

Running on Empty

Amir Salman and Faiza Warsi never thought their dream of coming to America and opening a business would end this way.

The Getty gas station in Delmar has been operated by Salman since it opened in 1989, after he came to this country from Pakistan. When he married Warsi and she joined him here, she also joined the business. Now their dream is about to end because of high gas prices and a bankruptcy protection suit filed by Getty Petroleum Marketing.

“They are using our goodwill to rip the customers off,” said Warsi. “On the face of it we look bad because it’s hard to explain to every customer. Plus people forget what’s really happening.”

Getty Petroleum Marketing filed for Chapter 11 bankruptcy protection in December of 2011 after its landlord, Getty Realty, threatened to sue the company for not paying its rent, according to court documents. The company was recently sold to Cambridge Securities, but still owes its previous owner millions.

Warsi said sales started to slip at the Delaware Avenue location when the gas prices set by Getty continued to climb last year to almost 7 cents more than competitors across the street. The couple was then informed the company would try an “experiment” for several months, setting different prices for cash and credit paying customers.

According to Warsi, in October her prices were \$3.79 for credit and \$3.71 for cash. Her competitors across the street were charging \$3.65 for both methods of payment.

“If you pass by and you see my gas is higher, would you stop? Or mind paying 10 cents extra for cigarettes (across the street)?” asked Warsi. “No you won’t. You can’t make five trips each day.”

Warsi said customers began to complain about the high prices and the different fees for separate payment methods, some insisting the practice is illegal. She told Getty the experiment wasn’t working and that she wanted to revert back to the old policy because of the complaints, but they told her no.

Warsi is a commission station operator, meaning she and her husband do not own the store but instead pay rent to operate it. They also don’t actually buy any gas, either. They earn a small commission on whatever Getty fuel is sold there. The operators can’t switch to another gas provider for these reasons.

Warsi eventually told Getty she didn’t want to do business with them any longer. On Friday, Feb. 10, Getty came to drain the gasoline from her tanks.

According to Graig Zappia, a business law attorney at Tully Rinckey law firm in Albany, it is legal for gas companies to set a different gas price for cash and credit purchases, no matter how large the difference in price is.

"There are just notification requirements they have to abide by," he said. "The company just has to post both prices on top of the pump that you are using."

Warsi said gas sales were 80 percent of her business, with cigarette sales making up the majority of the rest. Now sales on all items inside the convenience store have dropped off significantly. She said it's only a matter of time before the store closes.

"People don't understand that we only make commission," she said. "No matter what the gas price was, we only made about 6 or 6.5 cents per gallon."

Salman has since had to get another job to be able to provide for his family. He was unable to be interviewed for this article. Numerous calls and emails to Getty Petroleum asking for comment were not answered.

Warsi said the only reason their business is still open is because of the loyalty of her customers.

"They've seen my children grow up," she said. The couple has a junior and a sophomore at Bethlehem Central High School, a seventh grader and a fifth grader. "Tell me at this age, now when your children are getting ready to go to college and you are standing empty handed. It's heart breaking."

Delmar resident Sue Perry said she has been a customer at the gas station for 16 years. She thinks it's terrible to watch what is happening to a local, family-run business. Over the year, she said the family has slowly become her friends.

"She's worked 14- to 16-hour days, making about 25 cents an hour for the last six months, Perry said. "It's been bad."

The company informed Warsi her location was considered a "political location," she said, and they would not close her down even if she couldn't afford the rent.

"They won't come and close it because they understand if they close it people will react here. It's a small community and a very close-knit community. That's the beauty of Delmar," said Warsi. "When we are in trouble we become one. That's why I think we are superior to all other communities. If this was happening in Latham or Albany, people wouldn't even care. ... People are really worried. They aren't worried because Getty is going out of business, or a gas station is going out of business. They are worried because they understand a family of Delmar is going out of business at the hands of corporate-giant America."

Warsi has been petitioning the judge in the bankruptcy case so he will understand the situation from the perspective of the retailer. She feels Getty Petroleum will eventually come out unscathed and the majority of the 800 small retailers across the county will be forced to close their doors.

"These are thieves without guns, trying to put small businesses out of business," she said. "Tomorrow they will come and make a nice new station and ask for us for \$200,000 to be able to stay."

According to court documents provided by Warsi, Getty Petroleum has an estimated \$50 to \$100 million in assets and an equivalent amount in liabilities. The company also said it would most likely have enough capital to fund normal operations through its reorganization.

"I just didn't have the money to pay them anymore," she said of her decision to stop taking the company's gasoline. "I couldn't take the negativity from customers."

Getty Petroleum is not making rent payments to Getty Realty. In turn, the company is not making Warsi pay rent on her space, which is keeping her doors open a little longer. She is unsure when the business will officially close.

