



UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM — MINORITY STAFF
SPECIAL INVESTIGATIONS DIVISION
JULY 21, 2004

HALLIBURTON'S GASOLINE OVERCHARGES

PREPARED FOR

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EXECUTIVE SUMMARY

For the past nine months, Reps. Henry A. Waxman and John D. Dingell have been investigating the high prices charged by Halliburton to import gasoline into Iraq under a no-bid contract awarded by the U.S. Army Corps of Engineers. As part of this investigation, the staff consulted with energy experts inside and outside of the government, received detailed cost information from the Army Corps and the Defense Energy Support Center (DESC), and interviewed numerous individuals in Iraq and Kuwait. The staff also met on multiple occasions with Halliburton officials to understand the company's perspective on the allegations of overcharging.

This report presents the results of the investigation. It finds that the decision to give Halliburton the contract to import millions of gallons of gasoline from Kuwait into Iraq significantly increased the costs to the government. Compared to the Defense Energy Support Center, which has taken over the responsibility to import gasoline into Iraq from Halliburton, Halliburton charged much more to purchase fuel in Kuwait, to transport the fuel into Iraq, and to cover its fees and markups. In total, these unnecessary charges increased the costs to the government by \$167 million, an increase of over 90%.

Halliburton was awarded the task order to import gasoline into Iraq on May 4, 2003. Halliburton promptly entered into a contract with a Kuwaiti company, Altanmia Commercial Marketing Company, to purchase gasoline from the Kuwait Petroleum Company (KPC) and transport it into Iraq. Between May 5, 2003, and March 31, 2004, Halliburton imported 131 million gallons of gasoline from Kuwait into Iraq under the contract with Altanmia.

On April 1, 2004, DESC took over the responsibility of importing gasoline into Iraq. Like Halliburton, DESC also entered into contracts with other companies to supply and transport the fuel to Iraq. In fact, DESC hired the same company that Halliburton used, Altanmia, to transport the fuel from Kuwait into Iraq. Unlike Halliburton, however, DESC purchases the gasoline itself directly from KPC, not through a middleman like Altanmia.

Halliburton's and DESC's costs can be broken into three basic components: (1) fuel costs; (2) transportation costs; and (3) fees and markups. This report finds that Halliburton charged the government substantially more than DESC in each category.

Gasoline is a commodity, and its prices fluctuate daily on a "spot" market. Halliburton paid Altanmia approximately \$0.32 per gallon above the spot price to purchase gasoline from KPC. In contrast, DESC pays KPC approximately \$0.16 per gallon above the spot price. Compared to DESC, Halliburton paid twice as much above the spot price for gasoline.

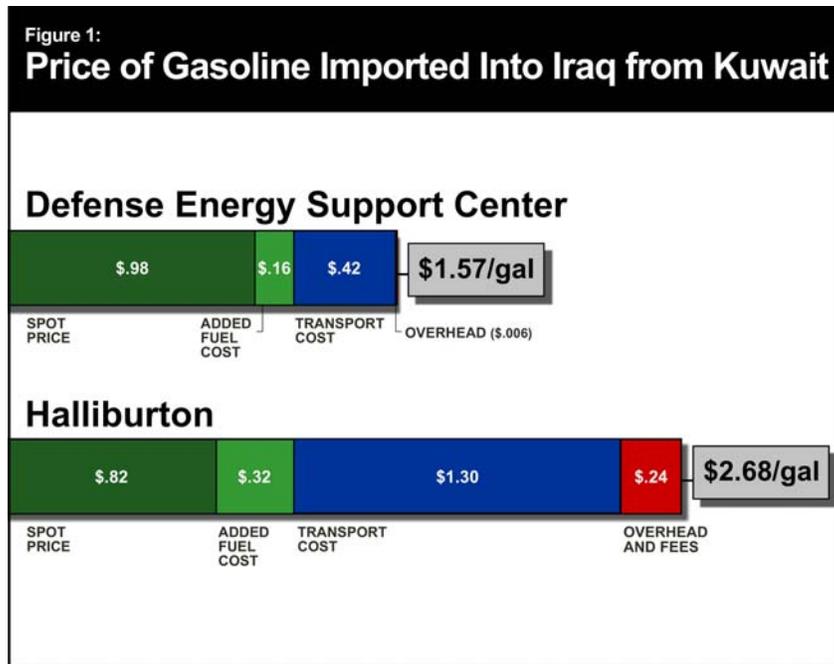
Halliburton's transportation costs also exceeded DESC's. Halliburton paid Altanmia an average cost of \$1.30 per gallon to transport the gasoline into Iraq. In contrast, DESC

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pays Altanmia only \$0.42 per gallon to transport the gasoline into Iraq. Compared to DESC, Halliburton paid Altanmia over three times more for transportation services.

Halliburton’s fees and markups added \$0.24 per gallon to the cost of importing gasoline from Kuwait into Iraq. In contrast, DESC charges no fee and has a “markup” of less than \$0.006 per gallon to cover its management and oversight costs. Compared to DESC, Halliburton charged the U.S. government 40 times more per gallon in fees and markups.

The difference between Halliburton’s prices and DESC’s prices is large. During the period from May 5, 2003, to March 31, 2004, Halliburton charged an average price of \$2.68 per gallon to import gasoline from Kuwait into Iraq, consisting of a spot price of \$0.82 per gallon, a fuel surcharge of \$0.32 per gallon, a transportation cost of \$1.30 per gallon, and fees and markups of \$0.24 per gallon. In contrast, DESC has charged an average price of only \$1.57 per gallon since taking over the fuel importation responsibilities, consisting of a spot price of \$0.98 per gallon, a fuel surcharge of \$0.16 per gallon, a transportation cost of \$0.42 per gallon, and markups of \$0.006 per gallon. See Figure 1.



In total, Halliburton charged the government the spot price plus \$1.86 per gallon to import gasoline from Kuwait to Iraq, while DESC charges the government the spot price plus \$0.59 per gallon. Compared to the costs DESC incurs, the decision to give the contract to import gasoline from Kuwait into Iraq to Halliburton increased costs to the U.S. government by \$1.27 per gallon. This is an increase of over 90%, assuming constant spot prices. When this overpayment is multiplied by the 131 million gallons imported from Kuwait into Iraq by Halliburton, the total increased cost is \$167 million.

I. BACKGROUND

A. Halliburton's Fuel Importation Contract

On March 8, 2003, the Army Corps of Engineers awarded Halliburton a secret no-bid monopoly contract to restore and operate Iraq's oil infrastructure, currently valued at \$2.53 billion but worth up to \$7 billion.¹ Under this cost-plus contract, Halliburton's costs are reimbursed and the company receives an additional fee of 2% to 7% of its costs.

On May 4, 2003, the Army Corps issued Task Order 5 under the contract, instructing Halliburton to begin purchasing and importing fuel into Iraq for civilian use.² Nearly \$1.5 billion has been obligated for fuel importation into Iraq under this and subsequent task orders.³

Rather than perform the work itself, Halliburton selected an obscure Kuwaiti subcontractor, Altanmia Commercial Marketing Company, to import gasoline from Kuwait. Altanmia had no previous fuel procurement or transportation experience.⁴ According to Halliburton, Halliburton knew about Altanmia because Halliburton had previously leased real estate from an affiliated company within the same family-owned conglomerate.⁵

Halliburton awarded the subcontract to Altanmia in a single day after obtaining quotes from just two other bidders.⁶ On May 4, the same day Task Order 5 was issued, the Army Corps requested that Kuwait's Oil Minister approve Halliburton's choice of Altanmia.⁷ The next day, Halliburton told Altanmia to begin purchasing and delivering gasoline.⁸

¹ U.S. Army Corps of Engineers, *Frequently Asked Questions: Engineer Support to Operation Iraqi Freedom* (May 11, 2004) (online at www.hq.usace.army.mil/CEPA/Iraq/March03-table.htm).

² U.S. Army Corps of Engineers, *Information Paper: Business Case by USACE for the Use of Altanmia as a Supplier of Fuel under the RIO Contract* (Jan. 6, 2004).

³ U.S. Army Corps of Engineers, *supra* note 1.

⁴ *Fuel for the Fire: At Center of Halliburton Uproar, Little-Known Kuwaiti Company*, Wall Street Journal (Apr. 14, 2004)

⁵ Meeting between Halliburton representatives and Minority Staff, Committee on Government Reform (June 2, 2004).

⁶ U.S. Army Corps of Engineers, *supra* note 2.

⁷ Letter from John M. Weatherly, Jr., Administrative Contracting Officer, U.S. Army Corps of Engineers, to Sheikh Ahmad Al-Fahad Al-Sabah, Oil Minister of Kuwait (May 4, 2003).

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Halliburton officials described their subcontractor selection process as “open and competitive.”⁹ However, the process was not open to all competitive bidders. Rather than seeking out experienced companies, Halliburton contacted companies that some industry experts had never heard of. The two other bidders contacted by Halliburton were Elafco General Trading and Ma'mar Specialties.¹⁰ Neither of these companies was a leader in the purchase or transportation of fuel. Halliburton failed to obtain bids from companies that are recognized as leaders in the fuel industry in Kuwait. For example, the Independent Petroleum Group, which imports fuel for Iraq's State Oil Marketing Organization (SOMO), was not offered an opportunity to bid on the subcontract.

In October, Halliburton decided to re-bid the Kuwait subcontracts. Altanmia submitted a bid of \$1.14 per gallon to procure the gasoline. Its bid for transportation was \$23,810 month for each fuel tanker used to transport the gasoline. Halliburton received two lower bids: one from Kuwait Establishment Company (KEC) at \$0.91 per gallon to procure the gasoline and \$13,527 per tanker; and one from Burgan Express at \$0.97 per gallon to procure the gasoline and \$9,950 per fuel tanker for transport.¹¹

Despite receiving two substantially lower bids, Halliburton continued the subcontract with Altanmia. According to Halliburton, the company rejected KEC because KEC was unable to demonstrate that it had KPC approval to purchase the gasoline.¹² Halliburton also says it rejected Burgan Express's bid because the company needed ten days before it could begin operations.¹³ The Army Corps approved of Halliburton's decision to continue the subcontract with Altanmia.¹⁴

In November 2003, the Army Corps reported to Rep. Waxman that Halliburton had charged an average price of \$2.64 per gallon to import gasoline from Kuwait into Iraq.¹⁵ In July 2004, the Army Corps provided updated cost figures to the

⁸ U.S. Army Corps of Engineers, *supra* note 2.

⁹ Halliburton, *Halliburton Provides Update on Fuel Delivery Mission in Iraq* (Oct. 21, 2003).

¹⁰ U.S. Army Corps of Engineers, *supra* note 2.

¹¹ Meeting between Halliburton representatives and Minority Staff, *supra* note 5.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Briefing by U.S. Army Corps of Engineers to Minority Staff, Committee on Government Reform (Nov. 17, 2003).

Government Reform Committee. According to these more recent figures, Halliburton's average price for the entire period of Halliburton's performance under the contract — from May 2003 through March 2004 — was \$2.68 per gallon. Halliburton paid Altanmia \$1.14 per gallon to purchase the gasoline from KPC and \$1.30 per gallon to transport the gasoline from Kuwait to Iraq by truck. Halliburton then charged \$0.24 per gallon in overhead and administrative markups and fees.¹⁶

Overall, Halliburton imported 131,181,054 gallons of gasoline from Kuwait into Iraq, charging the Army Corps \$351,691,346 for these imports.¹⁷

B. Pricing Concerns

On October 15, 2003, Reps. Waxman and John D. Dingell wrote to Joshua Bolten, Director of the Office of Management and Budget, to raise concerns about Halliburton's fuel charges.¹⁸ In the following months, Reps. Waxman and Dingell wrote eight more letters raising additional concerns about Halliburton's fuel choices and its relationship with Altanmia.¹⁹

As the letters from Reps. Waxman and Dingell pointed out, independent experts consulted by the staff expressed grave doubts about the reasonableness of

¹⁶ E-mail from U.S. Army Corps of Engineers, transmitted to Minority Staff of the Committee on Government Reform by the Department of Defense (June 20, 2004). According to Halliburton, the company charged for the full 5% award fee, but has not actually received the fee as no award fee board has met. Halliburton charged for and received its 2% base fee. Meeting between Halliburton representatives and Minority Staff, *supra* note 5.

¹⁷ E-mail from U.S. Army Corps of Engineers, transmitted to Committee on Government Reform Minority Staff by the Department of Defense (June 20, 2004).

¹⁸ Letter from Reps. Henry A. Waxman and John D. Dingell to Joshua Bolten, Director, Office of Management and Budget (Oct. 15, 2003).

¹⁹ Letter from Reps. Henry A. Waxman and John D. Dingell to Lt. Gen. Robert B. Flowers, U.S. Army Corps of Engineers (Oct. 21, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Condoleezza Rice, Assistant to the President for National Security Affairs (Oct. 29, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Lt. Gen. Robert B. Flowers, U.S. Army Corps of Engineers (Nov. 5, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Joseph E. Schmitz, Inspector General, U.S. Department of Defense (Nov. 25, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Condoleezza Rice, Assistant to the President for National Security Affairs (Dec. 10, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Lt. Gen. Robert B. Flowers, U.S. Army Corps of Engineers (Jan. 6, 2004); Letter from Rep. Henry A. Waxman to Condoleezza Rice, Assistant to the President for National Security Affairs (Jan. 15, 2004); Letter from Reps. Henry A. Waxman and John D. Dingell to Joseph E. Schmitz, Inspector General, U.S. Department of Defense (Feb. 24, 2004).

Halliburton's prices. Phil Verleger, a California oil economist and the president of a consulting firm, said of the prices: "It's as if they put the gasoline on the Queen Mary and take[] it around the globe before they deliver it."²⁰ Jeffrey Jones, until recently the Director of the Defense Energy Support Center, stated: "I can't construct a price that high."²¹ Another expert, who asked that his identity not be disclosed, characterized Halliburton's prices as "highway robbery."

The letters also compared Halliburton's prices to other benchmarks. One letter revealed that Iraq's state owned oil company, the State Oil Marketing Organization (SOMO), hired contractors to purchase gasoline and deliver it to Baghdad for about \$1.00 per gallon.²² Another letter disclosed that Halliburton's prices to purchase gasoline and deliver it from Turkey were far lower than those for purchasing and delivering from Kuwait.²³ According to data that the Army Corps provided to Rep. Waxman, Halliburton's per-gallon price from Turkey was \$1.24 — less than half the price from Kuwait. Halliburton's \$0.22 per-gallon transport cost from Turkey was less than one-fifth of the transport cost from Kuwait.²⁴

In December, the Defense Contract Audit Agency (DCAA) announced that its draft audit found that Halliburton had overcharged the U.S. government by as much as \$61 million for gasoline imported from Kuwait into Iraq as of September 30, with significant additional overcharges likely in the months thereafter.²⁵ DCAA concluded that Halliburton "has not demonstrated . . . that they did an adequate subcontract pricing evaluation prior to award" of the Altanmia subcontract.²⁶ Pentagon auditors also noted the large unexplained disparity between Halliburton's gasoline prices from Turkey and Kuwait.²⁷ The DCAA auditors sought certified cost and pricing data from Halliburton and Altanmia in

²⁰ *The High Price of Gasoline for Iraq*, NBC News (Nov. 5, 2003).

²¹ *Army Eyes Halliburton Import Role in Iraq*, Associated Press (Nov. 5, 2003).

²² Letter from Reps. Henry A. Waxman and John D. Dingell to Lt. Gen. Robert B. Flowers, U.S. Army Corps of Engineers (Oct. 21, 2003). *See also*, Letter from Mohammed M. Al-Jibouri, General Manager, State Oil Marketing Organization, to Minority Staff, Committee on Government Reform (Oct. 16, 2003). Recent conversations with experts in the region confirm this pricing.

²³ Letter from Reps. Henry A. Waxman and John D. Dingell to Condoleezza Rice, Assistant to the President for National Security Affairs (Dec. 10, 2003).

²⁴ Briefing by U.S. Army Corps of Engineers, *supra* note 15.

²⁵ U.S. Department of Defense, News Briefing (Dec. 11, 2003).

²⁶ *Id.*

²⁷ *Id.*

order to assess whether the costs being billed to the government were fair and reasonable.

While these concerns mounted, Halliburton consistently claimed that it imported gasoline into Iraq at the best possible price. Several Halliburton press releases insisted that the company “delivered fuel to Iraq at the best value, the best price and the best terms.”²⁸ In a *Washington Post* op-ed, Halliburton’s chairman and CEO, David Lesar, wrote, “We are confident that it will be proven that Halliburton delivered the fuel at the best price on the best terms, even under emergency wartime conditions.”²⁹

The Army Corps of Engineers also defended Halliburton’s prices. On December 19, 2003, the Corps unilaterally declared Halliburton’s gasoline prices to be “fair and reasonable.”³⁰ As part of this action, the Corps gave Halliburton a waiver from the requirement to provide “any cost and pricing data” from Altanmia relating to the importation of gasoline.³¹

On February 1, 2004, Army Corps spokesman Scott Saunders addressed the fuel prices, stating: “We have our own internal audit process [and we] haven’t turned up any serious wrongdoing or major problems.”³²

²⁸ Halliburton, *Halliburton Successes: Improving the Lives of Soldiers and Iraqis* (Mar. 18, 2004); Halliburton, *Halliburton Sets the Record Straight on KBR’s Government Contracts* (Mar. 11, 2004); Halliburton, *Halliburton: KBR Delivered Fuel at Best Value, Price, Terms* (Feb. 24, 2004); Halliburton, *Halliburton Addresses Defense Draft Audit* (Dec. 18, 2003).

²⁹ *Piling on Halliburton*, *Washington Post* (Mar. 3, 2004).

³⁰ U.S. Army Corps of Engineers, *Waiver for Submission of Cost and Pricing Data* (Dec. 19, 2003).

³¹ *Id.* The primary rationale for the waiver was that Kuwaiti law prohibited Altanmia from submitting certified cost and pricing data to Halliburton and the Corps. The Corps expressly stated in the waiver document, “[the Department of State] as well as other defense agencies . . . have verified that it is a violation of Kuwaiti law for contractors to submit cost and pricing data for fuel products.” This underlying premise appears to be false. Several independent sources, including a Library of Congress legal specialist and a former managing director of the Kuwait Petroleum Corporation in Europe, have indicated that there is no such prohibition in Kuwaiti law. See Library of Congress, *Kuwaiti Fuel Laws* (Jan. 15, 2004); Telephone conversation between Samad Al-Blouki and Minority Staff, Committee on Government Reform (Jan. 20, 2004); Telephone conversation between Samad Al-Blouki and Minority Staff, Committee on Government Reform (Jan. 14, 2004).

³² *Halliburton Contract Questions Dog White House*, *Chicago Tribune* (Feb. 1, 2004).

C. The Move to DESC

Amid the controversy about Halliburton's gasoline prices, the Pentagon decided to relieve Halliburton of its fuel importation responsibilities and assign this duty to an office within the Pentagon, the Defense Energy Support Center (DESC). On December 30, DESC announced that it would replace Halliburton and begin importing fuel into Iraq for civilian use.³³ DESC delivers fuel around the world, usually for military customers, and often on short notice. DESC has had a permanent Persian Gulf office in Bahrain for 50 years.

After its announcement, DESC began preparations to award new fuel and transportation contracts through a full and open competition. DESC issued solicitations for fuel importation from Turkey, Jordan, and Kuwait.

On March 15 and 16, after receiving and evaluating 34 timely proposals in response to two solicitations, DESC awarded new contracts for the importation of gasoline into southern Iraq from Kuwait.³⁴ One contract was awarded to Kuwait Petroleum Company for the gasoline itself, and another was awarded to Altanmia for transportation of gasoline from Kuwait to Iraq. Performance of the contracts began on April 1.³⁵

II. EVALUATION OF HALLIBURTON'S GASOLINE PRICES

The transfer of the gasoline importation responsibilities from Halliburton to DESC provides a unique opportunity to assess the reasonableness of Halliburton's prices. DESC is now performing the same function that Halliburton performed for 11 months. Both Halliburton and DESC located and hired contractors to acquire gasoline in Kuwait and transport it into Iraq for civilian use. In fact, both Halliburton and DESC hired the same firm, Altanmia, to transport the fuel. Because of these similarities, a direct "apples-to-apples" price comparison can be made between Halliburton's prices and DESC's costs.

In making this comparison, Halliburton's prices and DESC's costs can be broken into three components: (1) payments above the spot price to procure the fuel; (2) payments to transport the gasoline from Kuwait into Iraq; and (3) fees and

³³ Defense Logistics Agency, *Defense Energy Support Center to Help Restore Iraqi Oil* (Dec. 30, 2003).

³⁴ U.S. Department of Defense, *Contracts: Defense Logistics Agency* (Mar. 16, 2004).

³⁵ E-mail from Legislative Affairs, Defense Logistics Agency, to Minority Staff, Committee on Government Reform (Apr. 9, 2004).

markups to cover the cost of their services. Halliburton's costs are substantially higher than DESC's costs in each category.

A. Gasoline Procurement Costs

After controlling for market fluctuations, Halliburton charged more than DESC for the purchase of the gasoline. Gasoline is a commodity, and its prices fluctuate daily on a "spot" market. According to the Army Corps, Halliburton paid Altanmia an average price of \$1.14 per gallon for gasoline.³⁶ While Halliburton was paying Altanmia to buy gasoline from KPC for \$1.14 per gallon, the average spot price for Arab Gulf gasoline was just \$0.82.³⁷ Thus, Halliburton paid approximately \$0.32 per gallon above the spot price to purchase gasoline.

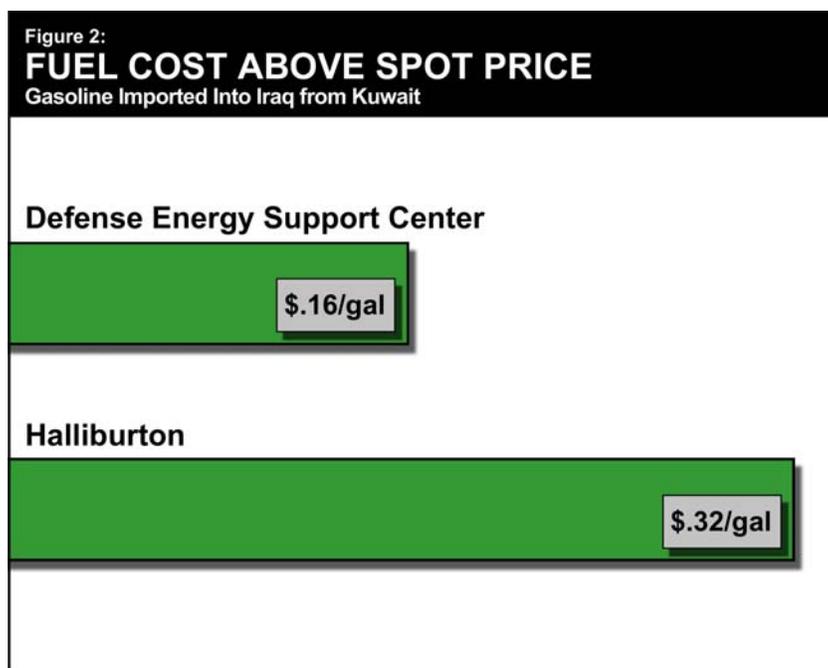
In contrast to Halliburton, DESC contracts directly with KPC for the purchase of gasoline. Unlike Halliburton, DESC is not paying a middleman to buy the gasoline from KPC. DESC has a three-month "fixed price with economic price adjustment" contract. Under this contract, there is an established differential between the price charged by KPC and the published Platt's Arab Gulf spot price. Every two weeks, the gasoline price is adjusted to take changes in the market price into account. Under this arrangement, DESC pays KPC approximately \$0.16 per gallon above the prevailing spot price.³⁸

As Figure 2 shows, Halliburton paid twice the amount that DESC paid beyond the spot price for gasoline.

³⁶ E-mail from U.S. Army Corps of Engineers, *supra* note 16.

³⁷ Congressional Research Service, *Average of Recent Gasoline Prices in the Persian Gulf* (Apr. 19, 2004) (surveying Platt's Oilgram spot prices for Arab Gulf gasoline from May 5, 2003, to April 2, 2004).

³⁸ *Id.*; E-mail from Legislative Affairs, Defense Logistics Agency, to Minority Staff, Committee on Government Reform (June 24, 2004). The DESC price was \$1.14 for the initial two-week period beginning April 1, 2004. On April 2, the Arab Gulf spot price was \$0.98 per gallon.



According to Halliburton, Altanmia purchased gasoline from KPC at market prices but sold it to Halliburton at a fixed price. The company contends that Altanmia was actually losing money on the gasoline purchases in January 2004, when spot prices were particularly high. However, an eleven-month survey of Persian Gulf spot prices demonstrates that the spot price never reached the \$1.14 per gallon price Altanmia was charging.³⁹ According to Halliburton, Altanmia billed Halliburton \$0.16 per gallon for labor and other miscellaneous costs.⁴⁰ Assuming Altanmia actually incurred fuel procurement costs of \$0.16 per gallon, Altanmia would have lost money on its gasoline procurements in only two weeks in January when the spot prices were as high as \$1.07 and \$1.00.⁴¹ At other times during the contract, Altanmia purchased gasoline for Halliburton with spot prices as low as \$0.59 per gallon.⁴²

³⁹ Congressional Research Service, *supra* note 37.

⁴⁰ Meeting between Halliburton representatives and Minority Staff, *supra* note 5. Halliburton reported the following nongasoline costs borne by Altanmia for the procurement of each gallon of gasoline: \$0.05 for labor, \$0.03 for “cost of funds,” \$0.02 for insurance, \$0.02 for the refinery fee, \$0.02 for the “bank cost,” \$0.01 for “overtime cost,” and \$0.01 for currency fluctuation.

⁴¹ Congressional Research Service, *supra* note 37.

⁴² *Id.*

B. Transportation Costs

Halliburton also failed to arrange a reasonable transport cost. Instead, Halliburton charged over three times as much as the Defense Energy Support Center for transportation from Kuwait.

Both Halliburton and DESC selected Altanmia to transport gasoline from Kuwait. However, Halliburton paid Altanmia far more for this service than DESC currently does. According to the data from the Army Corps, Halliburton paid Altanmia an average of \$1.30 per gallon to transport gasoline from Kuwait into Iraq.⁴³

By comparison, DESC pays Altanmia just \$0.42 per gallon, regardless of the destination and any unanticipated costs incurred by Altanmia.⁴⁴ Under this firm fixed-price contract, Altanmia, not the U.S. government, bears the risk of price fluctuations and costs from any delays or damage to fuel trucks. Altanmia delivers gasoline for DESC to multiple locations, including the Baghdad area.

Halliburton and the Army Corps have said that a \$1.30 per gallon transport charge is reasonable because a round-trip to Baghdad for a fuel truck can take as long as ten to twelve days.⁴⁵ Halliburton informed the staff that Altanmia's fuel trucks made as few as two round-trips per month, but that the price would have been \$0.82 per gallon if four round-trips per month had been possible.⁴⁶ DESC's transport cost of \$0.42 per gallon is based on just three round-trips per month, or one trip every ten days. If four or five round-trips can be made, the price drops to \$0.41 or \$0.40, respectively.⁴⁷ Thus, DESC's highest price is about half of Halliburton's lowest price projection.

As shown in Figure 3, Halliburton's actual transportation costs were over three times larger than DESC's.

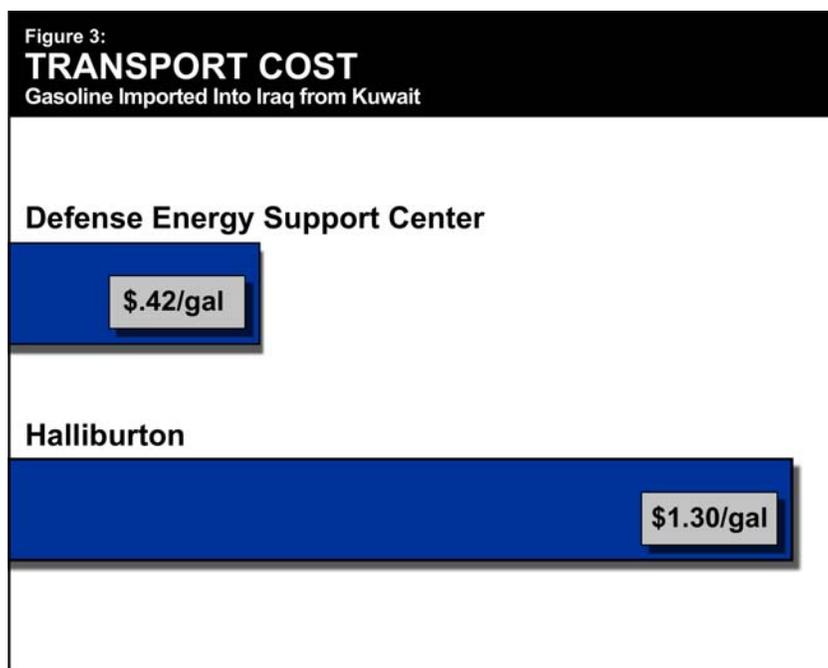
⁴³ E-mail from U.S. Army Corps of Engineers, *supra* note 16.

⁴⁴ E-mail from Legislative Affairs, Defense Logistics Agency, to Minority Staff, Committee on Government Reform (Mar. 18, 2004).

⁴⁵ Halliburton, *Halliburton Sets the Record Straight on KBR's Government Contracts* (Mar. 11, 2004); U.S. Army Corps of Engineers, *supra* note 2.

⁴⁶ Meeting between Halliburton representatives and Minority Staff, *supra* note 5.

⁴⁷ E-mail from Legislative Affairs, Defense Logistics Agency, *supra* note 44.



C. Fees and Markups

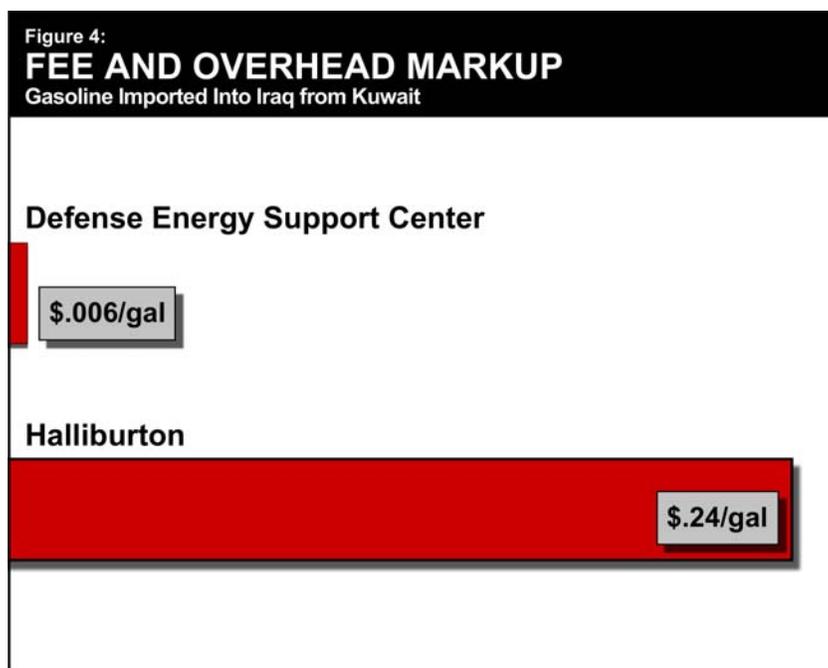
In relative terms, the largest difference between Halliburton's prices and DESC's costs involved fees and overhead costs. According to data from the Army Corps, Halliburton charged \$0.24 per gallon in markups and fees. This \$0.24 per gallon results from a 0.61% overhead markup, a 1.99% "General & Administrative" markup, a 2% base fee, and a 5% award fee.⁴⁸

By contrast, DESC's management and overhead costs for a gallon of gasoline amount to just \$0.006, or about half a cent, per gallon.⁴⁹ As a government agency, DESC charges no fee.

As summarized in Figure 4, Halliburton charged the U.S. government 40 times more per gallon in fees and markups than DESC did. Its total charges for fees and markups amounted to \$31,375,045.

⁴⁸ E-mail from U.S. Army Corps of Engineers, *supra* note 16.

⁴⁹ E-mail from Legislative Affairs, Defense Logistics Agency, *supra* note 44.



D. Total Per-Gallon Price Difference

The difference between Halliburton's price and DESC's price is substantial on a per-gallon basis. Halliburton's total cost of \$2.68 per gallon to import gasoline from Kuwait was equal to the spot price plus \$1.86 per gallon. DESC's total cost of \$1.57 per gallon to import gasoline from Kuwait is equal to the spot price plus \$0.59 per gallon. Halliburton's costs beyond the applicable spot price were thus \$1.27 more per gallon than DESC's. In percentage terms, and assuming constant spot prices, Halliburton charged over 90% more per gallon than DESC to import fuel from Kuwait into Iraq.⁵⁰

E. Total Overpayment to Halliburton

Between May 4, 2003, and March 31, 2004, Halliburton imported 131 million gallons of gasoline from Kuwait through its subcontractor, Altanmia.⁵¹ Halliburton charged more than DESC on all cost components of this imported fuel: fuel procurement, transportation, and fees and markups. On a per-gallon

⁵⁰ From May 2003 through March 2004, average spot prices were \$0.82 per gallon and Halliburton's total charge was \$2.68 per gallon. If the spot price had remained at \$0.82 per gallon after April 1, 2004, when DESC assumed fuel importation responsibilities, DESC's price would have been \$1.41 per gallon. Halliburton's price of \$2.68 per gallon is 90% higher than this price.

⁵¹ E-mail from U.S. Army Corps of Engineers, *supra* note 16.

basis, Halliburton's total charges beyond the relevant spot price were \$1.27 more than DESC's. When this per-gallon overpayment is multiplied by 131 million gallons, the total amount of the overpayment to Halliburton is \$166,550,000.

III. FUEL IMPORTS FROM OTHER COUNTRIES

Kuwait is not the only country from which Halliburton and DESC have imported gasoline. Both have also imported gasoline from Turkey at lower costs than from Kuwait. Between May 5, 2003, and March 31, 2004, Halliburton imported 335 million gallons of gasoline from Turkey into Iraq at an average per-gallon cost of \$1.24.⁵² Both in absolute terms and relative to DESC prices, Halliburton's Turkey prices are more reasonable than its Kuwait prices. DESC pays approximately \$1.19 per gallon to import gasoline from Turkey.⁵³

According to Halliburton, the company was instructed to continue importing gasoline from Kuwait into Iraq despite the higher prices because the Army Corps did not want to be dependent on one country for gasoline imports.⁵⁴ Halliburton could not explain, however, why it continued to use Kuwait as the second source of gasoline instead of another less expensive source of gasoline, such as Jordan. Although Halliburton imported relatively small amounts of kerosene and diesel from Jordan, Halliburton did not import any gasoline from Jordan.⁵⁵

In contrast, DESC has sought proposals for gasoline imported from Jordan and has awarded a contract to Shaheen Business & Investment Group for the purchase and delivery of nearly 24 million gallons of gasoline from Jordan. DESC paid Shaheen \$1.19 per gallon to buy and import the gasoline.⁵⁶ This new route provides significant amounts of additional fuel at more reasonable prices than those from Kuwait.

IV. CONCLUSION

Halliburton has maintained that it delivered gasoline from Kuwait to Iraq "at the best value, the best price and the best terms." A comparison of its prices to those

⁵² E-mail from U.S. Army Corps of Engineers to Minority Staff, Committee on Government Reform (Apr. 13, 2004); Briefing by U.S. Army Corps of Engineers, *supra* note 15.

⁵³ Defense Energy Support Center, *Fact Sheet* (Mar. 9, 2004).

⁵⁴ Meeting between Halliburton representatives and Minority Staff, *supra* note 5.

⁵⁵ E-mail from U.S. Army Corps of Engineers, *supra* note 52.

⁵⁶ Defense Energy Support Center, *Fact Sheets* (Mar. 15, 2004).

HALLIBURTON'S GASOLINE OVERCHARGES

being charged by DESC for the same services does not support Halliburton's claim. Halliburton's charges over the applicable spot price were \$1.27 more per gallon of gasoline imported from Kuwait to Iraq than those of DESC. In total, the U.S. government has paid Halliburton \$167 million in unnecessary costs.