S. HRG. 112–596

GASOLINE PRICES IN THE STATE OF VERMONT

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

TO

EXAMINE GASOLINE PRICES AND MARGIN DYNAMICS WITHIN THE STATE OF VERMONT

Burlington, VT, August 6, 2012

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

76–613 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

CONTENTS

STATEMENTS

GASOLINE PRICES IN THE STATE OF VERMONT

MONDAY, AUGUST 6, 2012

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Burlington, VT.

The committee met, pursuant to notice, at 2 p.m., at Contois Auditorium, City Hall, 149 Church Street, Burlington, Vermont, Hon. Bernie Sanders presiding.

OPENING STATEMENT OF HON. BERNARD SANDERS, U.S. SENATOR FROM VERMONT

Senator SANDERS. This is a formal hearing of the U.S.

Senate Committee on Energy and Natural Resources. I want to thank Senator Jeff Bingaman of New Mexico, who is the chair of the committee, for allowing us to hold this hearing in Burlington. I want to thank his staff member for being with us today. What is being discussed here will become a part of the official record of the committee. I want to thank the city of Burlington for allowing to use this facility, which I have some familiarity with.

I also want to mention that we have representatives from Senator Leahy's office, Ted Brady, is here. Ted, thanks for being here. From Congressman Welch's office, John Copans. I think we have the Attorney General of the State of Vermont, Billy Sorrell here, I believe. Thanks for being here as well.

I also want to thank our panelists for taking the time to be with us to share their views on this extremely important issue.

The issue that we are going to explore today is one that concerns many Vermonters, and that is how gas prices at the local level are determined, and why it is that, with few exceptions, gas prices at the pump in northwest Vermont—Chittenden, Franklin, and Grand Isle Counties, have been significantly higher over the last several years than gas prices in other parts of Vermont, in New England, and throughout the country. That is the primary issue that we are going to be looking at today.

I think we all understand that in a rural State like Vermont, high gasoline prices have a very serious impact on many people and families in our State. It is certainly not uncommon in Vermont for workers to travel 20, 30, 50 miles a day to work, and then travel back. When gas prices go up, that is money coming right out of their pockets, and that it is especially taking place at a time when many workers are seeing stagnant or, in fact, declining paychecks.

So high gas prices are a serious problem. These prices not only impact workers, but they impact small business owners, family farmers, truckers, and volunteers, as we will hear later this afternoon, who deliver meals to senior citizens and perform other functions in our community. In other words, when gasoline prices become unusually high, extremely high, they impact the entire local economy.

Now let me very clear at the onset. The issue that we are exploring today is a complicated one, and it is extremely opaque. It is an issue which has not, in my view, gotten the public attention or the transparency that it deserves. Today what we are going to try to do is to some degree lift the veil of secrecy, to the best that we can, on this complicated issue.

Let me also be very clear in stating my understanding, and I think all of us understand, that there are many factors that go into setting gasoline prices in Vermont and across the country. Gasoline prices to a significant degree are determined by the price of crude oil. When crude oil prices go up, gas prices go up. When crude oil prices go down, gas prices at the pump go down.

Excluding for the moment the enormous power of OPEC, the Oil Producing Exploring Countries—Exporting Countries—we have in this Nation 5 giant oil companies—ExxonMobil, BP, Shell, Chevron, and ConocoPhillips—that have made more than $1 trillion in profits over the last decade. I think it is fair to say that most people in Vermont and throughout this country have the belief that year after year as these companies make enormous profits, they do not stay up nights worrying about the needs of working families or consumers.

I just want to point out just in passing that in 2005, Lee Raymond, the former chairman of ExxonMobil, was given nearly $400 million in a retirement package by that company. I should also mention that many of these same giant oil companies receive huge subsidies and tax breaks from the Federal Government, something which on another day we can talk about at length.

Further, when we talk about high oil prices, it is important to understand that high oil prices have a lot to do with Wall Street speculators who are buying and selling huge amounts of oil on the energy futures markets. The last information that I have received on that issue suggests that Wall Street speculators control over 80 percent of the oil futures market. Needless to say, unlike fuel dealers, or airline companies, or trucking companies, these Wall Street speculators do not use one gallon, one barrel of oil. Their only function in life is to make as much money as they can by speculating in oil.

To the point, Goldman Sachs, perhaps the largest speculator on Wall Street, came out with a report earlier this year indicating that excessive oil speculation is costing Americans about 56 cents a gallon at the oil pump. Others have estimated that number to be even higher.

While these two factors and others can explain why gas prices have been extremely high on the national level, they cannot what we are exploring today, and that is the significant differences in gasoline prices that have existed in northwest Vermont compared to other regions in our State and other parts of the country.

Over the past several months, many Vermonters have asked me why consumers have been forced to pay considerably more for a gallon of gasoline in northwest Vermonter than in other regions of our State or throughout New England. Clearly in Vermont, State taxes are the same from one end of the State to the other, and we have learned that transportation costs amount to at most a few cents per gallon.

So here are some of the questions that are on my mind and I hope that we can discuss this afternoon. As an example, on July 6, 2012, a month ago, with the same gas station company owned by Maplefields, charged $3.35 a gallon in Middlebury, while charging $3.59 a gallon just 35 miles away in Burlington. Why on July 1st were people in St. Albans paying on average—on average for the whole town—$3.60 per gallon of gas, while people in Springfield, Vermont on average were paying less than $3.40 a gallon? Why on June 24th were people in Waterbury paying more than $3.65 a gallon for gas on average, while people in Rutland were paying an average of $3.49 a gallon? These are just a few of the questions that the citizens of Vermont have been asking me.

Now as many of you know, on July 2nd, I asked the Federal Trade Commission, the FTC, and the Oil and Gas Price Fraud Working Group to investigate why prices could be so much higher throughout northwest Vermont than in other areas of our State and the country. In the days that followed, we learned some interesting information. Let me just tick off a little bit about what we learned.

First, the FTC provided information showing gasoline prices in Greater Burlington in late June—late June—were 10 to 43 cents a gallon greater than their computer model projected they should be based on historical wholesale prices.

Second, according to OPIS—and we will hear testimony from Ben Brockwell from OPIS on this issue, and OPIS is the Oil Price Information Service—we learned that earlier this summer, the Burlington area was the most profitable gasoline market in the northeast, more profitable than Washington, DC, or New York or, in fact, any other region east of the Rocky Mountains. That the Burlington area was the most profitable gasoline market in the northeast.

Further, according to additional information we received from OPIS, gasoline profit margins in Burlington more than tripled from January 1st of this year through June 30th of this year. During the first half of this year, Burlington was one of the most lucrative markets in the entire eastern half of the United States of America. As Ben Brockwell, the director of data at the Oil Price Information Service, OPIS, who is here with us today, told the Burlington Free Press on July 13th, and I quote, “Burlington is always the top market in the northeast in terms of profits.”

Let us be clear. What we have seen in the first half of this year is not an aberration. Over the last 3 years, gasoline prices and profit margins have almost always been higher in the Burlington area than the national average. In fact, over the past 3 years, Burlington area gas prices have exceeded the U.S. average 86 percent of the time, sometimes by as much as 29 cents per gallon. Burlington gasoline prices over the past 3 years have exceeded the statewide average 72 percent of the time.

Prices in St. Albans exceeded both the U.S. average and the Vermont average 90 percent of the time. Prices in Waterbury exceeded the U.S. average 97 percent of the time and the Vermont average 100 percent of the time.

As my office has looked into this issue, we have tried to understand why prices in northwest Vermont were so much higher than the rest of the Nation, the rest of New England, and, in fact, the rest of our country. One conclusion that we have reached is that it appears that there is just not a whole lot of competition when it comes to gas prices in this region, certainly as compared to other parts of the State and other parts of the country.

Now one of the reasons for that may well be a reality that many Vermonters are not aware of, and that is that the largest—the 3 largest gasoline distributors in northwest Vermont—S B Collins, Champlain Oil, and R.L. Vallee—own more than half of the filling stations in this region—that is out of 185—and just 4 companies, adding Wesco to that mix—own nearly two-thirds of the filling stations in northwest Vermont, or 64 percent of the total.

Now I suspect that this concentration of ownership and lack of price competition may be a significant reason why gasoline stations in northwest Vermont have been able to charge substantially higher prices than other regions of our State and country.

No one is disputing that gasoline distributors—gas stations—have a right to make a profit. That is not in dispute. In my view, however, especially in these difficult economic times when workers and families are struggling to keep their heads above water, they should not be ripping off people.

Now let me mention something that I have found to be very interesting, speaking only for myself. That is since I have called for this investigation into unusually high gasoline prices in northwest Vermont, I am happy to say that I and others have suddenly detected a more competitive spirit among gasoline station distributors in Chittenden County. I say this fully understanding that national wholesale gas prices have soared in recent weeks, and have in the last couple of days been reflected locally. We all know that to be the case.

On Friday, August 3rd—now this is interesting to me—gas prices in Burlington were for the first time in several months below the national average. Today as best as we understanding, with gas prices in Vermont and nationally increasing substantially—in Vermont, nationally, and in Burlington—gas prices in the Burlington area remain at about the national average.

In the month of July, average gas prices in the Burlington area went down—went down—by about 9 cents a gallon, even though wholesale gasoline prices in our region have gone up by more than 18 cents a gallon during this same time period.

Now why is that? We can all guess why, but I happen to think it has something to do with the fact that maybe a spotlight has been shined on this situation, and that local distributors and gas stations have responded accordingly. I am glad that they did, and I hope very much that they will continue to do that.

Now on another issue. As many of you know, and we will hear some discussion about this later on this afternoon, Costco has been trying to build a gasoline station at its Colchester location since

2007. Costco recently informed my office—and I will enter that letter as part of the record—that it could have sold gasoline for 19 cents a gallon less than the average price charged by gas stations in Colchester during the past 2 years. I want to thank a representative from Costco for being with us today.

Now I raise this issue—and I want to be very clear about this—not to be pro-Costco, not to be anti-Costco, but to emphasize that when low cost competitors enter a market, what national statistics show is that market forces have a tendency to bring prices down.

Let me also be clear, Costco, as we all know, is attempting to receive a permit to build gas stations on their premises through a regional environmental board. This hearing today—so we are absolutely clear on it—has nothing to do with that process. It would be totally improper if I or anyone else tried to intervene. We have an environmental board that is independent that is dealing with that issue, and that is the way it should be.

But I think that most people—and I myself do find it interesting—that the major opponents of Costco getting that permit are local gasoline dealers. In a letter to me Costco wrote, and I quote—and I do not quote, but that Costco wrote to me that they have obtained several approvals for our proposed gas station in Colchester, but each approval has been appealed by, among others, gas station owners in northern Vermont. We can—this is Costco speaking—"We can discern no legitimate reason for these appeals and believe that they are really an attempt to use the land use process to stifle competition for gas sales. We intend to vigorously pursue our rights in court, and we are confident that we eventually will prevail," end of quote. So let it stand at that. We will hear from Costco in a moment.

Let me again thank our panelists for being with us today. My suggestion is if you can make your testimony in 5 minutes, great. If you need more time, that is OK, too.

Let us begin with Ben Brockwell. Ben is the director of data pricing and information services for the Oil Price Information Service. Ben, we very much appreciate your being here. The microphone is yours.

OPENING STATEMENT OF BEN BROCKWELL, DIRECTOR OF DATA, PRICING & INFORMATION SERVICE, OIL PRICE INFORMATION SERVICE

Mr. BROCKWELL. Thank you, Senator, for inviting me, and it is nice to be in Burlington, a beautiful town. As I was told by the Senator, it happens to have a college. I called it a beautiful college town. He says, you are wrong, Ben, it is a beautiful town that happens to have a college. It is nice to be in Burlington.

My name again is Ben Brockwell. I am director of data pricing information services for OPIS, Oil Price Information Service. OPIS is an independent company that has been in business for over 30 years. We independently value the price of petroleum, gasoline, jet fuel, diesel fuel, and other finished products as they make their way through the downstream petroleum supply chain from the refinery, to the wholesale terminal, to the retail station.

Our prices are critical benchmarks for people who buy bulk petroleum. The Federal Government through the DESC, the Defense

Energy Support Center, relies on our numbers for benchmarking purposes, for prices to escalate and deescalate.

I myself have been covering oil markets since the 1970s. It is really all I have ever done. I have had a chance to view the oil market over a long arc of time, from the oil embargo in 1973, to what that did to prices, to the price collapse in 1986 where prices went to under $10 a barrel, again in 1999, and obviously through 2008 when prices went to an all-time record.

Much has changed in the business in terms of what determines prices. I am not going to give you a summit on how it has changed, but at one time the major oil companies—Exxon, Chevron, et cetera—had a big voice in determining prices. That was kind of taken away from them in the 1960 when OPEC was formed. As the Senator said, the Organization of Petroleum Exporting Countries are a high volume. They produce 1 out of every 8 gallons or barrels of oil that are consumed in the world are produced by OPEC. Saudi Arabia is the biggest OPEC producer. They produce 10 million barrels a day, so they are the prime producer.

OPEC had pricing power for many years, but probably about 10 years ago, and we, OPIS, really documented a lot of this over time. Wall Street and big money started to identify crude oil—heating oil, gasoline futures—contracts as a commodity that they can invest in and make money. So over the past 10 years, in my opinion, and I think it is an issue that people have talked about, but people have not really examined close enough. The Wall Street refinance as we call it, the Wall Street speculators are the primary force that determines the price of gasoline that you pay at the pump. Anybody who tells you differently, they are simply wrong.

Again, I am not going to give you a summit on how that has happened, but one of the important things that has happened was some of the deregulation that occurred in 2001, cheap money, low interest rates has also been another factor. It is very cheap the poker game. So I can get in for a cheap price.

Basically what happens is oil is traded on a daily basis on the futures market. That benchmark, that transparent number is the starting point for what a refiner in Exxon or a Chevron or a Shell will sell their incremental gallons for into the marketplace. That becomes the factor of what your wholesale prices are set at. That ultimately affects the price of retail. So, again retail prices are directly linked to the futures market, and all of us are victims of that.

It was brought to my attention by Senator Sanders' office that Burlington prices for a long period in his estimation were higher than the industry average. OPIS, among other things, surveys probably 150,000 retail gasoline stations on a daily basis. So we have a solid data base of what stations charge by location, by brand, by grade of fuel. I was not personally aware that Burlington was a market that stood out, so I was asked by the Senator's office to do some data crunching.

I think I took some of that data back to 2009, looking at wholesale rack prices in Burlington versus retail pump prices over a statewide configuration, some of it by location. I then compared that other—Burlington to other cities in Vermont, and compared

Vermont to the northeast or New England northeast region, and then compared that to the U.S. average.

It was apparent to me, as the Senator elegantly pointed out in his statement, that your market for a long time has been a great market for a gasoline retailer to sell gasoline in terms of margin above his costs. I was asked if I could reasonably explain that. Since I do not have really have a stake one way or another, I am not a defender or oil companies. I do not condemn them. I am just a data collector, and I try to make sense of the data.

Since the Senator asked me if there was a reasonable explanation that Burlington prices should be so much higher than neighboring areas, and I have a set of criteria I go through, and I will close my testimony just taking you through that for the next couple of minutes.

I thought since Burlington prices were 25 or 30 cents higher than neighboring areas, that they may use a special fuel. In the summertime, there are a number of metropolitan areas that are required to use a reformulated fuel, which is a more sophisticated harder fuel to burn. It is required in metropolitan areas because of pollution and clean air. Reformulated fuel in the bulk supplied markets is running all summer about 25 cents. So my immediate thought, it is reformulated fuel in Burlington. It is conventional fuel in the other cities.

As it turns out, Burlington uses the same kind of fuel everybody else uses. It is a conventional fuel, and it is priced essentially the same throughout the State. So I eliminated fuel type as a possible explanation.

The next thing I look at because I always—I am a New Jersey resident, and New Jersey has cheap State taxes, so our prices tend to be lower than Pennsylvania and New York, for example. So I am always asked how come you guys are so cheap? Taxes is the second thing I looked at. Normally it is a State tax issue versus another State.

There are a number of locations nationwide—Chicago is probably the most blatant or most conspicuous—where there are also county and city taxes that add to the additional State taxes. So I thought maybe Burlington had a special tax in place that would elevate its price. I eliminated that.

I then looked at transportation because it does distributors to transport fuel from point A to point B. But at the end of the day, and I looked at a bunch of rates from independent haulers around the country, it costs about 3 and a half cents to haul fuel—3.4 cents a gallon to haul fuel 50 miles. This includes loading and unloading the product. It costs 75 cents to go—excuse me, 4.6 cents to go to 75 miles, 6 cents to go 100 miles, and 13 cents to go 200 miles. As the Senator had pointed out, fuel price discrepancies within 35 miles, and it was not in any way that transportation was going to explain that 35 cent difference.

The Senator pointed out in his—in these statistics that he put in his letter to the FTC, that I became aware of it when I saw the letter, that he was concerned about competition. I looked at the stations in Burlington that OPIS surveys in its assessment of prices. I did not look at who owns which station. I did not get into that deep analysis. There is no reason for me to doubt the Senator's analysis. He got it from sources that I would go to if I were doing the same thing.

But more than, I think, 60 percent of the stations in Burlington are branded as opposed to unbranded. Branded stations tend to value their product more than unbranded. But again, the market kind of differential for that is, you know, typically 6, 7, or 8 cents a gallon, not 35 cents a gallon.

You know, real estate values come into play, how much it costs a company to get into the market. But again, some of the data that I examined showed margins in Burlington more expensive than places like DC and places New York City. I do not know property values in Burlington, but I certainly know New York City is probably more expensive. So I did not think that was an issue.

At the end of the day—and the quote that this Senator quoted me, is an accurate quote—my conclusion was I did not have a reasonable explanation as an expert in the field as to why prices should be that different. That is essentially what I told some of the press people who contacted me to talk to me about it. So that was my conclusion.

I would be glad to answer any questions that the Senator or any other person may have on this issue. It is a complicated issue. There is a lot that goes into it. But the data that I provided is consistent data we use to compare different markets. It did show Burlington to be a profitable market over a long arc of time.

[The prepared statement of Mr. Brockwell follows:]

PREPARED STATEMENT OF BEN BROCKWELL, DIRECTOR OF DATA, PRICING & INFORMATION SERVICE, OIL PRICE INFORMATION SERVICE

My name is Ben Brockwell and I am Director of Data, Pricing & Information Service with OPIS (Oil Price Information Service).

OPIS is a privately-held, independent business information company, a division of Gaithersburg, Maryland-based UCG. The parent company provides business information services across a wide array of businesses including oil and energy, the specialty of OPIS. Other UCG business units deal in health, banking, and technology fields.

UCG celebrates 35 years in business in 2012.

OPIS celebrates its 32 year as part of UCG in 2012.

OPIS essential business function is to independently value the price of refined oil products (gasoline, diesel, jet fuel, propane, etc.) as they move along the supply chain from the refiner producer to the end-user consumer.

OPIS prices provide independent benchmarks for bulk buyers and sellers of petroleum needing an independent source to value their daily buy/sell transactions for specific products.

OPIS tracks wholesale rack or terminal prices at close to 400 city locations through all fifty U.S. states and in Canada.

OPIS wholesale prices are highly referenced benchmarks used by petroleum wholesalers to sell product to end-users. Our prices are typically used as reference points around which contract prices between a supplier and a consumer rise or fall, escalate or de-escalate.

The U.S. government through its Defense Energy Support Center (DESC) relies on OPIS data to buy its bulk fuel needs for the military.

OPIS, through its retail gasoline/diesel group, also tracks retail gasoline prices at some 175,000 gasoline stations through all fifty states, including Vermont.

OPIS retail prices are site specific, brand specific, and product specific, and updated daily via credit card transaction reads mainly through Portland, Maine-based Wright Express, a credit card services company serving small, medium, and large sized fuel fleets.

OPIS also collects prices directly from some of the large chain retailers who have a vested interest in our data being correct because OPIS retail gasoline prices are being used by automobile companies as part of the dashboard software used to find gasoline stations and other consumer services—GPS based technology.

Retail gasoline and diesel prices are aggregated in a retail fuel data base and sorted in a variety of formats so the information can be sold on a fee-subscription basis.

A sampling of OPIS retail fuel products include: Retail Fuel Watch (RFW), a weekly publication that tracks rack-to-retail gasoline and diesel prices profit margins by geographical region (Northeast, for example); by state (Vermont); and by metropolitan location (Burlington). Among other things, RFW ranks by region the most profitable and least profitable cities to market gasoline. It also rates the top earning brands by region.

OPIS stores lots of retail pricing data in its Retail Data House, which can be used to generate comparative price studies over time by region, by brand, by state, etc.

OPIS also publishes a Retail Radius Report which essentially provides competitive station pricing data by specific geographical region within a specified radius of any selected station location.

OPIS also published from time to time special retail reports, including an Annual Retail Market in Review that summarizes and compares various data components, including gallons sold, annual margins, market share by brand, branded supplier price comparison, unbranded supplier price comparisons, branded versus unbranded price comparisons, etc.

Because of OPIS recognized expertise in wholesale and retail gasoline prices, I was contacted by the office of Senator Bernie Sanders regarding possible pump pricing discrepancies in Vermont, specifically the variation between prices in Burlington, Vermont and other areas of the state.

I was made aware of a July 2012 letter that the Senator had sent to the U.S. Attorney General and the Federal Trade Commission asking for an investigation to explain why Burlington, Vermont prices were some 35cts/gal higher than places like Middlebury, less than 30 miles from Burlington.

Senator Sander's office asked OPIS to provide some historical information on rack-to-retail gasoline margins in Vermont over time to determine how Burlington profit margins compare to other Vermont cities, the U.S. average, plus the northeastern regional average.

OPIS provided several data series to aid the Senator with his inquiry.

I was asked by the Senator's office if there was a reasonable explanation why Burlington prices were so much higher than neighboring areas.

My immediate response was to take the Senator's office through a number of variables that I would examine to help explain any significant price differences.

One of the first avenues of inquiry was took verify the type of gasoline that Burlington may use versus other areas of Vermont, the possibility that Burlington required what is known as reformulated gasoline, gasoline that is required in certain metropolitan areas to comply with ozone and clean air requirements.

RFG gasoline tends to be much more expensive than conventional gasoline because the fuel is tougher for refiners to make and requires the use of more expensive blend stocks.

Burlington, Vermont is not one of the metropolitan locations required to burn reformulated gasoline or low Reid Vapor Gasoline to meet clean air standards.

Burlington uses conventional gasoline at its stations, the same gasoline used through the entire state.

So my initial conclusion was that fuel specification differences did not explain the price discrepancies the Senator outlined in his letter to the attorney general.

I then looked at state, county, and local gasoline tax possibilities as a reason one areas price could be so much higher than another—perhaps some Burlington city tax existed or some additional county tax on gasoline existed beyond the normal Vermont state gasoline tax that would create a price difference related to gasoline taxes.

I believe the Vermont gasoline tax structure is pretty uniform and to my knowledge no additional or special gasoline taxes or fees are in place in Burlington or in the neighboring counties that would explain the price differences mentioned by Senator Sanders' office.

So gasoline taxes didn't seem to me to offer a reasonable explanation of the retail gasoline price differences outlined by Senator Sanders.

I also took a look at transportation—the possibility that it cost more to deliver gasoline to Burlington than to other markets but the major oil terminals are located closer to Burlington than to other markets so I eliminated this as a cause for the price differences described by the Senator in his letter to the attorney general and chairman of the Federal Trade Commission.

Companies that deliver gasoline for a living tell me it costs about 2.4cpg to deliver gasoline from zero to 25 miles; 3.4cpg from 26 to 50 miles; 4.6cpg from 51 to 75 miles; 6 cpg from 76 to 100 miles; and approximately 13 cpg to deliver fuel 200 miles. Time and distance are the controlling variables that determine transportation rates, along with loading and unloading product, which is built into the rates.

Real estate values in Burlington may offer one explanation but it is a variable I am not in a position to evaluate: the point being that the cost of building a running a station in Burlington may be higher than in other Vermont locations so retailers strive to earn bigger profits to offset higher expenses.

Senator Sanders mentioned in his letter to the attorney general that the Burlington retail gasoline market was mostly controlled by four companies, suggesting a possible lack of local competition. That is an avenue of inquiry that might deserve closer inspection.

The impact of having a low-cost gasoline provider in a market can be significant. In New Jersey, for example, areas that have Wawa gasoline outlets tend to be 15 to 24cpg lower-priced than areas that don't.

Based upon my inquiry into this matter I have been unable to find a reasonable explanation to justify or explain why Burlington, Vermont retail gasoline prices are higher than neighboring areas.

Senator SANDERS. Ben, thank you very much. Our next panelist is Joe Choquette, who is the external affairs manager at the Vermont Petroleum Association. Joe, thanks for being with us.

OPENING STATEMENT OF JOSEPH L. CHOQUETTE, III, EXTERNAL AFFAIRS MANAGER, VERMONT PETROLEUM ASSOCIATION, DOWNS RACHLIN MARTIN PLLC, MONTPELIER, VT

Mr. CHOQUETTE. Thank you, Senator Sanders, and members of the committee. Thank you for the opportunity to provide some perspective regarding gasoline prices in the Burlington area.

As the Senator mentioned, my name is Joe Choquette. I have worked with most of the companies that are spotlighted here for more than 25 years, first as executive director of the Vermont Petroleum Association, and more recently as it government and public affairs advisor.

It is worth noting that Vermont's annual gasoline sales have about 329 million gallons, is the lowest in the lower 48 United States, and second only to Alaska among all the States. In New England, even tiny Rhode Island beats us selling 395 million gallons of gasoline in 2010.

This is a small market served by as many as 6 terminals located in 4 States and 2 countries. It is a complex market with many challenges—the distance to refineries, high real estate costs, strict environmental regulations, and high taxes.

The Vermont Petroleum Association, a division of Vermont Grocers Association, is a trade group that serves the needs of Vermont's motor fuel distributors. In Vermont, there are approximately 75 licensed wholesale distributors. These companies provide gasoline and diesel fuel under many different contractual arrangements to branded and unbranded gasoline stations. None of these are major oil companies.

We have identified at least 10 licensed distributors who actively serve the Chittenden County market. The relationship of these distributors to the stores they serve varies greatly. They might own the store and operate it with their own employees. They might own the property and equipment and lease the business to an independent dealer. Or they might sell directly to an independent dealer who owns all of his own assets. Some dealers even buy their product directly from the terminal and arrange delivery through a common carrier, which brings me to the purpose of the hearing.

First, we recognize that the difference between the wholesale rack price for gasoline at the Burlington terminal and the average retail price in the Burlington area during the period that you selected was above the national and regional average. However, the petroleum industry is a volatile industry, and such periods are routinely offset by times when the difference between rack price and retail price is narrow and often negative. This was true during some periods of October through March, and it also true today.

Second, margins are not profits. From the gross difference between wholesale and retail, distributors and dealers have to meet the cost of running their businesses. It costs at least a million and a half dollars to build a convenience store from scratch in this location, and an estimated $250,000 to replace 3 underground petroleum storage tanks and two multiple product dispensers. Credit card fees alone cost about 10 cents per gallon.

Third, sales volume varies considerably and low volumes mean slow turnover. The original cost of the product stored underground is almost always different from the current price at the terminal. In many locations, inventory lasts for at least 10 days. Considering all of this, these companies have to earn a living when the market allows them to do so.

An analysis by the National Association of Convenience Stores prepared for this hearing illustrates this point. NACS estimates that the average cost of running a convenience store nationwide is about 17 cents per gallon. The OPIS data for the months of January through March shows extremely narrow and sometimes negative net margins. That is also true today.

Further, these margins only measure the difference between rack and retail, and the cost calculated by NACS apply only to the store or station. They fail to consider the cost of running a distribution business, and, thus, the two businesses are considered as one.

You have questioned whether the Burlington market is competitive, citing a 20 cent per gallon difference between Burlington and Middlebury. A search for prices on the publicly available gasbuddy.com consistently shows at least a 17 cent percent gallon difference between the low price in the Burlington area and the high price in the Burlington area. Last week as well as today, the difference is 24 cents. Consumers have many choices in this area. If they always bought at the lowest price, all of the prices would quickly come down.

The analysis performed by NACS also reveals a population to store density and a density of store ownership that is more competitive than the national average and not less competitive. Of 105 stores in Chittenden County, 61 appear to be operated by independent dealers, and only 44 are operated by 7 distributors operating 4 or more stores each.

Chittenden County has 1,492 people per retail outlet. Across the northeast, there are 2,877 persons per store, and nationally 2,576. Thus, there are more independent stations competing for your business here than elsewhere.

The companies and businesses we represent in general are longtime legacy businesses that are now in the second and third generation of family ownership. They have come to supply this area after major oil companies have sold their assets and stopped doing business here because of low volumes and shrinking profits. Unlike some other businesses, our distributors and dealers give back to their communities every single day.

Among the actual causes supported by these local family businesses are the C. Douglas Cairns hockey arena in South Burlington, the Muscular Dystrophy Association, the Children's Hospital, the Make a Wish Foundation, the Vermont National Guard Scholarship Fund and Christmas Fund, the Vermont Food Bank, and the Ronald McDonald House.

In the past few weeks, the wholesale price of gasoline has increased more than 20 cents per gallon, yet retail prices have moved very little in the Burlington area. Last week and today, the average price in Chittenden County was below both the State and national average, despite paying a 5 to 6 cent per gallon premium for gasoline delivered to the Burlington terminal by rail.

Now as then, there is at least a 17 cent per gallon different between the high price in Burlington and the low price in Burlington. Consumers have many choices here.

Thank you for listening, Senator Sanders and members of the committee. I will be happy to answer your questions at the end.

[The prepared statement of Mr. Choquette follows:]

PREPARED STATEMENT OF JOSEPH L. CHOQUETTE, III, EXTERNAL AFFAIRS MANAGER, VERMONT PETROLEUM ASSOCIATION, DOWNS RACHLIN MARTIN PLLC, MONTPELIER, VT

Senator Sanders and members of the committee:

Thank you for the opportunity to provide some perspective on the issues you have raised regarding gasoline prices in the greater Burlington area. My name is Joe Choquette. I have worked with many of the companies that are spotlighted here for more than 25 years, first as the executive director of the Vermont Petroleum Association and more recently as the VPA's government and public affairs advisor.

The Vermont Petroleum Association, a division of the Vermont Grocer's Association, is a trade group that serves the needs of Vermont's motor fuel distributors. In general, these are second and third generation family-owned businesses that have operated here for many years.

It is worth noting that Vermont's annual gasoline sales of 329 million gallons is the lowest in the lower 48 United States and second only to Alaska among all of the states. In New England, even tiny Rhode Island beats us, selling 395 million gallons of gasoline in 2010. This is a small market served by as many as five terminals located in four states and two countries. It is a complex market with many challenges—the distance to refineries, high real estate costs, strict environmental regulations and high taxes.

In Vermont, there are approximately 75 licensed wholesale distributors. These companies provide gasoline and diesel fuel under many different contractual arrangements to branded and unbranded gasoline stations. None of these are major oil companies. The major oil companies abandoned this market long ago because of low volumes and narrow margins.

We have identified at least ten licensed distributors who actively serve the Chittenden County market. The relationship of these distributors to the stores they serve varies greatly. They might own the store and operate it with their own employees. They might own the property and equipment and lease the business to an independent dealer, or they might sell directly to an independent dealer who owns all of his own property and equipment. Some dealers even buy their product directly from the terminal and arrange delivery through a common carrier.

Along with variations in ownership come variations in capital costs. From buying land to equipping stations, capital costs can total millions of dollars per location. Some dealers make a major investment in real estate and equipment. Some have nothing invested.

Which brings me to the purpose of the hearing.

First, we recognize that the difference between the wholesale rack price for gasoline at the Burlington terminal and the average retail price in the Burlington area during the period you selected was above average both across the country and in this area in general. However, the petroleum industry is a volatile industry, and such periods are routinely offset by periods when the difference between wholesale costs and retail prices is narrow and often negative. This was true during some periods of October through March.

Second, margins are not profits. From the gross difference between wholesale and retail, distributors and dealers have to meet the cost of running their businesses. It costs at least $1.5 million to build a convenience store from scratch and an estimated $250,000 to replace three underground petroleum storage tanks and two multiple product dispensers. Credit card fees alone cost about ten cents per gallon. In the end, our companies gamble that the highs and the lows will average out and that they are able to maintain their equipment, pay their employees a fair wage, keep the business running, and make a fair and reasonable profit.

Third, sales volume varies considerably and low volumes mean slow turnover. The original cost of the product stored underground is almost always different from the current price at the terminal. This phenomenon adds even more to the complex economics of running a gasoline station. Simply put, these companies have to earn a living when the market allows them to do so.

An analysis by the National Association of Convenience Stores prepared for this hearing illustrates this point. NACS estimates that the average cost of running a convenience store nationwide is about 17 cents per gallon. The data that you have selected for the months of January through March shows extremely narrow, and sometimes negative, net margins during the first three months of the year when the average cost is applied. Companies need to recover those costs somewhere or close their business.

Further, the margins cited in your report only measure the difference between rack and retail, and the costs calculated by NACS apply only to the store or station. It fails to consider the cost of running a distribution business. Thus, it makes no distinction between two different businesses and the two businesses are being included as one.

You have questioned whether the Burlington market is competitive, citing a 20 cent per gallon difference between Burlington and Middlebury at one point. A search for prices on the publicly-available www.gasbuddy.com consistently shows at least a 17 cent per gallon difference between the low price in the Burlington area and the high price in the Burlington area. Last week the difference was 24 cents. Smart consumers shop for lower prices and they have many choices in the Burlington area If consumers always bought at the lowest price, all of the prices would quickly come down; but consumers also shop for convenience, by brand, or to earn brand-related discounts.

An analysis of the ownership and density of stores in the Chittenden Country area performed by NACS reveals a population-to-store density and a diversity of store ownership that is more competitive than the national and regional average, and not less competitive. Of 105 stores in Chittenden County, 61 appear to be operated by independent dealers and 44 are operated by eight distributors operating 4 or more stores. Chittenden County has 1,492 people per retail outlet. Across the northeast there are 2,877 persons per store and nationally, 2,576. Thus, there are more independent stations competing for your business here than elsewhere.

The companies and businesses I represent, in general, are long-time legacy businesses that are now in the second and third generation of family ownership. They have come to supply this area after major oil companies have sold their assets and stopped doing business here because of low volumes and shrinking profits. In short, we are at the end of the pipeline in the motor fuel industry. These companies are the survivors.

Our distributors and retailers give back to their communities every single day, and they demonstrated their social responsibility long before the term became popular. Among the actual causes supported by these local family businesses:

- C. Douglas Cairns Hockey Arena in South Burlington
- The Muscular Dystrophy Association
- The Children's Hospital
- The Make a Wish Foundation
- Vermont National Guard Scholarship Fund and Christmas Fund
- Vermont Food Bank
- Ronald MacDonald House

In the past few weeks the wholesale price of gasoline has increased more than 20 cents per gallon, yet retail prices have moved very little, especially in the Burlington area. Last week the average price in Chittenden County was below both the state and national average, despite paying a 5-6 cent per gallon premium for gasoline delivered by rail to the Burlington terminal.

Now, as then, there is at least a 17 cent per gallon difference between the high price in Burlington and the low price. There is virtually no other product that puts its price on three foot signs that are visible on the street, so customers can make informed decisions on where to buy their gasoline.

Thank you for listening, and I will be happy to answer your questions.

Senator SANDERS. Joe, thank you very much for your testimony.

Our next panelist is Rob Leuck, who is the vice president and regional manager for Costco Wholesale from Sterling, Virginia. Rob, thanks for being with us.

OPENING STATEMENT OF ROB LEUCK, VICE PRESIDENT AND REGIONAL MANAGER, COSTCO WHOLESALE, STERLING, VA

Mr. LEUCK. Thank you. Good afternoon, Senator Sanders and committee members. My name is Rob Leuck, and I am the vice president of operations for Costco in the northeastern division, the second largest retailer in the United States in terms of sales volume. The written testimony I provided you has more background on our company.

I personally currently oversee 20 locations in the northeast, including the one here in Colchester, Vermont. The Colchester, Vermont location has been open since 1993, August 1993.

Senator SANDERS. If you could speak a little bit closer to the mic. Bring that a little bit closer. There you go.

Mr. LEUCK. The location here in Colchester, Vermont has been open since August 25th of 1993. We currently have 130,000 card holders, which accounts for 20 percent of the residents of the State of Vermont.

Costco has a very simple business model. The primary goal of our operations is to bring goods and services to the market at the lowest possible price. We do this through high volume, no frills. We offer value on everything we sell, and we only carry the highest quality, which is expected by our members who pay to shop with us.

We offer a suite of products and services, all of which operate under the same philosophy, including, but not limited to, photo, optical, and pharmaceutical departments, hearing aids, and a food court, and, of course, gasoline, all of which we consider to be part of our core services, which brings us to the heart of why we are here today, our gasoline operations.

As previously stated, we consider this one of our core businesses, and wherever practical we operate stations at our warehouses. As with any product we sell, we sell the highest quality at the lowest possible price. An example of what we do is we have put 5 times the required additive by the EPA of detergent into our gasoline to make sure our members' engines are running clean at all times.

The pricing philosophy on gasoline is simple as well. We will not be undersold. We will always try to be the lowest price in the market, and I have provided data in my written testimony for the locations which I oversee.

We understand that some competitors may feel that we use as a loss leader, and it is simply not the case. We will not sell below cost unless we are lawfully allowed to do, only to meet the competition, and usually only on a temporary basis. We operate all our stations in a responsible manner. We meet or exceed lawful requirements for environmental concerns and safety concerns. Unlike most of the self-service gas stations, we have an attendant available at the pumps during all hours of operation. We do this because, as previously stated, it is what we do with all our businesses, and our members expect it.

We have been trying for more than 4 years to obtain approval for a station in Colchester and have faced opposition from what we understand to be parties with competitive interests. We will not be deterred, and we will continue to vigorously pursue those approvals.

In every major market, we face vigorous competitors, both large and small. Competition serves the entire community because without competition, markets will charge what the market will bear. Based on our experience, we believe that a station in Colchester would serve the entire community by lowering the opening price point and reducing prices paid for at the gas—at the nearby gas stations. In our written testimony, we have provided an example of our station affected the market in Maui, Hawaii.

I would like to conclude by saying that our analysis of pricing in the Colchester market, based on data we were able to obtain, showed that we would have been an average of 19 cents lower per gallon of regular gasoline and 25 cents lower per gallon of premium than the market averaged. That is not to mean that if we were open tomorrow that we would be that much below the competition. As has been our experience, the average market price would lower, which is exactly what competition will do in a market. This would be to the benefit of all consumers, members and non-members alike.

Thank you.

[The prepared statement of Mr. Leuck follows:]

PREPARED STATEMENT OF ROB LEUCK, VICE PRESIDENT AND REGIONAL MANAGER, COSTCO WHOLESALE, STERLING, VA

Good morning, Mr. Chairman and Committee Members.

My name is Rob Leuck. I am a vice president for Costco Wholesale Corporation, the second largest retailer by sales in the United States. I have responsibility for 20 locations in the northeast United States, including the Costco in Colchester, Vermont. I am including with my written testimony some background information about Costco wholesale. Our Colchester warehouse currently provides 279 good paying jobs with generous health and other benefits. Over 130,000 Vermont residents have a Costco card which accounts for approximately 20% of all Vermont residents.

Our business model is centered on high volume, no-frills facilities operating with low overhead so that we are able to provide tremendous value for our members. Wherever it is practical, Costco operates gasoline stations at our Costco warehouses. We consider gasoline to be one of our core services. Our philosophy is simple: Our members pay to shop with us, and we strive to provide a suite of products that provide great value for that membership fee. Gasoline is one such product.

While we, of course, will always strive to provide the best possible price, we are also committed to providing the highest possible quality on gas. As an example, we now offer gasoline with 5 -times the EPA required detergent dose. This assures our members that their engines will receive enough detergent to remove deposits from intake valves and injectors, so that they can run at peak efficiency. We call that "doing the right thing." This detergent program is currently available at over 200 US Costco sites and will be available at all Costco locations by September of 2013.

Costco's policy concerning gasoline pricing is simple: we will not be undersold by competitors in our market areas. Because our members pay to shop at Costco, it is critical that we show them consistently good value. The chart attached to this document is a snapshot of the value being offered at sites that I manage for Costco.

We have read that some of our competitors believe we sell gasoline as a "loss leader." That is simply not the case. Sometimes meeting the competition means that—where it is lawful to do so—we sell below our cost, usually on a temporary basis. We will not, however, sell below cost unless meeting competition requires us to do so and it is legally permitted. In such circumstances, we would only lower prices to "meet" the competition and not "beat" it.

Additionally, we operate all our gas stations in a responsible manner, and implement and maintain environmental and safety measures that meet, and often exceed industry and legal requirements. Every business a member encounters in a Costco, from optical, to pharmacy to gasoline, is there to provide a great value for our members: that includes great pricing, great quality and great service.

We have been trying for more than 4 years to obtain approval for Costco gas station in Colchester but we have faced opposition from competitors. We will not be deterred, and will continue to try to obtain approval so we can provide this important core service to our Vermont members.

We face vigorous competition from competitors large and small in nearly every Major market in the United States and Canada. Ultimately, competition serves the needs of the community—Costco members and nonmembers alike. In the absence of our type of competition, markets typically charge what the market will bear. Our model is different, in that, as we are able, we seek to maximize sales by providing the lowest possible prices on all of the items we sell. Based on our experience throughout the United States, we believe Costco gas station at the Colchester site would serve the entire community by lowering the opening price point and reducing the average price paid for gasoline at all nearby outlets.

We have included some information about our recent gas station opening in Maui, Hawaii, which demonstrates how our entering a market positively influences the prices paid for gas in that community, not just at the Costco, but across the island.

Thank you for your time.

Senator SANDERS. Rob, thank you very much.

Our next panelist is Mrs. Gail Horne, and Gail is the owner of the Keelers Bay Variety Store in South Hero. Gail, thanks very much for being with us.

OPENING STATEMENT OF GAIL HORNE, OWNER, KEELERS BAY VARIETY STORE, SOUTH HERO, VT

Mrs. HORNE. My husband, Mark, and I have owned and operated Keelers Bay Variety in South hero since 1974. We are a family owned business with our daughter, Wendy, now taking an active role in the management of our business. We have always sold gasoline along with a variety of food and beverages in our store.

Our customers have supported us since we began nearly—excuse me—38 years ago, and we do everything we can to support them with fair prices, community donations, good employment opportunities, and a welcome place to see friends and neighbors. We work hard to be part of our community and donate back on a daily basis as much as we can.

We support a wide variety of charities from the United Way in Grand Isle Food Shelf, to local sports such as the Little League.

This Wednesday, we are donating 1 percent of our store's sales to Champlain Islander's Developing Essential Resources, C.I.D.E.R., which operates many of our senior programs, including Meals on Wheels, on the islands. We are excluding gasoline from that 1 percent.

We are also active members of the Vermont Grocers Association. I have served on the board of directors and was chair of the association from 2005 to 2007. The VGA has 180 member stores in Chittenden, Franklin, and Grand Isle County. Over half of these stores sell gasoline.

In many respects, I think we are typical of many other independent store keepers. We do not charge our customers an annual membership, B, we accept MasterCard, Visa, American Express, and probably 10 other cards, which we alone can cost 8 to 10 cents per gallon. We also set our own retail price on gas. There are a variety of ways a store like ours can buy and sell gasoline. The option we chose may not be the same for the next person.

When we replaced our undergrounds storage tanks 25 years ago, it cost us $35,000. More recently in 2006, we had our gasoline distributor replace the tanks and pumps. The cost 6 years ago had increased to $175,000. I shudder to think what it will be the next time.

Today that cost is much higher, which is why we chose to turn over the ownerships of our tanks and pumps to our distributor. Additionally, our contract allows us to pay for the gasoline as it is sold and not when it is put into the ground. While it reduces our margin, it also reduces our cash needs and market risk at a whole market as they change daily. The 16,000 capacity of our tanks represents $56,000 inventory at $3.50 a gallon.

As such, our margins may be significantly less in a station that owns its own equipment and is responsible for all the regulatory and capital costs associated with them. Nevertheless, we are an independent operator, and we do set our own prices—retail prices.

A number of factors go into pricing of gasoline every day, including market conditions, expected wholesale—changes in wholesale prices, our cost of operations, and competition. Our small and somewhat seasonal community of South Hero has 3 gas stations within one mile. We keep a close eye on the price everyone charges to make sure that we are competitive. Because we are so close to Colchester and other areas in Chittenden County, so many options are also available to our customers. Most of Grand Isle County works in Chittenden County or further.

Sometimes we make a few cents and sometimes we do not. Last week—on Tuesdays we have 5 cents off a gallon, and there was a price change that day, so we were actually selling below our wholesale costs for half of the day. Not a good business practice.

When our supply contract is up for renewal in 2917, we will have several options. We can get out of the gasoline business, we could change distributors, we could buy direct from a terminal and hire a trucker to help us bring the product. That would involve paying excise taxes, and investing in our equipment upgrades, and assuming all the various regulatory compliance issues.

With the contract with the distributor, we have several options. We can own the tanks and pumps and pay for gasoline as it is delivered, cover our own costs with credit cards for gasoline or have them embedded in our wholesale cost, have the distributor to take ownership of the tanks and pumps and assume all the costs and compliance with them, which we do now, and other variations.

According to the survey of the National Association of Convenience Stores, 62 percent of consumers say that price is a primary determining for when they buy fuel. Location is primary for 20 percent. Sixty-six percent shop for price by driving around and looking at store signage. Forty percent of the customers say they will drive

5 minutes out of their way to save as much as 3 cents per gallon. Seventy-one percent will drive for 5 cents additional difference.

There is virtually no product that puts its price on large –foot signs for all the customers to see and make informed decisions on where to buy their gas. As small business owners, we work real hard to bring value to our customers every day.

I am not here to talk about hypothetical and what I would have done it the past. I think our customer support is somewhat evidenced in the recognition that we value their business and are neighbors in the community. We are fortunate to have had a distributor who has chosen to partner with us for many years, which has allowed us to stay in the gas business.

Thank you.

[The prepared statement of Mrs. Horne follows:]

PREPARED STATEMENT OF GAIL HORNE, OWNER, KEELERS BAY VARIETY STORE, SOUTH HERO, VT

My husband Mark and I have owned and operated the Keelers Bay Variety Store in South Hero, VT since 1974. We are a family owned business with our daughter Wendy, now taking an active role in the management of the business. We have always sold gasoline along with a wide variety of food and beverages in our store.

Our customers have supported us since we began nearly 38 years ago and we do everything we can to support them with fair prices, community donations, good employment opportunities and a welcome place to see friends and neighbors. We work hard to be part of our community and donate back on a daily basis as much as we can. We support a wide variety of charities from the United Way and Grand Isle Food Shelf to local sports such as our Little League. On Wednesday we are donating 1% of store sales to Champlain Islanders Developing Essential Resources, which operates many of the senior programs, including Meals on Wheels, on the islands.

We are also active members of the Vermont Grocers' Association. I have served on its board of directors and was chair of the organization from 2005 to 2007. VGA has 180 member stores in the Chittenden, Franklin and Grand Isle counties. Over half of these sell gasoline.

In many respects I think we are typical of many other independent storekeepers. We don't charge our customers an annual membership fee and we accept Visa and MasterCard for payment from our customers, which alone can cost 8-10 cents per gallon. We also set our own retail price on gasoline.

There are a variety of ways a store like ours can buy and sell gasoline. The option we chose may not be the same for the next person.

When we replaced our underground storage tanks 25 years ago it cost us $35,000. More recently (2006), we had our gasoline distributor replace the tanks and pumps. The cost 6 years ago had increased to an estimated $150,000 or more. I shudder to think what it will be the next time.

Because that cost is much higher it is why we chose to turn over the ownership of the tanks and pumps to our distributor. Additionally our contract allows us to pay for the gasoline as it is sold not when it is put in the underground tanks. While that reduces our margin, it also reduces our cash needs and market risk as wholesale prices change daily. The 16,000 gallon capacity of our tanks represents $56,000 of inventory at $3.50 per gallon.

As such our margins may be significantly less that a station that owns its own equipment and is responsible for all the regulatory and capital costs associated with them. Nonetheless we are an independent operator and we set our own retail prices.

A number of factors go into the pricing of gasoline every day including market conditions, expected changes in wholesale prices, our costs of operation, and competition. Our small and somewhat seasonal community of South Hero, has 3 gas stations. We keep a close eye on the price everyone charges to make sure we are competitive. And because we are close to Colchester and other areas of Chittenden County, so many other options are also available to our customers.

Sometimes we make a few cents, sometimes we don't. Last week at one point we were actually selling below our wholesale cost. Probably not a good business practice.

When our supply contract is up for renewal in 2017 we have several options:

- We can get out of the gasoline business

- We can change distributors
- We can buy direct from the terminal and hire a trucker to bring us the product. This would involve paying the excise taxes, investing in the equipment upgrades and assume all the various regulatory compliance issues.

And with the contract with a distributor we have several additional options:

- Own the tanks and pumps and pay for the gasoline as it is delivered.
- Cover our own costs with credit cards for gasoline or have them embedded in our wholesale cost
- Have the distributor take ownership of the tanks and pumps and assume all the costs and compliance issues associated with them.
- And more variations thereof

According to a survey by the National Association of Convenience Stores

- 63% of customers say that price is the primary determining factor for where they buy fuel; location is primary for 20%
- 66% shop for price by driving around and looking at a stores' signage
- 40% of customers say they will drive 5 minutes out of their way to save as little as 3 cents per gallon; 71% for a 5 cent differential.

There is virtually no other product that puts its price on large three foot signs for all to see so customers can make informed decisions on where to buy their gasoline. As small business owners we work real hard to bring value to our customers every day. I am not here today to talk about hypothetical's and whatI would have or wouldn't have charged in the past. I think our customers support is somewhat evidence of their recognition that we value their business and are their neighbors in the community. We are fortunate to have had a distributor that has chosen to partner with us for many years which has allowed us to stay in the gas business.
Thank you.

Senator SANDERS. Gail, thanks very much.

The issue we are talking about impacts not only Chittenden County or Grand Isle County. It also impacts significantly Franklin County. Jim Coutts is the director of the Franklin County Senior Center in St. Albans. Jim, we very much appreciate your being here.

OPENING STATEMENT OF JAMES COUTTS, DIRECTOR, FRANKLIN COUNTY SENIOR CENTER, SAINT ALBANS, VT

Mr. COUTTS. Thank you, Chairman Sanders, and members of the committee, and staff members, and guests. As you said, my name is Jim Coutts. I am the executive director of the Franklin County Senior Center. We have 570 members. I am one of about 120 senior centers in the State of Vermont.

Our primary purpose is nutrition. We serve meals at the center, but more importantly, we run a Meals on Wheels program that has continually run through Franklin County Center for 40 years.

We rely heavily on volunteer drivers. We have no stipend to pay drivers to drive. When we see the price of gasoline escalate, as it has in the last 2 years, we get very, very concerned. When the price hit $4 a gallon a few years ago, we lost drivers. Four dollars a gallon seems to be a psychological point at which part-time drivers will not volunteer their time.

If the volunteer driver leaves our area and still wants to volunteer, he will go to some place where he does not have to drive. We will not see that volunteer driver come back again because citizens of Vermont are very, very active in civics, and they can always find someplace to volunteer their time.

Recently, we have seen gas prices that have been extremely high, and some of our members that work in Franklin County or have relatives that work in Franklin County tell stories about going down to Burlington and buying their gas, especially the one nearest the Costco station. That seems to be that strip between Costco and Wisniewski, where prices are sometimes 15 or 18 cents a gallon or more difference.

During the summer, we do not worry so much about the pricing because right now we are not—the drivers that we have, which are 80-year-old or 70–year-old members, they do not have the high electric and gas prices for their furnaces and things like that. When that happens and we start seeing cold weather come around again, they are going to think twice about the price that they can afford to pay to deliver meals free. They are going to have higher prices for everything. If the price of gas goes up, it seems reasonable to think that the price of oil will follow, as it has in the past, and the LIHEAP program and the other programs that are in place to help people heat their houses are going to feel the pinch of that.

There is not an awful lot that we can do about the gas prices individually. We have to have to gas. We have to deliver. If we were to, as a center, pay people to deliver the meals that we do, which is 17,000 meals a year, it would cost on a stipend of 50 cents a gallon approximately $9,000. That is just not a tenable thing for our center or any other centers.

So what we can do? We can do a couple of things. Obviously, we could go to 3 days a week delivery and have cold meals on those other days, which sometimes have said that seems to be a good choice. Meals on Wheels is not a program that only delivers meals. Meals on Wheels relies on a safety check for the people that are out there. In many, many instances, the people that are delivering Meals on Wheels are the only contact that seniors have either that day, that week, or sometimes even that month. That safety check is vital, and it is done by every Meals on Wheels program. If we went to 3 days a week delivery, it would suffer.

Two weeks ago, gas prices in Swanton were $3.64. I go south, and gas prices were 22 cents different. I have lived in Swanton for 35 years. It used to be that the pricing in Swanton and St. Albans gas was relatively close to the prices in the rest of the State. It is not that way any longer. When I travel to relatives in Berry, Vermont, I can pay as little as $2.40 a—excuse me, $3.40 a gallon for that same gas.

Thank you for the opportunity to testify today on behalf of the seniors, and I hope that we have shed some light on what it means when prices go up, what happens to the senior citizens in this State. As I look out in the audience, there are many senior citizens here. I thank you.

[The prepared statement of Mr. Coutts follows:]

PREPARED STATEMENT OF JAMES COUTTS, DIRECTOR, FRANKLIN COUNTY SENIOR CENTER, SAINT ALBANS, VT

My name is Jim Coutts and I live in Swanton Vermont. I welcome the opportunity to testify to the impact that rising gas prices have on the seniors in Franklin County Vermont. I am the Executive Director of a 570 member Senior Center—Franklin County Senior Center, 75 Messenger Street, St Albans, Vermont 05488.

The Center has operated a meal site at this location for 40 years and is one of the longest running programs in the State. We currently deliver 17,000 meals to home-bound seniors through nutrition programs funded by the Older American Act. We deliver meals five days a week to an average of 70 clients a day. To accomplish the delivery we rely heavily on our members, many have been delivering for years and some are husband and wives each delivering a route on alternate days.. A typical route covers 25 miles from start to finish and many of our members drive cars averaging 12-15 miles to the gallon in city driving. This requires 2 gallons of gas per delivery or $7.00/day. Most of our drivers are on fixed income of less than $15,000/year as they are either a surviving spouse or a retired from a low-paying occupation.

While recent gas prices have eased a little this summer they are still above the national average and 15-20 cents higher than some other area of the Vermont. When prices reached the $4.00 mark this spring several drivers told me that they could no longer afford the gas and we lost two drivers. $4.00 appears to be a psychological barrier that resonates with many drivers. We experienced the same situation a few years ago when gas reached the $4.00 mark. During the summer our drivers are not faced with high heating and electric bills, so they have a little extra money for gas and can afford to volunteer. I am concerned that if estimates of higher gas prices this fall and winter come true we will face a critical shortage of drivers. Past history with volunteer drivers is that if they don't deliver meals they will find some other volunteer position and we will not get them to return.

One contingency plan would be to cut deliveries to three days/week and add cold meals for the alternate days. While this seems plausible it eliminates one essential component of the Meals on Wheels program—The Safety Check. For many of our home-bound the only person they see daily is the meals on wheels driver. A bond delivers between the drivers and the clients and our drivers are trained to assess the status of the client and to report any abnormalities to the emergency contact or case worker.

Our six routes a day average 150 miles a day or 39,000 miles a year. If we were paying a mileage stipend this would amount to $19,890/year. Mileage reimbursement is not a viable option for most programs and certainly not for Franklin County Senior Center. On behalf of Franklin County and the numerous other Meals on Wheels providers I urge you to complete a comprehensive study of the impact of high gas prices on the health and welfare of the senior citizens of Vermont.

A week ago prices in Swanton VT were $3.64. I drove 28 miles south and gas prices were $2.42-22 cents difference. I hope this hearing sheds some light on the disparity in pricing. Thank you for this opportunity to comment on a matter of extreme importance in our efforts to serve the home-bound Vermonters meals . . .

Senator SANDERS. Jim, thanks very much.

What I want to do is just start it off with some questions. Joe, if it is OK with you, I will begin with you.

Jim Coutts made the point about traveling around the State and seeing the differential in prices. Let me tell you just a personal experience. I was in a parade in Brandon on July 7th, so I traveled from Burlington down Route 7 to Brandon.

As we went along the road, I was just taking a look at gas prices on Route 7. What I noticed was on that day in Middlebury, we had a gas station that was charging $3.35 a gallon, which was owned by Maplefields. Later on in the day after I came back, I went up to Burlington. It was in Burlington. That same Maplefields company was charging $3.59 a gallon. That was on July 7th. All right, that is a 24 cent differential in prices.

Explain to us why one company owning two gas stations about 35 miles apart, one in Burlington, one in Middlebury, would have a 24 cent differential in prices. Does this have something to do with the fact that in Middlebury, there is simply more price competition than there is in Burlington?

Mr. CHOQUETTE. I want to go back and point out that I also pointed out the difference in the Burlington area was 17 cents a gallon, so there is variation even here in Burlington.

Each of these markets behaves as an individual market. You are correct in saying that. The Burlington market is one, and the Middlebury market is one, and the Rutland market is one. For many years, it has been known certainly that Rutland, for whatever reason, all the players say it is a very competitive market. The same is apparently also true in Middlebury. I does not have the reputation.

But each of these markets is organic. It develops out of the individual activities of each of the players in the market. Apparently, you know, the players in this market have not been as aggressive as they have been in Burlington—I am sorry, Middlebury and Rutland.

Senator SANDERS. Joe, listening to what you said—and I agree with the thrust of what you said. But when you say that for whatever reason prices, say, in Rutland have been lower, is the whatever reason not that we do not see a lot of competition? I think you are basically telling us that we have not seen the kind of aggressive competition here in the Burlington area that we have seen in Middlebury or in Rutland.

Mr. CHOQUETTE. Senator, I am pointing out that today you can go to gasbudy.com, look up the prices in the Burlington area, and find a 24 cent difference between the high price and the low price. If everybody went to the low price, all the prices would come down almost immediately, but they do not. They shop for convenience. They go to Gail's store because they know Gail, and they always shop there. They have a Mobil credit card. They participate in a program where they get a discount for shopping at a supermarket.

So consumer behavior is a part of the market, and it is just as much of a factor as some of the others that are cited.

Senator SANDERS. Joe, I mean, be that as it may, you did not answer my question. Let me just quote you, what you said to a weekly newspaper, Seven Days. This is what you said, "There does seem to be a phenomenon that the Burlington area does go down in prices more reluctantly than other parts of the State." That is you, Joe.

I do not know if we are beating around the bush or not. I think you basically said what I am saying, is that in other parts of the State you have more competition than you do in the Burlington area, which is why in—I understand. We all understand. Different prices in different stations in Middlebury, in Burlington, in every place in America.

But on average is what I am talking about. On average, prices up here are much higher than they are elsewhere. Does this not have everything to do with the fact that there is not vigorous price competition here?

Mr. CHOQUETTE. We think there is pretty vigorous price competition. I cited the NACS data that suggests 61 independent dealers here in the Burlington area. I am sorry that does not apply to the information that OPIS brought, but I did not have to go see whether we used reformulated gasoline or not either.

I mean, the fact is that 61 dealers in this area set their own price at a minimum.

Senator SANDERS. What should I conclude about your quote to Seven Days? Were you misquoted, or is that, in fact——

Mr. CHOQUETTE. I picked up on the information that you produced to say that that is what that suggests. But your information also suggests to me that at times during October through March, margins were extremely tight and possibly negative even in the Burlington area.

Senator SANDERS. We will deal with that issue later. We have some charts to deal with. Anybody else—we will open it up for questions or comments. Mr. Brockwell——

Mr. BROCKWELL. I would like to just comment on the exchange you just had. The gentleman from Costco indicated that his presence in the market—and I understand he did not say it would automatically bring competition down 19 cents, but over time it was probably a 19 cents advantage.

In New Jersey, one of the things I asked our retail group to do, and I had a limited amount of time to do it. I am sure I could do it on a broader basis. But I asked our retail group to give me some independent data that would indicate to me what having a low cost competitor in a market—what kind of impact that had. I did not know, by the way, about the 19 cents Costco information. I think that was in a letter from Costco to the Senator I was not privy to.

In New Jersey, we have a low cost provider called Wawa. I do not know if any of you have come through New Jersey and seen Wawa, but Wawa is a huge presence. Wawa, by the way, is the Lenape Indian word for Canadian goose. They are a low cost provider.

I did an analysis or my retail group did an analysis between North Jersey prices that do not have low cost providers, like the Burlington Vermont market, and Southern New Jersey, Ocean County being where I live and where Wawa has now a 45 percent market share. It shows consistently a 16 cent a gallon to a 24 cent a gallon difference in price. In other words, the competitive lower price Wawa market—Wawa had that kind of impact.

The interesting thing to me was the 24 cents occurred in downward markets. In markets where prices are dropping, Wawa seems also to be a price leader on the downsize so that the 24 cents showed up in declining markets, but on average it was at least 16 cents. So a low cost provider—there is no—I mean, we can debate it all we want, but statistics show that having a low cost provider in the marketplace changes the competition and changes the pricing model.

Senator SANDERS. All right. Let me just continue my discussion with Joe, and then I want to other people to jump in.

Joe, this is a chart that is entitled "gross profit margins for retail unleaded gasoline" comparing northwest Vermont to the national average. It starts with January 2009 and goes to July 2012.

As you have indicated, there have been times where right here in October 2011 and April 2012, where the gross profit margin here in the Burlington area was lower than the national average. But the overwhelming majority of times, the profit margin has been higher, and in June it was off the charts. Can you explain why that might be?

Mr. CHOQUETTE. I am not familiar with the data, Senator, that you are presenting here. But I will say as I said in my testimony, this is a low volume market. To the extent that Wawa or anybody else who offers product in any market, you know, makes a profit—volumes in New Jersey are higher than they are in Vermont. If you are Gail at her variety store, you know, she is not going to sell a million gallons of gasoline a month like Wawa is in southern New Jersey.

Senator SANDERS. But I am not talking about——

Mr. CHOQUETTE. In order to pay her fixed costs, she is going to have to get a lower—a higher margin over time, and that is your answer.

Senator SANDERS. But I am not talking about Wawa, and I am not even talking about Gail in South Hero. This is, as you know, the largest city in the State of Vermont. This is, a lot larger than Middlebury, a lot larger than Rutland. So I am still not clear from you why with all of these gas stations we do not have more competition driving prices down.

What this indicates, you made the point that there have been times when the profit margins in the Burlington area were lower than the national average. That is here. We see them here and here. But you have not explained at least to me why we have seen an off the chart profit margin, which, in fact, was one of the highest in the entire United States of America.

Now my second question is, you correctly made the point that very recently what we have seen—and this is what this this chart is about. What we have seen is that while prices nationally have gone up, actually prices in the Burlington area have gone down. Wholesale prices have gone up. Prices in the Burlington market have gone down.

Do you think maybe this has something to do with the kind of public discussion that is taking place in the State of Vermont on this very issue in the last couple of weeks, or do you think it is just coincidental?

Mr. CHOQUETTE. Senator, there are a lot of factors that go into—first of all, and I would reiterate, that margins are not profits. So it is inaccurate to call this a chart of profits. Having said that——

Unidentified Speaker: Can I just——

Senator SANDERS. No, let him finish. Joe? Hold it, Joe has the mic. My apologies.

Mr. CHOQUETTE. Sorry. I lost my train of thought. What was the question again?

Senator SANDERS. I am sorry. You know, I just hoped that you could give us a good—the answer was that recently, as you have indicated, prices in the Burlington area have been much more competitive with the rest of the country and in the State of Vermont. I think you made that point.

I was asking you whether you think it is just kind of a coincidence that all of this occurred at a time when there has been a lot of public discussion when I asked for an FTC investigation. Is that a coincidence?

Mr. CHOQUETTE. We can neither prove nor disprove that, but you have every right to make that assertion, Senator.

Senator SANDERS. OK. Other discussion from anybody, feel free. Gail, anybody else to jump in.

Mr. BROCKWELL. I would like to just defend the data. That is our data. I think it is a bit disingenuous to hide behind the debate by calling it not a profit margin. Whatever you want to call it, it is the difference between a wholesale price that a distributor pays for a product and retail price that he sells that product at, less transportation, less taxes, less some other costs.

So the data shows that retail operators in Greater Burlington have a wider margin to do whatever they want to do with, operate their business, if you do not want to call it a profit or whatever they do, whereas other areas have a smaller margin. I think the Senator is trying to ask someone, anybody, to justify that difference. So I guess how would you justify that difference, whether you call it a regular margin——

Senator SANDERS. Let me ask the questions. All right, I will ask—I mean, I think I did ask you——

Mr. BROCKWELL. Yes, you have.

Senator SANDERS. So I will ask the questions of—any other—of course, Jim?

Mr. COUTTS. I was interested in the fact that in the Burlington area, there is a 17 cent a gallon difference, or 19 cents, whatever it happens to be, between the highest and lowest. We have 17 stations in Franklin County, St. Albans, and the Swanton area. There was a one cent difference Friday in all of those stations. Some of them are owned by different people. Some of them are owned by distributors.

It used to be years ago, and some of you St. Albans might remember a place that was called Lester's. He was an independent, and when he sold gas, he sold it at about 3 to 5 cents below what the local stores did. Very quickly, all the other gas stations followed suit.

There was another station, A. Brown, similar situation. A. Brown always sold the lowest—and I see some heads nodding, so they know what I am talking about. That station is no longer A. Brown. It belongs to one of the distributors. A. Brown's price now is the lowest by one cent.

Senator SANDERS. Joe, I am going to put you on the hot seat again. Nothing personal here, just the other guy to defend that.

Mr. CHOQUETTE. All right. I mean, there has——

Senator SANDERS. Jim says, I mean, I am not aware of that, Jim. You have checked the gas stations.

Mr. COUTTS. I have checked that, and there are people from St. Albans, I think, that could back that up.

Senator SANDERS. All right. You tell me, I mean, just for the average person, how many do you think you have in competition, 17 stations?

Mr. CHOQUETTE. Seventeen stations in the St. Albans area.

Senator SANDERS. One cent differential. Does that sound like a vigorous competitor situation?

Mr. CHOQUETTE. I have not—you know, I do not have any information on the St. Albans market. I am sorry, I have not been up there.

Senator SANDERS. OK. Let me go to Mr. Brockwell and ask him a question. According to your firm, the Burlington metro area, which includes Chittenden, Franklin, and Grand Isle Counties, was the most profitable market to sell gasoline in the northeast earlier this summer, and is consistently among the most profitable markets in the country to sell gasoline. Do you have an explanation as to why that might be the case?

Mr. BROCKWELL. I think, Senator, I indicated in my initial statement that I went through what I would consider objective criteria to try to offer a reasonable explanation. At the end of the day, ladies and gentlemen, these retail stations and these distributors are my customers, so I am not here to condemn them or make them look bad, believe me. I was asked to evaluate a market condition that was in the Senator's eyes, it looked like a market distortion.

I have no reasonable explanation. I do not know why Burlington stations are able to price. Maybe they have reached a pricing point that the consumer is comfortable with, and the consumer pays that price, and that is what they pay. I think I was quoted because I was taken to task by one of the distributors as saying, I guess they can charge whatever they want to charge in Burlington because that looks like what they are doing. I am open, Senator, to anybody offering me an explanation.

Look, I have not been doing this for 35 years and not learned something. I cannot explain this. I cannot explain. You are the one that pointed it out, and I know there is a bit of a debate going on between you two about the competitive nature of the market. But I certainly think competition ought to be looked at, and competition seems to be a factor. Places that have low-cost providers are consistently cheaper than places that do not. I do not know that there is a Stuart's, or Sheetz, or a Wawa, or a Giant, that is a low cost provider.

But again, is that the answer? I do not know. But it is certainly a reasonable explanation in the absence of any other data that I can provide.

Senator SANDERS. Let me go to Mr. Leuck and Costco and just ask you a question, if I might, sir. On July 16th, Costco sent me a letter, and this is what it said. "Since 2007, Costco has been seeking land use permits and approvals to build a gasoline filling station at our current store in Colchester, Vermont. We have obtained several approvals for our proposed gas station in Colchester, but each approval has been appealed by, among others, gas station owners in northern Vermont. We can discern no legitimate reason for these appeals and believe that they are really an attempt to use the land use process to stifle competition for gas sales. If we had been selling gas at our Colchester location, our prices on average would have been approximately 19 cents a gallon lower than the average price in the Colchester area for regular gas."

That was in the letter that Costco sent to me. Could you elaborate on that, please?

Mr. LEUCK. That was determined by data supplied to us, I believe, by OPIS, and how we would evaluate our pricing if we were selling gasoline and obtaining gasoline from our wholesale sources.

Senator SANDERS. Do you want to say anything about the nature of the opposition to your getting a permit?

Mr. LEUCK. No. I think we are going to go through the appeal process and let the authorities make the proper decisions. We feel that we have the right to sell gasoline, and we will continue through that appeal process.

Senator SANDERS. OK. Let me ask you Gail a question, if I might. I mean, Gail, the bottom line that I think you suggested to us is you do not make a heck of a lot of money selling gas.

Mrs. HORNE. No.

Senator SANDERS. Let me ask you this. Could you tell us who your distributor is?

Mrs. HORNE. Champlain Oil.

Senator SANDERS. Champlain Oil. Are there any restrictions on the price that you can charge?

Mrs. HORNE. No.

Senator SANDERS. OK. So they sell to you, and you can charge whatever you want, high or low. OK. Essentially, you are looking at your competition, other people in South Hero, and that is how you determined.

All right. Is there anything else you wanted to add to this discussion, Gail, that you have not said?

Mrs. HORNE. No, I think I am good.

Senator SANDERS. OK, good. OK. I do not have any other profound questions. Joe, is there anything else you wanted to add? I do not want to——

Mr. CHOQUETTE. No.

Senator SANDERS. OK. Anything else anyone wanted to add?

All right. I think this has been—I appreciate—Joe, and I did not mean to make your life miserable here, but you are the designated representative, right?

Mr. CHOQUETTE. Designated hitter anyway.

Senator SANDERS. That is what they pay you to do, right? OK. So I just want to thank the panelists for being here, and call this hearing to a close. Thank you.

[Whereupon, at 3:15 p.m., the hearing was adjourned.]

○