
A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that:

2 (1) The general welfare and prosperity of the State is
3 dependent upon the availability of an adequate supply
4 of oil;

5 (2) Hawaii is unique among the states in that it does not
6 have indigenous energy sources, such as coal, natural
7 gas, or hydroelectric power, and is therefore
8 currently dependent upon imports of petroleum to meet
9 its energy needs;

10 (3) Petroleum is used to generate electricity and
11 manufacture synthetic gas;

12 (4) The cost of petroleum is a factor in the cost of every
13 item produced or consumed in Hawaii and is shared by
14 every user of electricity and propane gas and by every
15 automobile user;

16 (5) The State is seeking to expand its economy, attract
17 new industries, and develop itself into a pacific
18 trade center; and



1 (6) Petroleum and petroleum products, the dominant energy
2 source for the State, are crucial factors in this
3 endeavor.

4 The purpose of this Act is to require the public utilities
5 commission to regulate petroleum utilities and the gasoline
6 service station industry in Hawaii.

7 SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended
8 by adding a new section to be appropriately designated and to
9 read as follows:

10 "§269- Petroleum regulation. (a) The public utilities
11 commission shall:

12 (1) Have general supervision over all petroleum utilities
13 in this State;

14 (2) Notwithstanding section 486H-10.4(a)(2), authorize new
15 retail service stations and determine whether they may
16 be operated by a petroleum utility. For the purposes
17 of this section, the term "operate" has the same
18 meaning as defined in section 486H-1;

19 (3) Restrict price increases when prices rise above a
20 certain percentage over a benchmark market, as
21 determined by rules adopted by the commission under
22 chapter 91;



- 1 (4) Notwithstanding section 486H-10.4(a), decide when a
2 petroleum utility may convert a retail service station
3 from one operated by a gasoline dealer to one operated
4 by a manufacturer or jobber, as those terms are
5 defined in section 486H-1, and vice versa;
- 6 (5) Decide when a petroleum utility may close a retail
7 service station, to prevent communities from being
8 underserved; and
- 9 (6) Enforce this section.
- 10 (b) In addition to the requirements of chapter 486J, every
11 petroleum utility, upon the request of the commission, shall:
- 12 (1) Furnish to the commission all information the
13 commission may require with respect to any of the
14 matters within its jurisdiction;
- 15 (2) Permit the examination of its books, records,
16 contracts, maps, and other documents by the commission
17 or any person authorized by it in writing to make an
18 examination; and
- 19 (3) Furnish the commission with a complete inventory of
20 its property in such form as the commission may
21 direct.



1 (c) The rates, fares, classifications, and rules of every
2 petroleum utility shall be published by the petroleum utility in
3 such a manner as the commission may require, and copies shall be
4 furnished to any person on request.

5 (d) Any petroleum utility violating, neglecting, or
6 failing in any particular to conform to or comply with this
7 section or any order of the commission shall forfeit to the
8 State not more than \$10,000 for every violation, neglect, or
9 failure, to be recovered pursuant to proceedings instituted in
10 accordance with section 269-15. Each day of violation shall be
11 a separate violation. A petroleum utility may be enjoined by
12 the circuit court from carrying on its business while the
13 violation, neglect, or failure continues.

14 (e) The commission shall adopt rules in accordance with
15 chapter 91 as may be necessary to implement this section.

16 (f) The commission shall prepare and present to the
17 governor and the legislature, through the chairperson, twenty
18 days prior to the convening of every regular session of the
19 legislature, a report relating to its actions under this section
20 during the preceding fiscal year, including any recommendations
21 for legislation. The report required by this section shall be



1 submitted in conjunction with the report required to be
2 submitted to the governor and legislature by section 486J-5(c)."

3 SECTION 3. Section 269-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding five new definitions to be appropriately
6 inserted and to read:

7 "Commission" means the public utilities commission.

8 "Gasoline dealer" has the same meaning as defined in section
9 486H-1.

10 "Petroleum products" has the same meaning as defined in
11 section 486H-1.

12 "Petroleum utility" includes any person, or the person's
13 lessee, trustee, or receiver, who owns, manages, operates,
14 leases, or controls within this State any pipeline, plant,
15 property, equipment, facility, franchise, license, or permit for
16 producing, obtaining, refining, processing, transporting,
17 conveying, distributing, delivering, or furnishing crude
18 petroleum oil or petroleum products, at wholesale or retail.

19 "Retail service station" has the same meaning as defined in
20 section 486H-1."

21 2. By amending the definition of "public utility" to read:

22 "Public utility":



- 1 (1) Includes every person who may own, control, operate,
2 or manage as owner, lessee, trustee, receiver, or
3 otherwise, whether under a franchise, charter,
4 license, articles of association, or otherwise, any
5 plant or equipment, or any part thereof, directly or
6 indirectly for public use, for the transportation of
7 passengers or freight, or the conveyance or
8 transmission of telecommunications messages, or the
9 furnishing of facilities for the transmission of
10 intelligence by electricity by land or water or air
11 within the State, or between points within the State,
12 or for the production, conveyance, transmission,
13 delivery, or furnishing of light, power, heat, cold,
14 water, gas, or oil, or for the storage or warehousing
15 of goods, or the disposal of sewage; provided that the
16 term shall include:
- 17 (A) Any person insofar as that person owns or
18 operates a private sewer company or sewer
19 facility; ~~and~~
- 20 (B) Any telecommunications carrier or
21 telecommunications common carrier; and
- 22 (C) Any petroleum utility; and



- 1 (2) Shall not include:
- 2 (A) Any person insofar as that person owns or
- 3 operates an aerial transportation enterprise;
- 4 (B) Persons owning or operating taxicabs, as defined
- 5 in this section;
- 6 (C) Common carriers transporting only freight on the
- 7 public highways, unless operating within
- 8 localities or along routes or between points that
- 9 the [~~public utilities~~] commission finds to be
- 10 inadequately serviced without regulation under
- 11 this chapter;
- 12 (D) Persons engaged in the business of warehousing or
- 13 storage, unless the commission finds that
- 14 regulation thereof is necessary in the public
- 15 interest;
- 16 (E) The business of any carrier by water to the
- 17 extent that the carrier enters into private
- 18 contracts for towage, salvage, hauling, or
- 19 carriage between points within the State and the
- 20 carriage is not pursuant to either an established
- 21 schedule or an undertaking to perform carriage
- 22 services on behalf of the public generally;



1 (F) The business of any carrier by water,
2 substantially engaged in interstate or foreign
3 commerce, transporting passengers on luxury
4 cruises between points within the State or on
5 luxury round-trip cruises returning to the point
6 of departure;

7 (G) Any person who:

8 (i) Controls, operates, or manages plants or
9 facilities for the production, transmission,
10 or furnishing of power primarily or entirely
11 from nonfossil fuel sources; and

12 (ii) Provides, sells, or transmits all of that
13 power, except such power as is used in its
14 own internal operations, directly to a
15 public utility for transmission to the
16 public;

17 (H) A telecommunications provider only to the extent
18 determined by the commission pursuant to section
19 269-16.9;

20 (I) Any person who controls, operates, or manages
21 plants or facilities developed pursuant to
22 chapter 167 for conveying, distributing, and



1 transmitting water for irrigation and such other
2 purposes that shall be held for public use and
3 purpose;

4 (J) Any person who owns, controls, operates, or
5 manages plants or facilities for the reclamation
6 of wastewater; provided that:

7 (i) The services of the facility shall be
8 provided pursuant to a service contract
9 between the person and a state or county
10 agency and at least ten per cent of the
11 wastewater processed is used directly by the
12 State or county ~~[which]~~ that has entered
13 into the service contract;

14 (ii) The primary function of the facility shall
15 be the processing of secondary treated
16 wastewater that has been produced by a
17 municipal wastewater treatment facility that
18 is owned by a state or county agency;

19 (iii) The facility shall not make sales of water
20 to residential customers;

21 (iv) The facility may distribute and sell
22 recycled or reclaimed water to entities not



1 covered by a state or county service
2 contract; provided that, in the absence of
3 regulatory oversight and direct competition,
4 the distribution and sale of recycled or
5 reclaimed water shall be voluntary and its
6 pricing fair and reasonable. For purposes
7 of this subparagraph, "recycled water" and
8 "reclaimed water" mean treated wastewater
9 that by design is intended or used for a
10 beneficial purpose; and

11 (v) The facility shall not be engaged, either
12 directly or indirectly, in the processing of
13 food wastes; and

14 (K) Any person who owns, controls, operates, or
15 manages any seawater air conditioning district
16 cooling project; provided that at least fifty per
17 cent of the energy required for the seawater air
18 conditioning district cooling system is provided
19 by a renewable energy resource, such as cold,
20 deep seawater.

21 If the application of this chapter is ordered by the
22 commission in any case provided in paragraphs (2)(C), (2)(D),



1 (2) (H), and (2) (I), the business of any public utility that
2 presents evidence of bona fide operation on the date of the
3 commencement of the proceedings resulting in the order shall be
4 presumed to be necessary to public convenience and necessity,
5 but any certificate issued under this proviso shall nevertheless
6 be subject to such terms and conditions as the commission may
7 prescribe, as provided in sections 269-16.9 and 269-20."

8 SECTION 4. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect on July 1, 2007.

14

INTRODUCED BY: *Bob Nickerson*

JAN 22 2007



Report Title:

Public Utilities Commission; Petroleum Regulation

Description:

Authorizes the public utilities commission to regulate petroleum utilities and gasoline service stations industry in the State; defines petroleum utility.

