have listed the principal products that come out of our refinery. We had the production of 45,000 barrels, per calendar day, of motor gasoline in the first half of 1978. That was down to 36,000 in the first half of 1979. There are two reasons, principally, for this reduction in 1979. First there was a reducation in crude run and, secondly, we had a large catalytic cracking unit, which produces substantial amounts of gasoline and heating oil, down for about a six week's major maintenance shutdown. So, those two factors, combined, resulted in a significant reducation in the motor gasoline that we produced in the refinery. The same two factors also resulted in a more modest reduction in the amount of heating oil that we produced from the '78 period to the '79 period.

Residual fuel oil was down a little bit and asphalt, as you can see, held just about steady.

Lastly, we have a tabulation of product sales in the State of New Jersey in millions of gallons. For three principal products that we market, you will notice that in spite of the way the refinery operated in the first half of 1979, we marketed substantially more motor gasoline, heating oil, and diesel fuel compared to the comparable period in 1978. Of course, that results because our marketing operation is not completely dependent on the refinery that we have in Perth Amboy. Our company has a number of refineries in the United States.

We have some flexibility in moving crude oil and product from one refinery to another. But, because of the fact that our company is overall short of crude oil, we have purchased some products on the open market and we have paid some prices that are comparable to the ones that have been talked about here earlier today. The cost of those products is quite a bit higher than we would like to pay, but one of the objectives we have is to try and keep the amount of product that we deliver to our customers,as a percent of last year's product, pretty much the same across the country. So, in spite of the fact that our refinery ran less crude oil here in New Jersey, we were able to maintain somewhat higher supplies to the customers.

I might point out that the figures for the first half of 1979 are based on five month's actual sales and estimated sales for June. We didn't have the final figures for the June sales.

These are the responses that we have been able to provide to parts a and b of the questionnaire we got from your committee in the time available. We would certainly be pleased to supply additional information to the committee on this subject if more time is provided to develop the responses.

Mr. Colburn will now address the part c of the refinery questionnaire that you submitted to us.

C A R L C O L B U R N: Thank you, Paul. Thank you and I do appreciate the opportunity to present our views on the current supply situation. My name is Carl Colburn. I am the Manager of Public Affairs for the Northeast Division, Chevron, U.S.A., East.

Your interest in the current gasoline supply problem is only exceeded by my industry's and my company's because it is we that bear the brunt of yours and the public concern over this situation. I noticed in Thursday's Wall Street Journal that the Federal Justice and Energy Departments also are investigating the energy shortage. So far, according to the report, they have found no evidence of an oil company conspiracy to create the crisis. I am confident this also will be their final conclusion. One paragraph in the story caught my attention and I would like to read it to you because I think it bears directly on some of the questions you are seeking and answer to. In fact, it summarizes my comments. It is a quote from an unnamed DOE official: "You wouldn't have gasoline lines without the Energy Department Regulations."

I would like to make several comments today addressing questions c, 1 - 6 of the Refinery Information Questionnaire. I would also like to say that you presented us with a real challenge in responding to your request for detailed information within the allocated time. We did the best we could under the circumstances. However, if you need more data, we will be pleased to respond at a later date.

For the record, Mr. Chairman, I would like to begin by advising the committee that today's supply problems were not totally unpredicted by my company. Earlier this year, we recognized the implications of the Iranian situation on petroleum supplies in the Northeast. In fact, we prepared a special briefing for our Governor and he in turn delivered it to the committee of our state's DOE. We delivered it to his office in February of 1979. This paper outlined the problems as we saw them emerging, discussed the consequences and suggested several actions to deal with them.

There are several factors responsible for today's shortage. Some are the result of the relatively recent developments. Others have their roots in the past. In response to question c-5, I would like to break the problem down in two parts, raw materials and processing.

The raw material problem involves crude oil. Our United States demand for crude oil has been increasing while domestic oil production has been declining. While it doesn't show on that chart, in the period of time I have been here, I extrapolated the demand from 1970 which went from 15 million barrels a day to 18 million barrels in 1978, to 21.5 million barrels a day in February of 1979. That was the demand.

Our domestic oil production has been declining in that same period and I also want to state here that the decline in production went from 11.3 million barrels a day in 1970 to 1.13 million barrels a day in 1978, and that includes the 1.2 million barrels a day that is coming out of the Alaskan North Slope. So, you can see that the difference is being made up by imports.

Today we import roughly 45% of our requirements. Again, let the record show that in 1970, the inports totaled 33.3%. In 1978 it was 43%, and it is growing. The revolution in Iran reduced total crude supply at a time when demand was increasing. The result, very simply, was a shortage of the raw material necessary to make gasoline, home heating oil, and other fuels.

The processing problem involves refining capacity. Environmental concerns and price controls have thwarted refiners' attempts to expand refinery capacities. If our refiners were able to increase their imports of fuel oil and other products to make up the difference between supply and demand, they were unable to do this with unleaded gasoline.

The United States is the only country with a Clean Air Act, a catalytic muffler, or a lead phasedown program. As a result, although gasoline blending components were available abroad, there were no major sources of unleaded gasoline supply available outside of the United States. With the demand for unleaded fuel growing at twenty plus percent a year, it was clear that a supply problem would soon emerge. The crude shortage only exacerbated this problem. Looking ahead, I see no easy path out of our present dilemma. Crude supplies are likely to remain tight relative to demand for the foreseeable future. The refining capacity will take time to construct.

On the positive side, with Iranian production back on stream, and promises of increased Saudi Arabian production, our raw material problems should gradually ease. There will still be a general shortage of oil, but it will be significantly smaller than the situation we faced earlier this year. On balance, I see continuing supply problems and probably spot shortages of gasoline for the remainder of this year.

Right now, we are doing everything we can to build inventories of heating fuel, or heating oil, for winter. Barring federal or state mandates to produce more gasoline at the expense of heating oil, we are hopeful that inventories will be adequate to see our customers through the winter. Looking beyond this year, we will carry the problems of 1979 with us into the future until we face up to some hard realities. Those realities are:

1. We must reduce our dependence on OPEC oil by producing more of our own oil here at home. We have the potential. All we need is the proper regulatory and economic climate.

2. We must remove obstacles in the way of expanding U. S. refining capacity so we may produce the products we need. This does not mean sweeping our environmental concerns under the rug. It means a balance between those

objectives and our economy's need for energy.

3. We must learn to use less energy. Industry has already made significant strides in this area, compelled by the competitive pressures to reduce cost. We have reduced energy consumption at Chevron's Perth Amboy Refinery substantially since 1973. We must now turn to other sectors and seek similar ways to reduce our requirements without major economic dislocations.

4. We must stimulate the development of alternative energy forms, such as coal, oil, shale, geo-thermal, tar sands, nuclear, solar, etc.

The United States has sufficient reserves of these inventories to satisfy its energy requirements well beyond the 23rd century. I might add, all four of these objectives are well served by President Carter's proposal to decontrol domestic oil prices. Higher prices will stimulate development of oil and gas reserves at home, encourage conservation and make competitive alternative energy forms.

Turning now to refinery operations, here is how operations are affected by federal regulations. Federal regulations affect virtually every stage in the refinery processing of crude oil, from the moment it arrives by tanker until it leaves by tank truck or pipeline. These regulations have contributed, in part, to the present supply problem we are facing in the Northeast. Let me provide you with several brief examples as requested in question c-2.

Refinery Siting or Expansion -- the United States lacks sufficient refining capacity to keep up with product demand, particularly demand for unleaded fuel. Government regulations are responsible for this dilemma. Coastal Zone Management and the Clean Air Act legislation, for examples, have made it extremely difficult to secure permits for new capacity or for the expansion of existing facilities.

Cride Oil Supply - The Department of Energy has mandated us to divert crude which normally would be processed at our refinery to other refiners. This reduces the amount of oil we have available to process into gasoline and heating oil. Unfortunately, diverted crude often ends up in unsophisticated refineries which are unable to make products such as unleaded fuel which is in such short supply. Shortages are thus aggravated.

Pollution Control - Protecting the environment is everyone's responsibility, including Chevron's. However, environmental controls cost money and in some instances can restrict the amount of product we make. For example, lowering the sulfur content of fuel oil protects the environment, but it also raises the cost of fuel because low sulfur crude costs more. If we purchase high sulfur crude, investments in sulfur removal equipment increase the price of fuel. We have several hundred million dollars tied up in pollution control equipment at Perth Amboy. It is all important, useful equipment, but if one piece breaks down or requires maintenance, we often have to reduce the amount of oil we process and the amount of product we make, in order to prevent unnecessary pollution. I am not here to complain about the rule, only to point out that the benefits of a cleaner environment entail cost, higher prices and in some cases less fuel.

Lead Phasedown and Fuel Additives - The Federal Government has mandated a phasedown in the amount of lead we may add to gasoline. Gasoline without lead requires more processing and consumes more energy to manufacture. The result -- total production of gasoline is reduced by some 10% when we take the lead out. Additives designed to boost octane levels without lead have been banned, until recently. The result -- total gasoline supply is reduced.

Price Control - Gasoline has been under Federal price control since 1971. Pricing regulations coupled with real difficulty in meeting environmental requirements have made it difficult, if not impossible, to expand existing capacity to manufacture additional gasoline supply.

Mandated Product Sales - Products manufactured at Perth Amboy often never reach our heating oil and gasoline dealers because the Federal Government mandates that we supply certain independent marketers which are in direct competition with our own dealers.

After reciting the preceeding litany of federal regulatory problems, you may suspect that I have very little good to say about rederal regulators, which is question c-3.

There is no question that we have differences with the federal government and its regulatory agencies, and I might say state government too. However, I would have to characterize most government officials as honest and well intentioned. The problem, if I could characterize it briefly, is that politics and economics do not mix well. Government regulators, for example, are operating under three contradicting pressures: Pressures from consumers to lower prices, protect the environment and increase supply; pressures from industry to loosen suffocating regulatory practices which restrict supply and drive up prices by preventing market place economics from operating; and pressures from politically oriented peers in the legislative or executive branch of the government to satisfy both groups with minimal disturbance. The task is impossible. It is made worse, however, by the initial lack of knowledge that most regulators bring to their jobs. Most are recruited directly from school or from another branch of government. Few, if any, have hands-on experience with our industry. This, I suppose, is to prevent conflict of interest. In my view, however, this is akin to preventing a doctor from serving as surgeon general due to conflict of interest. Our industry is too complex to be regulated by persons who do not understand it. With respect to your question about the knowledge and ability of state regulatory agencies, I would have to say my opinion is the same as my view of those with parallel positions in the federal government.

Gentlemen, this constitutes our formal testimony. We will try now to answer any of your questions. Thank you.

ASSEMBLYMAN KAVANAUGH: I can't keep from commenting. I was over in China last summer and I heard something similar to this. You just said something about hands-on experience and how they want to prevent a conflict of interest. That is what they did in China. They took the doctors and put them in the field and the field hands did the operating. I think that is what we are doing here in the State of New Jersey.

I am very interested as far as some of your testimony is concerned. There is is one question I would like to ask. It was mentioned that Chevron had reduced a percentage of its allocation to its customers to a 70% figure, is that correct? Did I hear that correct?

MR. COLBURN: No, that is not correct.

ASSEMBLYMAN KAVANAUGH: Chevron is doing what then?

MR. COLBURN: On gasoline we are 102%.

ASSEMBLYMAN KAVANAUGH: And fuel oil?

MR. COLBURN: Fuel oil is 90%.

ASSEMBLYMAN KAVANAUGH: Okay. Because I see in looking at this that you went up from 64 to 78, the first half; you do have increases. Now, could you elaborate somewhat on your statement concerning the federal regulations? You say that the government requires you to take some of the product and put it into the -- what market did you call that?

MR. COLBURN: Are you talking about the mandated product supplies?

ASSEMBLYMAN KAVANAUGH: Yes.

MR. COLBURN: Where it never reaches our dealers; it goes elsewhere?

ASSEMBLYMAN KAVANAUGH: Yes.

MR. COLBURN: It could very well be that the government, through the--

ASSEMBLYMAN KAVANAUGH: Independent marketers.

MR. COLBURN: If an independent marketer, who has a supplier--

ASSEMBLYMAN KAVANAUGH: Who would be an independent marketer?

MR. COLBURN: Who could be?

ASSEMBLYMAN KAVANAUGH: I mean, who is an independent marketer? What do you mean by that?

MR. COLBURN: Well, it is not affiliated directly nor under the control of a major oil company. It could have several service stations. For some reason his primary supplier has no ability to make sales or even supply sales to him and the government can then say to Chevron, or another major oil supplier, that from the state set-aside or even aside from the state set-aside, we are mandated to make this delivery.

Let me give you an example. We have here in the state a fairly good sized indpependent dealer who has us as just one of several suppliers to him. One of the additional suppliers was having problems, or couldn't get the product through crude or from his supplier, therefore he was in a negative position. The government has more or less approached Chevron and asked us if we would be the willing supplier, through the various FEO forms and what have you. In all cases, of course, we said no because we needed that product for our own existing customers here. While the outcome has not been finalized, it could very well be that the government could then give us a mandate that we have to be a supplier.

ASSEMBLYMAN KAVANAUGH: Even though you can't give the same--

MR. COLBURN: Even though we have gone on record as saying we are not agreeable to be a willing supplier.

ASSEMBLYMAN GEWERTZ: One of the problems that I could conceive as coming over the horizon is OPEC deciding they are going to refine their own products, as opposed to just selling crude oil. What effect would that have on the American market? In other words, instead of just selling crude oil to the refineries, they are going to refine gasoline, diesel fuel, home heating oil, and sell that as a finished product. Somebody tells me that there are some negotiations underway with a number of European refining organizations there to do just that.

The bottom line on that is, how much of Chevron's business is basically foreign business? I am not talking about some things you may refine here and ship out of the country. But, if the foreign market, for some odd reason--

MR. COLBURN: We don't refine anything from here and ship it out of the country.

ASSEMBLYMAN GEWERTZ: I realize that, but obviously Chevron owns some foreign refineries, or you have interests in them.

MR. RUTHER: We have interests.

ASSEMBLYMAN GEWERTZ: You have interests. Now, if some other entity were to pick up that market abroad by virtue of being able to refine their own raw material and your foreign interest in refineries now did not service any of the European market, would the availability, or the loosening, of those capabilities do anything to relieve the conditions here, as far as the supply of product is concerned?

The point is, it seems most of the higher prices on the European market are probably the tax that is imposed by the various governments, as opposed to the actual cost of the product. If, as an example, OPEC was to be able to somehow corner that market, would that then release your foreign refined products to this country?

MR. COLBURN: I am not versed on the foreign operations. I am not really quite clear about the question your are posing, to be honest with you.

ASSEMBLYMAN GEWERTZ: Well, the question I am posing is basically, as I understood it because of various problems in refineries - say in Perth Amboy - it was not operating to capacity. In order to furnish the dealers and the customers you had, you had to go outside and buy the product from whatever source, be it foreign or--

MR. RUHTER: You have two choices. You can buy crude, or you can buy product. Although we have had some difficulty in our refinery, we are the second largest refiner in the United States now, behind Exxon. So, we have, right now, a sufficient refining capacity. But, when there is a shortage of product for the customer, you have two choices, one to buy crude if you can find it, or the other to buy product. We have chosen, for the time being to--

ASSEMBLYMAN GEWERTZ: Would you buy foreign product?

MR. RUHTER: We do buy some foreign product. I think most of the finished product that we are buying right now comes out of the Gulf Coast.

ASSEMBLYMAN GEWERTZ: But, the point is, probably your foreign refining capabilities are devoted to the foreign market, as opposed to supplying the American market, the point being that if that void were filled by some other source into the foreign market, would your foreign refineries then be shipping product here?

MR. RUHTER: I would like to think so.

ASSEMBLYMAN GEWERTZ: I guess the question should have started out: How much foreign refining capacity do you have?

MR. RUHTER: Well, we have interests in quite a large number of refineries in foreign countries, but the interests vary substantially. I don't have any figures on the total.

ASSEMBLYMAN GEWERTZ: The other thing is, as you evaluate the cost of the increase in crude oil, forgetting the product for a moment - you know, if you have to go outside, obviously you have to pay whatever the market dictates - it just seems from a layman's point of view, unless it was never properly explained to the average person, that the cost of crude oil does not dictate the constant increase in the refined product as it reaches the gas pump, bearing in mind that obviously over a period of time the technology for refining has improved to the point that you have much more automation than you had in previous years. The tankers that are bringing in the crude oil are obviously larger than ships have been in previous years, to the point that probably one of the new super tankers is maybe two or three times bigger than one of the old T-2's, that used to fly the cost here.

It would seem that even though you have a higher price for crude oil, that still doesn't match the increase in the cost of the refined product.

MR. RUHTER: I think there is little question that--

ASSEMBLYMAN GEWERTZ: With the exception of unleaded gasoline. I can understand the additives and the process. But if you take regular gas, or home heating oil, or diesel fuel, or jet fuel, under today's prices as opposed to what they were say six or eight months ago, and even say the OPEC countries have increased their price of crude oil 50%, it still doesn't appear when you take a barrel of oil and all the by-products - because there is not too much of it that goes to waste, I don't believe; it is utilized in some manner, shape or form--

MR. RUHTER: We use it all.

ASSEMBLYMAN GEWERTZ: Yes. (continuing) It just doesn't balance out in dollars.

MR. COLBURN: Keep in mind now that the price of the crude oil is based on the entitlements. I think a good example of the confusion on the pricing, and more so the entitlement, was what Commissioner Jacobson said this morning, as he was trying to explain the pricing mechanism the federal government has dictated to us.

ASSEMBLYMAN GEWERTZ: Before you go into that, what would happen if the federal government had no pricing formula? What would happen to the cost of product in this country if there were no controls at all? Would it go up or down?

MR. COLBURN: In my opinion, there would be a slight increase, which would give you the volume that is needed. We would have more product available because of the price. The price is the incentive that makes the independent producers go out and seek, find, develop, and explore domestic oil.

ASSEMBLYMAN GEWERTZ: Forget the domestic for a minute. If you add in the price of domestic crude to the price of foreign crude, you come up with an average cost of crude oil. Now, what the percentage is, how much Chevron uses in domestic crude oil as opposed to foreign crude, I don't think we have asked you at this point. I will now ask you that. Of the total amount of crude oil that you use, roughly, how much is domestic and how much is foreign? I am not going to hold you to the exact figure.

MR. RUHTER: In our refinery in Perth Amboy we use, and have for several years, all foreign crude.

ASSEMBLYMAN GEWERTZ: Is there a reason for that? It would appear to me, just off the top of my head, that if you have to get oil from Louisiana, Texas, etc., and you have to ship it up, via tanker, pipeline, or however it can come up to Newark, it wouldn't be any more expensive than sending a ship to the Persian Gulf and paying what the Arabs are demanding. I realize it is a question of supply, but obviously you must have some source of domestic crude likewise.

MR. RUHTER: We do have some domestic crude available to us from the Gulf Coast area, but we also have a refinery down in Mississippi. Production that is available to us is declining down there, but I believe that most of the domestic crude that is available to us is run in that refinery. They also run foreign crude.

ASSEMBLYMAN GEWERTZ: Would that make the price of the product cheaper there, with the use of domestic crude and the refinery being located within a reasonable proximity, as opposed to the situation in New Jersey whereby the - now, we are talking about without price controls - foreign crude oil is imported to the Amboy Refinery? Obviously, the cost of the product would be considerably less.

MR. COLBURN: I would say you are right there.

MR. RUHTER: If we didn't have price controls, the market forces might dictate a different distribution of domestic versus foreign crude oil than we are using now. The one that we are using is based on the fact that there are federal price controls. If there weren't, we might readjust the proportions of domestic and foreign crude that we ran in certain refineries, depending on the market forces and the competition, and so forth. That is a very difficult question to answer.

ASSEMBLYMAN GEWERTZ: I realize that, but then we go back to the other problem. Even taking into consideration the cost of foreign crude oil, how do we end up with all of these rather large increases, according to the retail gasoline dealers and the fuel merchants, in the cost of home heating oil and the cost of say leaded gasoline, as opposed to unleaded?

MR. RUHTER: Well, I think if you examine the costs that pile up to result in the price of the finished product, you will find without question that by far the major part of that is the price of the raw material and that, indeed, most of the increase that you see in the marketplace does come from increases in the price of raw materials. Operating costs have not changed nearly to the extent of our ability to do more efficient manufacturing and to transport crude oil more efficiently. There are far, far less improvements made in those areas. The improvements we have made are far, far less than the increases in the cost of raw material.

I think if you examine the thing carefully, you will find that most of the increase that you see in the marketplace does indeed come from the increase cost of raw material.

ASSEMBLYMAN GEWERTZ: If possible, we would like you to furnish us with some information. If you took a barrel of crude oil and you took it at today's OPEC price, which is $20 and--

MR. RUHTER: That is 50¢ a gallon before you even start.

ASSEMBLYMAN KAVANAUGH: That's over there. You have to get it over here.

ASSEMBLYMAN GEWERTZ: All right. That is 50¢ a gallon, but some of the by-products that come out of that barrel of crude oil are obviously not all gasoline. You don't take the full barrel of crude oil and refine it to be totally gasoline. It is not 50¢.

MR. RUHTER: Yes. In our testimony today, we gave some productions of the various principal products that we make and there certainly is a sigficant amount of asphalt and residual fuel oil that we make. Of course, we deliberately select heavy crude, a certain portion of heavy crude, so that we can produce asphalt because it is a fairly important part of our total business.

ASSEMBLYMAN GEWERTZ: Is there a difference in price between heavy and light crude?

MR. RUHTER: Yes.

ASSEMBLYMAN GEWERTZ: Heavy crude is less or more?

MR. RUHTER: Heavy crude oil, generally, is less. Most of the heavy crude oil that we use also contains more sulfur. So, generally the price of those crudes is lower than the lighter crudes.

ASSEMBLYMAN KAVANAUGH: You know, possibly it would be interesting for the people to be involved in public affairs. If we could get the people throughout New Jersey and the country to realize that if you take a barrel and break it down and show them what they get out of a barrel, they would have some idea of what percentage is gasoline and what percentage is for home heating oil, etc.

You know, getting back to that P.R. problem, that the Chairman mentioned, when you talk about 40¢ or 50¢ a gallon, it may help them to understand this.

MR. COLBURN: You are right, Assemblyman. Of course, we have been very active along those lines. In fact, in the last 10 days, we have had three different networks in our refinery, for a tour of our refinery - t.v. networks - depicting exactly what you are saying. You would be surprised, even the news commentators, when you talk barrels, they are visualizing drums. They didn't know the difference between a 55 gallon drum as opposed to the 42 gallon barrel. One even asked, "Where are all your barrels? Your production is 168 thousand barrels." They visualized 168 thousand barrels stacked on one another. It is unbelievable that this is what is happening. We do this. We are very active along those lines and we are going to continue to do this. We have done it with some response ads. We have made ourselves available to the entire state Chamber of Commerce here in New Jersey. We have testified. We have made ourselves available to the schools. We speak to the high school and college level students, to get them to realize what the oil industry is all about.

This goes back to the Chairman's question of how Chevron spends its income. Back in 1977, the purchase of crude oil and supplies accounted for 67.9¢ of every dollar. Marketing at that time was 3.7¢. Transportation was 3.6¢. Refining was 3.9¢. Exploration and production was 4.4¢. Taxes, at that time, were 11.9¢. That left us a total of $4.06 profit, of which we took the $4.06 and gave 1.8¢ to the stockholders. We took the 2.8¢ and reinvested it into business. That was the total profile of our total income and how we spent our money in 1977 for the total barrel.

We have made this available. Every time we have given talks, we use this as a pass-out because we want the people to realize that all the alleged statements about obscene profits, and so forth, are just not so.

MR. RUHTER: We have a very complex business and we would certainly like to do a better job than we do in trying to explain it to the public - to our customers. We keep trying, but I think we still have a ways to go.

ASSEMBLYMAN GEWERTZ: Let me ask you a question. In your knowledge of the industry, what does it cost to lift a barrel of oil? Let's assume we are in Saudi, Arabia. What does it cost of lift a barrel of oil? The reason I ask that question is, at one point in time I assume all of the wells were either partially owned or totally owned by a number of American interests that were in partnership with whatever government, in the country in which they were located.

MR. COLBURN: That was years ago and, of course, since then these governments have nationalized the oil companies and we are on the outside looking in.

ASSEMBLYMAN GEWERTZ: Did they compensate the oil companies when they nationalized them?

MR. COLBURN: Yes. What the factor was, I don't know, but it is still not completed. For instance, Saudi Arabia hasn't made complete payment to our company.

MR. RUHTER: I think the cost of production, compared to the price we are charging, is probably relatively low. Of course, they are depleating the most precious and irreplaceable resource that they have. I guess that is why they feel--

ASSEMBLYMAN GEWERTZ: It is interesting how stupid we must be. If you took Saudi Arabia -- they may have oil but they don't have anything else and if they raise the price of crude oil so much a barrel, then likewise we should raise the price of wheat, or whatever it is they need to feed themselves, or clothe themselves, or provide themselves with the amenities that are necessary -- or turn around and nationallize all their interests here. You know, get even.

MR. RUHTER: Well, they have some good customers other places in the world but none that are willing to pay substantially more than we do right now for crude oil. That is one of the advantages they have on a sellers market.

MR. COLBURN: You were talking a little earlier about heating fuels and I understand Mr. Kavanaugh is a dealer, so I am sure he can appreciate some of these comments. Before the government got so entangled in the energy business and the oil industry was able to fluctuate and operate in a free enterprise mode-- You are talking about tertiary heating fuel storage. It was very common back in those days where the manufacturers, the Chevrons and the Exxons, and the Mobiles, and so forth, in the summertime, built up heating fuel as an inducement to their distributors, jobbers, and resellers, to take the fuel oil off their hands and put it into their customers storage tanks. That is what they call the summer float program. This gave people, like Mr. Kavanaugh, the opportunity to buy the oil at a lesser price and, in turn, pass it on to you, Mr. Chairman, at a lesser price, utilizing your storage so that when you came to the fall of the season, after Labor Day, and flipped on your thermostat, you started off the season with a full tank of oil. You had zero credit because it was already paid for since you had all summer to pay for it. The burner was clean and everything was in a go position. The primary inventories, back at the refineries and at the various tank farms, reflected all this. Now we have lost all of that because of government intervention into the business. You no longer can do these things. The incentive is no longer there, so the net result is that we are on the deficit side of inventories.

That is only just one case in point, as it relates to heating fuel-- which we should be concerned about because of the seriousness of the inventory figure for heating fuel in the entire United States, as we are coming into the second week in July. We have to turn it around. We have to get our inventories up to where they are going to be more meaningful before we get into the heating season or we are going to have a dilemma this coming winter.

ASSEMBLYMAN GEWERTZ: Well, the problem is that you are being required to produce more motor fuels as opposed to heating oils by some government regulation?

MR. COLBURN: And the fact that we have to take on more heavy crude oils from the Persian Gulf areas. This is another edict by them because everybody wants light crude. The more light crude, the more lighter end products you can get, gasoline and so forth. So, now we have to take more heavier crude, a disproportionate amount of heavier crude, and that results in less heating fuel and some of the gasolines.

ASSEMBLYMAN GEWERTZ: What would you use heavy crude for, besides asphalt?

MR. COLBURN: Number six bunker, petro-chemical feed stock.

MR. RUHTER: You can also make lighter products if you the processing equipment that is required.

ASSEMBLYMAN KAVANAUGH: You mean all the refineries do not have those capabilities?

MR. RUHTER: That's right.

MR. COLBURN: Pardon me a minute, Paul. That is what happens on this small refinery bit, where you have to take crude let's say from an efficient refinery, such as Chevron, and pass it on to the ABC Refinery company, because of the program set up by the Federal Government, and he can only get 65 or 70 percent of the barrel into useable products. We can take that and reprocess it and, of course, get the full yield out of that barrel.

MR. RUHTER: We are very anxious to supply our customers during the coming heating oil season with heating oil. Our personal view is that it is a little better to cut down on some of our discretionary driving in the summertime and replace that reduced consumption with increased heating oil.

ASSEMBLYMAN GEWERTZ: The problem that New Jersey has, unfortunately, is being a corridor state. A lot of our fuel is not being used by New Jersey residents, but by people who are passing through going on vacation or doing whatever else they are supposed to be doing at this point in time.

MR. COLBURN: That's very true. That was very common last week. The Perth Amboy area is so close to Staten Island and you saw all the New York cars waiting in line to get our gasoline.

ASSEMBLYMAN KAVANAUGH: You know, being in the business I would like to give you some accolades because I think that Chevron - and this is not to demean the other oil companies who are present here today - over the years, truly has done a job for the citizens of New Jersey. I think they have always been mindful of the problem, of the distributor problems and the problems of the customer. Whenever you talk to other retail people, Chevron was always out front trying to do something, to do a little more instead of just putting you into an IBM file. There are other ones I will leave unnamed who I am very distressed with. I would feel remiss if I didn't say publicly that Chevron has always done, I think, an outstanding job for the oil industry.

MR. COLBURN: Thank you very much for the comment. We try and hopefully we will continue.

I would like the record to show that Chevron - the overall Chevron, U.S.A., Standard Oil of California - is celebrating our 100th year anniversary - or centennial year - and we do plan to have some activity at the refinery the second or third week in September - in fact, on the 8th and the 15th - and we would welcome your Committee to take a tour of the refinery and participate with us. Also let it be known too that we are very much indebted to alternative fuels. We have a research group in Richmond, California, that is made up of 10,000 people and we are very much involved with alternative fuels.

As a case in point, we will have, to go on stream in 1981, a 45 megawatt generator - electrical generator. We are supplying electricity at 45 megawatts to the Southern California Electric Company and also to the Imperial Valley Upstate Electric Company - also 45 megawatts - that is being generated from geo-thermal water, not by steam. This is the first time this is being done. So, we have made strides along these lines and, of course, hopefully, with the coal gasification and the tar sands, and so forth, with some relaxation by the environmental people, maybe we can turn this around and be more self-sufficient with crude oil.

ASSEMBLYMAN GEWERTZ: Let me ask you sort of a stupid kind of a question. It is not meant to be that way. If the federal government is so concerned over the importation of foreign crude, is it not reasonable to assume that maybe they should be spending some dollars in looking for oil in this country, rather than sticking the oil companies with it? I realize there is an argument that says, "Well, we are the experts", but, my God, if we have the technology to send rockets to Mars and Venus, you would think that somewhere in the whole conglomerate of governmental agencies there has to be people with sufficient engineering backgrounds and technical knowledge who could be made into some kind of a task force to go out and do the exploration, and once they have found the sources, then they could contract out with the various companies to act as suppliers of domestic fuel at a reasonable cost, rather than pushing a burden on them with all these leases and crap and then end up really not solving the problem.

MR. COLBURN: If we listened to the U.S.G.S., which is the United States Geological Survey, we would not have a North Slope-10 billion barrel find today. They stated there was no crude oil up there in Alaska. It was the free system, the independent dealers and major oil companies, that found the North Slope.

ASSEMBLYMAN KAVANAUGH: If we had allowed the free enterprise system to work, we wouldn't need the quest that you made. We are capitalists, not socialists.

ASSEMBLYMAN GEWERTZ: Well, I don't know, there are some benefits to each system, I think.

Thank you, gentlemen.

MR. HALSEY: We will now hear from the representatives of Mobil, please. Mr. R. H. Stovner, Manager, Refining Compliance; Mr. Hiser, Refining Manager in Gloucester County, New Jersey; and T. M. Cordano, Administrative Controls Manager for the New Jersey sales district.

ARTHUR B. HISER: Chairman Gewertz, Assemblyman Kavanaugh, I am Art Hiser. I am Refinery Manager at Mobil's refinery in Gloucester County. I want to thank you for the invitation and thank you for your patience in staying with us throughout the day. I know this is a long day for you too.

With the press of time, we were unable to prepare a fact sheet and answer the questionnaire as some others were able to do. I apologize for that. We did our best to get you whatever information you need.

In lieu of that, we brought a rather large delegation of people here to give whatever information is needed. With that, I would like to turn the meeting over to R. H. Stovner, who represents our supply and distribution department. He came down from New York. His title is Manager of Regulatory Compliance. What he isn't able to supply, I can talk about and we have Tom Cordano here to talk about marketing.

ASSEMBLYMAN GEWERTZ: That will be fine.

R. H. STOVNER: Thank you, Art. Mr. Chairman, members of the Committee, I want to cut through some of this and talk about a brief overview of the world problem. I will speak briefly to some of your questions, but unless you would particularly like each one answered, we will maybe just hit the highlights of those.

ASSEMBLYMAN GEWERTZ: What I might suggest is that you take whatever time is necessary to complete the questionnaire you have been given and then send the information into us. You can just prepare a statement and send it into the committee staff. That would save some time.

Basically, what we are concerned with, besides the refinery statistics as to storage, etc., is the question of the increased cost of crude oil; where Mobil stands as a major supplier of refined products at the present time and what you forsee as what the State of New Jersey is faced with, as well as probably other parts of the country, and what there is that we might be able to do to assist to try to offset some of these problems.

MR. STOVNER: Let me take the gasoline shortage first and the lines. Basically, that stems from the lack of crude, the lack of crude in the U. S. and worldwide. Iran started it, but it is not the main reason now. It exists throughout the OPEC countries. We agree with the DOE assessment of about 1.6 to 2 million barrels a day shortage. Of that shortage, we see the United States short about 600 thousand barrels a day, which is roughly our share, plus or minus.

The International Agency in Paris, a group of governmental parties and companies who each month gather data on free world crude availability have assessed somewhere between zero and 4% shortfall.

Our company has come out with a statement to the press that we think that the balance of the year will be tight, adequate, easing up someplaces, all countries not necessarily having the same burden.

Our own Mobil supply -- Mobil is currently supplying 95% of 1978's volume of gasoline. In other words, we are down about 5%. Demand should have gone up a couple of percent from last year and this would give us about 7% shortage. We have been doing this since we started allocating in March. Why did we start allocating in March? We had run-away sales, literally, from September through practically the month of March. When I say run away sales, our sales of gasoline and distillates shot up to 112 to 13 percent from the prior year.

ASSEMBLYMAN GEWERTZ: Let me ask you a question here. Didn't Mobil -- it seems to me that in the back of my head I remember you planning a relatively large expansion at your refinery. For some odd reason, I don't know if that was ever completed. It seems to me that you sort of dropped it at some point in time.

MR. STOVNER: That was several years back.

ASSEMBLYMAN GEWERTZ: If you would be so kind, I am interested to find out what that would have done, had it been completed.

MR. STOVNER: In reference to the current situation?

ASSEMBLYMAN GEWERTZ: Yes. What would it have done to Mobil's refining capability?

MR. HISER: It just so happens, I was in charge of that project. It was not completed.

ASSEMBLYMAN GEWERTZ: Oh boy, I got the right guy then.

MR. HISER: It was to be a 150 thousand barrel a day fuel expansion which means we would have processed an additional 150 thousand barrels of crude in that refinery. The product would primarily have been fuel oil, low sulfur fuel oil.

ASSEMBLYMAN GEWERTZ: Right.

MR. HISER: Now, it was a major expenditure. At the time we proposed it, it was an economic project. By the time we had spent $30 million on it, it was obvious it was not going to be an economic project. The rules had been changed by the predecessors of the Department of Energy.or we would never have recovered our cost, as we saw them, at the time we cancelled.

Now, you can look at it today and say, "Well, at today's prices that would have been good economics", nevertheless you have to go with what you can see. We would be producing a lot of fuel, but no more gasoline than we do now.

MR. STOVNER: I might add to that. The refineries all throughout the Caribbean, up into Canada, are sitting either completely shut down, or running at half capacity, or way-reduced capacity, and we would have one of those refineries. That is just to confirm what Art said.

Today, in this short situation with crude, there is not shortage of refining capacity. Now, with long term there is still a shortage. We still need refining capacity, especially when you get into gasoline supply and the crude quality deteriorates and becomes heavier. But, this month, next month, and the rest of this year, the refineries are running about 85% of capacity.

ASSEMBLYMAN GEWERTZ: Well, what is maximum?

MR. STOVNER: Roughly about 90%. That is our estimation, plus or minus. So, we have spare capacity now. We are looking for input.

ASSEMBLYMAN GEWERTZ: Let me ask you this at this point: Domestic crude - American domestic crude - is that classified as a heavy or a light crude, or does it vary?

MR. STOVNER: The average domestic crude, outside of California is a light crude.

ASSEMBLYMAN GEWERTZ: Is that considered low sulfur?

MR. STOVNER: Mid continent is low sulfur crude. Texas crude -- there is a little higher sulfur out in West Texas. California crude, sulfur goes up a little and gravity goes way down. There is a lot of heavy California crude. There is even some shut in, but there are environmental constraints in the San Joaquin Valley. The big change, I would say, would be the Alaskan crude, the one million two hundred thousand barrels a day that come in. Most of that is displaced. That is 26 gravity crude, the heavy crude, displaced much lighter and that has evidenced itself in the falloff of gasoline producing capacity and an increase in residual capacity.

ASSEMBLYMAN GEWERTZ: Is diesel fuel basically light crude or heavy crude?

MR. STOVNER: Light crude. Heavy crude -- there is an awful lot of heavy fuel oil, number six fuel oil.

ASSEMBLYMAN KAVANAUGH: What was the question?

MR. STOVNER: Diesel fuel is very close to--

ASSEMBLYMAN GEWERTZ: It still requires a light crude to produce effectively.

MR. STOVNER: The gravity of diesel oil and light crude are almost the same. To get lots of diesel, light crude supplies it better. The big change is probably in the gasoline content.

We are supplying 95% of 1978's gasoline density. That has been our oubjective. We are able to achieve this only by outside purchases, most of which have not been crude. It has been product.

ASSEMBLYMAN GEWERTZ: Where does the product come from?

MR. STOVNER: The product comes from small refiners. It comes from overseas. It comes from trading companies, wherever we can find it. It is a tough market.

ASSEMBLYMAN GEWERTZ: One thing that confuses me somewhat as I have listened to some of the testimony is, if it is the government's aim to reduce foreign imports of crude oil, is that also directed at the import of foreign produce, as opposed to crude oil?

MR. STOVNER: I would say in the long term it is in our best interest of reduce both.

ASSEMBLYMAN GEWERTZ: It seems it is more directed to crude oil only, at the moment.

MR. STOVNER: Short term, they have been offering to give subsidy if you will bring in produce. They are offering a $5.00 subsidy for bringing in distillate. The $5.00 subsidy for distillates is almost twice the subsidy they give for bringing in foreign crude oil.

ASSEMBLYMAN GEWERTZ: That doesn't even make any sense.

MR. STOVNER: They switched horses and they said, "We will give you more money to bring in product than to bring in crude oil."

ASSEMBLYMAN GEWERTZ: How does that resolve the problem?

MR. HISER: I think we are speaking to two different objectives. One objective the government seems to have at the moment is to supply the gas lines and to meet the winter situation. That calls for more -- more crude, more imports of anything.

But, at the same time, you only have to look a little bit longer and say, we are not going to get out of the hands of foreign cartels unless we do something to reduce our almost insatiable demand for product. In fact, the OPEC people will tell you that.

ASSEMBLYMAN KAVANAUGH: May I interrupt here? I asked a question earlier today regarding a quick change - you know, short term, long term - to alleviate the gasoline situation today. What is your solution?

MR. STOVNER: The solution we recommend is, our President sent a wire to Dr. Slessinger and Gerry Ferrara, earlier. He hit the problem right but he had the wrong instigators of this 10% rule. Mobil was not a party to that. We, on three separate occasions, have gone to the DOE and told them how it was distorting the allocation system of gasoline between primarily rural America and the large metropolitan areas, favoring rural America. It favored states that had a heavy winter demand, ski areas, areas like Florida, where you had a heavy winter traffic. It was hurting states where you have summer beach traffic. It was hurting states with a greater metropolitan area in proportion to the state. And this rule-- I would like to just quote the message to Dr. Slessinger. This is a telegram, sent to the DOE: "We recognize that the current gasoline shortage presents problems across the United States. However, events of the past few weeks illustrate the shortage is being borne disporportionately by the nation's urban areas. We believe this is due, at least in part, to the current DOE allocation rules that disadvantage service station dealers - the principal outlets for urban areas.

"For example, under existing regulations, Mobil's July gasoline supply, which now is up 2%, or 97% of last year's July volume, will result in an allocation fraction of 82% for individual dealers.

"We therefore urge you to take the following steps immediately: One, eliminate the two-base period rule and return to a single base period. The present system permits use of an abnormal winter base period, which is not reflective of driving or distribution patterns in summer months. We continue to plead that the original base period of July 1977 through June of 1978 is the most equitable. It is the most recent of normal sales and avoids the abnormal sales months experienced during late 1978 and early 1979.

"If you are not prepared to make the permanent change in the base period at this time, we suggest at least for the next few months you use the corresponding month of 1978 as the only base period. Any adjustments or exceptions should be based solely on hardships, personally scrutinized on an individual basis.

"Two, eliminate the opportunity for anyone to get more than last year's volume. Priority customers should be limited to 100% of the established base period, not in the current demand. With new, more energy efficient equipment, this should more than satisfy their needs. In emergency cases, state set-asides could be made available.

"Three, we urge that the state set-aside volumes be reduced from 5% to their former level of 3% in order to increase immediately the supply available to dealers. Whatever the state set-aside percentage is, states should be required to assign that volume earlier in the month so companies and customers can plan their operations.

"Your earliest implementation of these proposals is requested. If implemented immediately, Mobil would increase its allocation fraction to customers of July from 82% to 90%."

ASSEMBLYMAN KAVANAUGH: What is the date of that?

MR. STOVNER: The date was just about last week, I believe. But, it is the first time we have brought this up.

If I could explain it, I would explain it like this: If you had a a pencil and could draw it is simple. One of the problems of this is just simple mathematics. The winter rule, the 10% rule, says that from the months of October through February of last winter, if in those five months you had more than 10% increased purchases, compared to the comparable month that you are on, the '78 base month, - this is for July now - then you can shift and take the five winter month average.

You know, we deliver to stations by truckloads. We have two truckloads-one truck load: Two-one. In May it is two truckloads, in June it is one, in July -- and so on. Well, then that individual station looks at October through February - two-one, etc. - and then does a little mental arithmetic and says,"Well, I will take my two, but when I get my one, I don't like it." So, he says: "What is my alternative"? And, the guy says, "Well, if you add two-one and two-one up and you divide by 5, you get 1.6. You don't need that 1. You can have 1.6." He says, "Fine, I'll take that." Then, next month, 1.6? "No. I will go back and take the two." So, he goes from 2 to 1.6 back to 2. He is allowed to skip back and forth. So, that gives him a 60% increase every other month, or an average of a 30% increase. So, he qualifies, obviously, under the 10% rule. That is 10% higher than his alternative of taking the base one of 1978.

A larger volume station, most of which are in the large metropolitan areas, you go through the same mathematics: 7 loads, 8 loads, 7 loads, 8 loads.

You work that out and you can't get there. You can't get up to 10%, so he doesn't have the choice and even if he did, he wouldn't have the increase.

So, by sheer mathematics, it favors the 'mom and pop' service stations in the rural areas. It also favors anybody who, back in May, June, or July, wasn't buying all their gasoline from us. Now, service stations, by and large - the dealers - are kind of locked in. They have one brand. But, certain resellers handle more than one brand. They have the storage. They can buy from several suppliers.

What happened in September through this Spring is, all of the shoppers - the resellers are out shopping the market - got the gas 2¢ lower in May or June and by September the spot market had gone up -- 20¢, 30¢ above our sales price for our distributors. And, having gone up so much, they don't like the price, so they have this option of the winter rule. By winter, they were buying 100% from us. So, that increased our demand from September through February and forced us to go into an early allocation by 112% over the prior year and the industry was only up 2%.

So, we have objected to this rule and we think that correction of this will be the single step that would best alleviate the gasoline crisis. We have urged everyone we have talked to - we have urged Governor Carey too - to look into this, its effect on them. We simply think it is inequitable. Now, going back to '78, yes, that is inequity for some. Whatever base they pick, they have to handle the exceptions for hardship reasons.

ASSEMBLYMAN KAVANAUGH: I was just checking. I have some information for your edification. Governors Carey, Thornberg, and Byrne have left -- I don't know if they have arrived at Camp David yet, but they are going to Camp David for dinner this evening and will have a breakfast conference with the President. So, I hope that we see some result.

MR. STOVNER: We see signs of them listening in Washington. They are catching the complaints from all over and it is evident when you get out in the rural countryside and into out-of-the-way areas, you can get all of the gasoline you want at service stations. There are no lines. In all the metropolitan areas you have lines.

ASSEMBLYMAN KAVANAUGH: I think there is going to be a major concern. As I mentioned earlier, right now we are concerned about the gasoline and the home heating oil. This is going to be a very serious problem.

MR. STOVNER: Concerning home heating oil, the DOE has called companies to, on a voluntary basis, hit the target of 240 million barrels. Some are concerned. You can hit the target by not selling during the summertime. Mobil has taken the stance that we will keep our distillate allocation a fraction above our gasoline allocation fraction. In other words, we won't cut back distillates and make gasoline on our summer sales just to achieve this inventory target. We will carry both along simultaneously.

For example, in April we had a 95% gasoline fraction and a 97% distillate. In May, we had a 90% gasoline and then dropped it to 80% and 95% distillate. In June, we had 80% gasoline fraction and an 85% distillate. This is our allocation fraction. This is not what we are delivering. We are delivering 10% to 15% more. And, the close of the telegram says if they would eliminate that 10% rule, we could up our allocation actually by 10%.

ASSEMBLYMAN KAVANAUGH: So, the problem is that storage within the home is not going to be filled up. So, it is really a false reserve that we are considering when we say 240 million barrels.

MR. STOVNER: That concern is real.

ASSEMBLYMAN KAVANAUGH: That is a valid concern because it is going to draw those stocks down drastically.

MR. STOVNER: If you are to achieve 240 million at the expense of all your normal summer sales--

ASSEMBLYMAN KAVANAUGH: And the fact that New Jersey is 12 1/2% of that barrel reserve, it could be a problem. It is a shame to say this but if government would get out of the business and allow the free enterprise system to work I think it would work out. People would buy and sell and the allocations would then be proper. Or, if we were to establish something like if you bought 'x' number of gallons the year before, you are entitled to 'x' number of gallons this year. But, the government is saying you do this, you do that, and you can see where it is unfair if someone is going to increase by 60% just because they can switch back and forth on that monthly growth.

MR. STOVNER: For the month of July we are pleased to announce that we have increased our allocation fraction on both distillates and gasoline by 2%. We are now 82% on gasoline and 87% on distillate and that translates to an overall delivery of 97%. That is our objective, to try to keep that overall 95% higher.

ASSEMBLYMAN KAVANAUGH: Well, on the home heating end, say in the last year, are you taking new customers?

MR. STOVNER: It is tough to take new customers when you are not able to give your last year's customers 100% allocation. I guess I would have to defer that question to one of our marketing people.

ASSEMBLYMAN KAVANAUGH: Are your salesmen on the street, during the last two years, taking any new accounts?

MR. CORDANO: Not to my knowledge, although I am on the retail end. We classify our heating oil distributors as wholesalers.

MR. STOVNER: We have been very careful not to take on more accounts because of the fact that we are allocating our present accounts. There is a procedure for new accounts, on gasoline. On distillates, it is a tougher situation. For a period here we have had a temporary allocation for agriculture distillates -- distillates used in agriculture and fishing -- and distillates used in surface mass transportation, oil and gas production. They have now just cancelled all the programs except surface mass transportation. That is a priority account. We had to sell those accounts all they certified they needed, for this last two months. That program is phased out because who does it take from? The truckers who are left.

Let me give you just a little illustration of this disproportionate distribution of product. Roughly 25% of our customers are in one group and 75%, volumewise, are in the other, and those are real rough numbers. It is about a three to one ratio. The three are mostly individual dealers who get delivery direct from Mobil. They are the stations that the average man on the street in the larger cities will visit. The other 25% represents stations who are the small mom and pop stations in the rural areas or stations that buy through a retailer. Mobil is not a direct seller, yet they are our customers.

What happens when you give one group a priority? We are saying that we have cut from 90 to 82. Go right back up to 90. We have cut 8% on 75% of our stations where the average motorist has to buy. Well, on a three to one ratio, you multiply 8 by 3 and that means the other group gets about 24% more. So, they are getting 90 plus 24, or about 114%. This illustrates the problem.

ASSEMBLYMAN KAVANAUGH: The inequities in the system.

MR. STOVNER: This is what we are urging the Governors and the DOE to look at more closely, the effect on the states. We think it should be corrected.

There is a new item, set aside. Somebody mentioned today that all the companies could shift 5% of the product around. Well, if you read the fine print on that, if we decide to send it to New Jersey, we are committed to a nationwide allocation fraction on our products. We don't differentiate one way or another. That means we have to take a little bit from every other state and give it to New Jersey. When we do that, we must send out a wire to the governors of all other states that says New Jersey needs the product more than they do. We have taken that load upon our shoulders. This is a tough one to bite into.

ASSEMBLYMAN KAVANAUGH: We were talking about our own state set aside - to transfer that. We are not selfish here in New Jersey. I wouldn't want it to be thought that we as a committee were putting forth a take away program, although there was talk about one distributor who was bringing something back. I won't ask the name of that distributor. It was one supplier. Our concern was with the state set aside - the 5% state set aside - being raised from 3% to 5%. You are talking about 15 million gallons of gasoline that are being held over here that could be better returned to the dealer and instead of him getting 80%, he gets 85%.

MR. STOVNER: Some states are going on individual assignment, in other words, by name. Others are turning it back to companies and saying, distribute it amongst your customers across the board. Those who distribute it across the board act more in line with our statement, that we think the set aside should be reduced, especially in cases where it might be sent to the wrong places.

The new big problem is that the DOE has always had the power to redirect, since 1974. They have it right now. They could redirect from state to state. They could redirect within a state. The state has the power to redirect the set aside within the state. Now, we, the companies, have the same power as the DOE, quote and unquote. We have a lot more restrictions on it. We have to notify all the other states. We have to treat all classes of our trade equally. The poor dealer in one state is told he is cut to 70% and the other guy says, "Why? I've got 90%." You know, they don't realize you are doing this to offset the 10% rule, or some other rule. He knows he is hurt. And, the third portion of that regulation says, "you shall not hurt individual classes of the trade."

ASSEMBLYMAN KAVANAUGH: The first thing we learned when we were down there was that there was no state allocation. They challenged us. We kept talking about New Jersey's state allocation and they said, "There is no such thing as a state allocation."

MR. STOVNER: Each company has an allocation.

ASSEMBLYMAN KAVANAUGH: The company? You have an allocation?

MR. STOVNER: We have one. If one of your major suppliers in the state, who has a big share of your state, has a lower allocation fraction, you would not get as much as another state.

ASSEMBLYMAN KAVANAUGH: New Jersey does not have a June allocation of 300 million gallons of gasoline, per se, but the supplier has that allotment which they are bringing in.

But, there was another thing we questioned. There is no way to tell in New Jersey, even though 300 million gallons of gas go through sales tax, how much of that gasoline that cames into the state went out of the state.

MR. STOVNER: That's right. When we deliver to a re-seller who is on a boundary, we have no way, even in an official report that we give to the state - the ZIA-25; the old FEA-1000 - of knowing where he delivers that. We count it. If he is located in New Jersey, we say we delivered to New Jersey and we report it as sales in New Jersey. He may put half of it across the line and that escapes the reporting system.

ASSEMBLYMAN KAVANAUGH: The only way we can check it is by the tax paid on what comes through. This is what we want to check as far as May and June are concerned. We want to go back to the Tax Department and ask how much was actually received. We can then convert that into gallons and see actually, of the 300 million gallons, what we got in New Jersey.

MR. STOVNER: I have had several states call on this identical problem: "Where is our gasoline going"? These are the loopholes in the information systems. It is a tough one to tighten up. But, you have equally big loopholes in the information system on the distillate storage. You only know of the distillate storage through the major oil companies. You don't know of it in the re-sellers tanks, the distributors and jobbers tanks, and you don't know of it in the customer's tank and the government doesn't know. So, there are gaps in the system. It is not perfect.

ASSEMBLYMAN KAVANAUGH: Not to interrupt you. I was waiting for the Chairman to come back because we are going to be having another hearing. There are other people that will testify. But, if anyone has any written testimony here today, we would like to accept that. It is 4:20 and our young lady and gentleman, I think, have done a yeoman's job. You know, with the State contract, I wouldn't want to see us go into overtime. We are trying to be conservative.

MR. STOVNER: I have no more particular details. We have answers to some of your questions. If you had a particular question or two in mind, maybe we could give you the answers here, otherwise we would be happy to talk to you on the phone.

ASSEMBLYMAN KAVANAUGH: I think there will be further dialogue with the committee aide and other members of the committee. We have the phone numbers listed. We just can't thank you all enough, all the companies, for appearing today. With the holiday and all it was somewhat disruptive as far as communications are concerned. We certainly appreciate your taking time out of your busy schedule to come down and testify here today and give us the input that we are so desirous to obtain.

This is not the end. We made it very clear when we started these committee hearings that we are not on a witch-hunt type thing. But, we are concerned about the citizens here in New Jersey and we want to make sure that we get our fair share. We don't want to be selfish, but we want our fair share. We want to make sure that if we are entitled to it, we are going to get it, and give some relief to the citizens.

We have talked to the trucking industry and they say that 95% of all the trucks, at one time or another, go through New Jersey. So, we have to be concerned that the gasoline and the home heating fuel will be coming into New Jersey and that we will be taken care of.

You know, the oil companies themselves certainly have been looked upon as the domains that you can't tred upon. But, I think in most cases they are trying to be helpful.

We, as a State Legislature representing over 7 million people here in New Jersey, do have some clout in Washington and with the Governor going to Camp David today, we will have an opportunity to have some dialogue. This will be on-going. This is not the end of the public hearings.

If there is anyone else who has testimony that is written, they may turn it in. Otherwise, you will have to wait until the next hearing to publicly give your testimony. If you want to introduce your written testimony at this time, you may feel free to come to our next hearing and be heard.

MR. HALSEY: Mr. Haviland, in the back of the room, is the only one left to give testimony.

ASSEMBLYMAN KAVANAUGH: Mr. Haviland, do you want to submit your testimony today and then come back to the next one?

MR. STOVNER: That will conclude our testimony then. The only thing I would ask, and this is something we have asked of every state, is to please go easy on looking at just small regions. We don't even look at small regions. We look at east of the Rockies or west of the Rockies. Because to look at any one state or county gives a picture that, as we see it, does not do anyone any good.

The taking of inventory seems like a pet past time since 1974. We don't have enough crude other than just operating type. There is five or ten days between the time we are getting full and the time we are getting empty. We have a little more distillate storage, but a lot is made over our inventories of crude oil and it has so little meaning in the overall context of things. The real message is a new and fresh supply has to keep coming and that is contingent upon 43% from abroad in order for us to have our own Mobil supply now. Thank you.

ASSEMBLYMAN GEWERTZ: Thank you, gentlemen, we appreciate it.

Mr. Haviland. Sorry for the delay, Mr. Haviland.

FRANCIS C. HAVILAND: That is all right. I am Francis Haviland, Executive Director of the Gasoline Jobbers Division of the Fuel Merchants Association of New Jersey. I would just like to explain that in my conversation with Bill Halsey yesterday, I told him that our jobbers wanted to testify but they found they could not put together the information required in a day and one-half's lead time. So, they will be present at another hearing.

However, I am going to take this opportunity to acquaint you with the jobbers position and strike in the State of New Jersey and then we can eliminate that at the next one.

ASSEMBLYMAN GEWERTZ: Okay.

MR. HAVILAND: Our division now consists of eighty gasoline jobbers, ranging in size from 1 billion gallons annually to over 25 million gallons. These jobbers serve approximately 1200 retail outlets and thousands of farm, commercial, industrial accounts, and municipalities. As a group, these jobbers account for approximately 20% of the annual gasoline volume sold in New Jersey under normal free market conditions.

Most of these jobberships are family owned and many are in second and third generation ownership. They are important parts of their communities and render necessary services. They have, collectively, several million dollars invested in plants, rolling stock, dispensing equipment, inventories and real estate to bring a needed product to their community residents, create employment and resulting tax revenues to the municipalities and the state. In lesser populated areas of the state, jobbers are the primary channel for distribution of petroleum products.

Most of our members fly a major brand flag: Mobil, Shell, Sun, Texaco, Phillips, Getty, Amoco, Gulf, Chevron, Citgo, Exxon, and BP are all represented. We also have private brand jobbers who basically receive their product from independent suppliers. Among our members are "debranded" jobbers who have been relieved of their brand identity since allocations were imposed. We have jobbers in all 21 counties of the state.

While environmental regulations have been costly and cumbersome for jobbers to live with, the most restrictive and punitive regulations have been, and still are, those inflicted on the industry in 1974. Base period allocations effectively eliminated competition at both wholesale and retail levels and a profit margin based on a March 15, 1973 pre-inflation margin is absurd and untenable and is placing jobbers in the "endangered species" category.

The effect of "no growth" and fixed margin regulation is shown in the following example:

In 1973 this jobber sold 25,000,000 gallons of gasoline, diesel and associated petroleum products. These gallons were handled at a gross margin of .045¢ per gallon. Since then our major costs have risen:

	1972	1979	% Change
(a) Barging	.0042	.0066	+57%
(b) Trucking	.0065	.0106	+63%
(c) Drivers	4.20/hr.	7.68/hr	+83%
(d) Real Estate Taxes			+47%

(e) Vapor recovery investment, $800,000 with no allowance for recovery of investment.

(f) Cost of changing pumps to 4 bank computers to comply with weights and measures $117,000 with no allowance for recovery.

(g) Utility charges +48%.

(h) Cost of equipment:

	1972	1979	% Change
Tank truck	$24,000	$47,000	+98%
Tractor	$18,000	$43,000	+109%
Trailers	$11,000	$21,000	+98%
Service Trucks	$ 2,300	$ 5,400	+115%

(i) Installation of additional storage tanks and pumps to accommodate unleaded product mandated by EPA but with insufficient volume and margin to justify expenditure of funds.

(j) Interest rates have moved up 1972 (8%), 1979 (13%) +80%.

(k) Inventory values and accounts receivable have quadrupled, requiring much more money at higher interest rates.

These escalated costs brought on by the inflationary spiral have raised our operating cost to the point where monthly loss figures are the rule rather than the exception.

To compound an already serious no-growth situation, our supplier has reduced the allocation fraction to 70%. This move reduces our monthly gross income by $35,000:

2,100,000 gals. x .05¢	=	$105,000
1,400,000 gals. x .05¢	=	70,000
		$35,000

Pushed out on a yearly basis, this is a reduction of gross income of $420,000 per year. Despite the fact that our available gallonage for sale has been reduced, we cannot reflect corresponding economics in office help because of the bureaucratic paperwork nightmare administering percentage allocations nor in delivery expense because of delivering less than trailer load quantities to match percentage allocations. Our pre-tax company earnings in 1972 were $293,453.62. Our pre-tax company earnings in 1978 were $57,115.46.

This example is an actual case history that was made for a hearing at the federal level. It sets out the position of the jobber pretty well.

The preceeding is just one example of what regulations are doing to independent businessmen. If Congress and federal agencies can devote time and effort to protect the "endangered" snail-darter and lousewort, why can't they devote a little of that time to protect a human endangered species, the independent businessman?

In our opinion, the knowledge and ability of our regulators are reflected in the degree of effectiveness of the many confusing and conflicting programs spawned and implemented by them. We agree with Mr. Farrara with regard to that same period. We favor a change to 1972 or 1978 and we have support from several of our Congressional delegations when this came up, but the pleas fall on deaf ears.

What are the causes of the present shortage and what are future projections? Ask 100 people and you will get 100 answers, all different. Signals were coming up in 1972 that a crunch was coming, but no one really paid much attention. Consumers thought a refinery was like a "Chinese water jar" - its ability to pour out product was endless. Statements by some people in responsible positions still reflect this belief. We need fewer "profound" statements by unknowledgeable public officials; we need more indications that responsible officials will display knowledge and awareness of their departments' responsibility to consumers and industry. We need credibility on the part of all concerned with the regulation of a vital industry. We need fewer "media manupulated crisis" which have caused the recent malaise at the gas pumps. We need to confine Jack Anderson and Ralph Nader to the editorial pages, usually read after the comics and the sports pages. We need a resurgence of confidence in the free enterprise system on the part of consumers, and particularly all levels of state and federal government and regulatory agencies. Thank you.

ASSEMBLYMAN GEWERTZ: Basically, what dictates the difference between an outlet being furnished by a jobber and an outlet being furnished directly by the refiner, producer, etc.?

MR. HAVILAND: Well, to the motorist there is no method of identification. Generally, what happens - just as Jerry Ferrara mentioned this morning concerning majors pulling out of certain locations - is that many of the locations that jobbers have now are locations which were abandoned, or sold off, by major suppliers. This company that I just talked about has 148 outlets, many acquired from majors that pulled out. They have held many themselves for years. This is a family business of about probably 25 or 30 years. So, over the years they have acquired these. But, there is no basic difference. The big basic difference between our jobber and a major company operation is that majors today do not look favorably upon supplying small consumers and industry and this is where the jobbers have stepped in. I would say we have approximately 5,000 such accounts, serviced by our jobbers.

ASSEMBLYMAN GEWERTZ: Do the jobbers find there are problems with receiving allocations?

MR. HAVILAND: They do. They have had some trouble. Intermittently, the state set aside has helped some of them at the end of the month, to meet their requirements for priority accounts, like municipalities, fire departments, public transportation, and this type of thing. But, they have excellent cooperation on that end from the Department of Energy here.

ASSEMBLYMAN GEWERTZ: Do you find that one of the problems that seems to be of some concern is -- is it possible that some of the jobbers are getting allocations which they are not legitimately entitled to? By that I mean, in other words, prior to the allocation program they had a certain amount of accounts and then because of whatever reason they have lost some of those accounts?

MR. HAVILAND: That's right.

ASSEMBLYMAN GEWERTZ: Yet, they still continue to recieve the allocation, never notifying the major oil company that, "We don't have x, y, z, motor truck company now, and that is 50,000 gallons less a month." In fact some people are really reaping exorbitant profits by getting that allocation and being able to sell it off at whatever price the market will bear, as opposed to allowing that allocation to be distributed amongst the other jobbers who really have customers that are in need of the fuel.

MR. HAVILAND: Well, what some of them are doing, admittedly, is, if they lose an account, they will take that product, but they are not necessarily scalping it, because they have other customers to take care of that aren't getting a full allocation and who can use it. So, they are spreading it around.

Now, Jerry Ferrara referred to some distributors, or jobbers, this morning who for a while were posting lower prices and taking all the volume.

ASSEMBLYMAN GEWERTZ: Walter, do you have any questions?

ASSEMBLYMAN KAVANAUGH: Mr. Haviland is one of the experts in the field and he will probably be back at the next hearing. I will save my questions until then.

ASSEMBLYMAN GEWERTZ: The week after next we are going to have another hearing.

MR. HAVILAND: Well, if we can have lead time, we can get different sized distributors who have different problems to attend.

ASSEMBLYMAN GEWERTZ: That would be appreciated. I am sorry for the short notice you received this time. Everybody is trying to get information and we are really being pushed.

MR. HAVILAND: Okay.

ASSEMBLYMAN GEWERTZ: Thank you very much. We appreciate it.

MR. HAVILAND: Thank you.

ASSEMBLYMAN GEWERTZ: We will now adjourn this hearing.

(hearing concluded)

Fuel Merchants Association of New Jersey

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STATEMENT

of

RICHARD CHODOSH

before the

GENERAL ASSEMBLY OVERSIGHT COMMITTEE

on

THE CURRENT ENERGY SITUATION

AS IT PERTAINS TO FUEL OIL

Trenton, New Jersey

July 6, 1979

My name is Richard Chodosh and I am an independent home heating oil retail dealer in Rahway. I am also president of the Fuel Merchants Association of New Jersey. I am here today to testify on behalf of the approximately 600 members of FMA and the almost 50 percent of the state's residential heating needs that they supply.

Although I am currently president of the Association, I am not among the larger independent retailers in the state; my business is considered a medium-sized operation. Therefore, I can speak as a qualified representative of the average independent home heating oil retailer in New Jersey.

Before moving to the list of specific questions supplied by the Committee, let me say that there are two major points that this and any other discussion of home heating oil supplies in the state and the nation should revolve around:

*Number 1: The stringent environmental rules enacted and enforced by the State Department of Environmental Protection and the National Environmental Protection Agency are having a severely-determental effect on the availability of fuel oil;

*Number 2: The much-publicized national stockpiling goal of 240 million barrels will have little beneficial effect on the home heating oil situation in New Jersey this winter if that stockpiling is done only at the refiner level and not at the dealer and customer levels as well.

I will expand on those comments at the appropriate times in my testimony; they are the key facts that should be remembered by the Committee.

As I have indicated, there are approximately 600 members in the Fuel Merchants Association. There may be several hundred small dealers whom we do not represent.

Residential heating oil, known in the industry as #2 oil, burned in New Jersey comes from various domestic and foreign sources. Although I do not have precise figures, studies recently have demonstrated that approximately 60-to-65% of the heating oil burned in New Jersey is imported. For exact figures on the domestic/imported mix, and for figures on refinery runs, I suggest you contact the New Jersey Petroleum Council.

A majority of suppliers are not providing written contracts for retailers at this time. Those that are have limited retailers to certain conditions, usually restricting their purchases to the amount actually purchased last year, or to the amount of last year's contract, whichever is less. This, however, does not guarantee the retailer that he will actually receive product in either of those two amounts. Most of the major suppliers have imposed "allocation fractions" on dealers which reduces available product in some cases by as much as 50%.

Furthermore, the terms have become extremely stringent; whereas historical practice dictated a 30-day net-payment contract, the trend now is toward a 10 day-net payment. The resulting cash-flow problems have literally driven some independents from business and are the primary reason independent retailers have tightened their own accounts receivable procedures with their customers.

In my own case, I currently buy from seven major suppliers. Historically, six offer contracts. To date, I have not received any. I repeat, not a single one of my seven suppliers, all of whom I have done business with over the course of many years, although two have promised me a written contract. Further, several reasons stop me from seeking other sources of supply.

*No. 1: The majors have established an unofficial, but most complete, freeze on taking on new customers;

*No. 2: The spot wholesale market price is actually in excess of the current retail price I offer my customers. If I fail to lift product in a designated time period, often weekly, I will lose the product.

In other words, the majors have effectively restricted my marketing activity.

The 1979 heating season is defined, for purposes of this testimony, as November 1, 1978 to April 15, 1979. Approximately 1.2 billion gallons of No. 2 heating oil were distributed for residential use in the state during that period. Note that this figure is strictly residential use and does not include commercial, institutional or industrial use.

The 1.2 billion gallons translates to approximately 30 million barrels, or 12.5% of the federal goal of a 240 million barrel stockpile in primary storage. In other words, New Jersey alone will use 12.5 percent of all the No. 2 oil the federal government hopes to have stockpiled in the nation by October 1, even though New Jersey is just one of 26 states that use significant amounts of No. 2 oil for heating.

At CPO, Inc., we delivered approximately 5 million gallons of No. 2 heating oil during the 1979 season. At the start of the season, the wholesale price was 39.68 cents per gallon, the retail price was 52.40 cents and the margin was 24.3%. The figures for April 1 were: 46.77 (wholesale); 61.60 (retail) and 24.1% margin. I have included figures for each month in an addendum attached to this testimony.

By contrast, my figures on July 1st, were: 55.70 (wholesale); 73.20 (retail) and 23.8% (margin). As you can tell, while my retail rise has skyrocketed 20.80 cents since November 1, 1978, my margin has actually decreased by .5%. The price differential since April 1, 1979 has been even worse. My retail price has risen 11.60 cents since the heating season ended, but my margin has dropped by three-tenths of a percent point.

As you can see, my gross margin has varied from 23% to 24% over this period. By contrast, my margin before the Arab Oil Embargo was 35% to 40%. That is a clear indication of business conditions in my industry over the past five years.

Due to federal and state laws, I am not able to provide you with average figures for Fuel Merchants Association members during the heating season. It is illegal for the Association to compile such figures. I do believe, however, that my figures are representative of the average independent retailer.

The Fuel Merchants Association is currently compiling a survey of its membership to determine the existence and/or extent of possible supply shortfalls this coming winter. A majority of those responding reported their storage capability--known as secondary storage in the industry--and their customers' storage--known as tertiary storage. We estimate this combined capacity to be in excess of 30% of the total amount of No. 2 heating oil used in New Jersey annually. This translates to more than nine million barrels, or 378 million gallons.

It would take treatises as massive as the regulations and laws themselves to outline the effect federal and state regulations and laws have had on the operation of the fuel oil industry. In one word, however, the effect has been adverse.

I mentioned previously that most major suppliers have placed retailers on "allocations." These fractions range from 50% in the worst cases to as much as 100% in the best cases.

Historically, in summer months, retailers would fill their customers' tanks in addition to filling their own storage. The majors, in fact, offered discounts and deferred billing to encourage this practice. This meant that secondary and tertiary storage was at or near full capacity as the heating season began. This is no longer the case. Why?

One reason, and a good example of the disasterous affect of government meddling in the petroleum industry, is that the Federal Energy Department has ordered major refiner/suppliers to meet the 240-million barrel stockpile goal by October 1. At the same time, FDOE has urged refiners to continue maximum gasoline production. Obviously, something has had to be sacrificed in order to meet these twin goals. And that something was fuel oil distribution on the wholesale level and the filling of secondary and tertiary storage that such distribution would have resulted in.

That is why the 240 million barrel stockpile is dangerously-misleading. The stockpiling is being done at the primary--refiner--level and will not filter down to secondary and tertiary levels in time to be effective, if the recent supply situation in gasoline marketing is any indication.

It must further be understood that the 240 million barrel stockpile represents total middle distillate and not just No. 2 home heating oil. Therefore, if the present primary stockpiling continues at the expense of secondary and tertiary stockpiling, the reserve now in secondary and tertiary storage will evaporate in record time and could produce a situation comparable to that in gasoline marketing, where primary storage tanks were filled to overflowing but gasoline stations were bone-dry.

Lack of follow-up and oversight control is another area of FDOE ineptitude. A good example is the state set-aside program. Under state set-asides, a percentage of each major supplier's product in each state is reserved for distribution by state officials on an emergency basis. In New Jersey, the percentage is 3%, which means that three-percent of each retailer's potential supply is denied him.

I can categorically state that, since the program was initied in 1975, there has not been one month when the total set-aside amount was distrubuted. What happens to the left-over supply?

Where does it go? Why can't it be distributed at the end of the month?

The SDOE, at times seems to be ineffectual, inconsistent, and in over their heads when dealing with important energy questions. In their defense, their authority is preempted by the Federal DOE.

Let me address the contributions of the State Department of Environmental Protection and the national EPA to the overall No. 2 home heating oil supply situation. The DEP, through its unrealistic sulfer content rule has contributed to the unnecessary wasting of No. 2 oil in the state.

While the EPA bans the usage of fuel oils which exceed the federal standard of .5%, the DEP has lowered the acceptable rate for New Jersey to .2%. In order to meet this requirement, commercial, institutional and industrial users of No. 6 oil--which has a high sulfer content--must blend it with significant percentages of low-sulfer No. 2 oil in order to meet the DEP requirement. The state regulations foster industrial usage of No. 2 oil in lieu of residual oils to meet the sulfer emission criteria.

Through its interpretation of the Clean Water Act, the EPA has promulgated massive rules requiring spill prevention facilities at secondary storage locations. The requirements are designed and enforced without heed to financial realities and have led to the abandonment of some storage tanks. This has removed a substantial portion of secondary storage and contributed to the growing number of state retailers who do not have any storage capability.

Those members of the Committee who were in office in the spring of 1977 may also remember that DEP, under David Bardin, proposed spill regulations for New Jersey that were so absurd that public clamor forced them to be dropped after hearings.

Gentlemen, the energy problem is global in nature and state regulatory agencies have no significant influence on global problems. The typical Federal regulator, is not a veteran of the petroleum industry.

He is actually a career bureaucrat with little, if any, background in energy.

As a career bureaucrat, he also believes every problem can be solved by the issuance and enforcement of a regulation that all too often ignores the economic impact. Economic impact statements should be made mandatory before any regulation by any state or federal agency is issued.

There have been, as outlined, numerous actions by the major refiner/suppliers that have caused problems on the retail level. Some are government-induced and some are not. Some can be traced back to Teheran, Tripoli, Bagdad and Riyadhl. Some go only as far back as Houston or Washington.

What will improve the home heating oil outlook in New Jersey? We need first to temporarily relax--and then examine--the sulfer content regulation. There is no reason why New Jersey must have a rate 2½ times tougher than the national rate. This will dramatically increase the amount of available No. 2 oil making more #6 available for industrial, commercial and institutional usage.

The state set-aside program should distribute all the product available each month, if only by releasing it to the majors for distribution at the end of the month. The SDOE should monitor the distribution closely to see that it is done.

At the national level, the 240-million barrel figure must be reexamined and redirected. Secondary and tertiary storage must be filled before primary storage is completed. Major dislocations of product similar to those at befell the gasoline industry will result if this is not done.

For the long-term, a total reevaluation of priorities is needed. Better usage of the crude barrel must be made. Unleaded gasoline consumes more crude than leaded. Until more environmentally-efficient engines are developed, environmental rules must be relaxed. If not, we face two choices: driving to work in air a little dirtier than we'd like; or walking in the fresh air.

Production of oil from shale and coal must be researched and developed on a large scale. Massive research programs must be organized to do so. Coal reserves must be utilized to cut our dependence on imported oil. Expoloration incentives must be reinstituted.

Without these measures, we face a continuation of the present situation indefinitely.

Thank you.

DATE DUE
