

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----In the Matter of----)
)
 SENTER PETROLEUM, INC.'s) DOCKET NO. 05-0221
)
 Petition to Adjust the Zone Price)
 Adjustment for Zone 2 (Kauai))
 Effective September 1-4, 2005)
 Under Haw. Rev. Stat. § 486H-16.)
 _____)

DECISION AND ORDER NO. 22557

Filed June 23, 2006

At 11 o'clock A .M.

Karen Higashi
Chief Clerk of the Commission

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

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DECISION AND ORDER

By this Decision and Order, the commission dismisses SENTER PETROLEUM, INC.'s ("Senter") petition to adjust the zone price adjustment for Zone 2 (Kauai) effective September 1-4, 2005 ("Petition") and closes this docket, pursuant to Act 78, Session Laws of Hawaii (2006) ("Act 78"), which suspends indefinitely the commission's duty to calculate the maximum pre-tax wholesale prices of gasoline ("Gas Price Caps").

I.

Background

On August 20, 2005, Senter filed its Petition pursuant to Hawaii Revised Statutes ("HRS") § 486H-16 (2004).¹ In support of its Petition, Senter provided the commission with: (1) the combined financial statements of Senter and Kauai Automated Fuel Service, Inc. and the financial statements of its parent company,

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.

Inter Island Petroleum, Inc., for the calendar year 2004; (2) Senter's and Kauai Automated Fuel Services, Inc.'s reports for calendar year 2004 showing actual number of gallons of product delivered by Senter to its customers; and (3) a financial analysis of Senter's and Kauai Automated Fuel Services, Inc.'s combined average trucking costs. In Order No. 22003, filed on August 31, 2005, the commission found that, based upon its initial review of the Petition, Senter did not meet the "clear and convincing" standard in establishing its proposed zone price adjustment. However, the commission found that the zone price adjustment in Zone 2 (Kauai) should be temporarily changed, effective September 1, 2005, to 20.6 cents per gallon.

On September 13, 2005, the commission issued information requests, PUC-IR-1 through -10, to Senter. The information requests sought information regarding, inter alia, Senter's and Kauai Automated Fuels, Inc.'s truck fleets, delivery volumes, number of deliveries, delivery routes, delivery locations, product for delivery, apportionment of costs related to trucking, computation of trucking costs, basis for sales and expense data provided, and methodology for apportionment of expenses. On October 17, 2005, Senter provided confidential responses to the commission's information requests.²

²Senter filed its responses under seal pursuant to Protective Order No. 22028, filed September 14, 2005.

II.

Discussion

As a general rule, the commission will not expend resources on statutory duties that have been legislatively suspended. Effective May 5, 2006, Act 78 amends or repeals various sections of HRS chs. 486J and 486H by, inter alia:

- (1) providing increased industry transparency;
- (2) indefinitely suspending the maximum pre-tax wholesale price of gasoline ("Gas Price Caps") and the commission's duty to calculate the Gas Price Caps;
- (3) giving the governor the authority to reinstate the Gas Price Caps upon publication of a finding that its reinstatement is beneficial to the economic well-being, health, and safety of the people of the State;
- (4) revising the formula for calculating the Gas Price Caps if reinstated by the governor, by, inter alia,
 - (a) altering the baseline calculation;
 - (b) eliminating the location adjustment factor;
 - (c) reducing the marketing margin factor; and
 - (d) allocating percentages of certain zone price adjustments;
- (5) giving the governor the authority, upon reinstatement of the Gas Price Caps, to increase the Gas Price Caps within a zone;
- (6) establishing the petroleum industry monitoring, analysis, and reporting program and special fund;
- (7) requiring the commission to develop and maintain the petroleum industry monitoring, analysis, and reporting program, including an automated petroleum industry information reporting system;
- (8) redelineating the types of information that the petroleum industry must submit to the commission;

(9) prohibiting unfair trade practices by the petroleum industry; and

(10) making appropriations.

In sum, pursuant to Act 78, the commission's duty to calculate and publish the Gas Price Caps has been indefinitely suspended, and any other adjustments to the Gas Price Caps will only take effect if the Gas Price Caps are reinstated. Because Act 78 suspends the commission's duty to calculate and publish the Gas Price Caps, any further consideration of Senter's Petition would be wholly ineffectual and would not benefit the public interest. Moreover, given that the commission has limited resources to dedicate to its duties and responsibilities under HRS § 486J,³ it would be inappropriate to continue consideration of Senter's Petition.

Upon careful review of the full record in this proceeding and considering other matters including, but not limited to, Act 78, the commission concludes that Senter's Petition should be dismissed, and that this docket should be closed. Should the Gas Price Caps be reinstated, the commission will entertain a motion to reopen the docket.

III.

Orders


THE COMMISSION ORDERS:

1. Senter's Petition is dismissed.
2. This docket is closed unless otherwise ordered by the commission.

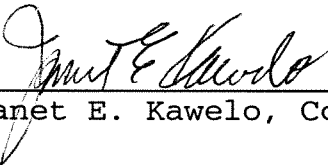
³See, e.g., Act 78, Section 14.

DONE at Honolulu, Hawaii JUN 23 2006.

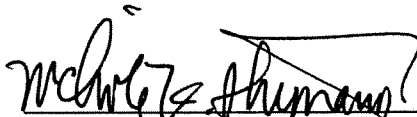
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Nichole K. Shimamoto
Commission Counsel

05-0221.ah

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22557 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

JOHN E. COLE, EXECUTIVE DIRECTOR
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.
NEILL T. TSENG, ESQ.
CADES SCHUTTE LLP
1000 Bishop Street, Suite 1200
Honolulu, HI 96813

Attorneys for Senter Petroleum, Inc.



Karen Higashi

DATED: JUN 23 2006