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Heating oil contracts haunt some customers

By DAVE GRAM The Associated Press

MONTPELIER — Burned last year after she failed to lock in a contract for heating oil, Corinne Wilkins, a home health aide, signed a contract this year before winter set in.

As it turns out, there are many people like Wilkins, and entire communities as well, that unknowingly agreed to heating contracts as prices peaked.

Now she, and mostly Northeastern towns such as Springfield, are stuck.

State attorneys general are advising consumers to honor their contracts. They're legally binding documents, said Melissa Karpinsky, press secretary to Massachusetts Attorney General Martha Coakley.

"Consumers should absolutely read all contracts closely before committing," and compare those offered by various dealers, Karpinsky said. She noted some dealers allow consumers to break an agreement for a fee, typically about \$200.

Maine Assistant Attorney General Linda Conti said the consumer protection office has received a "significant" number of calls from people who've locked into oil contracts when the price was high and now wonder if they can get out of those agreements.

"They've locked into a contract," Conti said. If they breach it, the oil company could sue. There's nothing the state can do if an oil customer has decided to lock into a price and signed a contract, and the price drops, she said.

Prices for heating oil have fallen by 25 percent or more amid a massive economic slowdown that has depressed energy prices.

Wilkins, of Contoocook, N.H., will pay \$5 per gallon for oil this winter. "I thought it would go to \$6 or \$7," she said. As of Monday, the average retail price of oil in New Hampshire was about \$3.34, the state said.

"I'm not going to try to get out of it," she said. "I signed a contract and I always honor the deals I make. That's just life."

The town of Springfield ordered the oil it would need to heat schools and other public buildings when the price was a little more than \$4 per gallon for a bulk buy of 250,000 gallons, said Robert Forguites, the town manager.

That price has dropped by more than \$1 a gallon since then, he said. Now, Forguites can only dream about what could have been done with the \$250,000 difference.

Oil prices hit an all-time high of more than \$147 per barrel on July 11 and industry analysts were predicting crude could hit \$200.

Heating oil dealers typically send notices to their customers in May and June, opening a period when customers can try to hedge against price increases the following winter. Dealers typically offer two methods:

- A "pre-buy," allowing customers effectively to buy oil futures, agreeing to take a certain number of gallons at a set price during the next heating season.
- A "price cap" or budget plan, in which the customer pays in monthly installments but is guaranteed a maximum price. Those plans often include an offer of "downside insurance," meaning if the price on the spot market drops, the consumer can ride the decline.

But that protection typically costs a premium of 20 to 50 cents per gallon. Wilkins said she declined to buy it. "It's over \$100. I could buy half a tank of oil just for the insurance," she said.

While Wilkins said she wouldn't try to get out of her oil purchase contract, it's far from certain she could even if she wanted to.

Dealers typically cover their pre-buys and fixed-price contracts by signing similar deals with their wholesalers. They can't get out of those deals when prices drop, said Sean Cota, president of Cota & Cota, a Bellows Falls-based heating fuels dealer that operates in both Vermont and New Hampshire.

Cota said a dealer could sue a customer for breach of contract, and could sue any other dealer selling to that consumer for a lower price for "tortious interference" — helping the consumer violate the contract.

"If it's a matter of life and death for these businesses, they will" file suit, Cota said.

Bob Garside, president of the Oil Heat Council of New Hampshire, said consumers

who lock in prices for heating oil do well most years. "They don't tell you about the three years that they won, they only tell you about the year that they lose, and that's this year."

Cota agreed that such contracts had been a good deal in the past, but with heightened volatility in oil markets, he would be shy about entering into one now.

"If I were a consumer, for the next several years, I don't see the benefit," Cota said.

That volatility gives some hope to consumers and town managers like Robert Forguites, that their decision may not look as bad in a couple months.

"I don't think these low fuel prices are going to stay down, once it's winter and there's more demand," Forguites said. If that happens, "We may not be as bad off as we think we are right now."
