

109TH CONGRESS
1ST SESSION

S. 1743

To authorize the Federal Trade Commission to investigate and assess penalties for price gouging with respect to oil and gas products.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2005

Mr. SMITH introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize the Federal Trade Commission to investigate and assess penalties for price gouging with respect to oil and gas products.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Post-Disaster Con-
5 sumer Protection Act of 2005”.

6 **SEC. 2. PRICE GOUGING PROHIBITION FOLLOWING MAJOR**
7 **DISASTERS.**

8 (a) DEFINITIONS.—In this section:

9 (1) AFFECTED AREA.—The term “affected
10 area” means an area affected by a major disaster

1 declared by the President under the Robert T. Staf-
2 ford Disaster Relief and Emergency Assistance Act
3 (42 U.S.C. 5121 et seq.).

4 (2) COMMISSION.—The term “Commission”
5 means the Federal Trade Commission.

6 (3) OIL OR GAS PRODUCTS.—The term “oil or
7 gas products” means oil, gasoline, diesel, aviation
8 fuel, natural gas, or home heating oil.

9 (4) PRICE GOUGING.—The term “price
10 gouging” means the charging of an unconscionably
11 excessive price by a supplier of an oil or gas product.

12 (5) SUPPLIER.—The term “supplier” includes a
13 seller, reseller, wholesaler, or distributor of an oil or
14 gas product.

15 (6) UNCONSCIONABLY EXCESSIVE PRICE.—The
16 term “unconscionably excessive price” means a price
17 charged—

18 (A)(i) for an oil or gas product sold in an
19 affected area that represents a gross disparity,
20 as determined by the Commission, between the
21 price charged by a supplier for that product
22 after a major disaster is declared and the aver-
23 age price charged for that product by that sup-
24 plier in the affected area during the 30-day pe-

1 riod immediately before the President declares
2 the existence of the major disaster; or

3 (ii) for an oil or gas product produced in
4 the affected area for sale in interstate com-
5 merce that represents a gross disparity, as de-
6 termined by the Commission, between the price
7 charged by a supplier for that product after a
8 major disaster is declared and the average price
9 charged for that product by that supplier dur-
10 ing the 30-day period immediately before the
11 President declares the existence of the major
12 disaster;

13 (B) that is not attributable to increased
14 wholesale or operational costs incurred by the
15 supplier in connection with the provision of the
16 oil or gas product or to international market
17 trends; and

18 (C) that is not attributable to a loss of
19 production or loss of pipeline transmission ca-
20 pability.

21 (b) PRICE GOUGING INVOLVING DISASTER VIC-
22 TIMS.—

23 (1) OFFENSE.—During the 30-day period fol-
24 lowing the date on which a major disaster is de-
25 clared by the President, it shall be unlawful for a

1 supplier to sell, or to offer to sell, any oil or gas
2 product at an unconscionably excessive price as de-
3 scribed in subsection (a)(6).

4 (c) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—

5 (1) IN GENERAL.—The provisions of this Act
6 shall be enforced by the Commission under the Fed-
7 eral Trade Commission Act (15 U.S.C. 41 et seq.).
8 A violation of any provision of this Act shall be
9 treated as an unfair or deceptive act or practice vio-
10 lating a rule promulgated under section 18 of the
11 Federal Trade Commission Act (15 U.S.C. 57a).

12 (2) ACTIONS BY THE COMMISSION.—The Com-
13 mission may prevent any person from violating this
14 Act in the same manner, by the same means, and
15 with the same jurisdiction, powers, and duties as
16 though all applicable terms and provisions of the
17 Federal Trade Commission Act (15 U.S.C. 41 et
18 seq.) were incorporated into and made a part of this
19 Act. Any entity that violates any provision of this
20 Act is subject to the penalties and entitled to the
21 privileges and immunities provided in the Federal
22 Trade Commission Act in the same manner, by the
23 same means, and with the same jurisdiction, power,
24 and duties as though all applicable terms and provi-

1 sions of the Federal Trade Commission Act were in-
2 corporated into and made a part of this Act.

3 (d) EFFECT ON OTHER LAWS.—Nothing contained
4 in this Act shall be construed to limit the authority of the
5 Commission under any other provision of law.

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