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They Clapped: Can Price-Gouging Laws Prohibit Scarcity?

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Here's the thing: They clapped. I can't for the life of me understand why the people would clap. But I'm starting in the middle. Here is what happened:

Hurricane "Fran" smashed into the North Carolina coastline at Cape Fear at about 8:30 pm, 5 September 1996. It was a category 3, with 120 mph winds, and enormous rain bands. It ran nearly due north, hitting the state capital of Raleigh about 3 am, and moving north and east out of the state by morning. The storm also dropped as much as ten inches of rain. In some counties, nearly every building was damaged; total reconstruction cost and damages were later calculated at \$5 billion (2006 \$).

In the Triangle (Raleigh, Durham, and Chapel Hill), more than a million people were without power the next morning. Humidity made everything sticky. Hundreds of homes had roofs damaged by falling pines and powerful winds. Few residences had any kind of back-up power. Many roads were blocked by large fallen trees. Within hours, food in refrigerators and freezers started to go bad. Insulin, baby formula, and other necessities immediately became susceptible to spoilage in the 92+ degree heat.

The damage was so widespread, and communication so sketchy, that no one had any firm idea of when power would be restored. More than a million people needed ice. And they needed it now.

Resources on the Move... Not

One might think that thousands of entrepreneurs in the surrounding areas, little touched by the storm, would load trucks and head to the disaster area. After all, they owned, or could obtain, all the things that the residents of central North Carolina needed so desperately. Ice, chain saws, generators, lumber, tarps for covering gaping holes in roofs... we needed it all. I say "we" because my family lived in North Raleigh. No power, and 36 large pine trees smashed down like God's own pick-up-stix. We couldn't get out of our immediate Mungerhood, and my underpowered chain saw burned out on the first tree I tried to cut.

But no such mass movement of resources to their highest valued use took place. North Carolina had an "anti-gouging law," which made it illegal to sell anything useful at a price

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North Carolina's Anti-Gouging Law
in 1996
(General Statutes 75-36)

that was "unreasonably excessive under the circumstances." This had been widely interpreted to limit price increases to around 5% or less. Each instance of violation of this law could result in a fine of up to \$5,000. So, ice that happened in Charlotte, stayed in Charlotte. Why drive three hours to Raleigh when you can only charge the Charlotte price, plus just enough for gas money to break even?

The problem for Raleigh residents was all about price, at that point. The prices of all the necessities that I wanted to use to "preserve, protect, or sustain" my own life shot up to infinity. Within a day after the storm, there were no generators, ice, or chain saws to be had, none. *But that means that anyone who brought these commodities into the crippled city, and charged less than infinity, would be doing us a service.*

Some service was, in fact, on the way. Four young men in the town of Goldsboro, an hour east of Raleigh and largely untouched by the storm, noticed that the freezers at the Circle P's, the Stop Marts, and the Handee Sluggos were brimming with ice. Convenience stores had stocked up, expecting a more easterly course for the storm. Now, there was an ice surplus in Goldsboro, and a shortage in Raleigh. These young men rented two small freezer trucks, paid \$1.70 each for 500 bags of ice for each truck and set off, filled with a sense of charity and the public good.

Okay, I made that last part up. They were filled with a sense of greed. They may have been bad human beings, real jerks. But who cares? If there had been a benevolent, omniscient social planner, she would have been yelling: (1) *Raleigh is desperate for ice.* (2) *If you have ice, take it to Raleigh.* Of course, there could never be a social planner with that level of information and authority, as [Hayek](#) (1945) argued so persuasively. But these yahoos acted *as if* they heard one anyway, speaking through the price system: cheap ice in Goldsboro was expensive ice in Raleigh, so they could make money.

Our icemen came to the outskirts of Raleigh, and headed for the interior, where the citizens waited, icelessly. The path was blocked by fallen trees, but these were yahoos, not idiots. Yahoos have chain saws, big ones. They rolled the cut logs off the road so their trucks (and, by the way, other cars and emergency vehicles) could pass.

One truck apparently parked in Five Points, near downtown, and another parked a bit west, near wealthy St. Mary's Street, and opened for business. I have not been able to find a definitive claim about price, but it was more than \$8. (All three of my personal "sources" knew someone who saw events, but... I'd love to be able to ask the sellers if they knew of the anti-gouging law, but we'll never know, I guess.)

On reaching the front of the line, some customers were angry

(a) It shall be a violation of G.S. 75-1.1 for any person to sell or rent or offer to sell or rent at retail during a state of disaster, in the area for which the state of disaster has been declared, any merchandise or services which are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or comfort of persons or their property with the knowledge and intent to charge a price that is unreasonably excessive under the circumstances.

(Later amended to be even more restrictive, outlawing price changes reflecting cost increases up the supply chain, August 2006, SL2006-245, GS 75-38).

From John Hood, "[Gouge Away](#):"

that the price was so high, but almost no one refused to pay for the ice. I have also been told that the sellers limited purchases to 4, or 6, bags per customer, but I'm not sure. If it is true, it reflects the altruism of the native North Carolinian, even ones who are just trying to make a buck.

But the police are charged with upholding the law, even the dumb ones (laws, not police). Someone must have made a call, because two Raleigh police cars and an unmarked car pulled up to the Five Points truck after about an hour. The officers talked to the sellers, talked to some buyers, still holding their ice, and confirmed that the price was much higher than the "correct" price of \$1.75 (the cost of a bag of ice before the storm). The officers did their duty, and arrested the yahoos.

Apparently the truck was then driven to the police impoundment lot in downtown Raleigh, as evidence. The ice may or may not have melted (accounts vary), but it certainly was not given out to citizens.

And now we are back to where I started: the citizens, the prospective buyers being denied a chance to buy ice... *they clapped*. Clapped, cheered, and hooted, as the vicious ice sellers were handcuffed and arrested. Some of those buyers had been standing in line for five minutes or more, and had been ready to pay 4 times as much as the maximum price the state would allow. And they clapped as the police, at gunpoint, took that opportunity away from them.

What Were They Thinking?

I am completely stumped by the clapping. But then I'm stumped on why people support anti-gouging laws. I strongly suspect the two things are related.

Consider some quotes from the Raleigh paper, the News and Observer, in the days following the hurricane. First, on September 10, 1996, less than a week after the storm, in two different page 1 stories, we were told:

"Ice shortages are becoming severe in some places—so much so that local counties are asking the federal government to send as much ice as it can." (Eisley, 1996)

And:

"At the cabinet meeting, Richard Moore, Hunt's secretary for crime control and public safety, said... he was... deploying the

Hurricanes and the politics of prices, December 1996 (written after, and about, Hurricane Fran), *Reason Magazine*:

I am a victim of price gouging.

Less than a day after Hurricane Fran's visit September 6, I ventured out of my neighborhood just south of Raleigh, North Carolina, to look for gasoline. I, along with seemingly half of the population of Wake County, found it at a nearby service station, the owners of which had rented someone's generator to get the pumps going. The line stretched far down U.S. Highway 70. I didn't mind waiting. Nor did I mind paying about 15 cents a gallon more than I had the previous week. Driving away with \$10 of gas, I didn't feel gouged. Excited would be more like it....

From Roy Cordato, **North Carolina's Price Control Laws:**

From the perspective of economic science, and particularly the subdiscipline known as "price theory," the concept of "price gouging" or "extreme pricing" or "unreasonable pricing" has no meaning. In fact, none of these terms appear in the index of any of the five most widely adopted principles of economics textbooks used in college classes in the United States.[8] The extent to which this price control law ignores economic analysis cannot be overstated. It has no grounding in the role of prices discussed above. As noted, while the law specifies several factors that should be used to determine whether prices are illegally high,

state's Alcohol Law Enforcement officers to investigate reports of price-gouging of products in short supply.

Hunt said both Florida Gov. Lawton Chiles and South Carolina Gov. David Beasley had agreed to send truckloads of ice and other supplies to North Carolina." (Wagner and Whitlock, 1996).

including facts that are completely irrelevant (such as the average price over the previous 60 days), there is no mention of whether the prices are consistent with actual conditions of supply and demand—which, from an economic perspective, is all that matters.

When I read these two articles, I started sputtering like a crazy person to my poor wife. And I am still sputtering about it. These articles told me two things: #1—Police and other government officials were being sent out to arrest anyone selling ice at a profit. #2—There was a terrible ice shortage. We were so desperate for ice that the only option is to beg the federal government, or other state governments, for supplies from their ice hoards, because there was no other way to get it.

I'm pretty sure I have a solution: stop doing #1, and #2 will go away like... well, like ice on a steamy September day in Raleigh. Ice is easy to make; just freeze some water. It's hard to make ice without electricity, but most of east, and all of west, North Carolina had plenty of electricity. And, in fact, they had plenty of ice. The problem is that the only real omniscient social planner we have is the market, and she speaks to people through prices. Do this, stop doing that, build something here, move to this city. When the state made it a crime to sell ice at a profit, the price mechanism was struck dumb. Only a few people could hear it. And we threw *them* in jail, ensuring that even fewer would heed the desperate call in the next crisis of deprivation.

Listen to "[Munger on Price Gouging](#)," a podcast with Russ Roberts and Mike Munger on EconTalk.

Tale of Two Prices

Consider two prices. First, the price of ice before the storm, which most people know, or have a feel for. Second, the price of ice after the storm, which is unknown and highly variable. People who favor price-gouging laws think that the first price, the price *before* the storm, is the fair price, and that is the price they want to pay. The market price *after* the storm reflects both the difficulty of getting ice from stores, because the store has no electricity, and the huge bump in demand for ice as thousands try to buy it.

Clearly, the relative scarcity of ice after the storm is much higher. The market price rises rapidly to reflect this increased scarcity. This makes people who would have used ice at the old price economize, and use something else. They can drink their bottled water, or their Carolina Ale, warm if they don't want to pay \$12 for a bag of ice. So ice only goes to people who really value it. And the higher price also signals yahoos, wahoos, and all sorts of regular folks that one can make boxloads of money by taking truckloads of ice to Raleigh. The price system is automatically doing its job, signaling to buyers that they should cut back, and signaling sellers (even potential sellers, those who have to enter the market from Goldboro) that they should sell more.

If enough people bring ice to Raleigh, of course, the price won't be \$12, or \$8, for very long. Ice is easy to make and transport, so without market restrictions price *after* the storm will quickly be

driven down near the price *before* the storm, because there is so much more ice available. That's what the clapping people *must have wanted*. Even the supporters of price-gouging laws want low prices and large supplies. But they can't get those things from a price-gouging law. Precisely the opposite happens, as the supply of ice disappears and the effective price, what people would be *willing* to pay, goes higher and higher. I admit that it's not intuitive, until you think about it. The only way to ensure *low* prices, and large supply, to buyers is to allow sellers to charge *high* prices, the highest they can get.

Well, but what if you seek a political solution, rather than trusting markets? What if you pass an anti-gouging law, to symbolize your opposition to scarcity? Scarcity hurts; it means that I can't have everything I want. Let's abolish scarcity; what then? As I have tried to argue, all a state accomplishes by passing an anti-gouging law is to ensure that there is no ice. I can't get it for \$100, or \$1,000. And too many citizens say, "Help: the market has failed! Let's call on government to rescue us!"

But they are wrong. Markets didn't fail. All that happened was that the price mechanism was bound and gagged, held hostage in the attic of the legislature.

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