

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. _____

STATE OF NORTH CAROLINA,)
ex rel. Roy Cooper, Attorney)
General,)
)
Plaintiff,)
)
v.)
)
LR&S INC.,)
)
Defendant.)
_____)

COMPLAINT

NOW COMES the State of North Carolina, on relation of its Attorney General, Roy Cooper, and complains and alleges, as more fully shown below, that defendant engaged in price gouging in the sale of gasoline on or about September 12, 2008, in violation of G.S. §§ 75-38 and 75-1.1.

PARTIES

1. Roy Cooper is the duly elected Attorney General of North Carolina. He is responsible for enforcing Chapter 75 of the North Carolina Statutes, including G.S. § 75-38, entitled, “Prohibit excessive pricing during states of disaster, states of emergency, or abnormal market disruptions.”

2. LR&S Inc. (“LR&S”) is a corporation formed and existing under the laws of the State of North Carolina. LR&S operates a “Four Sisters Center” retail gasoline outlet located at 513 E. Main Street, Yadkinville, North Carolina, and a “Yadkinville Food Mart” retail gasoline outlet located at 909 N. State Street, Yadkinville, North Carolina.

TRADE AND COMMERCE

3. The conduct alleged herein is in or affecting trade and commerce in North Carolina.

THE CONDUCT ALLEGED

4. On September 12, 2008, then-Governor Michael F. Easley declared the existence of an “abnormal market disruption” pursuant to G.S. § 75-38 (hereinafter the “Declaration”). This declaration triggered the application of North Carolina’s statute prohibiting price gouging, G.S. § 75-38. Both of these events were widely publicized in North Carolina.

5. Such a Declaration is intended to prevent sellers of goods and services from charging “unreasonably excessive” prices for goods or services under the conditions outlined in the statute.

6. The Attorney General received numerous allegations of unreasonably excessive pricing following the Declaration and undertook an investigation. At the request of the Attorney General, LR&S provided information concerning its costs, pricing and sales volume for the period prior to and following the Declaration.

7. In the retail gasoline industry, “laid-in cost” means the rack (or terminal) price charged to the retail outlet. The laid-in cost includes the wholesale price of the gasoline, all taxes and fees, and the cost of freight or delivery.

REGULAR UNLEADED GASOLINE

8. On September 10, 2008, LR&S received a shipment of regular unleaded gasoline with a laid-in cost of \$3.4159 per gallon. This was its last shipment of regular unleaded gasoline prior to and including September 12, 2008.

9. On September 12, 2008, at each of its outlets LR&S charged \$3.779 per gallon for its regular unleaded gasoline until late morning, when the company increased its price to \$5.359 per gallon.

11. LR&S's gross margin on regular unleaded gasoline on September 12, 2008 until late morning was \$0.3631 per gallon, an 11% mark up. After the price increase to \$5.359, LR&S's gross margin increased to \$1.58 per gallon, a 46% mark up. LR&S increased its markup for regular unleaded gasoline over 400% during this time.

12. At some time after 3:00 p.m. on September 12, when LR&S discovered that the media was targeting it for price gouging, LR&S decreased its prices for regular gasoline at its two outlets to \$3.899 per gallon.

MID-GRADE GASOLINE

13. LR&S's mid-grade gasoline is created by blending at the pump its regular and premium gasoline.

14. In its last receipt of premium gasoline prior to and including September 12, 2008, on August 26, 2008, LR&S received a shipment of premium gasoline with a laid-in cost of \$3.5765 per gallon.

15. On September 12, 2008, LR&S's laid-in cost for its mid-grade blend was \$3.498.

16. On the morning of September 12, 2008, LR&S charged \$3.919 per gallon for its mid-grade gasoline.

17. By late morning on September 12, at each of its outlets LR&S increased its price for mid-grade to \$5.479 per gallon.

18. The gross margin on mid-grade gasoline prior to the price increase was \$0.421 per

gallon, a 12% mark up. After the price change to \$5.479, the gross margin was \$1.981 per gallon, a 57% mark up. LR&S increased its markup for mid-grade gasoline over 400% during this time.

19. At some time after 3:00 p.m. on September 12, when LR&S discovered that the media was targeting it for price gouging, LR&S decreased its prices for mid-grade gasoline at its two outlets to approximately \$4.019 per gallon.

PREMIUM GASOLINE

20. On August 26, 2008, LR&S received a shipment of premium gasoline with a laid-in cost of \$3.5765 per gallon. This was its last receipt of premium gasoline prior to and including September 12, 2008.

21. On the morning of September 12, 2008, LR&S charged approximately \$3.999 per gallon for its premium gasoline.

22. By late morning on September 12, at each of its outlets LR&S increased its price for premium to at least \$5.679 per gallon.

23. LR&S's gross margin on premium gasoline prior to the price increase was \$0.4225 per gallon, a 12% mark up. After the price change to \$5.679, the gross margin was \$2.103 per gallon, a 59% mark up. LR&S increased its markup for premium gasoline over 400% during this time.

24. At some time after 3:00 p.m. on September 12, when LR&S discovered that the media was targeting it for price gouging, LR&S decreased its prices for premium gasoline at its two outlets to approximately \$4.119 per gallon.

25. At each of its outlets defendant posted and, in its actual sales, charged prices for

all grades of gasoline that were unreasonably excessive in the circumstances after the governor's declaration of an abnormal market disruption on September 12, 2008.

26. On information and belief, defendant's excessive retail prices on September 12, 2008 far exceeded their retail prices in the 60 days preceding that date.

27. At each of its outlets defendant charged a price for each grade of gasoline on September 12, 2008 with the knowledge and intent to charge a price that is unreasonably excessive under the circumstances.

**CLAIM FOR RELIEF:
PRICE GOUGING**

28. Each of defendant's acts of offering to sell, and of selling gasoline to each consumer, at an unreasonably excessive price under the circumstances, violated G.S. §§ 75-38 and 75-1.1.

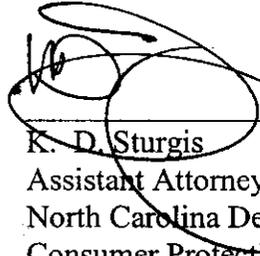
WHEREFORE the State prays that the Court:

1. Order defendant to make refunds to consumers who purchased gasoline from it at unreasonably excessive prices.
2. In instances where the affected consumers cannot reasonably be identified, order defendant to disgorge to the State the amount of the overcharges, which amounts shall be used for low income heat energy assistance in Yadkin County.
3. Assess a civil penalty of up to \$5,000.00, pursuant to G.S. § 75-15.2, for each violation of G.S. §§ 75-38 and 75-1.1.
4. Require defendant to pay attorney's fees to the State pursuant to G.S. § 75-16.1.
5. Permanently enjoin defendant from violating G.S. § 75-38 in the future.

6. Grant such other relief as is just.

This the 3rd day of June, 2009.

ROY COOPER
Attorney General



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