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### **PMAA CHALLENGES BUSH COMMENT ON GOUGING**

Today PMAA President Dan Gilligan sent a letter to President Bush expressing disappointment with the President's September 13, 2008 comments about gas gouging. The President said the Department of Energy and the Federal Trade Commission will be monitoring gas prices for gouging, giving credence to the notion that gas gouging is occurring or is somehow a significant concern. "It may appear to the average consumer that the retailer is gouging when in fact the only choice is to dramatically raise prices or turn off the pumps," the letter said.

For a copy of the letter, please [click here](#).

### **CRUDE HITS \$99 AS STORM DAMAGED REFINERIES CLOSE & DEMAND DROPS**

Crude prices on the New York Mercantile Exchange dropped below \$100 in a special trading session on Sunday. The falling price of crude is due to a drop in demand caused by the closure of 17 Gulf Coast refineries damaged by Hurricane Ike. U.S. crude for October delivery briefly traded at \$99.25 a barrel on the floor of the New York Mercantile Exchange, the first time oil has fallen below the \$100 a barrel mark in since April 2, when it hit \$99.84.

Prices have fallen nearly \$50 from the record high price of \$147.27 a barrel set on July 11 due to a flagging global economy. However, with nearly 20 percent of the nation's refining capacity temporarily closed, average national gasoline prices jumped 12 cents per gallon in just 48 hours. The AAA reported on Sunday that the states with the highest one-day increases were: Georgia - 17 cents, South Carolina - 15 cents, Tennessee - 15 cents, Alabama - 12 cents, Kentucky - 11 cents, and Arkansas - 11 cents. In Texas, the average price rose five cents to \$3.65 a gallon. Prices had already been rising in the Midwest and Southeast partly due to production delays caused by Hurricane Gustav. Gas remains about 31.1 cents below the record high average of \$4.11 a gallon on July 17.

Only four of the 17 storm-shuttered refineries remained closed and both the Colonial and Plantation pipelines that feed much of the Eastern Seaboard are back online and fully operational. Despite the relative lack of damage, supplies of finished product will remain very tight with suppliers moving to allocation.

### **REMINDER: ADA DOES NOT REQUIRE CALL ASSIST BUTTONS ON DISPENSERS**

**An important reminder** - the Americans with Disabilities Act (ADA) **does not** require installation of call assist buttons on dispensers for use by disabled persons. The issue is important because a marketer recently received a letter purported to be from a "law firm" stating that their disabled client was unable to pump gas at a certain location because the dispenser lacks a "handicap assist button". The letter went on to demand that the marketer send a check in the amount of \$50 directly to the client within 12 days or face further legal action. The letter is incorrect. While the ADA requires marketers (in most but not all cases) to provide equal access to their customers with disabilities, it **does not** require call buttons on dispensers.

The ADA guidelines regarding equal access to service stations and c-store dispensers are as follows:

- A service station or c-store operator must provide refueling assistance upon the request of an individual with a disability. **However, the operator is not required to provide such service at any time that it is operating on a remote control basis with a single employee.**
- A service station or c-store operator must notify customers (e.g., using signs on or near dispensers) that individuals with disabilities can obtain refueling assistance by honking their horn or otherwise signaling an employee. The ADA requires no specific wording for the notification. Service stations and c-stores operating on a remote control basis with only one employee are not required to post a notification.
- A service station or c-store operator must provide the refueling assistance without any charge beyond the self-serve price if the customer wants only fuel. The attendant may provide assistance at a self-service pump or at a full-service pump. In either case, the customer must be charged the self-service price.

Compliance investigations by disability advocate groups, news reporters and state officials often find that employees are generally unaware of these ADA requirements even where notifications or non-mandatory call assist buttons are used. Retailers should review their operations to determine if the ADA guidelines apply. Enforcement on this issue has not been vigorous but a violation can bring up to \$50,000 for a first offense and may include additional court ordered monetary damages and other legal remedies.

## **ENVIRONMENTAL GROUPS SUE CITY OVER REFINERY UPGRADE PERMIT**

Environmental groups have asked a California court to revoke a permit issued by a local municipality in July to Chevron for the modernization of its Richmond, CA refinery. The groups alleged that Richmond officials illegally certified the environmental impact report prepared for the project because the report failed to disclose that the refinery upgrades would allow Chevron to process heavier crude oil that would increase refinery emissions of mercury, selenium, and toxic sulfur compounds in surrounding neighborhoods.

## **FROM THE ENERGY INFORMATION ADMINISTRATION**

**U.S. Average Retail Price for Gasoline** - U.S. retail price for regular gasoline fell for the ninth consecutive week dropping another 3.2 cents to 364.8 cents per gallon. Unlike last week when prices increased slightly in the Gulf Coast and the Lower Atlantic portion of the East Coast, this week prices declined in all regions of the country. The price on the East Coast fell 2.2 cents to 360.9 cents per gallon. The average price in the Midwest slid 3.7 cents to 363.6 cents per gallon. Reversing a portion of last week's increase, the price in the Gulf Coast dipped by 2.7 cents to 355.1 cents per gallon, and remained the lowest average price of any region. The price in the Rocky Mountains fell for the seventh consecutive week dropping 4.6 cents to 376.7 cents per gallon. On the West Coast, the average price has now fallen for eleven straight weeks sliding another 4.6 cents to hit 381.3 cents per gallon. That price has plunged 64.7 cents since its record high set on June 23. Although the West Coast price remains the highest average regional price in the Nation, the differential between the national average and the average price on the West Coast has narrowed by more than 21 cents since that June 23 all-time regional high. The price in California dropped 4.6 cents to 385.9 cents per gallon.

**U.S. Average Retail Diesel Fuel Prices** - For the eighth week in a row, diesel prices dropped in all regions of the U.S. The average U.S. retail diesel price slumped 6.2 cents to 405.9 cents per gallon, a cumulative plummet of more than 70 cents from the all-time high set on July 14. Nonetheless, the price remained 113.5 cents higher than a year ago. The average price on the East Coast dropped 6.9 cents to 410 cents per gallon. The price in the Midwest slipped 5.1 cents hitting 401.5 cents per gallon. The price in the Gulf Coast dropped 5.3 cents to tie with the Midwest for the lowest price in the Nation at 401.5 cents per gallon. The price in the Rocky Mountains tumbled 7.9 cents to 410.5 cents per gallon. Plunging 9.2 cents, the average price on the West Coast reached 415.6 cents per gallon. In California, the price fell to 418.5 cents per gallon, a drop of 9.7 cents.