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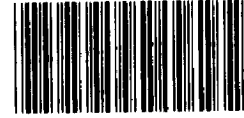
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ENERGY AND MINERALS
DIVISION

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APRIL 3, 1980

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RELEASED



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The Honorable Bennett M. Stewart
House of Representatives

Dear Mr. Stewart:

Subject: [Department of Energy Audits of Retail
Gasoline Station Prices in Chicago
Area] (EMD-80-62)

Your letter dated December 21, 1979, requested that we review the efforts made by the Department of Energy (DOE) to audit gasoline prices of retail stations in the Chicago area. Specifically, you were interested in information concerning

- DOE's mechanism for responding to complaints from the public concerning what they perceive to be unfair gasoline prices,
- whether DOE is adequately reviewing gasoline prices within urban areas to determine whether a disparity in pricing exists in different sections of the city,
- how many instances of overpricing DOE has found in the Chicago area in the last 6 months,
- what action DOE has taken when such a finding is made, and
- the average cost to the consumer of overpricing during this period.

DOE's Office of Enforcement in the Economic Regulatory Administration (ERA) has primary responsibility for performing pricing audits of independent gasoline retailers. Its current policy is not to audit any gasoline retailer except on suspicion of a willful violation of the price regulations (1) by

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reason of complaints or other credible indications of significant violations or (2) if an exception or other special relief has been afforded from the price regulations.

Under this policy, ERA primarily audits gasoline retailers based on complaints or other evidence of violations. DOE established a toll-free hotline telephone system in February 1979 to encourage motorists to call DOE headquarters in Washington, D.C., from anywhere in the country to report what they believe to be gasoline pricing violations. ERA uses the hotline as its primary source for auditing gasoline retail stations. Other sources used are telephone calls received by local ERA offices, walk-ins to local offices, and specific inquiries from Members of Congress. Although complaints do not always precipitate an audit, ERA, based on complaints received, does target for audit those gasoline retailers with the greatest potential for overcharge.

During 1979 ERA did not receive a significant number of complaints from Chicago's inner city area. However, according to the Manager of ERA's Central Enforcement District, ERA has recently begun working with the Chicago Urban League in an effort to better inform inner city motorists of potential pricing violations, and to more widely publicize the hotline number and the complaint procedure.

The League has provided ERA with a listing of 19 inner city media sources. The Assistant Administrator for Enforcement told us that the League has also agreed to provide ERA with a listing of inner city gasoline retailers which the League believes are violating pricing regulations. He informed us that upon receipt of the listing, ERA will review the information provided to determine whether an audit appears to be warranted. The Manager of DOE's Central Enforcement District believes that present staffing is sufficient to handle incoming complaints; from two to five full-time auditors are available to perform retailer audits in the Chicago area. He told us that audit cases backlogged ranged from 69 to 296 cases during the period April through December 1979, with 159 cases being backlogged as of December 1979. As of February 1980, the backlog was reduced to 46 audit cases. He stated that as a result of threats and one assault, ERA sends a team of two auditors to perform reviews at inner city retailers while in other areas of the city one auditor is able to perform a review.

During the period April through December 1979, ERA data shows that, based upon complaints received, it completed 422 audits of Chicago's estimated 2,000 retailers and found that 149 retailers, or about 35 percent, were violating DOE gasoline pricing regulations. However, the following table shows that the violation rate for stations audited decreased from 49 to 27 percent after DOE simplified its complex pricing regulations on August 1, 1979.

<u>Audit Results in Chicago Area</u>			
<u>Audits</u>	<u>April to July 1979</u>	<u>August to December 1979</u>	<u>Total</u>
Total completed	157	265	422
No violations	80	193	273
Violations	77	72	149
Percent found in violation	49	27	35

ERA generally does not attempt to systematically determine if pricing violation rates for stations audited or the overcharge amounts differ significantly in various sections of a metropolitan area. However, based upon your concerns, ERA analyzed its audits of gasoline retailers in the Chicago area for the period August 1979 through December 1979. Although the violation rate for stations audited has decreased under the new pricing regulations, the inner city rate is higher than the rate in other sections of the city. The analysis showed that for stations audited, the violation rate for inner city retailers was about 42 percent as compared to 19 percent for other sections of the city and 25 percent for retailers in the suburban area.

DOE regulations provide for rollback of prices, recovery of overcharges, and levying of fines against retailers who violate gasoline pricing regulations. For willful violations, criminal proceedings can be brought

against violators. The maximum fine permitted is \$2,500 per violation. The actual fine levied is flexible, and depends on factors such as the sales volume of the retailer, violation amounts, prior efforts to comply, number of grades of gasoline in violation, and cooperation received during the audit.

Since August 1979, almost 90 percent of the retail stations charged with violating price regulations signed consent orders acknowledging the violation and agreeing to immediately roll back prices to the maximum lawful selling price. The remainder of the retail stations were issued interim orders. These interim orders can result in a final consent order at a later date.

Violations resulting in consent orders or interim orders can provide for a refund of overcharges. This is accomplished by requiring the retailer to roll back prices below the maximum legal selling price until the overcharge is paid back to consumers. ERA did not maintain statistics on Chicago area retailers who were required to pay back overcharges prior to August 1, 1979. However, during the period August through December 1979, 29 retailers--6 in the inner city, 2 in other areas in Chicago, and 21 in suburban Chicago--were required to pay back overcharges. The average amount of the overcharge paid back was \$608 in the inner city, \$209 in other areas in Chicago, and \$311 in the suburban Chicago area.

Violations resulting in a consent order also provide for a fine. During 1979, DOE collected fines totaling \$10,225 from 49 of the Chicago area gasoline retailers found to be violating pricing regulations. Fines were collected from 17 inner city retailers, 4 retailers in other areas of the city, and 28 retailers in the suburban area. The highest fine collected from a Chicago area retailer during 1979 was \$600.

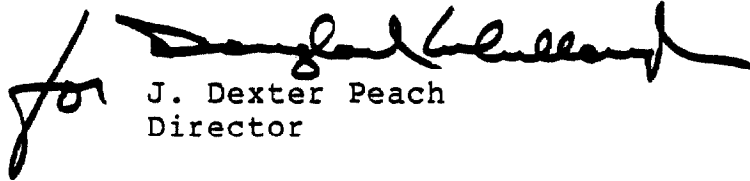
We could not determine the average cost to Chicago consumers of gasoline overpricing during 1979 because ERA data on the average amounts of a violation or the length of time that overpricing occurred was not available.

We discussed this report with ERA officials, who agreed with the accuracy of the report's contents.

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Our policy is to make request assignment reports available for unrestricted distribution at the time they are issued to the requestor or within a few days of issuance. Those reports which are initially restricted generally will be made available for unrestricted distribution no later than 30 days after the date of the report. We will contact your office regarding distribution arrangements.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'J. Dexter Peach', is written over a horizontal line. To the left of the signature, the word 'for' is written vertically in a cursive style.

J. Dexter Peach
Director