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Costly measures vs. 'unconscionable' profits

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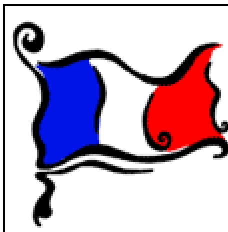
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Thirty-six hours after Wilma raced through South Florida, I was en route from Orlando to Jupiter. South of the Fort Drum Service Plaza, the darkness of Florida's Turnpike was stabbed by a 16-mile string of headlights. Thousands of drivers waited for a turn at the pump. It was a scene of disturbing desperation — fueled by a feckless attempt to protect consumers.

Lines at gas stations arguably attracted more media attention than any other Wilma story. Many fault station owners for not installing generators. But we should no more blame gas station owners for not having $45,000 generators on hand than we blame McDonald's franchisees for putting playgrounds next to their restaurants rather than in municipal parks.

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Florida's price-gouging statute, which claims to protect consumers against "unconscionable prices," provides little incentive for gas station owners to install generators. The statute allows for price increases due to higher emergency-related costs of doing business, but there is substantial uncertainty about this exemption. Considering the Enron-like vilification heaped upon price gougers, this uncertainty impedes the flow of necessities such as gas. The Florida Department of Agriculture and Consumer Services plans to investigate whether charging 90 cents more per gallon to cover the higher costs of pumping gas with a generator is defensible under this exemption (*Post*, Oct. 27). Would we not all benefit if this investigation were to yield concrete guidelines for acceptable price increases due to pumping gas with a generator?

More generally, these post-Wilma gas shortages reveal the price-gouging statute's odd obsession with limiting profits — even at consumers' expense. Although the statute allows for cost-related price increases, it disallows any demand-related price increases. So it is not high prices per se but high profits that appear "unconscionable" to legislators. This stifles market incentives to divert necessities to affected areas at precisely the worst time.

The statute aims to protect consumers by controlling retail prices but ignores other real costs such as time spent idling in line for gas. While a retail price is easily observed and therefore a favorite target for lawmakers, markets consist of more than this. If prices are not allowed to ration the distribution of gas, other wasteful rationing devices emerge to do the job. A four-hour wait for gas with a $20-per-vehicle limit translates into roughly 30 minutes per gallon. Is 30 minutes of your time worth more than $2.89? If so, a gallon of gas in this situation will cost you more in time than in dollars.

The statute really benefits us as consumers only to the extent that we feel personally threatened by supplier profits. When someone benefits from our misfortune, even if we also benefit from the exchange, we feel vulnerable. When we see the disadvantaged in this situation, we see exploitation. Profit controls may help to resolve our sense of vulnerability or our perception of exploitation, but at what cost?

With or without a price-gouging statute, there will be disruptions in the supply of necessities following a hurricane. But these disruptions surely would be less severe if prices, rather than long lines, could ration the distribution of necessities.

Concerns that high prices may disproportionately hurt the poor are valid, but income subsidies or reimbursements for necessities for the poor provide a better remedy than a blunt retail price control. Better still, the state could repeal the price-gouging statute and pay a few retailers to offer pre-hurricane prices and longer lines during states of emergency. Consumers could then choose whether to pay higher time costs or higher dollar costs. Such a policy would protect consumers by preserving what to them is most dear: choice.

And if legislators want primarily to protect us from unconscionable state-of-emergency profits, there is a host of less wasteful alternatives to the price-gouging statute.

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