Proskauer

Price Gouging Weekly Round Up

August 31, 2020

Price gouging enforcement and litigation is front and center for company counsel and business managers nationwide. Our weekly round up highlights some of the most relevant news and information to our clients and friends.

Advocacy Group Urges Investigation of California Blackouts

A Washington D.C. advocacy group is urging regulators to investigate the rolling blackouts in California that occurred on August 14 and 15, 2020. For the first time since 2001, the state saw its first deliberate blackouts. According to *The San Diego Union-Tribune*, early last week, the price of a megawatt hour of electricity in San Diego County was selling for $1,500 or more, a price 50 times higher than normal. The advocacy group's letter urges "an independent investigation to assess whether California residents have been the victims of market manipulation, price gouging and windfall profiteering. Governor Gavin Newsom has also ordered an investigation into the cause of the blackouts.

North Carolina Attorney General Sues New Jersey Company for Alleged Price Gouging

OOn August 25, 2020, North Carolina Attorney General Joshua Stein filed a lawsuit against a New Jersey-based company for offering to sell face masks at an unreasonably excessive price. According to the complaint, the company offered to sell millions of masks to three health care organizations at prices in violation of North Carolina's price gouging law. The lawsuit also alleges that when asked about the markup, the company responded that the markup was only 3%, when the actual markup was more than 100 percent. In a related press release, the Office of the Attorney General stated that each transaction would have amounted to "an attempted profit of $30,100,000." Attorney General Stein seeks civil penalties of $5,000 per violation of North Carolina's price gouging law.

Florida Attorney General Expands Price Gouging Hotline

On August 21, 2020, Attorney General Ashley Moody expanded Florida's price gouging hotline to cover essential commodities related to the approaching tropical storm. According to the press release, "Florida's price gouging laws for this event only apply within the area of the declared state of emergency and only for commodities and services essential to preparing for or recovering from the storm event." Storm related essential commodities include food, water, hotel rooms, ice, gasoline, lumber and equipment, needed as a direct result of the event. Read our blog post on Florida's price gouging law for more information.

Texas Attorney General Reminds Texans that Price Gouging is Prohibited

On August 24, 2020, Texas Governor Gregg Abbott issued a disaster declaration for 23 counties as Hurricane Marco and then Tropical Storm Laura approached the coast. The same day, Texas Attorney General Ken Paxton issued a press release reminding Texans that price gouging is prohibited during a declared disaster. Attorney General Paxton stated that "[i]n preparation for the coming storms, I urge all Texans to be cautious of dishonest individuals looking to scam vulnerable citizens. My office will aggressively prevent disaster scams and stands ready to prosecute any price-gouger who takes advantage of Texans." By August 26, 2020, the Texas Office of the Attorney General had already received several complaints related to hurricane price gouging. Attorney General Paxton stated in an interview, "[m]y message to those who are actually price gouging is don't do it because we will investigate you, and you will end up paying the money back, and it will end up costing you as a business more, and it also hurts your reputation. It is not something you want to do. Just be fair with consumers, and I think your consumer base will appreciate that." Since Governor Abbott's disaster declaration, the Hurricane passed, leaving significant damage. Texans should keep in mind that Texas' price gouging law applies not only to food and medicine, but also things like lodging, building materials and construction tools. Read our blog post on Texas' price gouging law for more information.

Iowa Attorney General Investigates Price Gouging Complaints

On August 11, 2020, Iowa Governor Kim Reynolds declared a state of emergency in response to severe weather that moved across the states, causing widespread damage. Since the severe weather, Attorney General Tom Miller has received nearly 50 price gouging complaints, half of which are about just two companies. Attorney General Spokesman Lynn Hicks said that the bulk of the complaints related to an electrical services firm that was charging a $299 emergency services fee. In response, the company owner argues that these are the same rates it has charged since opening in 2018. Iowa's price gouging law prohibits charging excessive prices needed by victims of disasters. Covered products include, but are not limited to water, food, medicines, sanitation supplies, utilities, building materials, and materials, goods, or services for cleanup or repair. Iowa Admin. Code §61-31.1(714). Note that Iowa's public health state of emergency is still in effect and may cover a variety of different goods unrelated to the severe weather declaration. Read our blog post on overlapping states of emergency for more information.

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