



Formerly The Foundation for Taxpayer & Consumer Rights

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June 3, 2008

California Energy Commission
Dockets Office, MS-4
Re: Docket No. **07-HFS-01**
1516 Ninth Street
Sacramento, CA 95814-5512

Re: AB868 Fuel Temperature Study

Statement of Consumer Watchdog regarding consumer information vs. seller information on fuel temperature, and comparison of remedies.

One of the assertions made during the CEC study sessions on fuel temperature, by marketing organizations and NCWM visitor Ross Johnson, is this: The retail prices of diesel and gasoline at the pump are already informally adjusted to take temperature into account, thus compensating consumers for higher fuel temperatures.

This assertion is both untrue and unconfirmable.

1. The statement of informal price adjustment is by definition untrue.

Retailers have no way of knowing the temperature of competitors' gasoline—whether across the street or half a mile away. As shown in Henry Opperman's study for the National Conference of Weights and Measures, stations actually within a stone's throw of one another can vary by 15 degrees F. Without knowing other stations' possible "price adjustment" for temperature, a station cannot calculate what its own should be. This makes any accurate form of compensation for temperature economically impossible.

That the assertion is made, however, is a signal that uncompensated sale of fuel is a significant issue for both the seller and the purchaser. If fuel temperature were an insignificant issue, no effort would be made to assert that retailers diminish its effect on drivers through some magical price adjustment.

2. The statement can never be confirmed by the purchaser. Sellers and purchasers from the refinery to the gas station know to the minute the temperature of the gasoline and diesel they are buying or selling. Drivers have no knowledge of fuel temperature and no reasonable way of discovering it—before, during or after purchase. This imbalance constitutes the most incurable form of information asymmetry, as it is known in economic language. Retailers, being partly in the dark themselves, simply cannot offer any proof of informal compensation. Certainly none has been proffered during the CEC study.

3. Drivers cannot make comparative value decisions on a fuel purchase.

When purchasing other consumer products, buyers can physically examine the quality of a pair of shoes, read extensive technical specs and consumer reviews of a music player, or get a mechanic to examine an automobile for sale. In the case of automobiles or consumer electronics, the manufacturers or sellers also usually offer a warranty to repair or replace the product if the consumer is dissatisfied. Many states also have “lemon laws” (in the case of cars) or other regulatory and legal methods to punish sellers who would otherwise pawn off inferior goods. Even if the loss to individual consumers amounts to only several dollars a year, large aggregate losses due to unfairness, deception or withholding of information may be punished by courts or regulators.

In the case of fuel temperature, buyers have been generally unaware of temperature losses, except in the case of some truck drivers who could literally see their fuel gauges drop back from “full” overnight. Even those who understand the cause of shrinkage of their purchases have no way to cure it. They can’t go back to the pump and demand a top-off.

Drivers will go to a station that sells gasoline for 3 cents a gallon less than other stations. Oil companies that offer a 3-cent-a-gallon discount for drivers who use a branded credit card see a substantial increase in usage, according to industry reports. Yet a mere 11-degree difference in fuel temperature would erase this savings when the gasoline costs \$4.00 a gallon. The drivers’ efforts to purchase the best value hinge on information that is both undisclosed and unattainable.

Efficient remedies are available for this information imbalance, either by disclosing fuel temperature information or by guaranteeing that the price compensates for temperature.

1. **Disclosure.** This has not been much discussed, but it is worth mentioning because it’s cheap for sellers. Gas stations already have electronic access to temperature readouts in their storage tanks. If the real-time temperatures in each tank were prominently displayed on the pumps, and the temperatures of diesel and regular-grade gasoline were prominently displayed on the street-price post, drivers could be educated to calculate comparative value. Motorists, once aware of the stakes, would catch on quickly.

This solution would create some regulatory difficulties. Temperature meters would have to be locked, alarmed and inspected more regularly than pump meters to prevent tampering. It would be up to regulators to decide whether this is practical.

2. Temperature compensation.

- **Electronic compensation at the pump.** This is practical, always fair and always precise for both buyer and seller. Volume purchases of ATC

pumps would bring down the price. In any case the price of installing such pumps, as part of regular upgrades, would be no more, and at current prices less, than roughly one year's consumer losses. The equipment then last for at least several years.

- **Average regional volume adjustment based on average temperature.** This is practical and cost-free to sellers. It is imprecise, and although over a year would be more fair to drivers than uncompensated fuel, it does not account for local station-to-station variation. To be fair, it would also have to account for more miles driven in the summer, when fuel temperatures are hotter.

3. Both temp posting and electronic ATC. Stations could choose to post temperatures *or* install ATC pumps. This would provide a bridge to full use of ATC, allowing voluntary installation and immediate use during the transition. Through advertising of "Fair Fuel," ATC could be a slight competitive advantage, freeing drivers from making value calculations on the fly.

Thank you as always for your time, efforts and balanced consideration of the fuel temperature issue. I think all of us appreciate the demands for logic and data that the CEC has brought to this process.

Judy Dugan
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