

BCUC Inquiry and BC LCFS - Factsheet

The *BC Gasoline and Diesel Prices Inquiry* was initiated May 24, 2019 by the BC Utilities Commission under the direction of the BC government. The BCUC Panel of three commissioners received over 180 formal submissions by the eleven registered Intervenors including confidential documents, conducted [four] days of oral workshops, and held in-camera hearings to address Intervenor's confidential information. The Panel and BCUC staff filed numerous documents including a Final Report (August 30th, 2019), and a Supplemental Report (November 12th, 2019) which considered Intervenor feedback on the Final Report. All non-confidential information for this Inquiry is on the BC website.¹

What was the Inquiry's mandate?

The Terms of Reference, established by the BC Government, directed the Inquiry to explore factors that may be influencing gasoline and diesel prices in BC since 2015, including:

- the differences, if any, in refining and retail margins compared to other jurisdictions in Canada. Additionally, for retail, among different regions in BC;
- factors that contribute to both retail and wholesale price fluctuations such as access of refineries in BC to crude oil, the amount of fuel in storage, refinery usage and pipeline capacity, market size and demand, distribution methods and seasonal variations;
- how competition impacts pricing; and
- what other jurisdictions are doing to enhance fuel price transparency.

The BCUC was also asked to explore mechanisms the province could use to moderate gasoline and diesel price fluctuations and increases.

The commission was also directed to, "not inquire into the effects of Provincial enactments or policy on gasoline and diesel prices in British Columbia."

The commission was enabled to "exercise all of its powers under the Act² that the commission considers necessary to conduct the inquiry", and directed to submit to the Minister of Jobs, Trade and Technology a final report describing the results of the inquiry and including its advice no later than August 30, 2019.

What were the key findings of the Inquiry?

The Supplemental Report summarized its findings in three sections: Wholesale Market Pricing; Wholesale Market Concentration; and, the Retail Market. The Panel stated that it was "not persuaded that material changes are required to be made to the [Final] Report's findings" as a result of feedback and additional submissions to the initial Final Report. Further, "The Panel remains persuaded that the market concentration and the potential to exercise market power exists. Perhaps the strongest indication that it not only exists, but is being exercised, lies in the fact that there remains a 10 to 13 cpl unexplained differential."

¹ <https://www.b cuc.com/ApplicationView.aspx?ApplicationId=681>

² http://www.bclaws.ca/civix/document/id/complete/statreg/96473_01

Wholesale Market — The Supplemental report re-stated that the Panel “found that the wholesale market was oligopolistic, with some characteristics of a natural monopoly. We also found that barriers to entry are significant that lent credence to the view that wholesale suppliers exert market power.”

Relative to the BC gasoline market, the Supplemental report stated that the “unexplained difference could potentially range from 10 cpl to the originally reported 13 cpl.” The Panel provided data showing that BC acquired only 3-5 percent of its gasoline from the Seattle-area market, and yet “the market price for gasoline is being set by the cost (plus an additional unexplained difference of 10 to 13 cpl) to acquire approximately 3-5 percent of the total gasoline required in BC. At the actual market price, Oil Companies are enjoying this additional margin on gasoline from all sources.”

The Panel stated it did not have the time or resources to assess the actual cost of the 95- 97 percent of gasoline supplied to BC from elsewhere, but that it was less expensive than the 3-5 percent that set the price for the whole BC market. The Panel said that while it was “unable to estimate the amount of additional margin paid by BC motorists on this approximately 95 percent of gasoline purchased, it is in addition to the \$490 million annually that we estimated for the 13 cpl unexplained difference. Every 1 cent additional margin represents \$37 million more dollars paid annually by BC motorists. This is in addition to any ‘unexplained difference’ in the retail margin.”

Retail Market — For the retail market, the Panel found that while “Retail margins (as reported) in BC are higher than in the rest of Canada, there is no evidence that market control is being exercised at the retail level.”

A full reading of the Panel report is necessary to understand the sub-findings and caveats relative to the competitiveness of the BC fuel market.

Why did the Inquiry assess only gasoline prices?

The Inquiry examined both gasoline and diesel prices since 2015 and “did not find a disconnect in diesel prices between BC and the rest of Canada.” On that basis the Panel focused the its in-depth market examination on the market for gasolines fuel.”

Did the BCUC fuel price inquiry assess regulatory impacts?

Yes.

Notwithstanding that the direction of the BC government that “the BCUC may not inquire into the effects of Provincial enactments or policy on gasoline and diesel prices in British Columbia”, the BCUC Panel of three commissioners reported that it, “received evidence from participants regarding this as a factor to explain why the wholesale market in BC is different than other jurisdictions.”

The panel provided this rationale for assessing regulatory impacts: “to answer the question as to why the wholesale price gap has widened between Vancouver and the Pacific Northwest reference price, it is important to have some context as to how fuel content regulations differ between BC, Canada, and other jurisdictions that affect the BC market.”

The Panel acknowledges this section of the OIC, however, we received evidence from participants regarding this as a factor to explain why the wholesale market in BC is different than other jurisdictions

Why were taxes not included in the Inquiry?

The Inquiry was intended to study and explain factors impacting high BC fuels prices that were not explainable from available data. All B.C. fuel taxes, including the carbon tax and regional transit taxes, are explicit and openly available to the public in Tax Bulletin 005 – Tax Rates on Fuels³.

None of these taxes are based on the base price of fuel; they are a fixed cost per litre. The federal GST is percentage-based transparent formula and was not excluded from the review.

The review compared pre-tax (i.e. wholesale) fuel costs in BC with those of other jurisdictions; the Panel's report on the 'unexplained difference' was based on pre-tax prices.

Does BC have unique 'boutique' gasoline that exist nowhere else in Canada or North America?

No. Many jurisdictions in Canada and the US have gasoline of comparable quality to that required to be used in BC.

BC has a cleaner gasoline standard (for vapour pressure), and a renewable and low carbon fuel standard. A number of Canadian provinces, as well as US states, have both of these kinds of regulations.

Annex B of the Canadian General Standards Board standard for *Oxygenated automotive gasoline containing ethanol (E1-E10 and E11-E15)*⁴ lists Canadian jurisdictions that have vapour pressure and renewable fuel standards.

Cleaner gasoline standards

With respect to cleaner gasoline, the BCUC Final report was clear that BC does not have 'boutique' gasoline: "Government of Canada regulations have not changed since 2015 and are applicable across Canada and similar requirements are in place in nearby jurisdictions in the US, such as Washington and Oregon. Further, there are large parts of the year when neighbouring jurisdictions have stricter vapour pressure regulations. In short, these vapour pressure requirements cannot explain the growing differential in retail or refining margins."

BC's Cleaner Gasoline Standard⁵ regulates seasonal and regional vapour pressure. Manitoba, New Brunswick, Newfoundland and Labrador, and Ontario also regulate seasonal vapour pressure. Under these regulations, refiners must supply gasoline with lower volatility (vapour pressure) in the summer months to reduce evaporative emissions associated with ozone and smog (which impact respiratory health).

³ <https://www2.gov.bc.ca/assets/gov/taxes/sales-taxes/publications/mft-ct-005-tax-rates-fuels.pdf>

⁴ CAN/CGSB-3.511-2016, Amendment No. 2 (2018)

⁵ B.C. Reg. 498/95

US states that supply a small portion of BC's gasoline also have vapour pressure regulations.

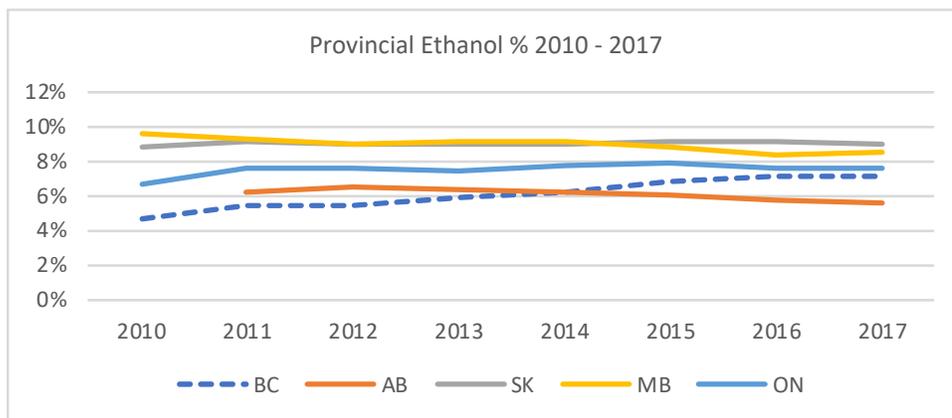
Renewable and Low Carbon Fuel Standards

A number of Canadian and US jurisdictions regulate minimum renewable content, or carbon intensity of fuel.

The Navius Research *Biofuels in Canada 2019*⁶ report details Canadian federal and provincial mandated biofuel blending.

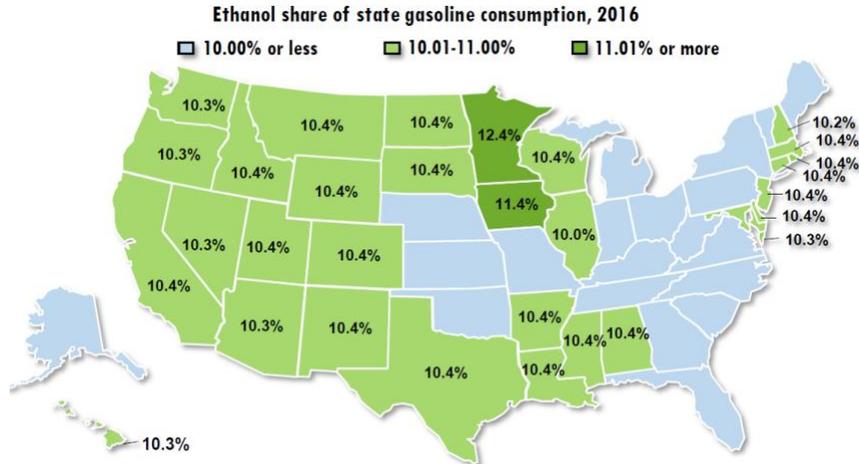
BC has amongst the lowest ethanol content in gasoline compared with almost every other provincial or state-level jurisdiction in North America.

In Canada, renewable fuel regulations have been in place since between 2005 (SK) and 2011 (AB) in British Columbia, Alberta, Saskatchewan, Manitoba, and Ontario. Until 2014, BC had the lowest ethanol content (6.2%), and since 2015 second-lowest content after Alberta.



BC also lags far behind almost every US state; the US national average for ethanol content in gasoline is 10%

⁶ <https://www.naviusresearch.com/publications/2019-biofuels-in-canada/>



Source: Renewable Fuels Association

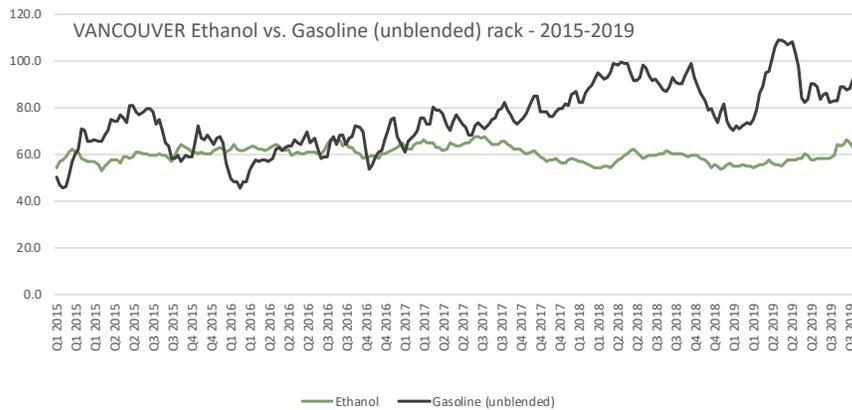
Is ethanol more expensive than gasoline in BC?

No.

From 2016 onward, ethanol prices went down - in the opposite direction of Vancouver gasoline prices

- For 2016, ethanol was \$0.028/litre *more* expensive than unblended (suboctane) gasoline; weekly avg.
- For 2017, ethanol was \$0.145/litre *less* expensive than unblended (suboctane) gasoline
- For 2018, ethanol was \$0.315/litre *less* expensive than unblended (suboctane) gasoline
- For 2019YTD, ethanol has been \$0.303/litre *less* expensive than unblended (suboctane) gasoline

Chart 1: Ethanol vs Gasoline wholesale prices



Source: ABFC, OPIS, Kent Marketing

Were oil companies prevented from discussing fuel prices or costs in the BCUC inquiry?

No.

BCUC provided ample opportunity for Oil Companies to submit confidential information in writing and also in closed-door oral exchanges with the Panel. BCUC accommodated intervenor's requests for the

protection of confidential information, and no Oil Companies stated that they were prevented by Competition Act provisions or for other reasons from providing information on actual costs to support their public statements.

Further, with respect to what can be discussed in a public setting such as regulatory consultations (or a BCUC inquiry), BC Energy, Mines and Petroleum Resources stated in November 2019 that, “The Ministry is aware that pricing is a sensitive issue if it pertains to competitive behaviour, and is therefore often avoided due to concerns regarding the Competition Act. All parties will be expected to avoid specifics regarding pricing policies of individual companies, but the Ministry does not consider information that is publicly available to be restricted for discussion.”

Industry associations, whether they represent fossil fuels or renewable fuels, are fully at liberty to present data and analysis on fuel prices. Oil companies (e.g. Suncor, Shell) post daily wholesale rack prices on their websites, and OPIS and other services make available (for fee or for no fee) a wealth of data on biofuel prices. Ethanol is a commodity, and its cost to fuel suppliers is widely available.

With respect to any question as to whether Oil Companies were prevented from disclosing their costs for complying with regulatory requirements, they were not. Several Oil Companies provided specific cost ranges, and the

Do regulatory costs explain the 13 cents ‘unexplained difference’ finding of the BCUC Panel?

No.

The Panel assigned costs for the BC low carbon fuel standard (LCFS) at the top end of its consultant Deetken’s estimate of between zero to 4 cents per litre. The Panel stated the 10-13 cents per litre unexplained difference was on top of the LCFS cost. Note that Deetken⁷ stated that, “As indicated, the estimate for the regulatory impact in this section is the *maximum* plausible. Given this, it is important to note several factors which indicate that the likely true impact is far less than what has been modeled here.”

The Final Report stated, “A number of the Oil Companies did raise the cost of meeting regulatory standards for fuel imported from Washington. However, none refuted the cost estimates provided by Deetken regarding gasoline. Therefore, the Panel finds that the estimates provided by Deetken with respect to the cost of meeting BC fuel regulatory requirements is reasonable and will use the upper value of 4 cents/litre.”

The Supplemental report discussed information provided by intervenors relative to LCFS costs, with the Panel stating that no detailed evidence was provided to support a claim by one Oil Company that LCFS costs were 6 cents per litre or higher, and that another Oil Company stated that LCFS costs were lower than the 4 cent high upper end of the Inquiry’s own estimate.

Oil Companies had ample opportunity to provide either public or confidential information relative to their costs for complying with the BC LCFS. Only several took up this opportunity. None of the Oil Companies indicated that the LCFS costs explained the ‘unexplained difference.’

⁷ https://www.bcuc.com/Documents/Proceedings/2019/DOC_54513_A2-1-1-Deetken-IndependentConsultantReport-Phase2.pdf

While a few commentators who did not participate in any way (letters, oral workshop attendance) in the Inquiry have expressed the opinion that regulatory costs are responsible for the unexplained premium that BC drivers pay, none of these commentators has offered any analysis or provided any data to support their opinion, nor have they provided data to show that Oil Companies have erred in their assessments of regulatory costs.

What is the BC government doing as a result of the Inquiry findings?

The government of BC passed the Fuel Price Transparency Act⁸ on November 27th. “The fuel price transparency act will allow the B.C. Utilities Commission (BCUC) to collect information from oil and gas companies on the market conditions involved in setting gasoline prices. This information will be made available to the public, as well as consumer and watchdog groups.”

“This act will require companies to share data on refined fuel imports and exports, fuel volumes at refineries and terminals, as well as wholesale and retail prices. It also has safeguards in place to ensure that the information provided by the companies is complete, accurate and reported regularly.”

The act “will also produce a common set of facts moving forward, allowing us to properly evaluate other policy measures to bring fairness to the price at the pump.”

⁸ <https://news.gov.bc.ca/releases/2019JTT0048-002219>