

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. 21822

RECEIVED
2005 MAY 17 A 8:20
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed May 16, 2005
At 11:30 o'clock A.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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PUBLIC UTILITIES COMMISSION)	Docket No. 05-0002
)	
Instituting a Proceeding to)	Order No. 21822
Investigate the Issues and)	
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and Contained in, Hawaii Revised)	
Statutes 486H, as Amended.)	
_____)	

ORDER

By this Order, the commission: (1) approves the Parties'¹ May 11, 2005 Stipulation in its entirety;² and (2) amends the Regulatory Schedule established by Order No. 21670 to the extent that it is consistent with the modifications noted in the May 11, 2005 Stipulation.

¹The Parties in this docket are the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), CHEVRON USA ("Chevron"), TESORO HAWAII CORPORATION ("Tesoro Hawaii"), SHELL OIL COMPANY ("Shell"), and the HAWAII PETROLEUM MARKETERS ASSOCIATION ("HPMA") (hereinafter collectively referred to as "Parties").

²On May 12, 2005, the Parties submitted a letter, dated May 11, 2005, memorializing their agreements as to their proposed adjustments to the Regulatory Schedule and proposed, particularly relating to the scheduled technical meeting with the commission's consultant on May 19, 2005 ("May 11, 2005 Stipulation").

I.

Introduction

To facilitate its investigation initiated in this docket, the commission issued Order No. 21670 on March 1, 2005 establishing a Regulatory Schedule, which is attached to Order No. 21670 as Exhibit "A". Among other things, the Regulatory Schedule provided the Parties the opportunity to hold a technical meeting with the commission's consultant, ICF Consulting ("ICF") on May 19, 2005.

In accordance with the Regulatory Schedule, the commission, on behalf of ICF, issued ICF's report entitled *Implementation Recommendations for Hawaii Revised Statutes Chapter 486H, Gasoline Price Cap Legislation* (the "Report") on April 15, 2005.

On May 12, 2005, the Parties filed their May 11, 2005 Stipulation for the commission's review and approval.

II.

Discussion

The Parties' May 11, 2005 Stipulation states, in relevant part, as follows:

[T]he Parties are scheduled to have a technical meeting with ICF to discuss the Report. The purpose of this meeting is to facilitate subsequent procedural steps including the issuance of information requests to ICF and the formation of the Parties' respective positions. The Parties, however, are concerned that a joint meeting [on May 19, 2005] involving all of the Parties and ICF may encroach upon, or at least have the appearance and perception of impinging upon, antitrust matters, Sarbanes-Oxley compliance

matters, confidentiality matters, as well as other areas proprietary concerns. Thus, the Parties have agreed on the following recommendations that would substantially alleviate the Parties concerns:

1. The Parties suggest that the meeting with ICF be structured such that ICF will meet individually and separately with each Party and the Consumer Advocate. Each individual party meeting would be for a maximum of four hours each (including breaks). A Party shall be permitted to have, in its reasonable discretion, those persons it desires to participate on its behalf at such Party's individual meeting. The following is the proposed schedule of the individual meetings with ICF and the Party asking questions ("Individual Meetings"):
 - a. Wednesday, May 18, 2005 (from 1:00 p.m. to 5:00 p.m.) - the Consumer Advocate and ICF
 - b. Thursday, May 19, 2005 (from 8:00 a.m. to 12:00 noon) - HPMA and ICF
 - c. Thursday, May 19, 2005 (from 1:00 p.m. to 5:00 p.m.) - Chevron and ICF
 - d. Friday, May 20, 2005 (from 8:00 a.m. to 12 noon) - Tesoro and ICF
 - e. Friday, May 20, 2005 (from 1:00 p.m. to 5:00 p.m.) - Shell and ICF
2. The Parties agree that the first Individual Meeting between the Consumer Advocate and ICF will be attended by only the Consumer Advocate, ICF and [commission staff]. The other four Individual Meetings will be attended only by the Party designated to meet at the time specified in paragraph 1. above, ICF, the Consumer Advocate, and the [commission staff].
3. The Parties agree that a Party may allow participation by a Party's representative(s) by telephone conference in to such Party's Individual Meeting with ICF. In order to conduct these Individual Meetings in

an orderly fashion, the Party at such Individual Meeting shall follow the [commission staff's] guidance in the manner of questioning ICF. The [c]omission may change, alter, or otherwise do whatever is necessary to conduct the Individual Meetings in an orderly fashion. Only the Party scheduled to meet at the Individual Meeting at the time specified in paragraph 1. above shall be allowed to ask questions of ICF at such Individual Meeting.

4. The Parties agree that the scope of these meetings will be limited to asking ICF questions on the Report (including any assumptions, data, and other information utilized by ICF in preparing the Report) and ICF's responses thereto.
5. The Parties agree that to the extent that confidential information is covered under Protective Order No. 21669, the Parties do not waive such confidentiality and in no event shall these meetings be considered a waiver of such confidentiality. In addition, the Parties agree that, to the maximum extent provided by law and under Protective Order No. 21669, these meetings with ICF shall also be subject to the confidentiality protection of Protective Order No. 21669 and that the Parties agree to abide by Protective Order No. 21669.
6. The Parties agree that they have all had adequate and appropriate notice and opportunity to participate in each and every one of the Individual Meetings but in light of the antitrust, Sarbanes-Oxley, confidentiality and other concerns briefly expressed above, the Parties agree to waive all ex-parte rules with respect to these ICF meetings including, without limitation, Section 6-61-29 of the Rules of Practice and Procedure Before the Public Utilities Commission, Hawaii Administrative Rules, Title 6, Chapter 1.

Upon review, we find the Parties' May 11, 2005 Stipulation to be reasonable. Thus, the commission concludes that the May 11, 2005 Stipulation should be approved in its entirety, and the Regulatory Schedule established by Order No. 21670 should be amended to the extent that it is consistent with the modifications noted in the May 11, 2005 Stipulation. In all other respects, Order No. 21670 should remain unchanged.


III.

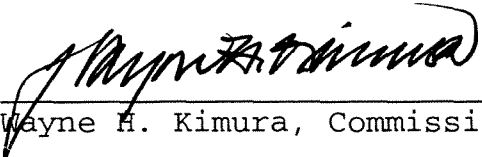
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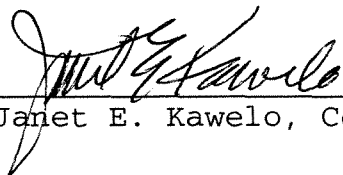
THE COMMISSION ORDERS that the Parties' May 11, 2005 Stipulation is approved in its entirety, and the Regulatory Schedule established by Order No. 21670 is amended to the extent that it is consistent with the modifications noted in the May 11, 2005 Stipulation. In all other respects, Order No. 21670 remains unchanged.

DONE at Honolulu, Hawaii MAY 16 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

05-0002.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21822 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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DATED: MAY 16 2005