

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

Fairbanks, Alaska  
September 10, 2008  
9:14 a.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Chair  
Representative Nancy Dahlstrom, Vice Chair (via teleconference)  
Representative John Coghill  
Representative Max Gruenberg  
Representative Lindsey Holmes

**MEMBERS ABSENT**

Representative Bob Lynn  
Representative Ralph Samuels

**COMMITTEE CALENDAR**

OVERVIEW(S): MATTERS PERTAINING TO THE HIGH GAS AND HEATING OIL PRICES IN ALASKA AND WHY GAS PRICES HAVE FALLEN IN THE LOWER 48 BUT NOT IN ALASKA

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

LOIS HEIN, Co-Owner  
Riverview Quick Stop, Inc.  
North Pole, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

REPRESENTATIVE DAVID GUTTENBERG  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Asked questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General  
Commercial/Fair Business Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and answered questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

REPRESENTATIVE MIKE HAWKER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided comments and asked questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

JANE W. PIERSON, Staff  
to Representative Jay Ramras  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Responded to a question during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

REPRESENTATIVE BOB ROSES  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Asked questions and provided comments during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

JEFF COOK, Director  
External Affairs  
Flint Hills Resources  
North Pole, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

REPRESENTATIVE SCOTT KAWASAKI  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Asked questions and provided comments during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

DOUG CHAPADOS, President

Petro Star Inc. (PSI)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

KIP KNUDSON, Manager  
External Affairs  
Tesoro Alaska Company  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

RAY WEST, Senior Corporate Counsel  
Safeway, Inc.  
Pleasanton, California

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

GLENDIA WOOD, Director  
Pricing and Promotion  
Safeway, Inc.  
Pleasanton, California

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

JOE GULLEY, Manager  
Denali District  
Safeway, Inc.  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

LISA SUNDBORG, Office Manager  
Alaska Petroleum Distributing Inc.  
Fairbanks, Alaska

**POSITION STATEMENT:** Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

**ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [9:14:06 AM](#). Representatives Gruenberg, Dahlstrom (via teleconference), Holmes, and Ramras were present at the call to order. Representative Coghill arrived as the meeting was in progress.

Overview(s): Matters pertaining to the high gas and heating oil prices in Alaska

[9:15:29 AM](#)

CHAIR RAMRAS announced that the only order of business would be consideration of matters pertaining to the high gas and heating oil prices in Alaska and why gas prices have fallen in the Lower 48 but not in Alaska.

CHAIR RAMRAS relayed that he and Representative Harris have discussed the issue of rising retail gasoline prices and whether they are the result of "pricing power" in the market or of inefficiencies in the market due to volume issues - consumption [volume] or production [volume]. He offered his recollection that antitrust issues were investigated during the Knowles Administration, and the Department of Law (DOL) concluded that the pricing situation at that time was not due to antitrust behavior but was simply the result of the market. He mentioned that the hearing today would be largely informational; that Mr. Sniffen from the DOL would be providing an overview of the State's current ongoing inquiry into these matters; that a follow-up hearing would be held in about a month; that the House Judiciary Standing Committee will be producing a report for the legislature; and that energy issues and the cost of fuel oil, gasoline, and natural gas are of importance to constituents.

[9:21:32 AM](#)

LOIS HEIN, Co-Owner, Riverview Quick Stop, Inc., relayed that a couple of weeks ago she'd called for delivery of gasoline but couldn't get it because of a slow-down in production, and therefore had to "bag off" the pumps at her station. Upon contacting Alaska Petroleum Distributing Inc. and Big State Logistics, Inc., she discovered that "if we couldn't get gas through the refinery, we were going to have to ship it in by rail car," which would result in increased cost to consumers at the pump. Not having gas at the pumps during bad times, she remarked, makes things even worse, and these are very difficult times right now. She noted that her customers have signed a petition against the high price of fuel in Fairbanks; they are

distressed that gasoline prices across the nation are going down as is the price per barrel of oil and yet those decreases aren't reflected in the price they are paying at the pump.

MS. HEIN noted that there had been a \$.20 decrease in the price of [gasoline] a couple of weeks ago, as well as an \$.08 decrease when the governor's legislation repealing the State's motor fuel tax took effect. She expressed favor with the investigatory efforts being undertaken, adding that many people feel that they have no recourse, and that she is seeing a lot of people who are going to have to move. In response to questions, she indicated that many people signed the aforementioned petition, and that she would be providing the signed petition to the committee and to Governor Palin.

CHAIR RAMRAS said the committee would include a copy in its forthcoming report and forward a copy to the "appropriate state agencies."

MS. HEIN relayed her comfort with that proposal, adding, "I would like to be able tell the people, who are asking daily, that they do have a voice, [that] ... the State works for them - ... we aren't forgotten little people." In response to questions, she explained that her company buys gasoline from Alaska Petroleum Distributing Inc, the vendor from the refinery, and that there have been no previous problems getting gasoline.

[9:25:42 AM](#)

REPRESENTATIVE GRUENBERG noted that his research indicates that other states are considering "anti-gouging" legislation, though the protections in a number of those pieces of legislation are only triggered by the declaration of a state of emergency. One state, however, has considered broadening the definition of a "state of emergency" to include an "economic emergency". He asked Ms. Hein whether she thinks it would be appropriate for Alaska to do something similar.

MS. HEIN indicated that she thinks that the current situation could be considered an economic emergency, adding that she is aware of people who are not able to pay their utility bill and their fuel bill and their rent. Furthermore, prices in the grocery store are rising, and vendors are raising their prices three to four times a year as well. "It's affecting everything right down the chain," she remarked, adding that people just can't afford "to live here." In response to further questions, she said that every week the price of gasoline has been going

up; that her company has been having difficulty buying product because she couldn't afford to pay that much more to the gasoline company every week; that in the last year, for example, the cost of gasoline has risen close to \$1/gallon; and that currently the price of gasoline at her pumps is \$4.38/gallon.

CHAIR RAMRAS asked Ms. Hein what her "margin is" per gallon, what the fees currently are for credit card users compared to a year ago, and what volume of gasoline she sells compared to other retail gas stations associated with large stores.

MS. HEIN said that her company has a markup of \$.20/gallon; pays [\$.05/gallon] on credit card purchases; and used to sell about 700 gallons/day but now only sells about 300 gallons/day. She said she assumes that this drop is due to people driving less. She noted that she charges about \$.20 more per gallon than some gas stations located in town, such as "Fred Meyer," "Safeway," and "Holiday."

[9:30:35 AM](#)

REPRESENTATIVE DAVID GUTTENBERG, Alaska State Legislature, asked Ms. Hein whether, when her distributors told her that gasoline was not available, she was given a reason why production was down.

MS. HEIN said she was simply told that there was a problem at the refinery, and only discovered later that production had stopped.

REPRESENTATIVE GUTTENBERG asked whether that was due to the refinery making less gasoline in favor of making more jet fuel.

MS. HEIN said she was not given that information.

REPRESENTATIVE GRUENBERG offered his understanding that Section 3 of North Carolina's proposed House Bill 653 expands the definition of "disaster" to include "economic well-being".

CHAIR RAMRAS indicated that the committee would be pursuing these issues well into October and on into the next legislative session.

[9:34:52 AM](#)

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage),

Department of Law (DOL), relayed that he focuses on enforcing Alaska's consumer protection and antitrust statutes, and that although he was not in that position when the aforementioned previous gasoline-pricing investigation occurred, he was when the final report was issued. That investigation, which looked at gasoline pricing in Alaska from the mid-1990s to 2000, focused on whether there was anything illegal about the pricing, and the report concluded that there was not. The attorney general is now again looking at those issues.

MR. SNIFFEN relayed that although he is sympathetic to concerns that the high price of gasoline is causing people to think about leaving Alaska, it also raises the questions of, "What do we want to do about it?" and "What can we do about it, from a legal perspective?" For the most part, [the State] doesn't control what prices businesses set for their goods and services; there is no law that says businesses can only sell their products at cost plus a certain amount of profit. Instead, [the State] relies on the market to set prices; businesses sell their products for whatever consumers are willing to pay for them. One of the unfortunate aspects of gasoline is that the demand for it is relatively inelastic regardless of price. Lacking an [adequate] public transportation system in Alaska, people have to buy gasoline in order to travel to and from work, for example, particularly in the winter months. This inelasticity regarding demand seems to have a huge impact on pricing.

MR. SNIFFEN suggested that one way to help the market drive prices down would be to lower the demand for it, though that could prove to be difficult. Another thing to consider is whether there is anything illegal going on with regard to gasoline pricing. Alaska currently doesn't have a "price-gouging" statute - the State can't simply tell a business that it is charging too much for a product. Furthermore, price-gouging statutes in other states are all triggered by a declared state of emergency - when Hurricane Katrina hit, for example, there was a declared state of emergency, and [Louisiana's] price-gouging statute prohibited businesses from raising prices during that state of emergency and thereby taking advantage of consumer fears - so even if Alaska did have a similar statute, it probably wouldn't apply under the current circumstances.

MR. SNIFFEN relayed that although a price-gouging statute triggered by economic strife of some kind might be warranted in Alaska, he is leery about having legislation interfere with market forces. He acknowledged, though, that such would be a policy call for the legislature to make. Alaska's antitrust

laws, on the other hand, also help to control pricing in a peripheral manner, and are aimed at keeping the market competitive. The State doesn't want competitors colluding with each other or doing things that disrupt the normal operation of the market. Fair competition drives prices down, and benefits consumers. Alaska's antitrust laws are limited in scope in that they target exclusionary conduct and conduct that suggests that price fixing or coordinated activity has occurred. From an antitrust perspective, the DOL will look to see whether businesses are colluding with each other in some way to keep the price of gasoline at a certain level, or whether individual businesses are attempting to exercise market power in an illegal fashion in order to keep gasoline prices high.

[9:41:22 AM](#)

MR. SNIFFEN said that when it comes to the pricing of goods and services, the legal remedies are narrow and few. When there is no collusion or other illegal antitrust conduct occurring, and the market is operating competitively, then prices are simply what prices are; it's really just a supply-and-demand world, and supply and demand affects prices. One reason for the recent shortage of gasoline in the Fairbanks area, he surmised, pertained to an operational issue at the refinery - some components required in the manufacture of gasoline had to be repaired and it took several weeks for that to occur. Such operational issues can account for spikes [in supply and therefore price].

CHAIR RAMRAS offered his understanding that Tesoro Corporation, as a publicly traded company, lost 75 percent of its market value over the last year; and that research indicates that that's due to a lack of pricing power at the refinery level - that as the price of gas goes up, consumption goes down, and so refiners lose their margin. He said he's heard arguments that had the price of gasoline truly followed the price of a barrel of oil, the price of gasoline might have gone as high as \$6.00/gallon. Consumers, he surmised, related the price of gasoline to the price of a barrel of oil and thus assumed that there should now be a correlating decrease in price. After referring to the Healy Clean Coal Plant (HCCP), Chair Ramras said that he'd met with the CEO of Golden Valley Electric Association (GVEA), and offered his understanding that GVEA estimates the price of oil going forward 90 days, missed a "radical" move in the market and so lost over \$25 million, and has since only been able to recapture \$2.5 million of that loss every month and thus it will take GVEA 10 months of price

correction to recoup the total \$25 million. Consumers, on the other hand, see only that the price they are paying has not correspondingly dropped with the drop in the price of a barrel of oil. He relayed that GVEA has indicated that it will have to recoup the aforementioned \$25 million loss before it can "re-price" [its rates] to correlate with the [current] cost of diesel, which generates the majority of [GVEA's electric] kilowatts.

CHAIR RAMRAS, remarking that the state is somewhat responsible for the high price of oil because it's selling its royalty oil at the premium price that the market will bear, asked Mr. Sniffen to speak about "pricing for retail customers ... and the disconnect that may exist between [the] price of a barrel of oil, the relationship to refining, and how long consumers have to wait until that relationship is restored."

MR. SNIFFEN, suggesting that representatives from the refineries might be better able to respond to those points, relayed that the administration has retained the services of a petroleum economist - Barry Pulliam, senior economist at Econ One Research, Inc. - and that he and Mr. Pulliam have discussed the fact that the retail price of gasoline did not correspondingly go as high as the price of a barrel of oil, thus resulting in a deficit for some refineries, which in turn have delayed decreasing their prices until they can recoup their losses. Historical data regarding the price of gasoline in Alaska's Railbelt communities - Anchorage, Fairbanks, Kenai - illustrates a trend for the price of gasoline to lag a bit behind "what the market has done." Even Seattle, for example, lags behind the national market, and Alaska lags even a bit further behind.

MR. SNIFFEN remarked that the current lag has been particularly long, and that even when the prices elsewhere started to fall, the prices in Alaska still have not, even a month later. Mr. Pulliam, Mr. Sniffen relayed, has indicated that perhaps some other operational issues in Alaska have been a factor in keeping prices in Alaska up. Mr. Sniffen said that [he and Mr. Pulliam] will be investigating that point further. Mr. Sniffen suggested that the fast and dramatic increases in the price of a barrel of oil caught everybody off guard, and so it may be awhile before prices come down further, though the suspension of the State's motor fuel tax has resulted in a bit of a decrease.

[9:49:19 AM](#)

CHAIR RAMRAS referred to a chart in members' packets which illustrates average gasoline prices, gasoline prices a month ago, and gasoline prices a year ago, in Alaska, Idaho, Montana, North Dakota, South Dakota, Washington, and the U.S. as a whole. He remarked that North Dakota is similar to Alaska in that the population is small, it's rural in nature, there's no population density, it's an oil exporter and an oil producer, and has one refinery. Consumers in Alaska, he remarked, have put forth the argument that since the state owns the oil, they ought to be able to purchase it for less. Chair Ramras expressed interest in having Mr. Pulliam testify during the next hearing on these issues, as well as in obtaining information from states with characteristics similar to those of Alaska.

MR. SNIFFEN, in response to a question, proffered that the current high cost of gasoline in Alaska might be causing some people to purchase their gasoline at stations that have cheaper prices. So although the volume of gasoline sold at Ms. Hein's station, for example, has decreased, he doesn't know whether the total volume of gasoline sold in the Fairbanks area has necessarily decreased. He surmised that in some communities where residents have the ability to cut down on consumption, there has been a decrease in consumption. Consumption has gone down even in Anchorage, for example, but only by a small fraction, nothing large enough to have affected [retailers'] pricing decisions.

REPRESENTATIVE GRUENBERG asked whether Alaska has developed any common law that would remedy "this."

MR. SNIFFEN offered his understanding that if prices rose to an unconscionable level, that there is a "rule of equity" which might allow the argument to be made that a business's pricing is so outrageous that it's unfair and thus shouldn't be allowed. He added, however, that he hasn't ever seen that [argument] successfully applied to the price of gasoline. In response to a question, he indicated that in cases where that theory has been raised, there has almost always been a better theory raised as well - such as that fraud or a consumer protection violation occurred that resulted in the unconscionable price - and so the fact of a high price alone has not been the focus [of any subsequent investigation]. In response to another question, he observed that almost all consumer protection statutes are code-based.

[9:54:59 AM](#)

REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, remarked that there is precedent for the state to regulate the price of essential life services via the Regulatory Commission of Alaska (RCA), so the state could simply regulate all refining and distribution of petroleum products. Should something like that occur, he asked, would that result in consumers having to absorb the entirety of such losses as those mentioned earlier? In other words, would the price of petroleum products simply go up even higher under a regulated environment?

MR. SNIFFEN surmised that that could be a possibility. He noted that when Hawaii put its refineries under regulatory control a few years ago, prices went up right away to the maximum allowed by statute and then never came down. Doing something similar in Alaska would be very difficult, he opined, and mentioned that Mr. Pulliam had been involved in coming up with Hawaii's regulatory framework. Under Alaska's current regulatory regime, if a utility company wants to set a price for delivery of its gas, it has to go before the RCA for a rate hearing. So if the refineries in Alaska had their rates set by the RCA, and something happened whereby they incurred a lot of costs, they would either have to seek some emergency relief from the RCA or wait until their next regular rate hearing before adjusting their rates and trying to recover their losses. This would be difficult, he again opined, because crude oil markets move far more dynamically than those associated with other types of energy utilities that the state already regulates.

REPRESENTATIVE HAWKER asked whether the courts have ruled that the state may not sell its royalty oil below market price.

MR. SNIFFEN said yes, adding that there is also a constitutional requirement for the state to sell its royalty oil at market rates so as to maximize the state's resources for the benefit of the people, and companies like Tesoro Corporation and Flint Hills Resources must pay the price set in the world market.

REPRESENTATIVE HAWKER, referring to the aforementioned chart, asked whether the column listing taxes includes excise taxes.

[10:01:41 AM](#)

JANE W. PIERSON, Staff to Representative Jay Ramras, Alaska State Legislature, said that that column just lists sales taxes.

MR. SNIFFEN, in response to comments and a question, offered his understanding that when a refinery manufactures a gasoline

product, it goes to various types of gas stations in a variety of ways. For example, there are company-owned gas stations that are affiliated with the refinery in some way - they may be leased through the company that owns the refinery, or they may be "branded" stations, which have to comply with certain requirements - and then there are some independent gas stations that use various distributors to transport fuel to them from the refinery. Furthermore, some independent gas stations might have the resources to buy their own fuel trucks, and so will just go pick up their own fuel.

MR. SNIFFEN indicated that most gas stations, though, have some kind of a relationship with a refinery - via some kind of agreement, which might include a reduction from the "rack rate" - and have gas delivered through various types of transportation companies. Pricing decisions are primarily left to the retail stations, and are clearly driven by the refinery's price for gasoline at the rack, which is the term used for the outlet at the refinery where the gasoline is sold and picked up by the fuel trucks. A rack rate is what the refinery is selling its gas for at the rack, various services track rack rate information for refineries around the world, and the administration is using Oil Price Information Service (OPIS) to track rack rates as part of its investigation.

MR. SNIFFEN explained that jobbers are entities that transport fuel from the rack to the different stations, and are related to the gas stations owners and the refineries in some way. There are also independent distributors that own fuel trucks and transport fuel to anyone who needs it, charging so much per gallon for that service.

REPRESENTATIVE COGHILL, remarking that his father worked as a jobber, offered his belief that jobbers have "brand loyalty."

MR. SNIFFEN concurred.

[10:09:30 AM](#)

REPRESENTATIVE BOB ROSES, Alaska State Legislature, asked Mr. Sniffen whether he was familiar with "the antitrust prosecution that occurred against independent service station owners back in the '70s."

MR. SNIFFEN said he is familiar with that prosecution as well as with an investigation that occurred in the early or mid-'90s in which it was found that there was some collusion occurring,

though he is not sure whether the subject of that investigation was indicted or subjected to criminal penalties.

REPRESENTATIVE ROSES, referring to the [prosecution] that occurred in the '70s, explained that the State brought a lawsuit against 18 different service station owners and that there were about 30 stations involved because some of the people under investigation owned several stations. This occurred back when there were gas shortages all over the country, and [as one of those service station owners, he'd] get calls from his distributor five times a day saying that the price of gasoline had changed again. During those times, if a service station owner was lucky enough to buy 10,000 gallons of gasoline at one of the day's low prices, then he/she could actually make a profit, but if not, then he/she would end up "giving it away" in order to stay competitive with other service stations. Representative Roses explained that he was one of the aforementioned 18 service station owners.

[10:12:33 AM](#)

JEFF COOK, Director, External Affairs, Flint Hills Resources, paraphrased from his written testimony, which in part read [original punctuation provided]:

Our Company has more than 60 years of experience in the refining business. Along with the North Pole Refinery, which we have owned since 2004, we also own and operate refineries in Minnesota and Texas.

The North Pole Refinery began operating in 1977, shortly after the TransAlaska Pipeline System was completed. The facility has gone through various modifications over the years, but its basic configuration has remained unchanged. Our refinery is a topping plant meaning it lacks the sophisticated processing capability to turn all of the crude oil that comes into the plant into refined products.

The North Pole Refinery takes in between 180,000 to 220,000 barrels per day of crude oil. We heat that crude oil to distill it into a few basic products which we retain to sell. The rest of the stream is then returned to TAPS. As a result, we keep only about 50,000 barrels a day of saleable products, the majority of which is jet fuel. In addition, we keep a

quantity of fuel that is used to heat the crude oil in the refining process.

There were many topping plants operating in the United States when the North Pole Refinery opened for business in 1977. Now, there are just a few. Increased environmental emissions regulations caused many topping plants to shut down and increasingly stringent federal requirements on the type of fuels produced forced others to close.

The North Pole Refinery was able to keep pace with new environmental regulations but the changes in the type of fuels required has impacted the amount of gasoline that can be produced at our North Pole plant.

Since federally mandated decreases in sulfur content for gasoline and diesel fuel came into effect in the last few years, our ability to produce those two fuels has been substantially diminished. While the refinery still produces some gasoline and off-road diesel, we now buy gasoline and diesel fuel from other sources in order to meet the full needs of our customers.

We are not in the crude production business nor do we own retail stations and all of our products are sold on the wholesale market.

It's also important to note that we provide less than one-fifth of the gasoline used in Alaska and only a third of the heating fuel in the Fairbanks area.

[10:16:17 AM](#)

CHAIR RAMRAS offered his understanding that Flint Hills Resources is contemplating taking "draconian measures" because it is having a difficult time staying in business and has ongoing tension with the State; that most refineries are able to use natural gas to refine their products into gasoline; that the price of natural gas is equivalent to oil at about \$45 per barrel; and that Flint Hills Resources is still using oil to refine its products into gasoline, resulting in more cost compared to the refinery at Nikiski, which, he said he assumes, uses natural gas.

MR. COOK relayed that Flint Hills Resources has to refine its crude oil into the product - basically, gasoline - it uses to

run its refinery in North Pole, so the high prices of crude oil have definitely impacted the company. Most refineries in the country do run on natural gas, and this puts the North Pole refinery at a competitive disadvantage. It costs about \$21/MMBtu (million British thermal units) to run that refinery.

CHAIR RAMRAS offered his belief that "usually the energy equivalent between natural gas and oil is six to one"; that the current price of natural gas at the Henry Hub is about \$7; and that the current price of Alaska North Slope (ANS) crude oil will be about \$100 per barrel. If there was natural gas in Fairbanks, would Flint Hills Resources be able to refine its product for less, he asked. And, if so, would Flint Hills Resources pass that savings on to the consumer?

MR. COOK said that if that natural gas were to be priced similar to what it's priced in the Anchorage area, it would certainly reduce his company's costs significantly, though long-term market forces are what define price.

CHAIR RAMRAS surmised that if Flint Hills Resources were to change the type of fuel it uses to refine its product, it would result in future savings for consumers. He offered his understanding that 1 Bcf/year would supply the Fairbanks market, and that Flint Hills Resources would use about 5 Bcf "in order to swap natural gas for the function that oil is playing in refining products at the topping plant."

MR. COOK, in response to questions, indicated that some of his company's proprietary information could be provided to the legislature as long as confidentiality agreements were signed.

[10:22:06 AM](#)

REPRESENTATIVE HAWKER asked what it would cost to convert the North Pole refinery so that it could use natural gas to refine its products.

MR. COOK said he would try to provide that information to the committee.

REPRESENTATIVE GRUENBERG raised the issue of "zone pricing," and noted that proposed legislation in New York would make such illegal; that legislation - NY A 2641 - in part reads: "PRICES SET PURSUANT TO THE PRACTICE OF ZONE PRICING, WHEREBY A WHOLESALE OR RETAIL DISTRIBUTOR OF MOTOR FUELS SETS PRICES ON THE BASIS OF GEOGRAPHIC REGIONS, SHALL BE DEEMED TO BE

UNCONSCIONABLY EXCESSIVE AND SUCH PRACTICE OF ZONE PRICING SHALL BE PROHIBITED." Representative Gruenberg asked Mr. Cook whether he's heard of zone pricing taking place in Alaska.

MR. COOK said he has not.

[10:24:23 AM](#)

REPRESENTATIVE SCOTT KAWASAKI, Alaska State Legislature, asked how Flint Hills Resources determines what its rack price for heating fuel will be.

MR. COOK said that there is no specific formula that's used, and that market forces set the price and Flint Hills Resources must remain competitive in order to stay in business.

REPRESENTATIVE ROSES offered his understanding that zone pricing pertains to businesses that can access refineries in more than one state, and is therefore not an issue in Alaska.

[10:27:11 AM](#)

DOUG CHAPADOS, President, Petro Star Inc. (PSI), paraphrased from his written testimony, which in part read [original punctuation provided]:

Petro Star was incorporated in 1984 and became a wholly owned subsidiary of Arctic Slope Regional Corporation (ASRC) in 1987. In terms of companywide refining capacity, Petro Star is, by a wide margin, the smallest in-state refiner and the only one that is owned and controlled by Alaskans. ...

Today Petro Star operates two refineries. North Pole is our original plant and has a crude oil processing capacity of 20,000 barrels/day. Our second plant is located in Valdez and has a crude oil processing capacity of 48,000 barrels/day. These very simple topping units produce military and commercial jet fuel and, with increasing restrictions, home heating oil and diesel fuels.

In addition to refining, Petro Star also markets fuel to end users in Interior, South Central, and Western Alaska through our North Pacific and Sourdough Fuel divisions. It is important to note that while we refine crude oil, we do not produce gasoline. The

gasoline sold at the eleven convenience stores we operate statewide is purchased from third parties. For this reason, Petro Star is just like any other gasoline retailer. ...

It is part of Petro Star's culture to be good corporate citizens. We employ approximately 290 Alaskans, more than half of whom reside here in the Fairbanks area. Our remaining employees can be found in the other communities where we do business - Kodiak, Unalaska, Valdez and Anchorage. Almost all of ASRC's 9,600 shareholders - our owners - live and work in Alaska. We provide economic benefits in the form of employment opportunities which positively impact Alaska's economy, and by acting as a good community partner.

Petro Star is very aware of, and sensitive to, the negative impacts of high fuel costs on Alaskans. A large majority of our employees and their families live in areas where energy costs are extremely high. It is mostly out of necessity that Alaskans live energy intensive lifestyles, and we recognize that high energy costs fall especially hard on the residents of this state. High costs have also opened the fuel industry to criticism, but we consider it a privilege to provide this essential service, especially in the more isolated regions of Alaska. ...

The challenges facing refiners across the country are growing and this is especially true for small refiners like Petro Star. Increasing environmental regulations, such as the proposed carbon tax and the ongoing implementation of low sulfur fuel standards to name but two, pose significant economic challenges for our company and undoubtedly will impact the prices Alaskans pay for fuel in the future.

Modifying just one of our small refineries to produce ultra-low sulfur diesel is estimated to cost substantially more than it did to build the refineries in the first place and we are now in the process of deciding whether this huge investment can be justified and what our options are if it can't. ...

Record high crude oil costs are a mixed blessing; on one hand they provide substantial revenue to the state

treasury and help grow the Permanent Fund, yet these same high crude oil prices also create very real hardships for Alaskan families and businesses, and impose drag on our nation's economy.

Though admittedly a short term solution, Petro Star views the Resource Rebate as a positive step and can report that we immediately implemented another provision of this legislation by passing along the savings from suspension of the State Motor Vehicle Fuel Tax to our customers.

While the last few years have been good for Petro Star, our business is volatile and good years are often offset by bad ones. Being small, Petro Star does not have the same economies of scale enjoyed by our larger competitors, and while we always price our products to be competitive, we are not in a position to dictate the prices we pay for fuel or the market prices of the products we produce.

Petro Star has deep roots in the state of Alaska and we are committed to providing superior and competitive services to our customers. We take pride in our ability to successfully compete in the Alaska marketplace and look forward to a continued positive relationship with our customers, the communities in which we do business, and the State of Alaska.

[10:32:19 AM](#)

CHAIR RAMRAS asked whether having access to natural gas in Fairbanks would reduce Petro Star's production costs, and whether the same would be true if there was natural gas available in Valdez.

MR. CHAPADOS said natural gas would be cheaper than the fuels Petro Star currently burns at its refineries, but pointed out that there is some limit with regard to how much natural gas could be used to supplant the existing fuels. For example, there are components in the crude oil stream - when crude is processed in the refinery - that are not practical to return to the pipeline, and so those components are burned as refinery fuel. Petro Star could take advantage of natural gas prices, but not to the extent that it might at first appear. In response to a question, he explained that low-sulfur fuel standards are part of the Clean Air Act, began taking effect in

Alaska June 1, 2006, and address the sulfur content of diesel fuels and gasoline. In response to another question, he concurred that refined fuel is a value-added product, and characterized it as a significant contributor to the state's economy.

MR. CHAPADOS, in response to other questions, explained that fuel-quality standards are set at the federal level; that Petro Star has been designated by the Environmental Protection Agency (EPA) as a small refiner; that that designation allows Petro Star to delay complying with federal low-sulfur fuel standards for roughly four years, but limits the volume of high-sulfur fuels - such as diesel for off-road use and heating oil - that it can sell from its two refineries; that the volume caps that were imposed on Petro Star were based on years when the company sold less volume; and that as a consequence, Petro Star must now truck product from its refinery in the Interior down to Southcentral Alaska, and truck product from it's refinery in Southcentral up to the Interior, thus incurring greater cost, which it must recoup. He mentioned that it is far more efficient and cost effective to transport fuel by barge than by truck. In response to another question, he indicated that the aforementioned delay in having to comply with the federal low-sulfur fuel standards was the result of input from the state regarding the distinction between urban and rural areas of the state.

[10:39:27 AM](#)

REPRESENTATIVE HAWKER questioned whether low-sulfur standards are really necessary in Alaska or whether it's just a case of Alaska getting swept up in the national trend.

MR. CHAPADOS indicated that those standards should be applied in Alaska because modern vehicles that are designed to burn ultra-low-sulfur diesel cannot burn high-sulfur diesel. In response to comments and a question, he explained that prior to implementation of low-sulfur diesel standards, all refiners in Alaska could produce "highway diesel fuel," but now the only in-state refinery that is now capable of producing ultra-low-sulfur diesel fuel is the one owned by Tesoro, and that [conversion] did not come cheap to Tesoro. In contrast, Petro Star has a limited ability to produce what is known as low-sulfur diesel fuel, but, again, Petro Star is also limited with regard to the volume it may sell.

CHAIR RAMRAS asked Mr. Chapados what Petro Star's profit margin is with regard to the sale of gasoline at its 11 convenience stores.

MR. CHAPADOS declined to provide that specific information. He added that in general, Petro Star is seeking to be competitive with other gas stations near its retail locations and at least break even on its "gasoline volumes"; Petro Star makes more money on the other products it sells at its convenience stores than it does on gasoline sales.

[10:45:23 AM](#)

REPRESENTATIVE KAWASAKI asked how Petro Star calculates its rack rates.

MR. CHAPADOS said Petro Star is seeking to be competitive, adding that his company won't sell heating oil to other distributors, for example, if its prices aren't competitive.

REPRESENTATIVE KAWASAKI asked Mr. Chapados if he could prove that Petro Star is passing on to consumers the \$.08 savings resulting from the repeal of the State's motor fuel tax.

MR. CHAPADOS agreed to get that information to the committee.

REPRESENTATIVE KAWASAKI expressed concern that because gasoline goes from a refiner to a distributor and then to a retailer, that that savings has not been passed on to consumers and is instead simply being absorbed somewhere.

MR. CHAPADOS indicated that he would be providing information which illustrates that his company's prices dropped by \$.08 as of September 1, 2008. In response to comments and questions, he explained that jet fuel is typically sold to large commercial or military entities and so retail prices are tied to published indices regardless of what a barrel of crude oil is selling for on the global market. He relayed that during that period when the cost of a barrel of oil increased so dramatically, Petro Star did not pass on that increase to its heating fuel customers.

CHAIR RAMRAS offered his belief that the public perception is that "everybody in the chain" did exceedingly well during that time period and engaged in bad behavior and took advantage of the situation. The goal of the committee, he relayed, is to

determine why, as the price of a barrel of oil comes down, there is not a commensurate decrease in the retail price of gasoline.

MR. CHAPADOS said his sense is that that increase in the price of crude oil was not passed on in its entirety. In response to a question, he explained that heating oil makes up the smallest part of Petro Star's sales.

REPRESENTATIVE COGHILL questioned whether Petro Star, if it no longer had the military bases in the Interior as customers, it could start selling more heating fuel to people in the Fairbanks area.

MR. CHAPADOS said it could not because of the aforementioned volume caps pertaining to high-sulfur diesel; the only other outlet for that product would be to truck it all down to Anchorage as jet fuel.

CHAIR RAMRAS remarked that Alaska's fuel market is fragile and tied to the military, and noted that when he'd spoken of the problems facing Flint Hills Resources to someone in the administration, that person indicated that Petro Star would simply buy Flint Hills Resources. All refineries have a fragile nature, he concluded, and are not making vast amounts of profit as is assumed by the public.

REPRESENTATIVE COGHILL asked what the state's gasoline needs are and whether it is necessary to import gasoline into Alaska to meet those needs.

CHAIR RAMRAS offered his understanding that Southeast Alaska must get its gasoline from Seattle.

[10:54:49 AM](#)

REPRESENTATIVE HAWKER asked whether the commitment from the U.S. Department of Defense (DOD) to require a conversion from regular diesel fuel to synthetic fuel at Alaska's military basis will threaten the fuel industry's stability in the state.

MR. CHAPADOS said it is a threat.

REPRESENTATIVE HAWKER surmised that the state would have to build new refineries to accommodate such a conversion, and that the resulting costs being passed onto retail consumers will get even worse.

CHAIR RAMRAS indicated that an example of a synthetic fuel would involve converting "coal to liquids." He surmised that a closure of Eielson Air Force Base would also pose a threat to Petro Star.

MR. CHAPADOS concurred.

CHAIR RAMRAS relayed that he would like to hear comments regarding a proposal to limit the price of crude oil for in-state use, and what effect that would have on the prices of gasoline and home-heating oil.

[10:58:23 AM](#)

KIP KNUDSON, Manager, External Affairs, Tesoro Alaska Company, referring to his PowerPoint presentation, said that Tesoro's Kenai refinery [in Nikiski] was first started in 1969 and is now heavily integrated with the community, and suggested that members should look at the refining industry as the most successful value-added industry that the state has ever had. He relayed that Tesoro Corporation is an independent refiner and marketer - with the Kenai refinery remaining what he called the legacy asset - and is publicly traded as TSO on the New York Stock Exchange (NYSE).

MR. KNUDSON indicated that Tesoro Alaska Company has three major elements: the refinery, a distribution network, and its retail sites. The Kenai refinery's "nameplate" capacity is 72,000 barrels per day, though it never operates at that capacity, and it has over 200 employees and an award-winning safety record recognized nationwide. The Kenai refinery is what he called a "medium-complexity refinery"; it makes several different products, and production volume is increased via the addition of catalysts. Of the seven products that the Kenai refinery produces, there are three - heavy vacuum gas oil, fuel oil/bunker, and road asphalt - that don't really have any market in Alaska, and thus one-third of the plant's production has to be exported. About 50 percent of the Kenai refinery's crude oil supply comes from the North Slope, about 25 percent comes from Cook Inlet, and about 25 percent comes from foreign sources - illustrated on slide 6 of his PowerPoint presentation - because the refinery can't currently buy enough crude from Alaska sources to satisfy its demands.

MR. KNUDSON relayed that Tesoro was the first company hauling crude oil and refined products into the state to use double-hulled tankers, currently charters two tankers with a capacity

of roughly 500,000 barrels each, and has exceeded regulatory requirements by stationing a chartered "assist tug" at its Nikiski dock to help tankers on and off the dock. He indicated that slide 9 of his PowerPoint presentation illustrates the paths that the Kenai refinery's product takes in terms of supply and distribution. The Kenai refinery has racks at Nikiski for asphalt, propane, butane, gasoline, and diesel, and has a 70-mile, 10-inch, "clean products only" pipeline that runs from Nikiski up to the port of Anchorage and - via a spur line - the Anchorage airport.

[11:06:14 AM](#)

CHAIR RAMRAS asked whether Tesoro sells product only to Tesoro distributors.

MR. KNUDSON said Tesoro will sell product to anyone who will buy it. After noting that Tesoro has two terminals at the port of Anchorage, he indicated that slide 12 of his PowerPoint presentation references the 31 convenience stores owned by Tesoro - 29 of which sell fuel under the "2go" logo - and Tesoro's 58-plus branded dealers. Acknowledging that consumers are extremely frustrated with the high price [of gasoline], he offered the following contributing factors: the cost of the raw crude oil, the cost to refine that product, the cost to distribute that refined product, the cost of marketing, taxes, and [the influence of] competition. Furthermore, there will be fluctuation daily with regard to which of those factors is contributing most heavily to the retail price, though the cost of crude oil constitutes "the lion's share" of costs to the company.

MR. KNUDSON observed that Tesoro is in a commodity business; it buys a commodity, that being crude oil, and sells a commodity, that being gasoline and heating oil, both of which are traded on the mercantile exchanges, which in turn - to a large extent - have some influence over what retail consumers are paying. Tesoro, he assured the committee, is not "in a cost plus business"; just because the company has costs doesn't mean that those costs will ultimately be recouped via sales. Several [global] factors influence the price of crude oil, and thus it is hard to predict what that price will be from month to month.

MR. KNUDSON explained that refining and distribution costs are based on global and regional factors: regional factors within the state, regional factors in the state "writ large," West Coast factors, and world factors. On the issue of environmental

regulations, he relayed that Tesoro invested \$60 million in the sulfur-stripping process at the Nikiski refinery just to essentially stay in the diesel business, and this investment won't be increasing production amounts at all. That same investment had to be made just to stay in the gasoline business; furthermore, an additional capital investment will have to be made in the future in order to meet [forthcoming] new requirements regarding benzene levels. These are all external forces influencing the retail price of the product.

11:11:06 AM

MR. KNUDSON offered his belief that as the state's natural gas pipeline moves forward, it will be difficult to keep [employees at the refinery]. The market sets the price, he went on to say, and referred to slide 15 of his PowerPoint presentation as illustrative of those things that influence the market. In response to a question, he said that the graph on slide 16 shows that Alaska has a very small market for motor fuel [compared to some other western states].

CHAIR RAMRAS asked that the committee be provided a similar chart with comparisons between Alaska and Idaho, Montana, North Dakota, and South Dakota.

MR. KNUDSON agreed to do that, adding that Alaska's small market is a contributing factor with regard to how the market performs. He explained that jet fuel "is king in Alaska"; that's what the refineries in Alaska were built to produce in order to satisfy the international jet fuel trade at the Anchorage and Fairbanks airports. Gasoline and diesel fuel, to a certain extent, are simply byproducts of those refineries. Additionally, the Alaska market shows more "seasonality" even when compared with the West Coast. The times when one wouldn't want to be either a refiner or gas station owner are February, April, and November.

MR. KNUDSON, referring to slide 18 of his PowerPoint presentation, emphasized that retail prices are set by retail station owners, and Tesoro only controls retail pricing at its 29 convenience stores that sell gasoline, and has no influence over the prices at any of the other stations in the state. Retail prices also respond to differing local conditions. Again, the Alaska market is very small and very seasonal. He relayed that Tesoro, under confidentiality agreements, will be working with Mr. Sniffen to provide him the information he is seeking.

REPRESENTATIVE ROSES asked how Tesoro's price structure changed after the adoption of Alaska's Clear and Equitable Share (ACES) legislation.

MR. KNUDSON said passage of that legislation didn't affect what Tesoro is paying for its crude oil because that price is based on the global price, and the tax rate that producers pay is independent of that price. He indicated that after the recent repeal of the State's motor fuel tax, some retailers relayed to him that they were concerned that that repeal didn't take into account that they purchased their product when the tax was still owed but then didn't sell it until after that tax was repealed.

[11:16:12 AM](#)

REPRESENTATIVE HAWKER asked whether, when Tesoro buys a barrel of crude oil, Tesoro must then use all of it because it can't be put back into the pipeline.

MR. KNUDSON said yes, and reiterated that roughly a third of Tesoro's refined products must be exported to markets outside of Alaska; furthermore, those products generally sell at or below the price of the raw crude oil used to make them. In response to questions, he relayed that the percentage of foreign oil that Tesoro buys will be going up as production in Alaska declines; that the "crude buyers" at his company would love to be able to purchase more Alaska crude oil; and that up until the late '90s, Tesoro was a big purchaser of the state's royalty oil, but doesn't purchase such oil now.

MR. KNUDSON, in response to further questions, relayed that the tankers which Tesoro contracts operate under the Jones Act; that Tesoro does receive shipments from foreign vessels; and that Cook Inlet is limited with regard to the number of barrels that can be onboard a vessel because of spill response requirements. He noted also that Tesoro has to use crude with a chemical signature similar to that found at the North Slope because it was around that signature that the refinery was built. In response to still further questions, he said that Tesoro uses natural gas in its refining process, and that each refinery has its own advantages and disadvantages in the market.

REPRESENTATIVE KAWASAKI asked how Tesoro's rack price is determined.

MR. KNUDSON said he doesn't know, but surmised that such information would be proprietary in nature and that Mr. Sniffen

would be investigating Tesoro's rack pricing processing. Pricing is a market-driven opportunity, he added.

REPRESENTATIVE KAWASAKI, referring to slide 15, asked how the large spot market price in Seattle, San Francisco, and Los Angeles factors into Tesoro's pricing decisions.

MR. KNUDSON explained that those spot market prices are guidelines and are unbelievably fluid compared to market prices in Alaska; that those markets take in product from tens if not hundreds of refineries; and that the characteristics and swings in those markets don't always apply to Alaska, but are always taken into consideration.

[11:25:26 AM](#)

REPRESENTATIVE HAWKER asked how much of Alaska's demand for motor fuel Tesoro supplies.

MR. KNUDSON said he is not sure, and is also not sure that anyone at Tesoro is keeping track of those statistics. He offered his guess that Tesoro is a large player in satisfying Alaska's demand for motor fuel, but noted that imports can also have influence on retail price.

REPRESENTATIVE HAWKER surmised that it would be hard for someone to buy gasoline in Washington, ship it to Anchorage, and then be competitive with Tesoro.

MR. KNUDSON said he doesn't know that to be the case, particularly given that at some point, other refineries will also be producing ultra-low-sulfur diesel.

REPRESENTATIVE KAWASAKI asked Mr. Knudson to provide the committee with proof that the repeal of the \$.08 motor fuel tax is being passed on to Tesoro's consumers.

MR. KNUDSON agreed to do so for Tesoro's 29 convenience stores that sell gasoline.

CHAIR RAMRAS - referring to the aforementioned chart which illustrates average gasoline prices, gasoline prices a month ago, and gasoline prices a year ago, in Alaska, Idaho, Montana, North Dakota, South Dakota, Washington, and the U.S. as a whole - questioned why there is such a great disparity in pricing between Alaska and other rural states with small populations.

MR. KNUDSON surmised that in that chart, Alaska's average price was calculated using the retail gasoline prices in both urban and rural communities - for example, averaging the retail price in Fairbanks with the retail price in Bethel.

CHAIR RAMRAS offered his understanding that instead the average prices for Alaska were calculated using only retail gasoline prices in Alaska's Railbelt communities.

MR. KNUDSON said, "It's market forces that have ... produced these prices, [for both] the price one year ago and the ... current [price]." He mentioned that he has a newspaper clipping stating that in March 2007, Anchorage had the nation's lowest gasoline prices.

REPRESENTATIVE HAWKER asked why Alaskans haven't seen a reduction in retail motor fuel prices similar to what occurred with the price of a barrel of crude oil over the last three months - a 46 percent reduction.

MR. COOK, reiterating that Flint Hills Resources provides less than one-fifth of the gasoline used in Alaska, concurred with an earlier statement that had the retail price of gasoline kept up with the price of crude oil, gasoline prices would have been closer to \$6/gallon, or certainly a lot higher than they did get. Because the retail price of gasoline did not keep up with the price of a barrel of crude oil, he explained, Flint Hills Resources lost money during the majority of the last 12 months. Furthermore, even though the price of crude oil has dropped recently, it is still at an unprecedentedly high price, and so in order to stay in business, Flint Hills Resources can't afford to continue to lose money, particularly given that the costs of operating its refinery are also unprecedentedly high. He assured members that Flint Hills Resources would be providing, under confidentiality agreements, proprietary information to the DOL.

[11:36:15 AM](#)

REPRESENTATIVE HOLMES pointed out, though, that retail prices of gasoline have already come down everywhere else in the country, and they never got up to \$6/gallon in those locations either.

MR. KNUDSON mentioned that over a year ago, he'd participated in an inquiry conducted in the state of Washington, wherein investigators went county by county, looking at the variability in retail gasoline prices within the state of Washington, and

every county had different reasons for charging a particular price, and every county had finished product from a variety of different sources. Mr. Knudson surmised that Mr. Pulliam, when looking at Alaska's data, will be able to glean answers from the data, but he doesn't have the ability to do so. In conclusion, Mr. Knudson said it seems like the market is currently working the way it always has.

CHAIR RAMRAS remarked, "Certainly not for the benefit of the consumers." He asked what percentage of the state's motor fuel needs is being satisfied by Tesoro.

MR. KNUDSON said he doesn't know, and, even if he did, he wouldn't be able to divulge that proprietary information in this venue. In response to a question, he said that although one might be able to find out who is producing gasoline in the state, one wouldn't be able to find out who is importing it into the state, particularly given that there is nothing preventing someone from importing gasoline to any tidewater port in the state.

CHAIR RAMRAS questioned what would occur if a constitutional amendment were introduced [and passed by the voters] to put a cap on how much crude oil was sold for - from the state's royalty share - to [in-state] refiners for the production of gasoline and heating oil [for in-state use].

MR. KNUDSON said it would be difficult to predict what the results would be until such an amendment was actually passed.

CHAIR RAMRAS countered, "We certainly couldn't do it until you predicted what it would do."

REPRESENTATIVE COGHILL surmised that market dynamics, whether Alaska has the ability to sell [enough royalty oil to meet in-state demands], and the constitutionality of such a cap would all have to be considered.

[11:42:12 AM](#)

CHAIR RAMRAS asked at what point will the state itself have to buy oil from the producers in order to meet its contractual obligations.

MR. COOK pointed out that Flint Hills Resources is only allowed to have 85 percent of what it buys be royalty oil, with no more than 95 percent of that coming from any given field. Today,

with the reduction in the Trans-Alaska Pipeline System (TAPS), and the aforementioned restrictions, if Flint Hills Resources were to demand the maximum amount of royalty oil it could, the state would be hard pressed to meet that demand; Flint Hills Resources is taking far less than its maximum allowable amount of 77,000 barrels per day.

MR. CHAPADOS, in response to a question, said that Petro Star gets its crude oil supply from one of the major producers.

MR. COOK, in response to a question, said that Flint Hills Resources takes in as much royalty oil as it has product demand to sell, and, because of the aforementioned federal restrictions, is at maximum capacity with regard to gasoline [production].

MR. KNUDSON said the production rate [at his company] is geared to meet market demand, and so [his company] doesn't want to make 25 percent more, for example, than there is demand for, one, because there isn't any place to store it and, two, that's just not good business. Furthermore, production [demand] changes daily and monthly.

[11:45:11 AM](#)

MR. CHAPADOS said that Petro Star's Valdez refinery runs very near capacity, and is doing some expansion in order to be able to process more crude oil. The North Pole refinery, because of the aforementioned federal restriction, doesn't run at capacity at all times. Petro Star is having to anticipate what its volumes of high-sulfur diesel and heating oil products will be, and so may have to either forego some sales or transport product down to Anchorage. "That has cut into our crude oil runs at that North Pole ... [refinery]," he added.

MR. KNUDSON, in response to questions, reiterated that Tesoro's Kenai refinery never runs at maximum capacity, but also doesn't want to have idle equipment, because a lot of plants don't run well when operating under capacity. He indicated that details with regard to Tesoro's output rates will be provided to Mr. Sniffen under confidentiality agreements. In response to a further question, he said he doesn't know how Tesoro's average refineries compare with other refineries in the U.S. with regard to unit costs.

REPRESENTATIVE HAWKER opined that such information is relevant. He indicated that he is questioning whether some of Alaska's

costs are driven by a unit cost differential inherent in smaller refineries. He asked whether Tesoro's unit costs are consistent at all its refineries.

MR. KNUDSON said he would research that issue further.

REPRESENTATIVE HAWKER - referring to the aforementioned chart which illustrates average gasoline prices, gasoline prices a month ago, and gasoline prices a year ago, in Alaska, Idaho, Montana, North Dakota, South Dakota, Washington, and the U.S. as a whole - pointed out that a year ago, the price of regular gasoline less taxes in Alaska was about the same as it was in North Dakota, where Tesoro owns the only refinery, whereas a month ago, the price of regular gasoline less taxes in Alaska was about a dollar more than it was in North Dakota.

[11:50:47 AM](#)

MR. KNUDSON said he doesn't know why that is.

CHAIR RAMRAS noted that with the recent decrease in the price of a barrel of oil, the retail price of heating oil has dropped in his area, but, again, a similar decrease in the price of gasoline has not occurred. He questioned what the difference is between those two types of fuel that would account for such a discrepancy.

MR. KNUDSON relayed that heating oil is a high-sulfur product whereas highway fuel is an ultra-low-sulfur product, so they are really two different products these days.

CHAIR RAMRAS clarified that his point is that market forces appear to have affected the price of heating fuel but don't appear to have affected the price of gasoline.

REPRESENTATIVE COGHILL asked how, if companies spent the capital to upgrade their refineries so as to be able to produce ultra-low-sulfur fuel, that cost would be passed on to the consumers.

MR. KNUDSON said he couldn't answer that question accurately today, but surmised that Mr. Sniffen would be investigating that issue in the near future. He remarked, however, that just because his company makes a capital investment, that doesn't mean that it will be able to just raise the price of fuel in order to recapture that investment - there is no connection between the two. In response to comments, he indicated that he wouldn't be able to say whether Tesoro Corporation tries to

recoup costs incurred at its refineries in competitive areas of the nation through its prices in Alaska, where competition is not so stiff.

REPRESENTATIVE GRUENBERG offered his understanding that some other states have authorized - and provided funding for - their attorneys general to investigate these types of issues, and opined that the legislature would be well advised to try and get a handle on what the causes [of continued high retail fuel prices] are in Alaska, and investigate whether anything can be done to help keep costs down. He remarked that if they could figure out why [in March 2007] gasoline prices in Anchorage were the lowest in the nation, it could perhaps provide some clues as to how to make it happen again.

[11:59:00 AM](#)

MR. KNUDSON suggested that perhaps some Internet sites could provide some pricing data from that time. He remarked that although prices in the Lower 48 tend to go up and down much more sharply than they do in Alaska, "they always intersect over the long term - always."

REPRESENTATIVE GRUENBERG asked whether pricing is entirely random.

MR. KNUDSON offered his belief that to a very great extent, pricing is based on local market conditions, such as the number of retail sites, wholesalers, trucks, pipelines, and refineries there are in a particular local. In response to a question, he surmised that attempting to explain what the retail price of gasoline will be is the same as attempting to predict what the price of a barrel of oil will be. They are both a commodity and therefore subject to all kinds of market influences and factors only some of which can be charted, studied, estimated, and projected over the years.

REPRESENTATIVE GRUENBERG suggested that even a little bit more information would be helpful in attempting to solve the problem.

MR. KNUDSON predicted that when the DOL's investigation is concluded, it will show that there isn't really a problem; consumers may not like the price, but the market is performing as it should. He then referred to the aforementioned Washington investigation, and noted that although an unbelievable amount of data was analyzed, the conclusion was that the markets were

operating as expected, regardless that they weren't predictable or understandable at every point in time.

REPRESENTATIVE ROSES relayed that back when he was a gas station owner, the prices were so volatile that a group of service station owners in Anchorage decided to form a gasoline retailers association. That group would meet to talk about what was occurring in the market, but didn't discuss price fixing. Representative Roses said he went to one meeting, and when he was asked at that meeting how he determined what price to charge, he said he simply looked to see what his nearby competition was charging, and when asked what he did about his signs, he said he stopped displaying prices because he was tired of having to change his signs several times a day. He indicated that his refusal to post prices was considered to be price fixing. Those of that group who were successfully prosecuted were required to lower their gasoline prices for the next six months. Representative Roses said that during that time, when he was competing with those stations that had had to lower their prices, he was selling his gas for \$.04/gallon less than he paid for it.

The committee took a recess from 12:07 p.m. to 1:59 p.m.

CHAIR RAMRAS - after stating the committee's goal and recapping what transpired earlier in the meeting for the representatives from Safeway, Inc. - asked who provides Safeway stores in Alaska with gasoline products; in other words, which refiner do those products come from and what distribution source does Safeway use.

[2:04:37 PM](#)

RAY WEST, Senior Corporate Counsel, Safeway, Inc., said that some of the company's gasoline products come from out of state, and offered to research that issue further.

[2:05:05 PM](#)

GLENDIA WOOD, Director, Pricing and Promotion, Safeway, Inc., relayed that in Alaska, Safeway gets most of its gasoline from either Flint Hills Resources or [Tesoro Alaska Company].

[2:05:23 PM](#)

JOE GULLEY, Manager, Denali District, Safeway, Inc., added that because of logistics, gasoline for the Safeway stores in

Southeast Alaska - Juneau and Ketchikan - comes through the Seattle distribution link.

MS. WOOD relayed also that in Southwest Alaska, Safeway stores get their gasoline through a couple of different brokers in Alaska.

MR. GULLEY, in response to a question, listed the Safeway stores in Alaska.

MS. WOOD, in response to questions, said that Safeway also operates gasoline stations in Washington, Oregon, California, Colorado, Arizona, Texas, Illinois, on the East Coast, and in Canada; that in general, the percentage that Safeway's retail gasoline prices rise or fall is similar in all of its retail markets; that in the last five years, market volatility has increased, and thus Safeway has had difficulty in all of its markets dealing with high costs while still pricing its gasoline competitively; and that Safeway prices its gasoline as a whole and doesn't differentiate price according to which state the gasoline will be sold in - but the company has seen the rapid cost increases along with the not-so-rapid cost decreases at all of its stations.

[2:13:47 PM](#)

CHAIR RAMRAS, in response to a question, relayed that for its chart that illustrates average gasoline prices, gasoline prices a month ago, and gasoline prices a year ago, in Alaska, Idaho, Montana, North Dakota, South Dakota, Washington, and the U.S. as a whole, the committee used information from the American Automobile Association (AAA) web site. That chart illustrates quite a difference in pricing in Alaska compared to other states in the [Pacific Northwest].

MR. WEST questioned whether the recent troubles at the Flint Hills Resources refinery might have had an impact on Alaska's prices.

CHAIR RAMRAS said the committee is specifically interested in the apparent lag in which prices in Alaska - compared to prices elsewhere in the country - are dropping back down to something considered normal. He asked for information about Safeway's "pricing power."

MR. WEST said he is not sure that Safeway considers itself to have much pricing power; instead, generally, Safeway simply surveys its competitors to determine how to price its product.

MS. WOOD added that Safeway also factors in the substantially higher wholesale costs in Alaska. In Alaska, Safeway purchases product from independent refiners who in turn have had to buy product from the secondary market; Safeway buys its product at the best possible prices from the independent refiners - though those prices are higher in Alaska than they are in other states - and then prices its retail product accordingly. In response to a question, she proffered that wholesale prices in Alaska are higher because of the state's limited refining capacity. The few refiners there are in Alaska are small and have to buy their raw crude from one of the major companies and then mark up their prices accordingly. Safeway buys refined products at contracted rates, but must then transport those products to its retail sites, thus incurring transportation costs. And when Safeway has to import its gasoline from out of state, Safeway's retail prices reflects those higher transportation costs. Most of the gasoline used in Alaska is not refined in Alaska, she noted.

MR. WEST, in response to a comment, reiterated that for its Ketchikan and Juneau stores, Safeway transports gasoline up from Washington. He remarked that in Alaska, there isn't a lot of competition among refiners, and that those refiners, just like refiners everywhere else, are subject to the "spot crude oil markets."

REPRESENTATIVE GRUENBERG said that if it were true that the transportation costs of Safeway's gasoline products are what results in higher retail prices, then those same transportation costs should also be affecting the prices of Safeway's other products, but that doesn't seem to be the case - the price of Safeway's gasoline is higher, proportionally, than the price of its other products.

MR. WEST offered his belief that most products that Safeway cannot source in Alaska do include a premium for transportation, though he is not sure how big that premium is or how it compares to [the one associated with Safeway's retail gasoline], particularly given that gasoline must be shipped differently due to regulatory requirements and other issues.

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REPRESENTATIVE GRUENBERG noted that the committee is questioning whether the increase in gasoline price is due to those in the petroleum industry or due to those in the transportation industry.

MR. WEST said:

The fact that we are able to ship gas from the ... state of Washington economically points to the fact that the ... refiner's price in Alaska is relatively high. Were that not the case, I think it's obvious that we could ship the product from Alaska, economically, rather than having to go to Seattle to get it. Which doesn't necessarily mean that ... transportation cost is solely to blame for higher prices in Alaska; we think also that limited refining capacity there is part of the problem.

CHAIR RAMRAS pondered whether refiners in Alaska set their prices based on what it would cost an outside refiner to ship petroleum products to Alaska from the Lower 48.

MR. WEST said that from an economic standpoint, it's hard to imagine how the wholesale price in Seattle and the cost of shipping wouldn't, to some extent, influence and perhaps discipline the price that refineries in Alaska are charging.

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CHAIR RAMRAS asked how Safeway views its gasoline sales.

MS. WOOD indicated that because Safeway is primarily in the business of selling groceries, it views its gasoline sales as a customer convenience. Particularly as gasoline prices escalate, selling gasoline at lower prices provides Safeway's customers with another form of a reward for shopping there, and Safeway has found that providing discounts for gasoline is viewed by its customers as a more meaningful reward than providing discounts for grocery items.

MR. WEST added, though, that Safeway still expects its fuel department to show a profit at the end of the year and certainly not to lose money.

CHAIR RAMRAS surmised that the assumption of Safeway's customers is that Safeway's posted retail gasoline prices - before any

reward discounts are applied - really are comparables with those of nearby competitors.

MS. WOOD, in response to comments and questions, relayed that Safeway's divisions are looked at as a whole, and that Safeway's costs are reflected in its retail prices.

MR. WEST, in response to comments and questions regarding Safeway's profit margins and costs in the different states in which it operates, declined to answer on the basis that that information is proprietary.

MS. WOOD added that research of rack price data would reveal whether, in each state in which it operates, Safeway's retail prices are a consistent percentage higher than its wholesale costs.

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REPRESENTATIVE ROSES relayed that back when he owned two car washes that also sold gasoline, it was not his intention to make money on his gasoline sales, and, in fact, he occasionally sold gasoline for less than he bought it for because his goal was to encourage customers to use his car wash services. Back then, he noted, his average price markup was \$.05/gallon, and almost all gasoline stations were full service stations, and a lot were owned by mechanics who also happened to sell gasoline. Back then, the retail market was extremely competitive, and one of the advantages he obtained when he became a branded retailer for Union 76 gasoline products was that he didn't have to pay a fee on any sales paid for with a Union 76 credit card, whereas the fee he was charged for all other credit card sales was about 2 percent. He then reiterated some of his comments from earlier in the meeting, and indicated that even when he was able to buy gasoline products for a lower price from his distributor, he still had to mark up his retail prices such that he could afford to pay the [potentially] higher cost of his next purchase.

[The chairing site muted audio due to teleconference interference; therefore, no audio is available for that timeframe.]

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REPRESENTATIVE ROSES provided anecdotal information about his experience as a gas station owner, and recalled how state and federal taxes were simply included as part of the price he paid

for a load of fuel; therefore, when he was also charged a corporate tax, it was based on his gross sales, which included federal and state taxes, and so he was taxed on the money he was paying for taxes. He remarked that gasoline is not a product upon which to make money, because the retail gasoline industry is too competitive, too regulated, and too restrictive.

CHAIR RAMRAS surmised that retailers aren't making a profit, and therefore any profit to be made in this industry must be being made by either the distributors or the refiners, though the latter only with difficulty.

REPRESENTATIVE ROSES pointed out that transportation costs must also be factored in.

CHAIR RAMRAS suggested, though, that some retailers are very close to a refinery and so therefore don't bear much in the way of transportation costs but still charge retail prices competitive with those stations that have to have their fuel transported in from further away.

REPRESENTATIVE HAWKER noted, though, that some of those stations are located in areas that have a sales tax.

REPRESENTATIVE ROSES indicated that depending on what a refinery is charging, a retail station owner might be able to purchase gasoline from further away and have it shipped for less cost than he/she could buy it for from a nearby refinery.

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LISA SUNDBORG, Office Manager, Alaska Petroleum Distributing Inc., relayed that her company delivers fuel, both wholesale and retail; that it purchases fuel from the two refineries in North Pole - the one owned by Flint Hills Resources, and the one owned by Petro Star Inc. (PSI); that it purchases all its ultra-low-sulfur diesel and all of its gasoline products from Flint Hills Resources, as well as some home heating oil - both number 1 and number 2; that it primarily purchases its home heating oil - both number 1 and number 2 - from PSI; that it doesn't have any storage facilities; that it has about 17 trucks; and that it goes to the refinery, loads the fuel, and then delivers the fuel, and then - hopefully - collects payment for it. She noted that at one point her company had two gasoline stations but had closed one of them because it couldn't compete with any of the "box stores," since they could buy and then sell fuel at the pump cheaper than her company could buy it from the refinery.

In response to a question, she said the company's trucks, in addition to hauling home heating oil, haul gasoline to its remaining station and bulk [amounts of gasoline] to Prudhoe Bay and other locations.

CHAIR RAMRAS asked whether it would be easy to buy trucks and go into the business of hauling fuel.

MS. SUNDBORG said permits would have to be acquired, and one would have to have enough funds to buy the product to begin with. For example, the majority of the cost her company contends with is the cost of the product itself, and the company generally sells its product for about 14 percent more than it paid for it. In response to a question, she said her company really only delivers gasoline to two gasoline stations - the one owned by the company and another one - and although it had delivered to other gasoline stations in the past, it isn't now because that's such a hard market; a station has to be able to pay for product up front before her company will deliver it.

CHAIR RAMRAS offered his understanding that the markup for distributing fuel is not extraordinary.

MS. SUNDBORG concurred, adding that at the company's gasoline station, the pump price is \$4.20, but the company is purchasing product for \$3.77 and then paying federal tax of approximately \$.18, thus resulting in a markup of only \$.25. And although her company doesn't charge itself to deliver that fuel, it still costs the company something to deliver it. Again, on most days, box stores in the area are selling gasoline cheaper than her company can buy it for. In response to a question, she indicated that all of her company's costs are significantly higher now than they used to be. In response to comments, she relayed that when the gasoline stations near her company's station decide to drop their retail prices, the company's station must also drop its prices, even if it means losing money, or it won't have any customers.

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MR. SNIFFEN said he thought he'd heard Ms. Sundborg say that her company purchases ultra-low-sulfur fuel from Flint Hills Resources, but had heard someone else say earlier that Tesoro owns the only refinery in Alaska that can produce ultra-low-sulfur fuel.

MR. COOK explained that Flint Hills Resources purchases ultra-low-sulfur fuel from that Tesoro refinery and then resells it at its own rack.

MR. SNIFFEN asked Ms. Sundborg whether Flint Hills Resources and PSI have different prices for home heating oil.

MS. SUNDBORG said no, their prices are pretty much the same; the difference is that PSI provides a different payment option, which her company prefers.

MR. SNIFFEN asked Ms. Sundborg whether she perceives competition occurring between PSI and Flint Hills Resources.

MS. SUNDBORG said that credit terms are the driving factor for her company. In addition, though, PSI neither makes nor distributes ultra-low-sulfur fuel, so her company doesn't have a choice in where to obtain that product - it must get it from Flint Hills Resources. She noted that her company also delivers fuel to Flint Hills Resources, which prefers to use its own product. In response to a question, she clarified that her company also delivers gasoline in bulk to some commercial enterprises that aren't gas stations. In response to a further question, she surmised that a couple of reasons why her company doesn't have many gasoline stations as customers is because, one, most stations are branded stations and thus purchase only branded fuel, and, two, her company demands payment on delivery, which might not suit most independent stations.

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MR. SNIFFEN relayed that about a month ago, his office was directed to start investigating "these issues," and so started by requesting information from the refineries, the retailers, and the distributors, and has since received only cooperation from everyone. His office has also requested information from "Chevron" to try to find out why other gasoline retailers don't obtain product from the Lower 48, and what some of the barriers to that process might be. This information will be helpful in considering what he termed import parity, particularly as it pertains to Southcentral Alaska. Import parity illustrates the difference in what it would cost to bring fuel up from the Lower 48 and then sell it in Alaska's market, as opposed to simply getting fuel directly from one of Alaska's refineries. Import parity could illustrate, for example, whether Alaska's refineries are colluding with each other - he added, though,

that at this point his office has no reason to believe that that's what's occurring.

MR. SNIFFEN said that if prices at Alaska's refineries get high enough, competitors might decide to just barge product up from the Lower 48. Mr. Sniffen indicated that Mr. Pulliam has relayed that import parity somewhat drives some of the pricing decisions being made by Alaska's refineries. Refiners must ensure that their prices stay at or below a certain level so as not to encourage the aforementioned type of competition. Knowing what it would really cost for someone to import fuel from the Lower 48 would assist the DOL in determining whether prices in Alaska are [significantly] above what one would expect in a market that's operating in a rational and normal manner.

MR. SNIFFEN referred to a pair of graphs in members' packets illustrating regular unleaded retail gasoline prices after taxes in Anchorage, Fairbanks, and Seattle between January 2002 and August 2008. The first graph illustrates absolute prices in those locations, and the second graph compares the prices in Anchorage and Fairbanks with those in Seattle. He explained that the prices in Seattle are used in calculating import parity. Generally, absolute prices in Anchorage and Fairbanks have pretty much paralleled the absolute prices in Seattle. He mentioned that there is another pair of graphs that illustrate these same things but include a national average price. He pointed out that all the issues which some have argued are responsible for increasing retail gasoline prices in Alaska - refining costs, labor costs, transportation costs, fuel costs, operating costs - are not new; those issues have been around for the last decade and have not changed significantly. These graphs show what the trends have been. He noted that in the aforementioned second graph, one can see that in 2007, the prices in Anchorage and Fairbanks were quite a bit lower than they were elsewhere in the country.

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MR. SNIFFEN referred to another pair of graphs that illustrate regular unleaded gasoline prices in Anchorage and Seattle in comparison with the price of ANS crude between January 2002 and August 2008 before taxes. The graph illustrating absolute prices indicates that although Alaska's prices are higher, they have generally followed the trend of ANS crude prices. This rules out any argument that the percentage of how much higher Alaska's prices are has increased recently.

MR. SNIFFEN referred to another graph illustrating rack prices compared to retail regular unleaded gasoline prices in Anchorage, Fairbanks, Seattle, and the U.S. - on average - between January 2002 and August 2008 before taxes. This graph illustrates what the retail margins are, with the "zero line" illustrating the [rack rate]. Seattle's prices are always above the rack rate and spike much more drastically and more often than do the prices in Anchorage and Fairbanks; furthermore, the prices in Anchorage and Fairbanks have occasionally dropped below the rack rate. In 2008, the prices in Anchorage and Fairbanks had started to rise from the rack rate, with the rise in the price in Fairbanks paralleling the rise in the national average price, with the rise in the price in Anchorage being much less dramatic than either of those two, and with an incredible rise in the price in Seattle.

MR. SNIFFEN said this latter graph indicates that the current price increase is not due to retail or distribution pricing; instead, it seems to be the rack rate that drives price. For example, in August, the average rack rate in Alaska for Tesoro gasoline was \$4.02, whereas in Seattle it was around \$3.10; this approximate \$.90 difference is high, he remarked, and should instead be around \$.20-\$.40. He said he is not so concerned that retailers are colluding to keep prices high, or that distributors are making a lot of profit; the data just doesn't support either of those things as the cause of Alaska's high prices. Therefore, the DOL will instead be focusing on refining issues and on why rack rates are what they are; they don't seem to be moving nearly as much [as they should].

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MR. SNIFFEN, referring to the arguments put forth earlier by the refiners that regulatory requirements and changes in fuel consumption have increased their costs, pointed out that those factors have also been present for the last decade. He indicated that his office, therefore, is questioning why the lag in a corresponding decrease in Alaska's retail prices has drug out for three or four months. He added, "It can't be an operational issue - ... we would have seen that kind of stuff happen before - so there is something else going on, ... [though] I'm not suggesting it's something that's illegal or violates any of our laws." If that lag is really due to the rapid increase in the price of crude oil, a similar lag would be taking place everywhere else in the country and it's not. Once the DOL receives the requested information from the refiners, it will have a better sense of what might be occurring.

MR. SNIFFEN indicated that it is important to know the causes so as to be able to take appropriate steps now and in the future should something similar occur again. He referred to the earlier discussion about possibly making changes to the restrictions regarding how much the state must sell its royalty oil for, though noted that such changes would raise other issues which would have to be addressed. In conclusion, he remarked that other graphs in members' packets detail information similar to that which the graphs that were discussed detailed - and all illustrate that Alaska's prices somewhat intersect with prices elsewhere up until June of this year, after which the differences in prices became more dramatic and the lag in any corresponding price decrease has been long.

CHAIR RAMRAS surmised that constituents would concur.

REPRESENTATIVE COGHILL said he was surprised to learn that one of the refiners has to import 25 percent of its crude oil in order to meet its demands. He indicated that he still has questions that remain unanswered such as whether there is some finished product being imported into Alaska that's affecting the retail price.

MR. SNIFFEN relayed that at the end of the aforementioned previous gasoline-pricing investigation, it was determined that Alaska was a net exporter of refined products. Alaska could refine all the fuel needed in the Railbelt, and have an excess supply of gasoline to sell outside of Alaska. He offered his belief that that is still true today, and that Alaska has the capacity to refine all the gasoline products that are used in Alaska. Usage in Anchorage and Fairbanks make up 70 percent of the state's total gasoline usage, with about 60 percent being used in Anchorage and about 10-20 percent being used in Fairbanks.

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CHAIR RAMRAS said he intends to hold monthly meetings on this topic until such time as there is no longer a disparity between prices in Alaska compared with other states, and reiterated that the committee would be producing a report. He predicted that if someone undertook to import inexpensive gasoline to the state, the refineries' prices would snap back to something more conventional.

REPRESENTATIVE COGHILL indicated agreement with the intention of holding meetings until something can be resolved.

REPRESENTATIVE GRUENBERG asked Mr. Sniffen whether he could suggest a possible legislative solution.

MR. SNIFFEN said he is not sure that a "price gouging" statute would really resolve the issue, though it wouldn't be a bad idea for the state to have one. The question of when such a statute would be triggered should be considered. If it were triggered upon a declared state of emergency, for example, merely having high gas prices wouldn't reach that level even in times of economic distress. He indicated that the DOL has drafted such legislation in the past, though it never made it through the process, and he would be happy to share it with the committee. He also noted that currently, Alaska's antitrust law has no penalty provisions, though those of other states do, as does federal law. Under federal law, a violation carries with it a maximum penalty of \$100 million for a corporation and \$1 million for an individual; under Alaska law, a violation is merely a misdemeanor. The DOL prosecutes all antitrust violations occurring in the state, and "this" would be included as a consumer protection Act violation as well.

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REPRESENTATIVE GRUENBERG expressed interest in pursuing a statutory solution.

[Following was a brief discussion regarding how the committee might be proceeding.]

REPRESENTATIVE COGHILL pointed out that although there is a refinery in his district, his constituents pay some of the highest prices [for gasoline and home heating oil].

REPRESENTATIVE GRUENBERG expressed disfavor with the fact that Alaska does not have what he characterized as a better antitrust law.

CHAIR RAMRAS expressed concern that the high retail prices of petroleum products are already causing damage to constituents.

[Following was another brief discussion regarding how the committee might be proceeding.]

MR. SNIFFEN, in response to a question, explained that Alaska's antitrust statute is patterned after federal law, but, again, is lacking penalty provisions. Although some issues regarding competition have been raised over the last few years, the DOL has not yet had a chance to focus on the state's antitrust law.

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REPRESENTATIVE KAWASAKI offered his understanding that an article in the Anchorage Daily News indicates that 95 percent of all the gasoline used in the state is refined in Alaska. He asked when the DOL will be able to release its findings regarding the current investigation.

MR. SNIFFEN said he hopes to be able to share some preliminary findings before the end of the year.

REPRESENTATIVE KAWASAKI asked how the DOL will determine the veracity of the argument that rack prices are driven by market forces.

MR. SNIFFEN said that the DOL is asking refiners how much it costs to produce "a unit," what those costs consist of, and what costs are variable from year to year. He surmised that many of those costs won't have actually changed. He went on to say:

Based on that information, I can get a good idea of why [the rack price] ... should change - other than the crude price - and what's going into that decision. And so we'll have some economic answers [to the question of] ... what are the stimuli that would cause a [gasoline] producer to change their prices at the rack. ... We're going to try and dissect it out, to all its component parts as much as we can, and come up with how it is they're justifying their rack rates.

MR. SNIFFEN, in response to a question, said he doesn't think that this type of information was sought during the last investigation, and the report that was made public was just a summary of the DOL's confidential report. He mentioned that his office will also be seeking the aforementioned information from refiners outside of Alaska.

REPRESENTATIVE KAWASAKI - paraphrasing from the findings' portion of a document titled, "Alaska Petroleum Products Pricing Investigation Closing Report, Prepared by the Alaska Department of Law November 21, 2002", and noting its use of the term

"parallel pricing" - asked for more information about parallel pricing.

MR. SNIFFEN explained that parallel pricing is what occurs when a person can see what a competitor is charging for a product or service and then sets the same price for his/her product or service. The existence of parallel pricing does not necessarily mean that collusion is occurring; it is simply that someone has matched an advertized price, and in the retail gasoline business, prices are displayed for everyone to see. The same can be said to some extent with regard to rack rates because there are services that track rack rates. He said that when considering the question of why retail prices are quick to increase and slow to decrease, one must realize that when the cost of fuel rises, there is an immediate economic incentive to raise retail prices, but when the cost of fuel decreases, there is no economic incentive to lower prices until the competition does so. The same is true of rack rates. One possible reason to lower one's rack rates before the competition does so would be to obtain more of the market share, but in Alaska, the market share for the refiners is pretty much already divided up due to the geographic locations of the refineries, and so not much change is going to occur. And given that, it's simply just easier for the refiners to maintain similar [high] rack rates.

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CHAIR RAMRAS characterized the current situation regarding the refiners as a duopoly, and again predicted that if someone undertook to import inexpensive gasoline to the state, the refiners' rack rates would immediately drop.

MR. SNIFFEN concurred.

REPRESENTATIVE GRUENBERG posited that the aforementioned forthcoming committee report could provide guidance to the next legislature.

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:01 p.m.