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'Big Oil' vs. the 'Little Guys'
Dealers anxious over majors' practice of selling off retail outlets

NEW YORK -- "Big Oil" is having trouble with some of its "little guys," according to *The Wall Street Journal*. Dozens of gas station dealers are lodging complaints with the major petroleum refiners over changes big producers want to make in the way they do business, it said.

Some oil companies—including ExxonMobil, BP and Shell—want to stop owning and leasing their own retail outlets, which some of them have said they regard as a low-profit business. As has been reported in *CSP Daily News*, they have been selling the properties, often to fuel distributors, who are becoming the dealers' new franchisers.

A spokesperson for ExxonMobil told the *Journal* that such ownership transfers should be "transparent" to its consumers, who will still be "able to purchase gas at Exxon- and Mobil-branded stations across the U.S."

But many of the small-business dealers who run those stations are worried about their livelihoods, said the report. Under the previous business model, refiners often gave dealers allowances and rebates on fuel prices. But when the station is sold to a third party, such as a fuel distributor, the distributor may mark up the price of fuel in order to recoup costs, it said. The station is contractually obligated to sell only their refiner's brand of fuel, so it has no choice but to buy it from the distributor who owns that brand's supply contracts—and is now frequently also his franchiser.

In New Jersey, 20 BP dealers recently went to court to stop the oil giant from ending their long-standing business relationship. As an alternative to third-party purchasers, BP Products North America Inc., a unit of BP PLC, offered to sell the stations to the dealer-operators, but the dealers allege that the company is asking inflated prices. BP said it does not comment on pending litigation. *(Click here for previous* CSP Daily News coverage.)

The U.K.-based company has already disposed of more than 550 stations in several states, including Arizona, California, New Jersey and New York.

The individual dealers say they are at a disadvantage in bidding for their stations against distributors and other bigger entities. "There are less headaches" that refiners have in doing business with a distributor willing to buy a bundle of stations rather than dealing with scores of individual buyers, Ralph Bombardiere, executive director of the New York State Association of Service Stations & Repair Shops, told the newspaper.

A BP spokesperson told the paper that the company has no preference on whether buyers are single-station dealers or multiunit operators.

Such franchise transfers—which have become a national concern among hundreds of small-business station operators—this past summer led to legislation in New Jersey giving dealers a "first right of refusal" in acquiring their stations from oil companies. *(Click here for previous coverage.)*

coverage.)

Sal Risalvato, executive director of the New Jersey Gasoline-Convenience-Automotive Association, which lobbied for the legislation, believes that the law deterred Shell Oil Co. from selling about 150 company retail outlets, said the report.

A Shell spokesperson told the *Journal* that the company would comply with applicable state and federal laws in transitioning from company-supplied stations.

The ExxonMobil spokesperson told the paper that while the company is evaluating its plans there, as yet no dealer-operated sites have been sold in that state.

The price they pay for fuel is among the dealers' chief concerns, the report said. Two Chicago-area station operators, Robert W. Juckniess and Nrupesh Desai, who bought 17 stations from BP in the Chicago-northern Indiana market, recently sued BP, alleging they did not disclose before they bought the station franchises that BP might transfer their fuel-supply contracts to jobbers, or distributor middlemen, which it subsequently did. The result, the plaintiffs allege in their federal district-court filing in Chicago, was marked-up fuel prices that made them less competitive and their profit projections unrealistic, forcing them on many days "to lose money on every gallon of gasoline sold at the pump...in order to remain reasonably competitive on the street."

The dealers' attorney, Carmen Caruso of Stahl Cowen Crowley Addis LLC in Chicago, told the paper that the lawsuit is "a matter of survival" for the station operators, who committed themselves to 20-year franchises that prevent them from changing brands.

In court papers BP denied all of the allegations but declined further comment, said the report.

ExxonMobil was named in another fuel-pricing lawsuit brought in New Jersey earlier this month. It alleges that the refiner deliberately manipulates the prices its New Jersey dealers pay for its gasoline, so as to increase revenues to the detriment of the dealers. The complaint also says that some dealers pay more for gasoline than others, depending on what part of the state they are in. *(Click here for previous coverage.)*

The Exxon spokesperson told the paper that "ExxonMobil sets its wholesale price on a number of factors that are designed to allow our dealers to compete with competitors in their local trade area." As to the lawsuit, the spokesperson said Exxon does not comment on pending litigation other than to say they will defend themselves "vigorously."

Marc J. Gross, an attorney with Greenbaum, Rowe, Smith & Davis LLP, Roseland, N.J., who filed the lawsuit on behalf of nearly 100 Exxon franchisees-dealers, said such suits present a risk to the small-business people bringing them. Besides taking on a deep-pockets adversary able to carry on court battles for years, "it's like biting the hand that feeds you," he told the paper.