

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

HAWAIIAN ELECTRIC COMPANY, INC. )

DOCKET NO. 00-0169

For Approval of the Commercial and )  
Industrial Demand-Side Management )  
Program, Recovery of Program Costs )  
and Lost Margins, and Consideration )  
for Shareholder Incentives. )

ORDER NO. 20391

Filed August 26, 2003  
At 10:00 o'clock A.M.

Karen Higashi  
Chief Clerk of the Commission

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

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KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi

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Docket No. 00-0169

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ORDER

I.

By Order No. 19019, filed on November 15, 2001, the commission approved the proposed agreements, terms and conditions submitted on October 5, 2001 by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate") (collectively, hereinafter referred to as the "parties" or "Parties"), subject to certain conditions and modifications, ("October 5, 2001 Stipulation"). The October 5, 2001 Stipulation (restated in Order No. 19019) states, in relevant part:

1. The parties agree to the temporary continuation of HECO's three existing [Commercial and Industrial ("C&I") Demand-Side Management ("DSM")] programs in place of implementing a new consolidated C&I DSM program for five years (as requested in Docket No. 00-0169), until HECO's next rate case (which HECO has committed to file within 2 to 3 years using either a 2003 or 2004 test year in accordance

with [Hawaii Administrative Rules ("HAR")]  
§ 6-61-87(4)(A) and (B).<sup>1</sup>

2. In return for the above, HECO agrees to cap recovery of lost margins and shareholder incentives based on the existing surcharge mechanism to ensure that such recovery will not exceed HECO's current authorized rate of return on its average rate base.<sup>2</sup>
3. The parties agree that HECO may continue to recover the program costs for HECO's three existing C&I DSM programs accrued through the date that estimated program costs are incorporated into rates as a result of the next rate case<sup>3</sup>, and the . . . program costs accrued until such time may be recovered through the existing surcharge mechanism.
4. The parties agree that HECO may continue to accrue lost margins resulting from HECO's three existing C&I DSM programs through the date that interim rates are established as a result of the next rate case, and the lost margins accrued until such time may be recovered through the existing surcharge mechanism.
5. HECO agrees that the continuation of the recovery of lost margins after 2001 to the next rate proceeding will not allow HECO to exceed its current authorized rate of return of 9.16 per cent on its average rate base.

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<sup>1</sup>HECO also agrees that its existing DSM programs will end as part of the next rate case, and that any new DSM programs to be in place after that rate case will be determined as part of that case.

<sup>2</sup>By Decision and Order No. 14412, filed on December 11, 1995, in Docket No. 7766 (HECO's last rate case), the commission approved a 9.16 per cent rate of return on HECO's average rate base.

<sup>3</sup>The parties agree that the term "as a result of the next rate case" means when the commission determines, in HECO's next rate case, HECO's revenue requirements either by means of an interim decision and order or a final decision and order, whichever comes first.

6. HECO agrees that it will not seek the continuation of lost margins recovery in its next rate case or thereafter.
7. The parties agree that HECO may continue to accrue shareholder incentives through the date that interim rates are established as a result of the next rate case, and that such shareholder incentives accrued until such time may be recovered through the existing surcharge mechanism.
8. HECO agrees to reflect shareholder incentives earned after 2001 in the monthly calculation of its operating revenues, beginning . . . January 2002 until interim rates are established in the next rate case.
9. HECO agrees that the continuation of the recovery of shareholder incentives will not allow HECO to exceed its current authorized rate of return of 9.16 per cent on its average rate base.
10. HECO agrees that it will not seek the continuation of shareholder incentives recovery in its next rate case or thereafter.
11. The parties agree to work together to address and resolve to their satisfaction any concerns that the Consumer Advocate may have regarding the methodologies used to calculate lost margins and shareholder incentives by the end of 2001 (e.g., whether HECO is collecting lost margins for DSM measure installations that would have occurred without DSM programs, and the participant application process for DSM programs). The parties agree that the resolution of these concerns will be used to establish methodologies to calculate lost margins and shareholder incentives to be incorporated in the calculations made from January 1, 2002 to the effective date that interim rates are established as a result of the next rate case.
12. HECO agrees to commit itself to file a general rate case within 2 to 3 years from the date of this agreement using either a 2003 or 2004 test year in accordance with HAR § 6-61-87(4)(A) and (B).

13. The parties agree that with respect to program costs, HECO's affiliates, Hawaii Electric Light Company, Inc. ["HELCO"] and Maui Electric Company, Limited ["MECO"], will take the necessary steps to implement any changes ordered or approved by the commission in HECO's next rate case, within one year from when such costs are incorporated into HECO's rates established as a result of HECO's next rate case. At that time, HECO represents that HELCO and MECO will cease accrual of lost margins and shareholder incentives. The parties agree that HELCO and MECO would be allowed to continue the accrual and recovery of their respective DSM program costs, lost margins and shareholder incentives through their existing surcharge mechanism until the changes are implemented.
14. In light of the City and County of Honolulu's updated building energy efficiency standards for non-residential and high-rise residential buildings, which will become effective on December 8, 2001 as result of the passage of Bill 54, the parties agree that HECO will review the impact of Bill 54 on the existing C&I DSM programs, and will provide a written report to the commission and the Consumer Advocate by November 30, 2001 on any program modifications that may become necessary as a result of the passage of Bill 54. The parties also agree that the Consumer Advocate will be able to provide written comments for the commission's consideration on HECO's written report, and that any modifications to the existing C&I DSM programs must receive prior commission approval before implementation.<sup>4</sup>
15. The parties agree that HECO will revise the calculation of shareholder incentives to an ex post basis, commencing with shareholder incentives earned on DSM measures installed in 2001.

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<sup>4</sup>By Order No. 19347, filed on May 9, 2002, the commission approved HECO's proposed program modification to its three existing C&I DSM programs due to the passage of Bill 54 (nka, Ordinance 01-47).

On August 7, 2003, the Parties filed a letter, for commission review and approval, documenting their new agreements, terms and conditions affecting the October 5, 2001 Stipulation approved in Order No. 19019.<sup>5</sup>

## II.

In Order No. 19019, the commission approved the Parties' agreements, terms and conditions whereby, among other things, HECO committed to file a rate case within 2 to 3 years of the date of the October 5, 2001 Stipulation using either a 2003 or 2004 test year in accordance with HAR § 6-61-87(4)(A) and (B). In its August 7, 2003 Stipulation to Amend Order No. 19019, the Parties assert that under the October 5, 2001 Stipulation, "HECO would have to file its general rate case by the end of 2003 using a 2004 test year, which would require HECO, the Consumer Advocate, and ultimately the [c]ommission to focus their resources on this matter during the remainder of [2003] and the first half of 2004."

However, the August 7, 2003 Stipulation to Amend Order No. 19019 states, among other things<sup>6</sup>, that the Parties have now

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<sup>5</sup>From hereinafter, we will treat the new agreements, terms and conditions proposed in the Parties' August 7, 2003 letter as a joint request to approve the Parties' August 7, 2003 Stipulation to Amend Order No. 19019.

<sup>6</sup>In the August 7, 2003 Stipulation to Amend Order No. 19019, the Parties also agreed to the following:

1. Temporary continuation of HECO's three existing C&I DSM programs with such modifications as the commission may, from time to time, approve or order, until the next rate case;

agreed to delay the filing of HECO's rate case by approximately 12 additional months such that HECO would utilize a 2005 test year for the filing.

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2. The current DSM programs will end as part of the next rate case, but HECO will pursue development of new and/or replacement DSM programs that will continue to provide ample opportunities to ratepayers to strive for energy efficiency, and the new and/or replacement DSM programs that may be in place after the next rate case will be determined as part of that case;
  3. HECO may continue to accrue and recover the program costs, lost margins and shareholder incentives for HECO's three existing C&I DSM programs in accordance with the agreements, terms and conditions of the Stipulation and Order No. 19019;
  4. HECO will continue to cap recovery of lost margins and shareholder incentives based on the existing surcharge mechanism, so that such recovery will not allow [HECO] to exceed its current authorized rate of return on rate base. As a result of this cap, HECO's ratepayers will not be harmed by the continued recovery of lost margins and shareholder incentives pending HECO's next rate case. HECO will continue to reflect shareholder incentives earned in the monthly calculation of its operating revenues, until interim rates are established in the next rate case. HECO will not pursue the continuation of lost margins and shareholder incentives through a surcharge mechanism in the next rate case or thereafter; and
  5. HECO and the Consumer Advocate will abide by Ordering Paragraph Nos. 7 and 8 as set forth in Order [No.] 19019 in Docket No. 00-0169, and as modified by Order No. 19789 (issued November 19, 2002), which requires the Parties to meet every six months to confer and assess, among other things, the economic and rate impacts, if any, resulting from the implementation of the Stipulation, and to file a joint report regarding the meeting.

The Parties express that an additional 12-month delay in filing a general rate case is necessary and justified because:

1. In addition to their normal, on-going workloads, HECO and the Consumer Advocate are working on a number of [pending] special projects, and for both [P]arties, the preparation and processing of a 2005 test year rate case may be more efficient. . . . HECO and the Consumer Advocate's resources may be better utilized at this time in pursuing these pending matters rather than focusing on processing and reviewing a rate case application[;] and
2. [A] rate case application using a 2005 test year . . . may be more appropriate than an application using a 2004 test year. The economic conditions of the past year may still not be representative of a 'normal' year given that the State's economy is still reflecting the uncertainties resulting from the War on Iraq and the recent outbreak of Severe Acute Respiratory [sic] Syndrome (SARS). This situation may cause difficulties in determining normalized revenue requirements for a 2004 test year since historical experience is often relied upon to project the future operating results.

Upon review of the August 7, 2003 Stipulation to Amend Order No. 19019, we find that the new agreements, terms and conditions proposed by the Parties are reasonable and in the public interest. Specifically, we agree with the Parties that deferring the filing of HECO's general rate case application for approximately a year utilizing a 2005 test year in lieu of a 2003 or 2004 test year would assist the Parties and the commission in effectively allocating its resources and scheduling its future and pending workload in an efficient manner. We further agree with the Parties that HECO's ratepayers will not be harmed by the continued recovery of lost margins and shareholder incentives pending HECO's next rate case because HECO will continue to cap



recovery of lost margins and shareholder incentives so that such recovery will not allow HECO to exceed its current authorized rate of return on rate base. We further acknowledge that in light of recent international, national and local events and tensions (i.e., War on Iraq and SARS) that have substantially impacted the economy here and abroad, utilizing a 2005 rather than a 2004 test year may be in the best interest of the ratepayers, and is consistent with HAR § 6-61-87.<sup>7</sup> For these reasons, we conclude that the proposed new agreements, terms and conditions set forth in the Stipulation to Amend Order No. 19019 should be approved and made part of this order. In the event any provision of the August 7, 2003 Stipulation to Amend Order No. 19019 conflicts with any provision of the October 5, 2001 Stipulation, the August 7, 2003 Stipulation to Amend Order No. 19019 shall control. In all other respects, Order No. 19019 shall remain unchanged.

### III.

#### THE COMMISSION ORDERS:

1. The new agreements, terms and conditions set forth in the August 7, 2003 Stipulation to Amend Order No. 19019 are approved and shall be made part of this order. Specifically, the Parties' agreement to delay the filing of HECO's rate case by

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<sup>7</sup>HAR § 6-61-87(4) states, in relevant part, that "[t]he adjusted or estimated results shown for the test year shall be on a consistent basis reflecting normalized conditions to the very best estimate possible."

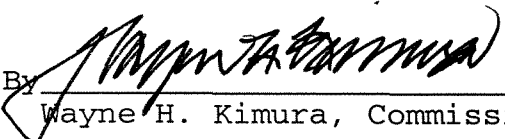
approximately 12 additional months such that HECO would utilize a 2005 test year for the filing is approved.

2. Order No. 19019 is amended consistent with the new agreements, terms and conditions set forth in the August 7, 2003 Stipulation to Amend Order No. 19019. In the event any provision of the August 7, 2003 Stipulation to Amend Order No. 19019 conflicts with any provision of the October 5, 2001 Stipulation, the August 7, 2003 Stipulation to Amend Order No. 19019 shall control. In all other respects, Order No. 19019 shall remain unchanged.

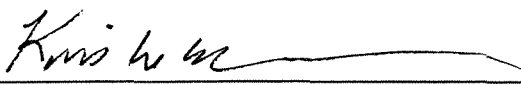
DONE at Honolulu, Hawaii this 26th day of August, 2003.

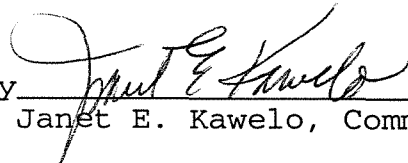
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

  
Kris N. Nakagawa  
Commission Counsel

By   
Janet E. Kawelo, Commissioner

00-0169.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20391 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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DIVISION OF CONSUMER ADVOCACY  
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Karen Higashi

DATED: August 26, 2003