

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of-----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 05-0002
	)	
Instituting a Proceeding to	)	
Investigate the Issues and	)	
Requirements Raised by, and	)	
and Contained in, Hawaii Revised	)	
Statutes 486H, as Amended.	)	
_____	)	

ORDER NO. 22056

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

2005 SEP 29 P 4: 07

RECEIVED

Filed Sept. 28, 2005  
At 3:30 o'clock P .M.

Karen Higosh.  
Chief Clerk of the Commission

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OF THE STATE OF HAWAII

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PUBLIC UTILITIES COMMISSION	)	Docket No. 05-0002
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Instituting a Proceeding to	)	Order No. 22056
Investigate the Issues and	)	
Requirements Raised by, and	)	
and Contained in, Hawaii Revised	)	
Statutes 486H, as Amended.	)	
_____	)	

ORDER

By this order, the commission requires the Parties<sup>1</sup> to submit: (1) a proposal to create marketing margin factors for the different classes of trade; and (2) a proposal to adjust the Hawaii Revised Statutes ("HRS") § 486H-13 factors to include the addition of ethanol requirements which take effect on or about April 2006.

I.

Background

On August 1, 2005, the commission issued Decision and Order 21952, which under HRS Chapter 486H set forth: (1) the factors for determining the maximum pre-tax wholesale price of gasoline (aka gas price caps or gas caps); (2) the procedures for filing petitions and complaints with the commission; (3) the

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<sup>1</sup>The Parties to this docket are Chevron U.S.A., Inc., Tesoro Hawaii Corporation, Shell Oil Company, the Hawaii Petroleum Marketers Association, and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (collectively referred to as "Parties").

publication procedures of the commission regarding the maximum pre-tax wholesale price of gasoline; and (4) the risks identified in implementing HRS Chapter 486H.

By Decision and Order No. 21952, the commission concluded, among other things, that ICF Consulting, LLC's ("ICF")<sup>2</sup>, proposed class of trade approach for the marketing margin factor was reasonable, however, the commission had concerns with the selection of the geographic locations used in creating the margins for the different classes of trade and the doubling of the average margins of the selected locations. Therefore, the commission concluded that it should continue to study and refine the class of trade approach through this docket or collaborative groups beyond the implementation date of September 1, 2005.

By the same Decision and Order, the commission noted that "compounding the uncertainty of the gas price cap impacts are State ethanol blending mandates that go into effect in April 2006."<sup>3</sup> The commission further noted that ICF stated that the impacts of ethanol blending are clearly a factor which may need to be considered by the commission in future gas cap

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<sup>2</sup>ICF was retained by the commission to review and evaluate the issues and requirements raised by, and contained in, HRS Chapter 486H, as amended. ICF was specifically asked to address the issues in this proceeding and prepare a report to the commission. Considering, among other things, information filed by the Parties in their respective responses to the commission's information requests, ICF developed its report, "Implementation Recommendations for Hawaii Revised Statutes Chapter 486H, Gasoline Price Cap Legislation" ("ICF Report"), filed on April 15, 2005.

<sup>3</sup>See Decision and Order No. 21952 at 38.

administration.<sup>4</sup> ICF also expressed concerns, in response to an information request, that "the marketers, refiners, and consumers in Hawaii may be approaching a confluence of regulatory actions involving both the gas caps and ethanol which will likely create high business and capital investment uncertainty, as well as possible supply concerns."<sup>5</sup>

## II.

### Order

THE COMMISSION ORDERS that each of the Parties submit by November 1, 2005: (1) a marketing margin proposal further refining the class of trade approach suggested by ICF Consulting, or any another more appropriate marketing margin proposal based on suitable benchmarks consistent with HRS Chapter 486H; and (2) a proposal to adjust the HRS § 486H-13 factors to include the addition of ethanol blending requirements, which will take effect on or about April 2006. The Parties may submit joint proposals or they may file individual proposals. Each Party should also include all data and information necessary to support its proposal. The commission may review any and all of the other factors or procedures for determining the maximum pre-tax wholesale price of gasoline as may be deemed appropriate by the commission.

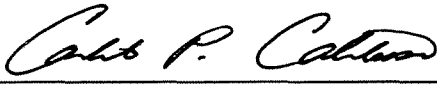
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<sup>4</sup>See Decision and Order No. 21952 at 38 (citing ICF Report at 76).

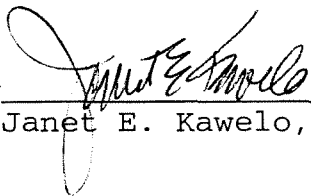
<sup>5</sup>Id. (citing ICF response to HPMA-IR-38).

DONE at Honolulu, Hawaii September 28, 2005.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By (Excused)  
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Kevin M. Katsura  
Commission Counsel

05-0002.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22056 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: September 28, 2005