

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION

February 1, 2022
9:00 a.m.

Chair Lowen and Members of the Committee:

MEASURE: H.B. No. 1524

TITLE: RELATING TO ENERGY RESOURCES.

DESCRIPTION: Amends the definition of "petroleum product" to mean any product derived from the distillation of crude oil.

POSITION:

The Public Utilities Commission ("Commission") supports this measure and offers the following comments for consideration.

COMMENTS:

The Commission supports this measure, which would clarify the types of products that should be included under the unfair trade practice provisions outlined in Chapter 486B, Hawaii Revised Statutes ("HRS"). Currently, the definition of "petroleum product" excludes certain types of oil-derived products, and thus, these products are not subject to certain fines, consumer protections, and other safeguards.

Specifically, the current definition does not include certain petroleum products that the state's electric utilities purchase from suppliers. For this reason, utility contracts and arrangements with fuel suppliers may lack sufficient protection from unfair trade practices such as price gouging, false advertising, and restrictions on supply.

This issue was recently evident in contract renegotiations between Par Hawaii Refining, LLC ("Par") and Hawaiian Electric. On April 29, 2020, shortly after the onset of the global pandemic, Par sent a letter to Hawaiian Electric, demanding renegotiation of their fuel

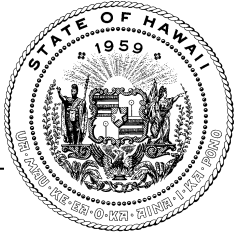
supply contract and notifying Hawaiian Electric that, unless the parties came to an amended agreement by June 8, 2020, Par would terminate the original fuel supply contract, leaving the state's electric utilities without a contracted fuel supply needed to serve customers. Hawaiian Electric ultimately agreed to an amended contract that increased the price of fuel by over \$160 million through December 2022. Hawaiian Electric's estimates indicated that the higher prices of the amended contract would result in a residential bill increase of approximately \$5.55 per month for a typical 500 kilowatt hour ("kWh") bill from July 15, 2020, through May 2021, and an increase of \$5.17 per month from July 15, 2020, through December 2022.

In granting approval of the amended contract, the Commission found that if the amended contract was not approved, there would be a significant risk that Par would terminate the original contract, which would likely cause substantial energy security issues on Oahu and potentially elsewhere in the state. The Commission also found that there was not any other feasible, readily available source of low sulfur fuel oil ("LSFO") that was equal or cheaper in cost than the terms of the amended contract.

In Order 37857 in Docket No. 2020-0090, issued on July 6, 2021, the Commission stated that Par's threat to terminate the contract "effectively created a 'take it or leave it' situation which appears to have affected Hawaiian Electric's bargaining power, thereby limiting its opportunities to protect ratepayers." The Commission also found that "Hawaiian Electric is in a disadvantaged bargaining position relative to Par, in part, due to its failure to sufficiently develop an alternative LSFO fuel plan, should Par exit the State." In approving the amended contract, the Commission imposed several conditions upon Hawaiian Electric in order to ensure that it develops alternatives and improves its bargaining power, so that a similar situation does not arise in the future.

The Commission believes that it is imperative to shield customers from unfair trade practices and ensure that suppliers of essential products and services are subject to sufficient oversights and legal standards. The Commission notes that similar requests have been made for fuel supply agreements with Hawaii Gas and Kalaeloa. The Commission believes that this measure will help to reduce threats to energy security for Hawaii residents, as well as negotiation imbalances that impose costs on ratepayers.

Thank you for the opportunity to testify on this measure.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

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Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
HOUSE Committee on ENERGY & ENVIRONMENTAL PROTECTION

Tuesday, February 1, 2022
9:00 AM
State Capitol, Conference Room 325

In SUPPORT of
HB 1524
RELATING TO ENERGY RESOURCES.

Chair Lowen, Vice Chair Marten, and Members of the Committee, the Hawaii State Energy Office (HSEO) supports HB 1524, which amends the definition of "petroleum product" to mean any product derived from the distillation of crude oil.

HSEO's comments are guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy.

HSEO agrees that the current definition of "petroleum product" could be improved, as it implies but does not appear to explicitly require that it include any and all products derived from petroleum. Of note is that the current definition does not include all petroleum products utilized by the state's electric utilities for power generation. The deficiency in the current definition could potentially leave a gap in protection against unfair trade practices.

One such instance was Docket No. 2020-0090 concerning the fuel supply contract between Hawaiian Electric and Par Hawaii Refining LLC ("Par"). HSEO was a party to represent the State's interest in energy security. Ultimately, HSEO did not oppose approval of the contract amendment to increase the price of fuel oil as HSEO could not definitively determine there would not be an impact on energy security if Par were to cancel the contract, leading to the potential ceasing of on-island refining

at the onset of the COVID-19 pandemic. In Order 37857 in Docket No. 2020-0090, issued on July 6, 2021, the Commission found that if they did not approve “the First Amendment there is a significant risk that Par will seek to terminate the Original Fuel Supply Contract” and that “If Par attempts to terminate the Original Fuel Supply Contract, it will most likely cause fuel supply security issues on Oahu and potentially elsewhere in the State.”

HSEO has a statutory interest in maintaining energy security in Hawaii. Energy is one of the Federal Emergency Management Agencies identified Community Lifelines which are the most fundamental services in the community that, when stabilized, enable all other aspects of society to function. HSEO is the primary and coordinating agency for State Emergency Support Function 12: Energy (“SESF 12”). As Hawaii continues to displace fossil fuels with increasing levels of renewable energy, there is the potential for market disruptions. It is critical that all petroleum products that Hawaii is dependent upon for energy security have appropriate consumer protections to ensure a smooth transition to a net-negative carbon economy.

Thank you for the opportunity to testify.

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Submitted on: 1/29/2022 12:00:09 PM

Testimony for EEP on 2/1/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Henry Curtis	Life of the Land	Support	Yes

Comments:

Please pass. Mahalo

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Submitted on: 1/29/2022 12:34:58 PM

Testimony for EEP on 2/1/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Douglas Perrine	Individual	Support	No

Comments:

I support HB 1524