BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of

HAWAIIAN ELECTRIC COMPANY, INC.

For Approval and/or Modification of Demand-Side and Load Management Programs and Recovery of Program Costs and DSM Utility Incentives.

DOCKET NO. 05-0069

ORDER NO. 23448

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STATE OF HAWAII

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Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities Commission, State of Hawaii.
Karen Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION

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In the Matter of HAWAIIAN ELECTRIC COMPANY, INC. For Approval and/or Modification of Demand-Side and Load Management Programs and Recovery of Program Costs and DSM Utility Incentives.	)	Docket No. 05-0069 Order No. 23448

ORDER

By this Order, the commission grants in part and denies in part the Motion for Clarification and/or Partial Reconsideration of Decision and Order No. 23258 ("Motion for Reconsideration"), filed by Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), and Maui Electric Company, Limited ("MECO") (collectively, the "HECO Companies"), on March 8, 2007, as follows: (1) the commission clarifies that Decision and Order No. 23258 identified cumulative megawatt ("MW") and megawatt-hour ("MWh") energy efficiency goals; (2) the commission grants HECO's[1] request to restate HECO's 2007 MW and MWh energy efficiency goals to remove the impacts related to certain specified programs, subject to the corresponding exclusion of any energy and demand savings for purposes of calculating goal achievement, and denies HECO's request to approve HECO's proposed goals, as demonstrated in Tables 3 and 4 of the HECO Companies' Mem. in Support of

[1]Although the Motion for Reconsideration was filed by the HECO Companies, the various requests were made by HECO.

Motion for Reconsideration; (3) the commission grants HECO's request to include the administrative and marketing costs for the Energy$Solutions for the Home ("ESH") appliance rebates and Residential New Construction ("RNC") BuiltGreen program in the calculation of the 2007 net system benefits, and denies HECO's request to include the Residential Low Income ("RLI") program costs in the calculation of net system benefits; (4) the commission clarifies that in discussing the Existing Cost Recovery Mechanism, the term "labor costs" was intended to refer to "base labor," consistent with the HECO Companies' existing cost recovery mechanism; (5) the commission denies HECO's request for reconsideration of the commission's decision to reject HECO's flexibility request; (6) the commission denies HECO's request for flexibility to exceed its customer incentives budget and budget for expenses directly related to customer participation by 25% without commission approval; (7) the commission denies HECO's request for flexibility to shift or distribute its residential program budgets among residential programs (ESH, Residential Efficient Water Heating ("REWH"), RNC, and RLI), and its commercial and industrial program budgets among commercial and industrial programs (Commercial and Industrial Energy Efficiency ("CIEE"), Commercial and Industrial New Construction ("CINC"), and Commercial and Industrial Customized Rebate ("CICR")) without commission approval; (8) the commission grants HECO the ability to request program modifications by letter request, subject to commission approval, pending the opening of a new docket; (9) the commission clarifies that for purposes of calculating DSM utility incentives, the commission adopts HECO's proposed shared savings mechanism, which is calculated using the modified Utility Cost Test; and (10) the commission clarifies that the net system benefits to be included in the modified Utility Cost Test should be gross of free-riders.

I.

Background

By Decision and Order No. 23258, filed on February 13, 2007, in Docket No. 05-0069 ("Decision and Order No. 23258"), the commission (1) established energy efficiency goals for the HECO Companies until their next Integrated Resource Planning ("IRP") dockets; (2) selected the appropriate market structures for providing demand-side management ("DSM") programs; (3) determined the cost recovery mechanisms for utility recovery of utility-incurred DSM program costs; (4) determined the types of costs that are appropriate for utility recovery of utility-incurred DSM program costs; (5) established the appropriate DSM incentive mechanism for the HECO Companies; (6) determined that HECO's proposed energy efficiency DSM programs (collectively, "Proposed Energy Efficiency DSM Programs") are likely to achieve the energy efficiency goals and be cost-effective; (7) established the appropriate cost level for HECO's utility-incurred costs in base rates; (8) approved HECO's proposed DSM utility incentive, with modifications; (9) approved HECO's Proposed Energy Efficiency DSM Programs and Residential Customer Energy Awareness ("RCEA") Program, with modifications; and (10) approved consideration of

Hawaii Renewable Energy Alliance's ("HREA") Seawater Air Conditioning ("SWAC") proposal, with modifications, under HECO's CICR Program.

On March 8, 2007, the HECO Companies timely filed their Motion for Reconsideration,[2] pursuant to Hawaii Administrative Rules ("HAR") §§ 6-61-41 and 6-61-137.[3] The HECO Companies did not request a hearing on their Motion.

On March 14, 2007, the commission advised the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"),[4] the DEPARTMENT OF THE NAVY, ON BEHALF OF THE DEPARTMENT OF DEFENSE ("DoD"), LIFE OF THE LAND ("LoL"), the ROCKY MOUNTAIN INSTITUTE ("RMI"), HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"), HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"), KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), and THE GAS COMPANY ("TGC") (collectively, with the HECO Companies, "Parties"), and the COUNTY OF MAUI ("CoM") and the COUNTY OF KAUAI ("CoK") (collectively, "Participants"), that

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[2]On February 23, 2007, HECO filed a request for an extension of time to file a Motion for Reconsideration, from February 26, 2007, until March 8, 2007. On March 5, 2007, the commission approved HECO's requested extension of time.

[3]Although the HECO Companies cite HAR § 6-6-41, it appears that the HECO Companies intended to cite HAR § 6-61-41 because (1) the HECO Companies referenced HAR ch. 6-61 elsewhere, and (2) HAR ch. 6-6 does not exist.

[4]Pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62, the Consumer Advocate is an <u>ex officio</u> party to this proceeding.

pursuant to HAR § 6-61-40, reply briefs to the HECO Companies' Motion for Reconsideration should be filed no later than March 28, 2007, in order to be considered for inclusion in the record. No reply briefs were filed with the commission by the prescribed due date.

II.

Standard

HAR § 6-61-137 provides:

> Motion for reconsideration or rehearing. A motion seeking any change in a decision, order, or requirement of the commission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall . . . set[] forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

HAR § 6-61-137. Thus, to succeed on a motion for reconsideration, the movant must demonstrate that the commission's decision or order was "unreasonable, unlawful, or erroneous." See id.

"[T]he purpose of a motion for reconsideration is to allow the parties to present new evidence and/or arguments that could not have been presented during the earlier adjudicated motion." Tagupa v. Tagupa, 108 Hawai`i 459, 465, 121 P.2d 924, 930 (Haw. Ct. App. 2005). "Reconsideration is not a device to relitigate old matters or to raise arguments or evidence that could and should have been brought during the earlier proceeding." Id. (citing Association of Apartment Owners of Wailea Elua v. Wailea Resort Co., Ltd., 100 Hawai`i 97, 110, 58 P.3d 608, 621 (Haw. 2002) and quoting Sousaris v. Miller, 92 Hawai`i 505, 513, 993 P.2d 539, 547 (Haw. 2000)).

III.

Discussion

HECO seeks clarification and reconsideration of:

(1) Energy efficiency goals for 2007 and 2008;

(2) Energy efficiency DSM program budgets;

(3) Cost recovery mechanism for energy efficiency DSM programs labor costs;

(4) Energy efficiency DSM programs budget flexibility; and

(5) DSM utility incentive mechanism.[5]

In the present docket, the commission finds that HECO did raise or could have raised most of the grounds presented in the Motion for Reconsideration prior to the commission issuing Decision and Order No. 23258, and that the commission did not overlook or misconceive any of the matters presented. Nonetheless, without deeming any of the grounds sufficiently "new" to justify reconsideration of Decision and Order No. 23258, the commission addresses each argument

[5]Motion for Reconsideration at 2.

proffered by HECO in order to provide clarity to the record in this docket.

A.

Energy Efficiency Goals for 2007 and 2008

First, HECO "requests clarification of the quantified goals used by the [c]ommission for illustrative purposes on pages 30-31 of [Decision and Order No.] 23258."[6] HECO states, "[i]t appears that [Decision and Order No.] 23258 intended to identify annual incremental MW and MWh goals rather than cumulative MW and MWh goals."[7] HECO argues that:

> The use of cumulative goals to establish energy efficiency goals would lead to unintended consequences. For example, when calculating the utility incentive for 2008, HECO would compare the sum of its 2006, 2007, and 2008 energy and demand savings with the cumulative goals. If the goals are not met or exceeded, the utility incentive would be calculated using the net benefits accrued from all three years. However, had HECO met or exceeded the goals the year before, in 2007, it would have already received the incentive for MW and MWh acquired in 2007. Thus, in 2008, HECO would receive an incentive for 2007 again.[8]

The commission clarifies and confirms that Decision and Order No. 23258 intended to specify cumulative MW and MWh energy efficiency goals. While the commission understands HECO's concerns, the use of cumulative MW and MWh energy efficiency

[6]Mem. in Support of Motion for Reconsideration at 5.

[7]Mem. in Support of Motion for Reconsideration at 5.

[8]Mem. in Support of Motion for Reconsideration at 5-6.

goals will best ensure that the HECO Companies will have an incentive to maximize their short- and long-term performance. Indeed, the use of incremental energy efficiency goals could lead to possible gaming by the utilities. For example, incremental energy efficiency goals could lead a utility to scale back its performance if it determines that it will not be eligible for incentives. Alternatively, a utility could seek to increase its total incentives by underperforming in one year in order to achieve above-goal performance in a following year easier. Nonetheless, based on HECO's comments, concerns, and request for clarification, the commission recognizes a need to clarify and describe in greater detail how these cumulative goals will be applied.

In order to determine whether the HECO Companies have met or exceeded their respective energy efficiency goals for a given year, each company's Cumulative Actual Performance will be measured against that company's Cumulative Energy Efficiency Goals, to calculate the Cumulative Actual Performance Above Goal. Next, the Cumulative Actual Performance Above Goal will be reduced by the previous year's Cumulative Actual Performance Above Goal (which cannot be less than 0 MWh), to determine that year's Annual Actual Performance Above Goal (which cannot be less than 0 MWh). As such, the company will not receive multiple incentives for the same achievement, which is a concern identified by HECO. Finally, the commission clarifies that although it will utilize the Annual Actual Performance Above Goal in the calculation of the amount of incentives attainable under the DSM Utility Incentive Schedule, if any, the commission will utilize the Cumulative Actual Performance Above Goal to determine eligibility for incentives.

For illustrative purposes, assume that HECO's commercial and industrial MWh energy efficiency goal is 91,549 MWh for 2007 and 137,324 MWh for 2008:

EXAMPLE A	2007	2008
Cumulative Commercial and Industrial Energy Efficiency Goal (MWh)	91,549	137,324
Cumulative Actual Performance (MWh)	95,549	146,324
Cumulative Actual Performance Above Goal (MWh)	4,000	9,000
Annual Actual Performance Above Goal (MWh)	4,000	5,000

In Example A, above, assume HECO's Cumulative Actual Performance is 95,549 MWh in 2007, and 146,324 MWh in 2008. Thus, HECO's 2007 Cumulative Actual Performance Above Goal is 4,000 MWh, and HECO's 2008 Cumulative Actual Performance Above Goal is 9,000 MWh. Therefore, HECO's 2008 Annual Actual Performance Above Goal is 5,000 MWh (9,000 MWh - 4,000 MWh = 5,000 MWh).

EXAMPLE B	2007	2008
Cumulative Commercial and Industrial Energy Efficiency Goal (MWh)	91,549	137,324
Cumulative Actual Performance (MWh)	90,549	141,324
Cumulative Actual Performance Above Goal (MWh)	0	4,000
Annual Actual Performance Above Goal (MWh)	0	4,000

In Example B, above, assume that HECO's Cumulative Actual Performance is 90,549 MWh in 2007, and 141,324 MWh in 2008. In 2007, HECO did not exceed its 2007 Cumulative Energy Efficiency Goal. Therefore, in 2008, HECO's 2008 Annual Actual Performance Above Goal is 4,000 MWh (4,000 MWh – 0 MWh = 4,000 MWh).

EXAMPLE C	2007	2008
Commercial and Industrial Energy Efficiency Goal (MWh)	91,549	137,324
Cumulative Actual Performance (MWh)	95,549	140,324
Cumulative Actual Performance Above Goal (MWh)	4,000	3,000
Annual Actual Performance Above Goal (MWh)	4,000	0

In Example C, above, assume HECO's Cumulative Actual Performance is 95,549 MWh in 2007, and 140,324 MWh in 2008. Thus, HECO's 2007 Cumulative Actual Performance Above Goal is 4,000 MWh, and HECO's 2008 Cumulative Actual Performance Above Goal is 3,000 MWh. Therefore, HECO's 2008 Annual Actual

Performance Above Goal is 0 MWh (3,000 MWh - 4,000 MWh = less than 0 MWh). This example also illustrates that cumulative energy efficiency goals will benefit the utilities in the event that stellar performance in one year captures energy or demand savings in a manner that makes it difficult for that company to achieve the following year's projected savings. Indeed, if incremental energy efficiency goals had been used in this example, HECO would not have met its 2008 Commercial and Industrial Energy Efficiency MWh Goal (the 2008 incremental energy efficiency goal would have been 45,755 MWh (137,324 MWh - 91,549 MWh = 45,755 MWh) and the 2008 Annual Actual Performance Above Goal would have been only 44,755 MWh (140,324 MWh - 95,549 MWh = 45,755 MWh)), and therefore, HECO would not have been eligible for any incentives.

As described above, the use of cumulative MW and MWh energy efficiency goals will not result in double-counting of incentives, as suggested by HECO. In addition, the use of cumulative MW and MWh energy efficiency goals will ensure that the HECO Companies will not be released from any unmet energy efficiency goals and will have an incentive to achieve overall cumulative energy efficiency goals.

Second, HECO requests that "[Decision and Order No.] 23258 be reconsidered such that the goals for 2007 be restated to remove the impacts related to the (1) appliance rebate component of the [ESH] Program, (2) BuiltGreen component of the [RNC] Program, and (3) [RLI] Program."[9] HECO makes this request because:

> (1) these programs and program components are new additions to HECO's DSM programs which were not in place in January 2007, and (2) the programs and program components will not likely be in effect soon because the infrastructure to realize the energy and demand savings from these programs and program components will take some time to develop.[10]

HECO further explains that "[t]he goals in 2008 are unchanged because once the infrastructure for these programs and program components has been developed and put in place[,] these programs and program components are expected to be capable of acquiring energy and demand savings by January 2008."[11] The commission grants HECO's requested modifications for 2007, but denies HECO's request to approve HECO's proposed goals, as demonstrated in Tables 3 and 4 of the HECO Companies' Mem. in Support of Motion for Reconsideration. Tables 3 and 4 fail to account for HECO's prior representation to the commission that for certain programs, the expected MW and MWh energy savings were expected to be higher in the initial years of program implementation. For purposes of illustration, based on HECO's filings, and on Decision and Order No. 23258, as amended or clarified by this Order, the commission estimates HECO's gross MW and MWh energy efficiency goals as follows:

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[9]Mem. in Support of Motion for Reconsideration at 7.

[10]Mem. in Support of Motion for Reconsideration at 7.

[11]Mem. in Support of Motion for Reconsideration at 7.

HECO's Energy Efficiency Megawatt-Hour Goals		
	2007	**2008**
Commercial and Industrial		
CIEE	46,757	70,136
CINC	19,540	29,311
CICR	25,252	37,878
Total Gross Energy Savings (MWh)	**91,549**	**137,324**
Residential		
ESH	24,938	32,080
REWH	7,533	11,300
RNC	6,045	8,867
RLI	2,633	5,267
Total Gross Energy Savings (MWh)	**41,149**	**57,514**

HECO's Energy Efficiency Megawatt Goals		
	2007	**2008**
Commercial and Industrial		
CIEE	6.878	10.318
CINC	2.864	4.297
CICR	3.299	4.948
Total Gross Demand Savings (MW)	**13.041**	**19.563**
Residential		
ESH	5.866	8.021
REWH	1.728	2.591
RNC	1.778	2.901
RLI	0.591	1.182
Total Gross Demand Savings (MW)	**9.963**	**14.695**

HECO states that "[a]ctual energy and demand savings acquired through the ESH appliance rebates, RNC BuiltGreen, and RLI Program in 2007 [for HECO], if any, would not be included in the actual savings for comparison to the goals for the purposes of calculating goal achievement, nor would these actual savings be included in the calculation of the utility shared savings mechanism."[12] The commission agrees that using such energy and demand savings for purposes of determining goal achievement or calculating utility incentives would not be appropriate because, as discussed above, the MW and MWh energy efficiency goals exclude the 2007 energy and demand savings for the ESH appliance rebates, RNC BuiltGreen, and RLI Program. Therefore, any actual 2007 energy and demand savings acquired through the ESH appliance rebates, RNC BuiltGreen, and RLI Program shall not be included in determining whether HECO has met its respective 2007 and 2008 energy efficiency goals, or for purposes of calculating any DSM utility incentives.

Third, HECO states, "because the identification of administrative and marketing costs expended solely for the ESH appliance rebates and RNC BuiltGreen program components would be problematic, HECO will include such program costs, and include the program costs for the RLI program, in the calculation of net system benefits for the purposes of the DSM utility incentive."[13] For the purposes of calculating net system benefits for any DSM utility incentives, the commission grants HECO's request to include the administrative and marketing costs for the ESH appliance rebates and RNC BuiltGreen program in the calculation of net system benefits, on the basis that HECO represented to the

[12]Mem. in Support of Motion for Reconsideration at 11.

[13]Mem. in Support of Motion for Reconsideration at 11.

commission that it will be difficult to identify and separate these costs from the administrative and marketing costs for the other program components. However, HECO did not provide any basis for including the 2007 RLI program costs in the calculation of net system benefits, and therefore, these costs shall not be included in the calculation of the 2007 net system benefits.

Finally, the HECO Companies' Motion for Reconsideration states:

> In [Decision and Order No.] 23258, the [c]ommission provided specific energy efficiency goals for HECO for 2007 and 2008, but did not provide corresponding goals for HELCO and MECO. In separate Motions to be filed in the near future in HELCO and MECO's consolidated DSM program dockets, HELCO and MECO will seek guidance with respect to their respective energy efficiency goals to be established for 2007 and 2008. The Motions to be filed also contemplate addressing other issues with respect to [Decision and Order No.] 23258 as it pertains to the implementation of HELCO and MECO's existing energy efficiency DSM programs, and also clarify their plans with respect to proposed program modifications to their existing energy efficiency DSM programs and new energy efficiency load management DSM programs that will be identified in their pending IRP-3 reports.[14]

Decision and Order No. 23258 addresses energy efficiency goals with respect to all HECO Companies. The commission was unable to estimate HELCO's and MECO's MW and MWh energy efficiency goals for illustrative purposes because neither HELCO nor MECO provided the relevant filings in this docket. To the extent that the above-referenced motions by HELCO and MECO will seek

[14]Mem. in Support of Motion for Reconsideration at 16-17.

reconsideration of Decision and Order No. 23258, such arguments should have been made before the expiration of the reconsideration period, and therefore, would be inappropriate in a future filing or proceeding. Accordingly, any subsequent motions by HELCO and MECO should apply Decision and Order No. 23258, rather than seek further reconsideration.

B.

Energy Efficiency DSM Program Budgets

HECO filed various updated program budgets to reflect the requested revised energy efficiency goals, attached as Exhibits A and B to the Motion for Reconsideration. HECO did not request that the commission make any determination as to the updated program budgets. Accordingly, in granting HECO's request to revise the 2007 energy efficiency goals, as discussed above, the commission expressly states that it is not approving the revised program budgets or any particular program cost, and reserves such decisions for the existing cost recovery process.

C.

Cost Recovery Mechanism for Energy Efficiency DSM Programs Labor Costs

HECO references Decision and Order No. 23258 for the statement that "the Existing Cost Recovery Mechanism is the most appropriate cost recovery mechanism under the Utility Market Structure, and labor costs shall be recovered through base rates and all other DSM-related utility-incurred costs shall be recovered through a surcharge."[15] HECO states that it is not clear whether the intended use of the term "labor costs" means base labor, regular employee labor, incremental labor, or some combination of these.[16] The commission clarifies that the term "labor costs" was intended to refer to "base labor," consistent with the HECO Companies' existing cost recovery mechanism.

D.

Energy Efficiency DSM Programs Budget Flexibility

First, HECO requests reconsideration of the rejection of HECO's flexibility request.[17] HECO states, "[b]udget flexibility is necessary to provide resources for HECO to aggressively pursue DSM options."[18] HECO explains, "the DSM budgets provided by HECO in Exhibit 7 were estimated on the basis of customer participation and measure adoption rates that would provide only that level of energy and demand savings identified in Exhibit 10 and no more."[19] Thus, HECO argues, "[r]estricting the budgets to the levels identified in Exhibit 7 [the estimated budgets to achieve the energy efficiency goals], effectively negates the incentive elements of the [c]ommission's DSM utility incentive mechanism because the inability to spend beyond its

[15] Mem. in Support of Motion for Reconsideration at 12 (quoting Decision and Order No. 23258, at 51).

[16] See Mem. in Support of Motion for Reconsideration at 12.

[17] See Mem. in Support of Motion for Reconsideration at 13.

[18] Mem. in Support of Motion for Reconsideration at 13.

[19] Mem. in Support of Motion for Reconsideration at 14.

budget effectively precludes the utility from exceeding the goals."[20] HECO's characterization is inaccurate because the commission has not determined that HECO is unable to spend beyond its budget, but that HECO is unable to do so without commission approval. Accordingly, HECO's request for reconsideration of the commission's decision to reject HECO's flexibility request is denied.

Second, HECO requests that the commission permit limited energy efficiency DSM program budget flexibility without commission approval.[21] Specifically, HECO requests (a) flexibility to exceed its customer incentives budget and its budget for expenses directly related to customer participation (e.g., engineering studies, installation inspections, savings calculations, etc.) by 25% without commission approval,[22] and (b) flexibility to shift or distribute its residential program budgets among residential programs (ESH, REWH, RNC, and RLI), and its commercial and industrial program budgets among commercial and industrial programs (CIEE, CINC, CICR) without commission approval.[23]

With respect to HECO's request for 25% limited budget flexibility, HECO argues that "[t]his limited budget flexibility would provide HECO with the ability to meet the [c]ommission's

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[20]Mem. in Support of Motion for Reconsideration at 14.

[21]See Mem. in Support of Motion for Reconsideration at 13.

[22]See Mem. in Support of Motion for Reconsideration at 13-14.

[23]See Mem. in Support of Motion for Reconsideration at 13, 15.

expectation for aggressive pursuit of DSM options and provide HECO with the resources necessary to exceed the energy and demand savings goals."[24] HECO's request that it be permitted to exceed its budgets for customer incentives and expenses directly related to customer participation without commission approval "is based on the anticipated time lags associated with obtaining such approval."[25] HECO states that "[p]ending receipt of [c]ommission approval to exceed a program budget, HECO would have to curtail the processing of customer incentive payment applications and disrupt the progress achieved to-date with the programs (which would generally occur in the fourth quarter of a program year) . . . ."[26] HECO also states that any concerns that HECO will use the 25% limited budget flexibility inappropriately "are alleviated by the fact that the increased expenditures must be related to customer participation and/or measure installation rates and that increased program costs will tend to lower the utility incentive even if it attains the energy and demand savings goals."[27] The commission intends to address HECO's concerns regarding an "anticipated time lag" in the new docket. Nonetheless, the commission's expectation is that HECO will plan in advance so that disruptions to program implementation will be minimized. Even if, as HECO states, concerns that HECO may use

[24]Mem. in Support of Motion for Reconsideration at 14-15.

[25]Mem. in Support of Motion for Reconsideration at 15.

[26]Mem. in Support of Motion for Reconsideration at 15.

[27]Mem. in Support of Motion for Reconsideration at 15.

the 25% limited budget inappropriately are alleviated, allowing HECO to obtain DSM utility incentives has the effect of incentivizing HECO to increase its spending in order to obtain marginal energy and demand savings. Therefore, commission oversight is necessary and HECO's request that it be permitted to exceed its budgets for customer incentives and expenses directly related to customer participation by 25% without commission approval is denied.

With respect to HECO's request for flexibility to shift budgets among residential programs, and among commercial and industrial programs without commission approval, HECO argues, "[t]his limited budget flexibility will permit the utilities to focus on opportunities that offer the greatest potential to aggressively pursue DSM options such that the programs can achieve the five DSM objectives established by the [c]ommission in [Decision and Order No.] 23258[.]"[28] HECO states that its proposal "is consistent with the [c]ommission's intent on focusing on these two sectors[.]"[29] As explained in Decision and Order No. 23258, one of the DSM objectives is "customer equity (providing all classes of customers the opportunity to participate in the program)."[30] HECO's request would permit HECO to cannibalize certain programs in favor of other programs that meet different DSM objectives. For example, HECO could use the

[28]Mem. in Support of Motion for Reconsideration at 15.

[29]Mem. in Support of Motion for Reconsideration at 15.

[30]Decision and Order No. 23258, filed on February 13, 2007, in Docket No. 05-0069, at 14.

RLI program budget for programs that are not designed to encourage low income customers to participate in and benefit from energy and demand savings. Indeed, HECO's request would hinder or eliminate the commission's ability to timely monitor HECO's performance with respect to the DSM objectives and each of the energy efficiency programs. Therefore, HECO's request for flexibility to shift budgets among residential programs, and among commercial and industrial programs without commission approval, is denied.

Third, HECO requests the ability to request that "program modifications, such as budget increases for expenditures unrelated to customer participation and measure installation rates or modifications to include new DSM measures and/or modify customer incentive levels, be permitted via a letter request, subject to [c]ommission approval, pending the [opening of the] new docket."[31] HECO states, "[s]cheduling budget change approvals to occur only within the new docket restricts HECO's ability to aggressively pursue DSM options."[32] HECO explains that "[t]his proposal allows HECO to be able to request such program modifications on a more timely basis."[33] HECO's request is reasonable, and the commission grants HECO the ability to request program modifications by letter request, subject to commission approval, pending the opening of the new docket.

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[31]Mem. in Support of Motion for Reconsideration at 13, 16.

[32]Mem. in Support of Motion for Reconsideration at 13.

[33]Mem. in Support of Motion for Reconsideration at 16.

E.

DSM Utility Incentive Mechanism

First, HECO requests clarification on whether the commission is adopting HECO's proposed shared savings mechanism, which is calculated using the modified Utility Cost Test (which excludes evaluation costs from program costs), for the purposes of calculating DSM utility incentives.[34] The commission clarifies that for purposes of calculating DSM utility incentives, the commission adopts HECO's proposed shared savings mechanism, which is calculated using the modified Utility Cost Test.

Second, HECO requests clarification on whether the commission's use of "gross of free-riders" extends to the calculation of net system benefits when calculating the DSM utility incentive.[35] The commission clarifies that the net system benefits to be included in the modified Utility Cost Test should be gross of free-riders.

IV.

Order

THE COMMISSION ORDERS:

The HECO Companies' Motion for Partial Reconsideration of Interim Decision and Order No. 22420 is granted in part and denied in part as follows:

[34] See Mem. in Support of Motion for Reconsideration at 16-17.

[35] See Mem. in Support of Motion for Reconsideration at 16-17.

1. The commission clarifies that Decision and Order No. 23258 identified <u>cumulative</u> MW and MWh energy efficiency goals.

2. The commission grants HECO's request to restate HECO's 2007 MW and MWh energy efficiency goals to remove the impacts related to certain specified programs, subject to the corresponding exclusion of any energy and demand savings for purposes of calculating goal achievement, and denies HECO's request to approve HECO's proposed goals, as demonstrated in Tables 3 and 4 of the HECO Companies' Mem. in Support of Motion for Reconsideration.

3. The commission grants HECO's request to include the administrative and marketing costs for the ESH appliance rebates and RNC BuiltGreen program in the calculation of net system benefits, and denies HECO's request to include the RLI program costs in the calculation of the 2007 net system benefits.

4. The commission clarifies that in discussing the Existing Cost Recovery Mechanism, the term "labor costs" was intended to refer to "base labor," consistent with the HECO Companies' existing cost recovery mechanism.

5. The commission denies HECO's request for reconsideration of the commission's decision to reject HECO's flexibility request.

6. The commission denies HECO's request for flexibility to exceed its customer incentives budget and budget for expenses directly related to customer participation by 25% without commission approval.

7. The commission denies HECO's request for flexibility to shift or distribute its residential program budgets among residential programs and its commercial and industrial program budgets among commercial and industrial programs without commission approval.

8. The commission grants HECO the ability to request program modifications by letter request, subject to commission approval, pending the opening of the new docket.

9. The commission clarifies that for purposes of calculating DSM utility incentives, the commission adopts HECO's proposed shared savings mechanism, which is calculated using the modified Utility Cost Test.

10. The commission clarifies that the net system benefits to be included in the modified Utility Cost Test should be gross of free-riders.

DONE at Honolulu, Hawaii MAY 21 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Nichole K. Shimamoto
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05-0069.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23448 upon the following parties and participants, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party and participant.

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