

Costco Settles Fuel Temperature Case

By Holly Alfano and Lisa Mullings

Costco has agreed to install automatic temperature compensation (ATC) on its fuel pumps as part of a settlement agreement in the so-called “hot fuel” litigation, according to a press release posted on Newswire.

Costco is one of 173 fuel retailers that have been sued nationwide and is the only retailer so far to settle in the case *In re Motor Fuel Temperature Sales Practices Litigation*, MDL 1840 (Kansas District Court). Costco operates 83 stations in California and more than 350 stations nationwide in both southern and northern states.

A California Energy Commission (CEC) report questioned whether it is even legal to install ATC in the state, and further found that consumers would not benefit financially because of the high equipment costs. The CEC report concluded that the installation costs of between \$104-127 million, along with recurring annual expenses of between \$7-21 million, would be passed on to consumers. The one benefit identified in the report—transparency—was valued at \$258,000 for all consumers in the state.

Costco has not disclosed publicly how many ATC devices will be installed at Costco locations, and whether all of the states in which they operate will allow installation of the equipment. Weights and measures regulations govern the sale of motor fuel at retail, and most states adopt laws and regulations from National Institute of Standards and Technology Handbook 44 and Handbook 130, based on deliberations of the National Conference on Weights and Measures (NCWM). The NCWM plans a July vote on whether ATC should be permitted or mandated. The NCWM has not developed specifications for ATC equipment in the U.S., which is not widely available.

The list of NCWM meetings can be found at <http://www.ncwm.net/events/>; NATSO encourages fuel retailers to attend.