

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 2<sup>ND</sup> JUDICIAL CIRCUIT  
BERRIEN COUNTY

BILL SCHUETTE, ATTORNEY GENERAL  
OF THE STATE OF MICHIGAN, *ex rel*  
The People of the STATE OF MICHIGAN,

Plaintiff,

No.

HON.

v

AMERIGAS PARTNERS, L.P., AND  
AMERIGAS PROPANE, L.P., D/B/A  
HOLTON'S LP AND RURAL GAS &  
APPLIANCE,

Defendants.

---

**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

Bill Schuette  
Attorney General

Darrin F. Fowler (P53464)  
Matthew K. Payok (P64776)  
Assistant Attorneys General  
Attorneys for Plaintiff  
Corporate Oversight Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-1160

Dated: September 18, 2014

## **Introduction**

In May 2014, after receiving numerous complaints from consumers about AmeriGas and its subsidiaries, Attorney General Schuette filed an Ex Parte Petition for Subpoenas (Petition) with the Marquette County Circuit Court. In granting the Petition, the Marquette Circuit Court held that there was probable cause to believe AmeriGas had violated the Michigan Consumer Protection Act. (Marquette Order, Exhibit A).

A formal investigation ensued. As detailed below, the company admitted to making mistakes with respect to some consumers who complained to the Attorney General, and several of these customers have received some level of compensation. But the evidence obtained during the investigation also shows the issues these consumers complained about are not the isolated mistakes AmeriGas portrays them as. Instead, they are the product of systemic problems that AmeriGas has been aware of, but has chosen to ignore at the expense of its customers. Further, there is a fundamental disagreement between the Attorney General and AmeriGas about the appropriateness of the high prices AmeriGas charged some customers during the 2013-2014 heating season. A jury trial is needed to resolve these disputes.

The allegations that follow are based upon the complaints and documents the Attorney General received from consumers, AmeriGas' responses to those complaints, the deposition testimony of AmeriGas employees, and the hundreds of pages of documents supplied by AmeriGas during the investigation.

## Parties

1. Michigan Attorney General Bill Schuette brings this civil action on behalf the People of the State of Michigan and on behalf of classes of Michigan consumers as described below. The Michigan Attorney General is authorized to bring this action under MCL § 445.905 and MCL § 445.910. The Attorney General may obtain injunctive relief, actual damages, and other appropriate relief.

2. Defendant AmeriGas Partners, L.P., is a publically-traded limited partnership primarily doing business through its subsidiary, AmeriGas Propane, L.P. This subsidiary, AmeriGas Propane, L.P., is authorized to transact business in Michigan under the name AmeriGas Propane, a Delaware Limited Partnership. In addition to its AmeriGas brand, Defendant AmeriGas Propane, L.P. does business in Michigan under the assumed names of Holton's LP Gas and Rural Gas & Appliance. Within this Complaint, Defendants shall be collectively referred to as "AmeriGas." (LARA documents and SEC Form 10-K – Exhibit B).

3. On the homepage of its website, AmeriGas identifies itself as "the nation's largest propane company," claiming it serves "over 2 million . . . customers from over 2,500 distribution locations in all 50 states." Under the "About Us" tab, AmeriGas boasts that it uses "the size of [its] organization to [its customers'] advantage every day, retaining [its] focus on friendliness and personal attention found only in a 'corner store.'" (Website materials and SEC Form 10-Q – Exhibit C).

4. Upon information and belief, AmeriGas is the largest supplier of residential propane in the State of Michigan. According to testimony obtained during the investigation, AmeriGas has approximately 200,000 residential

customers in Michigan. Further, AmeriGas regards approximately 80,000 of these customers as “buying accounts”, meaning customers who purchased at least eighty gallons of propane during the past fifteen months.

### **Jurisdiction and Venue**

5. This complaint arises under the Michigan Consumer Protection Act (MCPA), MCL 445.901 *et seq.*

6. Venue is proper in the Berrien Circuit Court pursuant to MCL 445.905(1) and MCL 600.1621. As will be elaborated below, some of AmeriGas’ pricing practices have had a disproportionately negative impact on Berrien County customers as compared to residents in other Michigan counties.

7. On July 31, 2014, the Attorney General issued a Notice of Intended Action pursuant to MCL 445.905.

8. This complaint relates to alleged MCPA violations committed by AmeriGas during the period from October 1, 2013, through March 31, 2014. This period is referred to throughout this Complaint as the “2013-2014 heating season.”

#### **A. Guaranteed Price Program Problems.**

9. AmeriGas offers a series of programs allowing customers to fix their propane prices either for the winter season or for a specified number of gallons. These programs include AmeriGuard, AmeriLock, and a Pre-Buy program. AmeriGas refers to these offerings as Guaranteed Price Programs (GPP). Upon information and belief, during the 2013-2014 heating season, AmeriGas failed to

ensure that all customers enrolled in such programs were billed at the per-gallon rates they were promised.

10. Through subpoenas obtained under the Marquette Petition, the Attorney General took depositions to determine whether there was a computer glitch or other problem affecting AmeriGas' GPP customers, as had been reported by Tom and Julie B of Traverse City based on their difficulties in getting their billings to match their guaranteed price.

11. In the Marquette Petition, the Attorney General highlighted a complaint from Gail S of Riverdale, who was being billed prices well above her promised AmeriGuard price. Gail S had been trying since February to get her billings corrected by AmeriGas, but without success.

12. On May 15, 2014, six days after the Attorney General filed the Petition, AmeriGas responded to Gail S's consumer complaint stating that there had been a "system error." AmeriGas also said it was crediting Gail's account \$788.01. (Gail S complaint and AmeriGas response - Exhibit D).

13. The testimony regarding the cause of the problem described in this section was conflicting. Although multiple AmeriGas employees attributed the problem to the computer system or database itself, the company's regional vice president testified that the issue was predominately caused by personnel not using the system properly. (Regional VP tr, p 63, Exhibit E). Upon information and belief, the lack of a consistent understanding within AmeriGas about the cause and

nature of the problem has contributed to mistakes and delays in correcting improper billings for customers.

14. Regardless of the nature of the problem, it is clear that this issue has affected numerous customers throughout Michigan. For example, the district manager of AmeriGas' Saginaw and Ashley locations testified he is aware of five customers who brought related billing errors to the company's attention. (Saginaw/Ashley DM tr, pp 3-4, 13-16, Exhibit F). And the customer service representative for the Traverse City location said she is aware of approximately twenty-five affected customers from that area. (Traverse City CRR, tr pp 7-10, Exhibit G).

15. In depositions relating to this issue, multiple AmeriGas employees from Michigan locations testified that they were aware that there was a database problem causing some GPP customers to be billed incorrectly. Although these employees were aware of customers who were bringing their billing issues to AmeriGas' attention, they were not aware of any proactive steps by AmeriGas to identify affected consumers who were not complaining.

16. The deposition was taken of AmeriGas' Consumer Advocacy Manager, who works at its corporate offices in Pennsylvania. In this deposition, the manager admitted that no proactive steps had been taken to identify customers affected by this issue, and she explained it is because the customer advocacy group is new and still learning how to deal with such situations. (Consumer Advocacy Manager tr, pp 4, 13, Exhibit H).

17. During the investigation, AmeriGas continued to acknowledge the problem in response to consumer complaints being forwarded by the Attorney General. For example, Arthur M of Lewiston filed a complaint with the Attorney General a week after the Petition was filed; Arthur explained that AmeriGas was not honoring his \$1.89 new customer price, and had been tacking on improper late fees. AmeriGas responded through a June 13th letter stating that the mistake was caused by Arthur's account not being properly set up on its database. Arthur was credited \$840.61, and the late fees were removed. (Arthur M complaint and AmeriGas response, Exhibit I).

18. Upon information and belief, despite the Attorney General's ongoing investigation, AmeriGas continued to delay taking meaningful steps to proactively identify Michigan residential customers who were not correctly billed at their GPP rates for the 2013-2014 heating season.

19. As recently as August 13, 2014, the Attorney General received an AmeriGas letter responding to a complaint by Philip E of Gaylord, MI. In the response, AmeriGas stated that Philip's GPP had not been properly set up in the system, and that he was being given an account credit of \$786.67 "to match the GPP price [Philip] should have been charged for his deliveries during the 2013-2014 heating season." (Philip E complaint and AmeriGas response - Exhibit J).

20. Upon information and belief, AmeriGas is aware that there are still Michigan residential consumers who were billed above their GPP prices for one or more deliveries during the 2013-2014 heating season who have not yet had those

billings corrected. Upon information and belief, there are numerous such residential customers in Michigan.

21. Upon information and belief, due to the investigation, AmeriGas has begun steps to identify consumers who have not been billed in the manner they should have been under their GPP. However, as of the date it received the Attorney General's Notice of Intended Action, there remained Michigan residential consumers who have not received the refunds or account credits they are entitled to. Further, even as of the date of filing of this Complaint, upon information and belief, there remain Michigan residential consumers who have not yet gotten account credits or refunds they are entitled to because of this issue.

22. In responding to the initial complaint from Tom and Julie B, AmeriGas gave the Traverse City couple a "concession price," i.e., a lower per-gallon price than they had signed up for under their pricing program. Upon information and belief, AmeriGas did this in recognition that its mistake had caused a hardship.

23. But, in responding to subsequent complaints, AmeriGas has only credited the difference between what was billed and what should have been billed (and removed Arthur M's late fees). No compensation was made for the time value of their money, or any consequential hardships they endured.

24. Consumers such as Gail S, Arthur M, Phillip E, and all those who have not yet been identified and compensated by AmeriGas have experienced both emotional and economic hardship as a result of AmeriGas' failure to give them the benefit of per-gallon prices they had secured for the 2013-2014 heating season. The



Attorney General believes these consumers are entitled to compensation for these harms.

**B. Bills Not Matching Telephone Quotes.**

25. Some AmeriGas customers order propane on a "will call" basis. Will call customers place residential propane orders either by making a telephone call to AmeriGas, or by visiting an AmeriGas location.

26. During the 2013-2014 heating season, some residential will call customers received propane bills from AmeriGas that were based on a higher per-gallon rate than had been quoted to the customers at the time orders were placed.

27. Upon information and belief, AmeriGas' general policy during the 2013-2014 heating season was that propane orders would be priced at the time of delivery, rather than at the time orders were placed. However, during the investigation, some AmeriGas telephone representatives testified that they believed the price was set at the time they processed the order. Upon information and belief, AmeriGas' failure to adequately communicate its policy to its own employees led to confusion for some of its customers regarding pricing.

28. Jeffrey V of Kent City filed a complaint with the Attorney General stating that, he called AmeriGas and was quoted a price of \$2.59 per gallon. But, Jeffrey was later billed \$3.27 per gallon. By the time the investigation began, AmeriGas had already corrected Jeffrey's bill to match the price he was quoted. (Jeffrey V complaint and AmeriGas response - Exhibit K).

29. Approximately a week after filing the Petition for subpoenas to investigate Jeffrey's allegation, the Attorney General received a similar complaint from Randy P of Rapid City. Randy explained that he ordered his propane by telephone, and paid \$4.50 per gallon and secured that price by paying for the propane with a credit card during that phone conversation. But, when his bill arrived, it showed Randy had a balance due because the price of his propane was \$5.39 per gallon. (Randy P complaint and bill, Exhibit L). A recording of Randy's telephone order obtained during the investigation confirmed he purchased the propane at the promised price of \$4.50 per gallon using a credit card, just as he had alleged.

30. Karen P of Skandia alleged in her complaint to the Attorney General that she was quoted a price of \$5.35 per gallon when placing an order on January 27, 2014. The propane was delivered later that same day. But she was then invoiced at \$5.45 per gallon. (Karen P complaint, Exhibit M). AmeriGas advised during the investigation that no recording of Karen's order is available because the Marquette location from which she placed her order is not yet set up on that system. Because AmeriGas was setting prices at the time of delivery rather than at the time a quote was given, and because AmeriGas' market prices were fluctuating frequently in late January, Karen's allegation has merit.

31. Upon information and belief, AmeriGas knew during the 2013-2014 heating season that some of its customers were being billed at prices higher than at which they had been quoted while placing will call orders. Although this was an

occasional--rather than constant--problem, it is one that was occurring throughout the State of Michigan. Upon further information and belief, although AmeriGas worked to correct this situation for individual consumers who called and complained, it failed to take appropriate action to prevent such occurrences.

32. The above facts and other information supplied by AmeriGas during the investigation suggest there remain an indeterminate number of AmeriGas customers who placed residential propane orders in Michigan who were billed at higher prices than they were quoted at the time of the order, who have not been compensated for the difference. Because AmeriGas records a significant number of its customer interactions, it is possible to identify at least some of these negatively-impacted customers.

**C. Excessively High Prices.**

33. Upon information and belief, throughout the 2013-2014 heating season, AmeriGas charged some of its residential customers per-gallon prices that were grossly in excess of the price at which similar goods were being sold.

34. AmeriGas' practice of charging some customers prices grossly in excess of the price at which propane was being sold was manifest in two distinct ways. First, AmeriGas was charging residential customers propane prices grossly in excess of propane prices being offered by other retail suppliers during the same time period. Second, AmeriGas was charging some of its customers who were subject to non-GPP per-gallon prices in amounts that were grossly in excess of the non-GPP prices it was giving to other similarly situated customers at that same time.

35. The Michigan Public Service Commission (Commission) compiles average weekly propane prices through the State Home Heating Oil and Propane Price Survey (Survey). The Survey is conducted throughout the heating season. (Morese Affidavit, Exhibit N).

36. During the 2013-2014 Survey, the weekly average cost for residential propane was calculated by gathering price information from 27 retail suppliers throughout the State of Michigan. In most instances, this data was gathered through telephone calls to the retail supplier, but in some instances it was accomplished through data made available to the Commission by the U.S. Energy Information Administration (EIA).

The following table shows the weekly average propane prices as calculated through the 2013-2014 survey, as well as the highest and lowest reported weekly prices among the 27 participating companies. Thus, this table shows the range of reported prices upon which the average was calculated.

Company Name	10/7	10/14	10/21	10/28	11/4	11/11	11/18	11/25	12/2	12/9	12/16	12/23	12/30	1/6
AVERAGE/GAL	\$2.020	\$2.024	\$2.056	\$2.084	\$2.100	\$2.111	\$2.152	\$2.174	\$2.196	\$2.253	\$2.343	\$2.428	\$2.488	\$2.539
HIGH PRICE	\$2.499	\$2.499	\$2.499	\$2.499	\$2.631	\$2.999	\$2.799	\$2.699	\$2.699	\$2.799	\$2.999	\$3.060	\$3.135	\$3.233
LOW PRICE	\$1.690	\$1.690	\$1.690	\$1.770	\$1.820	\$1.790	\$1.890	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899

Company Name	1/13	1/20	1/27	2/3	2/10	2/17	2/24	3/3	3/10	3/17	3/24	3/31
AVERAGE/GAL	\$2.584	\$2.722	\$3.635	\$3.760	\$3.616	\$3.597	\$3.349	\$3.203	\$2.978	\$2.852	\$2.612	\$2.490
HIGH PRICE	\$3.101	\$3.449	\$5.699	\$5.199	\$4.899	\$4.540	\$4.499	\$4.399	\$4.399	\$3.890	\$3.899	\$2.999
LOW PRICE	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899	\$1.899

37. The average weekly propane price compiled by the Commission is useful in helping consumers understand the price at which propane is being sold throughout Michigan.

38. In bringing the Marquette Petition, the Attorney General relied in part on the affidavit of a Department of Human Services worker in Wexford-Missaukee Counties. This worker authorizes heating assistance payments on behalf of economically-distressed residents in the Lake city area. This worker stated, "During this past winter, I have been concerned ... about the high price of propane Holton's was charging as compared to prices being charged to our customers using Holton's competitors." (DHS Affidavit, Exhibit O). In light of this observation, the Attorney General subpoenaed records regarding prices being charged out of AmeriGas' Lake City location.

39. Thus, the Attorney General received spreadsheets of deliveries made throughout November and December 2013 from the AmeriGas location in Lake City. This documentation revealed that customers were routinely being charged per-gallon rates over \$3.00 per gallon in November, with highs reaching \$3.40 per gallon (and one customer was billed \$6.40 per gallon for a delivery of 4.3 gallons). In December, the Lake City customers were paying prices as high as \$3.75 per gallon.

40. An AmeriGas spreadsheet of deliveries to customers served by AmeriGas' Howell location showed that customers were routinely being charged prices for propane grossly in excess of what other retailers were charging for propane during that same time period, as shown by the SHOPP Survey data. Howell customers were routinely being charged prices as high as \$4.23 per gallon.

41. Upon information and belief, the pricing data from Lake City and Howell is indicative of the prices AmeriGas' customers were being charged throughout Michigan during the same time period. For example, Sara C of Dewitt was charged \$3.92 per gallon for a December delivery. And, Connie R of Hastings reports that she was billed \$3.69 per gallon for her December delivery. (Sara C and Connie R complaints, Exhibit P)

42. Upon information and belief, David M of Howell is an example of a customer who was charged a price both grossly in excess of what other retailers were charging, and of an AmeriGas customer being charged a per-gallon rate grossly in excess of what AmeriGas was charging other similarly situated customers.

43. David M was discussed in the Attorney General's Petition as he had been billed \$4.99 per gallon for a delivery he received on December 16, 2013. At the time he filed his complaint with the Attorney General, he was being pursued by a collection agency that AmeriGas had referred his unpaid bill to.

44. After the Attorney General forwarded David M's complaint to AmeriGas, the company responded with a letter stating that David's charges would be reduced to \$4.50 per gallon. (David M complaint and AmeriGas response, Exhibit Q).

45. The Attorney General subpoenaed records during the investigation requiring AmeriGas to identify all customers in Michigan billed per-gallon rates above \$4.50 per gallon during a two-week period in December. AmeriGas responded stating:

we only identified one customer (David M[...]) out of 14,209 residential deliveries who paid more than \$4.50 a gallon between December 9 and 23, 2013. [AmeriGas disclosure, Exhibit R].

46. As part of the investigation, the Attorney General issued a subpoena compelling the AmeriGas representative whom David M had spoken to regarding his complaint to appear and testify at a deposition. On June 2, 2014, just one week prior to the scheduled deposition, David M contacted the Attorney General to advise that this representative had called him and told him the price was being lowered to \$1.99 per gallon. The AmeriGas representative confirmed this at the deposition, and said it was done because a supervisor told him the \$4.99 price had been a mistake.

47. Upon information and belief, the situation involving David M is an example of a broader pattern and practice of grossly excessive pricing. For example, the Attorney General compelled AmeriGas to identify all of its residential customers billed above \$6 per gallon during January and February 2014. AmeriGas responded stating, "we identified 25 customers out of 63,755 residential deliveries during January & February 2014 which received a price per gallon above \$6.00." (Exhibit R). These deliveries above \$6 per gallon spanned late January through mid-February, and include twenty customers receiving deliveries in southwest Michigan out of the AmeriGas location in South Bend, Indiana.

48. Of these twenty customers receiving deliveries from South Bend, sixteen reside in Berrien County. This includes a Niles resident who was billed \$7.16 per gallon. AmeriGas regional vice president James Marshall explained in his deposition that these higher prices reflect a different approach taken to pricing out

of this Indiana regional location that happens to make some deliveries into Michigan. (Marshall tr, pp 78-82, Exhibit E).

49. Michael W of Edwardsburg, whose situation was detailed in the Marquette Petition, is among the customers affected by this unfair business practice. Michael was originally billed at \$6.91 per gallon. And, after he complained, AmeriGas lowered his price to \$6.00 per gallon--which still leaves his per-gallon rate among the twenty-five highest for AmeriGas residential customers in the State for January-February 2014. (Michael W complaint and AmeriGas response, Exhibit S). Unlike David M, AmeriGas did not lower Michael W's price during the investigation.

50. It is not just the prices above \$6 per gallon that constitute grossly excessive prices; instead, these are just the most extreme examples during that time period. For example, Marion D of Marquette, who filed a complaint with the Attorney General after she was billed \$5.75 per gallon for a February 5th delivery, also paid a price grossly in excess of that being charged for similar goods on that date both by AmeriGas and competitors. (Marion D complaint, Exhibit T).

51. Upon information and belief, in April 2014 AmeriGas gave out approximately \$180,000 in refunds to Michigan customers whom it determined may have been charged excessive amounts as considered under AmeriGas' own standards. Upon information and belief, AmeriGas did this with the knowledge that the Attorney General had already commenced a formal investigation of Ferrellgas in March 2014.



52. Upon information and belief, the standards applied by AmeriGas in determining the refunds described in the above paragraph are different than the standard imposed under the Michigan Consumer Protection Act in MCL 445.903(3)(z). For example, Michael W, and many Berrien County residents referred to above, did not receive such refunds. Also, these refunds were made only for deliveries made on or after January 10, 2014, and so did not provide redress for any customers billed grossly excessive prices in November and December 2013.

### **COUNT I – MCPA VIOLATIONS - GPP CONTRACT PROBLEMS**

53. The Attorney General incorporates paragraphs 1 through 52 above.

54. AmeriGas' conduct violated the Michigan Consumer Protection Act. Specifically, MCL 445.903(3)(s), (y), (bb), and (cc) make it an unfair trade practice when there is a:

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by consumer.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.

(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

55. AmeriGas violated these provisions with respect to Gail S, Arthur M, Philip E, and all similarly-situated Michigan residential customers who have not

yet been identified, but who were also billed per-gallon rates for propane in excess of the rates AmeriGas had assured them through a GPP.

56. Upon information and belief, there are numerous such Michigan residents who are deserving of compensation.

## COUNT II – MCPA VIOLATIONS - WILL CALL QUOTES

57. The Attorney General incorporates paragraphs 1 through 52 above.

58. AmeriGas' conduct violated the Michigan Consumer Protection Act.

Specifically, AmeriGas has engaged in unfair trade practices as defined in MCL 445.903(3)(m), (s) and (y), which state:

(m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by consumer.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

59. AmeriGas violated each of these provisions with respect to Jeffrey V, Randy P, and all similarly-situated Michigan residents.

60. Upon information and belief, there remain Michigan consumers who have been adversely affected by these unfair trade practices, but who have not yet had their billings corrected to reflect the per-gallon prices they were quoted during the 2013-2014 heating season.

61. The class of customers who may have been adversely impacted by these violations would share the following characteristics: (a) the customer received at least one delivery of residential propane from AmeriGas on a will call basis during the 2013-2014 heating season; and (b) the customer paid a higher price on delivery than would have been charged had the customer's price been fixed on the date the order was placed. Upon information and belief, AmeriGas is able to use its database to identify customers sharing these characteristics.

62. AmeriGas maintains recordings of a majority of its telephone customer interactions from the 2013-2014 heating season. The only locations at which AmeriGas does not regularly record customer interactions are those in Marquette and Iron Mountain.

### **COUNT III – MCPA VIOLATIONS - GROSSLY EXCESSIVE PRICES**

63. The Attorney General incorporates paragraphs 1 through 52 above.

64. AmeriGas' conduct violated the Michigan Consumer Protection Act. Specifically, AmeriGas engaged in an unfair trade practice as defined in MCL 445.903(3)(z), making unlawful:

(z) Charging the consumer a price that is grossly in excess of the price at which similar property or services are sold.

65. Upon information and belief, AmeriGas' violation of MCL 445.903(z) is manifest in two distinct ways: (i) it charged grossly excessive prices for propane to a substantial number of residential customers in Michigan during the 2013-2014 heating season when compared to the price at which propane was being sold by

other residential retailers within this State; and (ii) AmeriGas charged some of its own customers who were subject to non-GPP per-gallon rates at amounts that were grossly in excess of the per-gallon prices it was charging to the majority of its own residential customers who were similarly situated. Upon information and belief, the customers in the second group are a subset of the first, larger group.

66. The customers belonging within the class of persons who may have been negatively affected by a violation of MCL 445.903(3)(z) share the following characteristics: (a) the customer received at least one residential delivery of propane from AmeriGas during the 2013-2014 heating season; and (b) the delivery was priced using AmeriGas' alleged market-based methodology. Upon information and belief, AmeriGas is able to use its database to identify customers sharing these characteristics.

#### **COUNT IV - DURESS**

67. The Attorney General incorporates paragraphs 1 through 51 above.

68. The Attorney General alleges that AmeriGas put all of the customers described throughout this Complaint, and all similarly-situated customers with leased tanks from AmeriGas throughout the State of Michigan under duress at the time of the sale in violation of MCL 445.903(3)(aa).

69. The Attorney General alleges that AmeriGas either intentionally or negligently inflicted emotional distress upon the consumers identified throughout this Complaint, as well as all similarly-situated customers throughout Michigan.

70. Upon information and belief, this was the coldest winter these customers have ever experienced. They were dependent upon AmeriGas for one of the most basic essentials to a safe and happy home. Through the conduct described above, AmeriGas put some of these customers in fear of being unable to heat their homes. And, for many of those residents who could afford to pay the erroneous or unlawful billings, it was done only by making sacrifices in other ways.

71. Upon information and belief, the unnecessarily high bills from AmeriGas caused significant emotional distress for many residents, and continue to do so for those with lingering propane bills and credit card debts from this past winter.

#### **RELIEF REQUEST AND JURY DEMAND**

Based upon the above allegations, the Attorney General requests a jury trial to determine liability and damages as follows:

A. Actual damages for all persons named in this complaint and classes of similarly situated AmeriGas customers. These actual damages should be for full restitution of all excess charges, late fees, fines and penalties. These damages should also compensate the Plaintiff classes for interest and other costs flowing from Defendants conduct, and should including damages for duress through the intentional and/or negligent infliction of emotional distress caused to these customers by AmeriGas' violations of the Consumer Protection Act.

Further, the Attorney General respectfully requests that this Court grant the following relief:

B. An injunction prohibiting AmeriGas from failing to honor price quotes given to telephone customers making propane orders;

C. An injunction prohibiting AmeriGas from retaining any funds received from its GPP customers that are in excess of the amounts such customers should have been billed for any delivery during the 2013-2014 heating season, and enjoining AmeriGas from continuing to invoice for such excess funds;

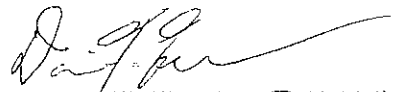
D. A civil fine of \$25,000 for each violation that is determined to be persistent and knowing.

E. Award the Attorney General his costs in bringing this action, including reasonable attorney fees.

F. Award such other relief as this Court deems just and appropriate.

Respectfully submitted,

Bill Schuette  
Attorney General



Darrin F. Fowler (P53464)  
Matthew K. Payok (P64776)  
Assistant Attorneys General  
Attorneys for Plaintiff  
Corporate Oversight Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-1160

Dated: September 18, 2014