

Monthly Columns

by Attorney General Jack Conway



September 2008

Let me first say that it has been heartening to see communities across Kentucky pull together to help those in need following the devastating windstorm that swept across our state on September 14. Families were put to the test with damaged homes, loss of power and in some cases, the loss of life. As Kentuckians so often do when faced with adversity, we responded with kindness, compassion and concern for our neighbors.

Before the windstorm hit Kentucky and before Hurricane Ike made landfall in Texas, I formally requested that Governor Steve Beshear declare a state of emergency and implement the price gouging protections of Kentucky's Consumer Protection Act after receiving numerous reports of price gouging and rationing across the state on September 12. I felt it was important to get these protections in place as soon as possible to not only protect consumers but to put wholesalers and retailers on notice that we will not tolerate excessive profit taking as a result of this emergency. We even set up a special email, gaspricecomplaints@ag.ky.gov, for consumers to report possible price gouging. In fact, our office received more than 2,000 emails and phone calls. Please be assured, we took this information seriously and responded quickly.

Investigators from our Consumer Protection Division are currently contacting the stations with the highest

prices, requesting their bills of lading which show what they paid for the gas and then comparing that with what they charged at the pump. This information will allow us to determine if there was price gouging.

If we see that that retailers or wholesalers used Hurricane Ike or the subsequent windstorm as a means to double or triple their profit margins, we will take the appropriate action under the Price Gouging statute, which includes restitution, a \$5,000 fine per transaction and \$10,000 fine for subsequent offenses. This office has taken action before and will do so again if necessary.

In the wake of Hurricane Katrina, the Attorney General's Office brought an enforcement action against 12 retailers and collected a total of \$60,000. At the same time, the office filed a lawsuit against Marathon Oil seeking nearly \$90 million in damages. The case will go to trial in October 2009.

I am pleased to see that gas prices have fallen back to where they were prior to Hurricane Ike. I believe this it is a testament to the quick action by our office, Governor Steve Beshear and the more than 2,000 concerned consumers who joined us in the fight against price gouging.

This office also has an ongoing investigation into the wholesale price of gasoline in Kentucky. After a price spike in Louisville in July, my office and Governor Beshear reviewed preliminary data that indicated consumers in Louisville and other

parts of Kentucky were paying up to 20 cents more per gallon for wholesale gasoline than other neighboring states or cities in the region.

My office sent subpoenas to wholesalers, retailers and distributors. They have until October 7, 2008 to submit the data we've requested. Our investigators will review that data and determine whether or not to file a lawsuit in this case.

I've also asked the Federal Trade Commission, Department of Justice and Office of Government Accountability to review the merger of Marathon and Ashland Oil that took place in the mid 1990s. I believe the merger may have created a potentially illegal monopoly in the Kentucky petroleum market.

Both of these investigations into gas prices are ongoing. As Kentucky's chief consumer protection advocate, I am committed to getting answers and, should it be necessary, taking action on behalf of consumers in the Commonwealth.

Jack Conway

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