

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
 SENTER PETROLEUM, INC.'S)
)
 Petition to Adjust the Zone Price)
 Adjustment for Zone 2 (Kauai))
 Effective September 1-4, 2005)
 under Haw. Rev. Stat. § 486H-16.)
 _____)

DOCKET NO. 05-0221

ORDER NO. 22003

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

2005 SEP - 1 A 8: 20

RECEIVED

Filed August 31, 2005
At 12 o'clock P .M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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SENER PETROLEUM, INC.'S)	Docket No. 05-0221
)	
Petition to Adjust the Zone Price)	Order No. 22003
Adjustment for Zone 2 (Kauai))	
Effective September 1-4, 2005)	
under Haw. Rev. Stat. § 486H-16.)	
_____)	

ORDER

By this order, the commission, pursuant to Hawaii Revised Statutes ("HRS") § 486H-16(c), temporarily changes the zone price adjustment for Zone 2 (Kauai) to 20.6 cents per gallon ("cpg").

I.

Senter's Petition under HRS § 486H-16(a)

On August 30, 2005, SENTER PETROLEUM, INC. ("Senter") filed a petition to adjust the zone price adjustment for Zone 2 (Kauai) effective September 1-4, 2005 ("Petition"), pursuant to HRS § 486H-16.¹ In support of its Petition, Senter provided the commission: (1) the financial statements of Petitioner and Kauai Automated Fuel Service, Inc. combined and its parent company, Inter Island Petroleum, Inc., for the calendar year 2004;

¹A manufacturer, wholesaler, or jobber, may petition the commission to adjust the value of the zone price adjustment in effect at the time the petition is filed pursuant to HRS § 486H-16(a). The petitioner bears the burden of proof to establish by clear and convincing evidence the need for and the amount of any adjustment.

(2) Senter's and Kauai Automated Fuel Services, Inc.'s reports for calendar year 2004 showing actual number of gallons of product delivered by Petitioner to its customers; (3) a financial analysis of Petitioner's and Kauai Automated Fuel Services, Inc.'s combined average trucking costs. Based upon the commission's initial review of the Petition, the commission finds that it does not meet the "clear and convincing" standard in establishing the new proposed zone price adjustment. However, the commission will continue to investigate Senter's Petition. Meanwhile, based on the discussion below, the commission finds that the zone price adjustment in Zone 2 (Kauai) should be temporarily changed, effective September 1, 2005, to 20.6 cpg.

II.

Discussion

On August 1, 2005, the commission issued Decision and Order No. 21952 in Docket No. 05-0002, and under HRS Chapter 486H, set forth the factors for determining the maximum pre-tax wholesale price of gasoline (aka gas price caps or gas caps), including the zone price adjustment for Zone 2 (Kauai) at 13.6 cpg.

The commission finds that the zone price adjustment for Zone 2 (Kauai) may need to be adjusted to avoid supply shortages on the island of Kauai beginning September 1, 2005. By letter dated August 26, 2005,² Kauai Petroleum Co., LTD ("KPC"), one of two jobbers on Kauai, notified Tesoro Hawaii Corporation

²Attached as Exhibit A.

("Tesoro") that effective September 1, 2005, KPC will not be able to supply Tesoro's accounts to Vanguard Car Rental (Alamo and National Rent A Car) and NEX PMRF Barking Sands because of the Gas Cap Law. By letters dated August 30, 2005,³ Tesoro notified the Army & Air Force Exchange Service, Cendant Car Rental Group, and Vanguard Car Rental Group, that it has been notified that its supplier on Kauai is unwilling to continue to supply gasoline to Tesoro, and that Tesoro may be unable to supply any gasoline on Kauai when the Gas Cap Law becomes effective on September 1, 2005. By letter dated August 30, 2005,⁴ Representative Morita informed the commission that the owner of Princeville Chevron was notified by Senter that it will no longer deliver fuel to their station effective August 31, 2005 due to the wholesale gasoline price cap, including the Kauai zone price adjustment.

Based on the evidence presented in the letters discussed above indicating a need for an immediate adjustment to address expected supply problems, the commission finds that the zone price adjustment in Zone 2 (Kauai) should be temporarily changed, effective September 1, 2005, by continuing to utilize the average barging costs and terminal costs for Kauai, but utilizing the highest trucking costs in Zone 3 (Maui excluding the district of Hana) as surrogate for the highest trucking cost for Kauai. Regardless of whether a petition is filed, the commission may make further adjustments if it finds that it is necessary and appropriate to establish maximum prices that

³Attached as Exhibits B-D.

⁴Attached as Exhibit E.

reflect and correlate with competitive market conditions.⁵ The commission finds that using the highest Maui trucking costs are relatively comparable to trucking costs in the other major neighbor island markets, and should be representative of trucking costs on Kauai, and using such costs for the Kauai zone price adjustment calculation is necessary and appropriate to reflect and correlate with competitive market conditions under HRS § 486H-16(c). This temporary change will allow the commission to investigate the zone price adjustment on Kauai, while addressing the supply problems expected to occur from August 31, 2005. Accordingly, the new temporary zone price adjustment for Zone 2 is 20.6 cpg.

III.

Orders

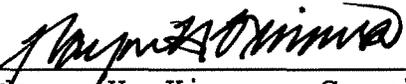
THE COMMISSION ORDERS that pursuant to HRS § 486H-16(c), the zone price adjustment for Zone 2 (Kauai) is temporarily changed to 20.6 cpg, effective September 1, 2005 until further order of the commission.

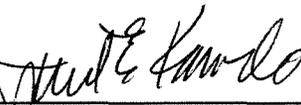
⁵HRS § 486H-16(c).

DONE at Honolulu, Hawaii August 31, 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel

05-0221.eh

 **KAUAI PETROLEUM CO., LTD**

P.O. Box 1128
Lihue, HI 96766

August 26, 2005

Mr. Gordon S. Wong
Tesoro Hawaii Corporation
91-325 Komohana Street
Kapolei, HI. 96707

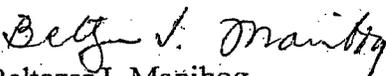
RE: Vanguard Car Rental (Alamo and National Rent A Car)
NEX PMRF Barking Sands

Dear Mr. Wong,

Based on our recent supply cost change (notification was sent to you earlier today), this is to inform you that we regret not being able to supply your above mentioned accounts effective Thursday, September 1, 2005. Our margin as dictated by HRS Chapter 486H (Hawaii Gas Cap Law), would not be cost effective for us. We are assuming Tesoro Hawaii would be classified as a "wholesaler". Please advise if otherwise. For your information, the P.U.C. hauling rate is more than twice our margin to deliver Premium gasoline to the NEX PMRF Barking Sands. Perhaps you can provide us with a hauling/delivery fee to make our margins "whole" as per the bid prices we originally submitted. We will be glad to resume deliveries to the above mentioned accounts when our margins are "whole" again.

Please feel free to contact me should you have any questions.

Sincerely,


Baltazar L Manibog
General Manager

Certified Return Receipt Requested

FILED
2005 AUG 29 P 12:52
PUBLIC UTILITIES
COMMISSION

GASOLINE • DIESEL • LUBRICANTS

3185 Waapa Road • Lihue, HI 96766 • Phone: (808)-245-4916 / (808)-245-7679 • Fax: (808)-246-4414
e-mail: kpcold@flex.com

Exhibit A



TESORO

Tesoro Hawaii Corporation
1311 Palama Street
Honolulu, Hawaii 96817
808 547 3833
808 547 3016 Fax

August 30, 2005

Re: Notice of Potential Unavailability of Supplies of Gasoline to Kauai Locations

Sharri Shepard
Army & Air Force Exchange Service
P.O. Box 660202
Dallas, TX 75266-0202

Dear Ms. Shepard:

As you may know, on September 1, 2005, the State of Hawaii wholesale gasoline price cap goes into effect. In connection with the implementation of the price cap, Tesoro Hawaii Corporation ("Tesoro") has been notified by our gasoline supplier on Kauai that it is unwilling to continue to supply gasoline to Tesoro at the maximum pre-tax wholesale price allowed under the new price cap law.

At this time, we have been unable to identify any alternative sources or arrangements that will allow Tesoro to obtain gasoline supplies on Kauai in a manner that is permitted under the new gas cap law by September 1, 2005. We are continuing to explore available options to supply your needs. However, Tesoro does not own or operate facilities or equipment that would allow us to continue to supply gasoline to our customers on Kauai unless another wholesale supplier is willing to provide us with such product at a price permissible under the gas cap law.

Please be advised that Tesoro may be unable to supply any gasoline on Kauai when the price cap law becomes effective on September 1, 2005. We will notify you when and if we are successful in obtaining an alternative source of supply.

If you have any questions about this notice, feel free to call me at (808) 547-3888.

Sincerely,

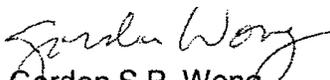
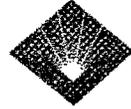

Gordon S.P. Wong
Manager, Marketing

Exhibit B



TESORO

Tesoro Hawaii Corporation
1311 Palama Street
Honolulu, Hawaii 96817
808 547 3833
808 547 3016 Fax

August 30, 2005

Re: Notice of Potential Unavailability of Supplies of Gasoline to Kauai Locations

Don Linn
6929 North Lakewood Avenue
Suite 100 Mod 1.1B
P.O. Box 22233
Tulsa, OK 74117-1808

Dear Mr. Linn:

As you may know, on September 1, 2005, the State of Hawaii wholesale gasoline price cap goes into effect. In connection with the implementation of the price cap, Tesoro Hawaii Corporation ("Tesoro") has been notified by our gasoline supplier on Kauai that it is unwilling to continue to supply gasoline to Tesoro at the maximum pre-tax wholesale price allowed under the new price cap law.

At this time, we have been unable to identify any alternative sources or arrangements that will allow Tesoro to obtain gasoline supplies on Kauai in a manner that is permitted under the new gas cap law by September 1, 2005. We are continuing to explore available options to supply your needs. However, Tesoro does not own or operate facilities or equipment that would allow us to continue to supply gasoline to our customers on Kauai unless another wholesale supplier is willing to provide us with such product at a price permissible under the gas cap law.

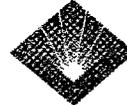
Please be advised that Tesoro may be unable to supply any gasoline on Kauai when the price cap law becomes effective on September 1, 2005. We will notify you when and if we are successful in obtaining an alternative source of supply.

If you have any questions about this notice, feel free to call me at (808) 547-3888.

Sincerely,

Gordon S.P. Wong
Manager, Marketing

Exhibit C



TESORO

Tesoro Hawaii Corporation
1311 Palama Street
Honolulu, Hawaii 96817
808 547 3833
808 547 3016 Fax

August 30, 2005

Re: Notice of Potential Unavailability of Supplies of Gasoline to Kauai Locations

Robert Alnor
Director of Purchasing/Automotive Services
Cendant Car Rental Group
6 Sylvan Way
Parsippany, NJ 07054

Dear Mr. Alnor:

As you may know, on September 1, 2005, the State of Hawaii wholesale gasoline price cap goes into effect. In connection with the implementation of the price cap, Tesoro Hawaii Corporation ("Tesoro") has been notified by our gasoline supplier on Kauai that it is unwilling to continue to supply gasoline to Tesoro at the maximum pre-tax wholesale price allowed under the new price cap law.

At this time, we have been unable to identify any alternative sources or arrangements that will allow Tesoro to obtain gasoline supplies on Kauai in a manner that is permitted under the new gas cap law by September 1, 2005. We are continuing to explore available options to supply your needs. However, Tesoro does not own or operate facilities or equipment that would allow us to continue to supply gasoline to our customers on Kauai unless another wholesale supplier is willing to provide us with such product at a price permissible under the gas cap law.

Please be advised that Tesoro may be unable to supply any gasoline on Kauai when the price cap law becomes effective on September 1, 2005. We will notify you when and if we are successful in obtaining an alternative source of supply.

If you have any questions about this notice, feel free to call me at (808) 547-3888.

Sincerely,

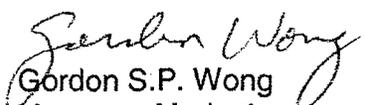

Gordon S.P. Wong
Manager, Marketing

Exhibit D



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

August 30, 2005

Mr. Carlito P. Caliboso
Chairman
Public Utilities Commission (PUC)
465 South King Street, Room 103
Honolulu, Hawaii 96813

RE: Request for Reconsideration of Zone Price Adjustment for Kauai

Dear Chairman Caliboso:

This is to request that the Public Utilities Commission (PUC) review and reconsider the zone price adjustment for Kauai, in accordance with their authority under HRS Section 486H-16(c).

I have been advised by the owner of Princeville Chevron that Senter Petroleum has notified them that it will no longer deliver fuel to their station effective August 31, 2005. I understand that the reason given for this action is due to the wholesale price maximum, including the zone price adjustment for Kauai. While I question the necessity for Senter's action, I am sympathetic with the predicament faced by this gasoline station owner.

I have reviewed the PUC's decision dated August 23, 2005, denying the Hawaii Petroleum Marketers Association's motion for reconsideration of the Kauai Zone Price Adjustment. I understand the basis for the ruling, i.e. that Senter failed to provide the PUC sufficient and timely information during the PUC's investigation period. However, now that the PUC is in receipt of Senter's "confidential" information relating to the actual trucking costs, I believe that the PUC has the authority to and should make a determination based on the merits of the information provided.

Since I am not privy to Senter's "confidential" information, I do not know whether the zone price adjustment factor for Kauai modification is justified. However, in order to protect consumers, and treat jobbers fairly, the PUC should consider all relevant information and make whatever adjustments are appropriate.

Thank you for your consideration. I look forward to a prompt reply.

Sincerely yours,

Hermina Morita
State Representative, District 14

Cc: Jeffrey Guest
Senter Petroleum

CHAIR, HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
STATE CAPITOL BUILDING, ROOM 314, HONOLULU, HAWAII 96813
Phone (808) 586-8435, Fax (808) 586-8437, email: repmorita@capitol.hawaii.gov

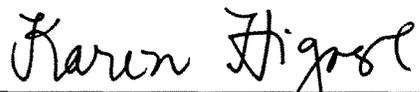
Exhibit E

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22003 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P.O. BOX 541
Honolulu, HI 96809

KELLY G. LAPORTE, ESQ.
MARC E. ROUSSEAU, ESQ.
CADES SCHUTTE LLP
1000 Bishop Street, Suite 1200
Honolulu, HI 96813



Karen Higashi

DATED: August 31, 2005