



# NEWS RELEASE

OFFICE OF ATTORNEY GENERAL HENRY MCMASTER  
STATE OF SOUTH CAROLINA

For Immediate Release  
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## Settlement Reached With Seven Upstate Gas Retailers In Katrina Price Gouging Investigation

### McMaster Urges General Assembly to Pass Criminal Price Gouging Bill

**Columbia, S.C.** –Attorney General Henry McMaster announced today that seven (7) upstate gas retailers have donated five hundred dollars (\$500) each to the American Red Cross for Hurricane Katrina relief as part of settlement resulting from an investigation into gas price gouging in the wake of last year's gulf coast hurricanes.

“Our investigation determined that seven stations located in Laurens, Mauldin and Clinton charged an average \$4.59 per gallon for regular unleaded gasoline without sufficient explanation,” said McMaster.

1. Pavan Food Stores d/b/a Mr. Chip, 502 N. Harper Street, Laurens, SC 29360
2. Pavan Food Stores, 310 East Butler Road, Mauldin, SC 29662
3. Cornerstop #58, 102 South Broad Street, Clinton, SC 29325
4. Cornerstop #57, 801 N. Harper Street, Laurens, SC 29360
5. Cornerstop #53, 700 Fleming Street, Laurens, SC 29360
6. BP Station, 1140 Church Street, Laurens, SC 29360
7. Pik-N-Go, 811 South Broad Street, Clinton, SC 29325

McMaster also renewed his call on the General Assembly to pass the price gouging allow law he proposed last fall (**H. 4316**), which would give law enforcement the authority to investigate and prosecute criminal price gouging. Current state law only allows law enforcement to act during a state of emergency declared by the governor.

After receiving over fifteen hundred (1,500) complaints about suspected gas price gouging in the wake of last September's hurricanes, McMaster dispatched investigators to twenty (20) counties and over one hundred (100+) individual gasoline stations.

McMaster emphasized that his investigation revealed that on August 31, 2005, most station owners were able to justify and document their price increases as a response to the supply and demand effect of market forces.



“Under our competitive economic system, high prices or quick run-ups in prices are not and should not be illegal absent certain compelling circumstances. Taking risks and making a profit - or a loss - is the American way,” said McMaster.

The settlement was reached with the four (4) corporate owners of the seven (7) stations after being issued civil subpoenas, cooperating with the investigation and making a total of thirty-five hundred dollars (\$3,500) in donations to the Red Cross without admitting to any wrongdoing.

Although the office received multiple complaints about the pricing decisions at several Enmark stations, a review of those decisions showed that the prices at the pump were directly caused by increases in wholesale prices.

Absent criminal investigative authority, McMaster had pursued a civil investigation under the Unfair Trade Practices Act, which are much slower than criminal actions, much harder to prove and vulnerable to defensive statutory interpretation.

Ultimately, McMaster determined that other than “price gouging” during a declared state of emergency, there are no statutes, civil or criminal, which effectively address “price gouging” in South Carolina.

“To effectively fight price gouging, we need authority to pursue price gougers in South Carolina when we are suffering an abnormal disruption of our market as the result of an event elsewhere.”

In conjunction with the price gouging investigation, McMaster also met with members of the oil industry and several major oil companies. McMaster said he found “no evidence of price collusion between major oil companies” and believes that any further investigation of the major producers, due to their large size and worldwide reach, is more appropriate for the federal government.

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NOTE: A Senate Judiciary Sub-committee will take up the price-gouging bill (**H. 4316**) on Thursday **April 13, 2006 at 10:00 a.m. in Room 308 of the Gressette Building** at the State House in Columbia.

[http://www.scstatehouse.net/cgi-bin/web\\_bh10.exe?bill1=4316&session=116](http://www.scstatehouse.net/cgi-bin/web_bh10.exe?bill1=4316&session=116)





# Retail Gasoline Price Gouging Report

APRIL 12, 2006



# Retail Gasoline Price Gouging Report

South Carolina's most recent experience with allegations of price gouging in the sale of a commodity occurred during the time periods immediately before and after Hurricanes Katrina and Rita struck the Gulf Coast on August 29 and September 24, 2005, respectively.

The lessons learned in this period with regard to retail gasoline pricing are also applicable to possible price gouging for any other commodity, which may result from abnormal disruptions in the market.

Like other states, South Carolina does not produce many of the resources necessary to drive its economy. With regard to gasoline, South Carolina does not have any native oil production; no refineries are located in South Carolina. South Carolina's supply of gasoline, as well as other commodities, is dependent on events, which occur elsewhere.

After Hurricane Katrina made landfall on August 29, 2005, its disruptive effects on the South Carolina economy were felt immediately as the retail price of gasoline escalated dramatically. This was primarily a result of damage to and closure of oil refineries along the Gulf Coast and the shutdown of the Colonial and Plantation pipelines that supply the majority of petroleum to the state and much of the east coast.

On Wednesday, August 31, 2005, as gasoline prices skyrocketed and rumors of gas shortages or complete outages circulated, consumers rushed to the pumps to top off their tanks. The rush created an environment of long lines, escalating prices, consumer frustration, and ultimately a statewide gas shortage.

In the days and weeks following Hurricanes Katrina and Rita, the Office of the Attorney General received over five hundred and fifty (550) complaints by phone or email, and over one thousand (1,000+) additional South Carolina-based complaints which were forwarded to the office by the Department of Energy.

While many of the complaints simply reported prices in the range of \$3.30 a gallon for regular unleaded gasoline - a common price across the state - some complaints cited instances of stations charging almost \$5.00 a gallon on August 31st.

## **Retail-Wholesale Gas Investigation**

In response, Attorney General McMaster dispatched investigators to twenty (20) counties and over one hundred (100+) individual gasoline stations. These investigators met with small gasoline distributors and representatives from major oil companies, and issued civil investigative demands to stations that charged extremely high prices.



Through on-site investigations, the Attorney General found that several stations greatly exceeded the average price of \$3.30 per gallon of regular unleaded on August 31, 2005. Several of these highest-charging stations reached a peak price of \$4.79 for several hours during the day but reduced prices by the following day in response to market forces and consumer outcry.

After reviewing the data obtained from its on-site interviews, the office issued civil investigative demands to the corporate owners of a total of seven stations that were found to have charged more than \$4.00 per gallon for regular unleaded gasoline.

Their information is as follows:

- (1) Business: Bose & Sons, LLC  
High price: \$4.29 for regular unleaded

Location: Pavan Food Stores d/b/a Mr. Chip  
502 N. Harper Street  
Laurens, SC 29360

Location: Pavan Food Stores  
310 East Butler Road  
Mauldin, SC 29662
- (2) Business: Papa Oil II, LLC  
High price: \$4.79 for regular unleaded

Location: Cornerstop #58  
102 South Broad Street  
Clinton, SC 29325

Location: Cornerstop #57  
801 N. Harper Street  
Laurens, SC 29360

Location: Cornerstop #53  
700 Fleming Street  
Laurens, SC 29360
- (3) Business: Southwind Restaurants, LLC  
High price: \$4.59 for regular unleaded

Location: BP Station  
1140 Church Street  
Laurens, SC 29360
- (4) Business: VP Enterprises of Clinton, Inc.  
High price: \$4.79 for regular unleaded



Location: Pik-N-Go  
811 South Broad Street  
Clinton, SC 29325

In the civil investigative demands, the Attorney General ordered the four corporate owners to provide all price changes made during a period of approximately three months surrounding Hurricane Katrina. The lack of standardized practices for keeping record of prices charged in the retail gasoline industry added an extra level of complexity to the investigation.

The Attorney General also asked owners to provide a rationale for their pricing decisions. Responses varied. In one case, the owner decided to raise prices in response to a local competitor's increase in prices and CNN's reports of possible disruptions in the fuel supply line.

The four corporate owners of the seven stations that were issued civil investigative demands cooperated with the Attorney General's investigation and, without admitting to any wrongdoing, each entered into a Memorandum of Understanding with the Attorney General pursuant to which they have donated five hundred (\$500) dollars per station to the American Red Cross for Hurricane Katrina relief.

The total donation for the seven stations is three thousand and five hundred (\$3,500) dollars. Although the office received multiple complaints about the pricing decisions at several Enmark stations, a review of those decisions showed that the prices at the pump were directly caused by increases in wholesale prices.

### **Major Oil Companies**

In conjunction with the field investigation, the Attorney General met with members of the oil industry to gain a perspective on the supply chain for gasoline. Meetings were held with representatives from the South Carolina Petroleum Marketer's Association, the South Carolina Petroleum Council, and several major oil companies, including Marathon Ashland Petroleum, BP America, Shell Oil Products US, and ConocoPhillips, as well as the chief economist from the American Petroleum Institute.

The Attorney General met with an oil jobber to understand the problems associated with supplying gasoline to retailers during a period when less gasoline is physically available for distribution than is needed to continue to supply retailers at the same rate as prior to a market disrupting event.

The Attorney General did not find any evidence of price collusion between major oil companies and believes that in this instance any further investigation of the major producers, due to their large size and worldwide reach, is more appropriate for the federal government.

### **Current Statutory Situation**

Despite the extremely high prices, the Attorney General had no statutory grounds to criminally prosecute the owners of the stations under investigation. Under the current price gouging statute (Section 39-5-145 of the S.C. Code of Laws), price gouging is only illegal when a state of emergency



has been declared for South Carolina, and no state of emergency was declared for South Carolina after Hurricane Katrina.

Had a state of emergency been declared and had violators been prosecuted and convicted, each willful violation of the statute would have constituted a misdemeanor punishable by a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than thirty (30) days. Without the statutory authority to prosecute price gouging during times when no state of emergency has been declared, the Attorney General cannot effectively deter extreme prices from being charged in the future.

Under current law, regardless of any declared emergency, the Attorney General has the power to use civil procedures to investigate and punish violations under other sections of the Unfair Trade Practices Act. This civil statute declares "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce" unlawful.

Under this civil statute, the Attorney General may recover, on behalf of the state, civil penalties not exceeding five thousand (\$5,000) dollars per violation for willful violations. (See South Carolina Statutes § 39-5-20 and § 39-5-110.) These civil actions have the disadvantage of being much slower than a criminal prosecution as well as vulnerable to defensive statutory interpretation. So, other than "price gouging" during a declared state of emergency, there are no statutes, civil or criminal, which specifically address "price gouging" in South Carolina.

Since the only available statutory authority in non-emergency times is the loosely defined general prohibition against practices that are "unfair" or "deceptive," it is difficult to take legal action against price gouging without a declared state of emergency.

### Conclusions

The Office of the Attorney General's investigation demonstrated the complexities of investigating allegations of price gouging, including (1) the difficulty of determining whether complaints are legitimate and credible, (2) the complexity of making determinations of whether price increases were truly "gouging" or were based on legitimate business decisions or increases in the costs to the retailer, (3) the importance of having the tools necessary to investigate allegations of price gouging immediately while the data are fresh, and (4) the interdependence of all regions of the country with regard to price and supply allocation when a catastrophic event occurs.

Under our competitive economic system, high prices or quick run-ups in prices are not and should not be illegal absent certain compelling circumstances. Taking risks and making a profit - or a loss - is fundamental to free enterprise.

To effectively fight future price gouging, statutory authority is needed to pursue price gougers when South Carolina is suffering an abnormal disruption of our market as the result of an event elsewhere.

To this end, Attorney General McMaster and State House Speaker Bobby Harrell have proposed an addition to South Carolina's price gouging statute (**H. 4316**). This addition would trigger our criminal price gouging statute when a direct and abnormal disruption in the market in South Carolina is caused



by an event happening outside of South Carolina if the President of the United States has declared a state of emergency or disaster in that other jurisdiction.

During such a situation, our current criminal price gouging statute would be fully operable: it would be illegal to rent or sell or offer to rent or sell a commodity (broadly defined, including goods and services) at an unconscionable price or to impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging or self-storage facility. A willful violation would constitute a misdemeanor punishable by a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than thirty (30) days.

An "unconscionable price" is a price which either represents a "gross disparity" between the price of the covered commodity and the average price at which the covered commodity was available during the thirty (30) days prior to the declaration of the state of emergency or that "grossly exceeds" the average price that was readily available for the covered commodities and services in the trade area thirty (30) days prior to the declaration of the state of emergency.

This approach by H. 4316 recognizes the regional impacts of events and allows prosecutorial authorities to act quickly when unconscionable prices are being charged, without the necessity of a locally declared state of emergency.

Without this statutory authority to criminally prosecute "price gouging" when events outside of South Carolina cause an abnormal disruption of the markets in South Carolina, law enforcement cannot effectively deter extreme prices from being charged in the future when a state of emergency has not been declared in South Carolina.

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Memorandum") entered into as of the 10<sup>th</sup> day of March, 2006, by the Attorney General of the State of South Carolina (the "AG") and VP Enterprises of Clinton, Inc. (the "Station Owner").

STATEMENT

The Station Owner owns the following gasoline station (the "Station"):

Fit-N-Go  
811 Broad Street  
Clinton, SC 29325

The AG conducted an investigation of retail gasoline pricing in the State of South Carolina in the aftermath of Hurricane Katrina. As part of its investigation, the AG has determined that the retail price of regular gasoline at the Station was approximately \$4.79 per gallon on or about August 31, 2006. This represents a significant increase in the price of gasoline sold at the Station from the price charged prior to Hurricane Katrina.

As a public agency, the AG will be making a public report of what has been learned. Among other things, this report will identify the Station as one that significantly raised prices, will summarize the pricing information provided to the AG, and will state that the Station Owner has entered into this Memorandum of Understanding with the AG.

UNDERTAKINGS

1. The Station Owner will make a voluntary \$500.00 contribution to the American Red Cross for Katrina relief by providing to the AG a check made payable to the American Red Cross with a notation on the memorandum line of the check that states "Katrina" (the "Check").
2. The Station Owner will deliver the Check to the AG on or before 5:00 pm on Friday, March 10.

FROM : VP ENTERPRISES

FAX NO. : 18648337994

Mar. 22 2006 04:08PM P2

003 734 3577

ATTORNEY GENERAL O

09:20:40 a.m. 03-14-2006

03

3. By signing on to this Memorandum of Understanding, the Station Owner does not admit to any wrongdoing.

4. The AG acknowledges that its investigation of gasoline pricing at the Station by Station Owner in the aftermath of Hurricane Katrina is terminated.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum to be effective as of the day and year first above written.

Office of the Attorney General of South Carolina

By: [Signature]

Typed Name: T. Parkin Hunter

Title: Assistant Attorney General

Date of Execution: March 23, 2006

VP Enterprises of Clinton, Inc.

By: [Signature]

Typed Name: Charanjit Cheema

Title: President

Date of Execution: 3/15/2006

[Signature], Attorney for  
VP Enterprises of  
Clinton, Inc.

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Memorandum") entered into as of the 10th day of March, 2006, by the Attorney General of the State of South Carolina (the "AG") and Southwind Restaurants, L.L.C. (the "Station Owner").

### STATEMENT

The Station Owner owns the following gasoline station (the "Station"):

BP Station  
Southwind Restaurants  
1140 Church St.  
Laurens, SC 29360

The AG has conducted an investigation of retail gasoline pricing in the State of South Carolina in the aftermath of Hurricane Katrina. As part of its investigation, the AG has determined that the retail price of regular gasoline at the Station was approximately \$4.59 per gallon on or about August 31, 2006. This represents a significant increase in the price of gasoline sold at the Station from the price charged prior to Hurricane Katrina.

As a public agency, the AG will be making a public report of what has been learned. Among other things, this report will identify the Station as one that significantly raised prices, will summarize the pricing information provided to the AG, and will state that the Station Owner has entered into this Memorandum of Understanding with the AG.

### UNDERTAKINGS

1. The Station Owner will make a voluntary \$500.00 contribution to the American Red Cross for Katrina relief by providing to the AG a check made payable to

the American Red Cross with a notation on the memorandum line of the check that states "Katrina" (the "Check").

2. The Station Owner will deliver the Check to the AG on or before 5:00 pm on Friday, March 10.

3. By signing on to this Memorandum of Understanding, the Station Owner does not admit to any wrongdoing.

Office of the Attorney General of South Carolina

By: T. Parkin Hunter

Title: Assistant Attorney General

Typed Name: T. Parkin Hunter

Date of Execution: March 23, 2006

Southwind Restaurants, L.L.C.

By: A. Denny Cole, Jr.  
R. Denny Cole, Jr.

Its: Manager

Date of Execution: 3-9-06

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Memorandum") entered into as of the 10th day of March, 2006, by the Attorney General of the State of South Carolina (the "AG") and Bose & Sons, L.L.C. (the "Station Owner").

### STATEMENT

The Station Owner owns the following gasoline stations (the "Stations"):

Pavan Food Stores d/b/a Mr. Chip  
502 N. Harper Street  
Laurens, SC 29360

Pavan Food Store  
310 East Butler Road  
Mauldin, S.C. 29662

The AG has conducted an investigation of retail gasoline pricing in the State of South Carolina in the aftermath of Hurricane Katrina. As part of its investigation, the AG has determined that the retail price of regular gasoline at the Stations was approximately \$4.29 per gallon on or about August 31, 2006. This represents a significant increase in the prices of gasoline sold at the Stations from the prices charged prior to Hurricane Katrina.

As a public agency, the AG will be making a public report of what has been learned. Among other things, this report will identify the Stations as ones that significantly raised prices, will summarize the pricing information provided to the AG, and will state that the Station Owner has entered into this Memorandum of Understanding with the AG.

UNDERTAKINGS

- 1. The Station Owner will make a voluntary \$1,000.00 contribution to the American Red Cross for Katrina relief by providing to the AG a check made payable to the American Red Cross with a notation on the memorandum line of the check that states "Katrina" (the "Check").
- 2. The Station Owner will deliver the Check to the AG on or before 5:00 pm on Friday, March 10.
- 3. By signing on to this Memorandum of Understanding, the Station Owner does not admit to any wrongdoing.

Office of the Attorney General of South Carolina

By: T. Parkin Hunter

Typed Name: T. Parkin Hunter

Title: Assistant Attorney General

Date of Execution: March 23, 2006

Bose & Sons, L.L.C.

By: PAEL KALIESHNIK

Typed Name: PAEL KALIESHNIK

Its: PARTNER of BOSE & SONS LLC

Date of Execution: 03/07/06

CHK # 1125 for \$1000.00  
paid on 03/10/06

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Memorandum") entered into as of the 10th day of March, 2006, by the Attorney General of the State of South Carolina (the "AG") and Papa Oil II, LLC (the "Station Owner").

### STATEMENT

The Station Owner owns the following gasoline stations (the "Stations"):

Cornerstop #58  
102 South Broad Street  
Clinton, SC 29325

Cornerstop #57  
801 N. Harper Street  
Laurens, SC 29360

Cornerstop #53  
700 Fleming Street  
Laurens, SC 29360

The AG has conducted an investigation of retail gasoline pricing in the State of South Carolina in the aftermath of Hurricane Katrina. As part of its investigation, the AG has determined that the retail price of regular gasoline at the Stations was approximately \$4.79 per gallon on or about August 31, 2006. This represents a significant increase in the prices of gasoline sold at the Stations from the prices charged prior to Hurricane Katrina.

As a public agency, the AG will be making a public report of what has been learned. Among other things, this report will identify the Stations as ones that significantly raised prices, will summarize the pricing information provided to the AG, and will state that the Station Owner has entered into this Memorandum of Understanding with the AG.

**RECEIVED**

MAR 10 2006

Steve [signature]  
Harden [signature]

**UNDERTAKINGS**

1. The Station Owner will make a voluntary \$1,500.00 contribution to the American Red Cross for Katrina relief by providing to the AG a check made payable to the American Red Cross with a notation on the memorandum line of the check that states "Katrina" (the "Check").
2. The Station Owner will deliver the Check to the AG on or before 5:00 pm on Friday, March 10.
3. By signing on to this Memorandum of Understanding, the Station Owner does not admit to any wrongdoing.

Office of the Attorney General of South Carolina

By: T. Parkin Hunter

Typed Name: T. Parkin Hunter

Title: Assistant Attorney General

Date of Execution: March 23, 2006

Papa Oil-II, LLC

By: Surendra Patthak

Typed Name: Surendra Patthak

Its: \_\_\_\_\_

Date of Execution: \_\_\_\_\_