BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----In the Matter of---- PUBLIC UTILITIES COMMISSION Instituting a Proceeding to Investigate the Issues and Requirements Raised by, and Contained in, Hawaii's Solar Water Heating Pay As You Save Program, Act 240, Session Laws Laws of Hawaii (2006).	DOCKET NO. 2006-0425

DECISION AND ORDER NO. 23531

RECEIVED
2007 JUL -2 A 9:59
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed June 29, 2007
At 2:30 o'clock P.M.

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

OF THE STATE OF HAWAII

----In the Matter of----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	Docket No. 2006-0425
	)	
Instituting a Proceeding to Investigate the Issues and Requirements Raised by, and Contained in, Hawaii's Solar Water Heating Pay As You Save Program, Act 240, Session Laws Laws of Hawaii (2006).	)	Decision and Order No. 23531

DECISION AND ORDER

By this Decision and Order, the commission approves, with modifications, the proposed Solar Water Heating ("SWH") Pay As You Save Program ("SWH Financing Program")[1] tariffs of HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, the "HECO Companies"), and KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), as required by Act 240, Session Laws of Hawaii (2006) ("Act 240"), § 13.

[1]The commission is aware that PAYS America, a 501(c)(3) nonprofit organization, holds the trademark for Pay As You Save® and PAYS®.

I.

Background

A.

Description of Act 240

In June 2006, the State legislature enacted Act 240, which authorizes the commission to implement a pilot project called the "solar water heating pay as you save program." According to the legislature, "[SWH] systems are a renewable energy technology that uses solar collectors placed on roofs to heat water," and "[t]hese systems decrease reliance on imported oil used to generate electricity to heat water because they use less energy than the electric hot water heating systems replaced."[2] The legislature found that "the up-front cost of installation is a barrier preventing many Hawaii residents from installing [SWH] systems," and that "the renewable energy technologies income tax credit and electric utility rebates have not been enough of an incentive to overcome these up-front costs, especially for rental housing and homes in need of retrofit for these important energy-saving devices."[3]

Pursuant to Act 240, § 13, the commission is required to implement a pilot project that allows a residential electric utility customer to purchase a SWH system with no upfront costs, and by paying the cost of the SWH system over time on the customer's electricity bill, provided that the estimated life

---

[2]Act 240, § 13(a).

[3]Act 240, § 13(a).

cycle electricity savings from the SWH system exceeds the cost of the system.[4] The pilot program shall provide for billing and payment of the SWH system on the utility bill, provide for disconnection of utility service for non-payment of SWH system payments, and allow for assignment of SWH system repayment costs attached to the meter location.[5]

Pursuant to Act 240, each electric utility is required to implement by tariff its pilot program "[n]o later than June 30, 2007."[6] In addition, each electric utility was required to provide at least six months prior notice of its proposed tariff to the commission, during which time the commission was required to review the proposed tariff and, after a hearing, could require modifications as necessary to comply with or effectuate the purposes of Act 240, § 13.[7]

Act 240 requires the commission to determine the time frame of the pilot program and to gather and analyze information to evaluate the pilot program.[8] Furthermore, the commission "shall ensure that all reasonable costs incurred by electric utilities to start up and implement the [pilot programs] are recovered as part of the utility's revenue requirement, including necessary billing system adjustments and any costs for [pilot

---

[4]See Act 240, § 13(b).

[5]See Act 240, § 13(b).

[6]Act 240, § 13(d).

[7]See Act 240, § 13(d).

[8]See Act 240, § 13(c).

program] efficiency measures that are not recovered via participating residential consumers' [SWH] system bill payments or otherwise."[9]

B.

Investigation

By Order No. 22974, filed on October 24, 2006, the commission initiated an investigation to examine the issues and requirements raised by, and contained in, the SWH Financing Program. In doing so, the commission named the HECO Companies, KIUC, and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("CONSUMER ADVOCATE"), as parties to the docket.[10]

By Order No. 23073, filed on November 24, 2006, the commission granted HAWAII SOLAR ENERGY ASSOCIATION ("HSEA") and HAWAII RENEWABLE ENERGY ALLIANCE's ("HREA") separate motions to intervene. As such, the parties in this docket are the HECO Companies, KIUC, the Consumer Advocate, HSEA and HREA (collectively referred to as "the Parties").

[9]Act 240, § 13(e).

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

C.

Investigative Proceeding Issues

On December 21, 2006, the commission filed Stipulated Procedural Order No. 23158 to govern this investigation. As set forth in the order, the issues in this investigative proceeding are:

> (1) Whether the tariffs proposed by HECO, HELCO, MECO and KIUC, respectively, to comply with Act 240 are reasonable and should be approved or approved with modifications?
>
> (2) What is the appropriate time frame for the SWH Financing Program?
>
> (3) What information, if any, should the electric utilities submit to the [c]ommission to enable the [c]ommission to evaluate the tariffs and the SWH Financing Program?
>
> (4) How will each utility capture and account for the costs incurred to start up and implement the SWH Financing Program?
>
> (5) How will each utility determine the start-up and implementation costs that are not recovered via participating residential customers' SWH Financing Program bill payments or existing base rates?
>
> (6) What is the mechanism for the electric utilities to recover the incremental start-up and implementation costs that are not recovered via participating residential consumers' SWH Financing Program bill payments or existing base rates?

D.

Tariffs

In accordance with Stipulated Procedural Order No. 23158, the HECO Companies filed their proposed Rider SSP SolarSaver Pilot Program tariff on December 29, 2006.

KIUC filed its proposed Schedule "PAYS" Residential Service tariff on December 27, 2006. Thereafter, KIUC filed a revised Schedule "SWH" Residential Service tariff on March 14, 2007, as further amended on March 20, 2007.

E.

Stipulation Regarding the HECO Companies' Tariff

On June 15, 2007, the HECO Companies, the Consumer Advocate, HSEA, and HREA filed a Stipulation Regarding Hearing and Commission Approval ("Stipulation"). The Stipulation did not include KIUC.[11]

As set forth in the Stipulation, the purpose of the Stipulation is to "simplify[] and expedit[e] this proceeding, and facilitat[e] the commencement of a [SWH] pay as you save program in the State of Hawaii."[12] The Stipulation does not cover all aspects of the aforementioned issues, and the commission is not required to adopt the Stipulation in total in order for any of its parts to be effective. Therefore, the commission will

---

[11]The Stipulation states: "KIUC is working with the Consumer Advocate, HSEA and HREA to develop a stipulation specific to its proposed tariff, and will file such stipulation under a separate transmittal with the Commission if agreement is reached." Stipulation at 1 n.1. As of the date of this Order, no such stipulation has been filed. On June 14, 2007, HREA and HSEA filed its Final Comments of [HREA] and [HSEA] on the KIUC Proposed Pays Program. Stipulated Procedural Order No. 23158 does not allow for this additional filing, and neither HREA nor HSEA obtained commission approval for leave to submit this additional filing. Accordingly, the commission will not consider HREA's and HSEA's June 14, 2007 filing.

[12]Stipulation at 2.

address each of the stipulated terms within the context of the aforementioned issues.

II.

Discussion

A.

Applicability of the PAYS® Model

As an initial matter, the commission examines the applicability of the PAYS® Model on the SWH Financing Programs proposed by the HECO Companies and KIUC, respectively.

In Order No. 22974, the commission acknowledged that it "is aware that PAYS America, a 501(c)(3) nonprofit organization, holds the trademark for Pay As You Save® and PAYS®."[13] During the 2007 legislative session, House Bill 1498 was introduced to modify the existing statutory language by replacing all non-trademark references to a "pay as you save" program to the trademarked Pay As You Save® or PAYS® program. However, House Bill 1498 was deferred in the 2007 legislative session.

The Consumer Advocate states that "[u]ntil the legislative language requires strict adherence to the PAYS® model, the Consumer Advocate assumes that the plain language of

[13] Order No. 22974, filed on October 24, 2006, in Docket No. 2006-0425, at 1 n.1.

Act 240 represents the Legislature's intent."[14] Therefore, the Consumer Advocate believes that the utilities are obligated to follow "the language currently reflected in Act 240," and are not required to "strict[ly] adhere[] to the PAYS® model."[15] The HECO Companies and KIUC agree with the Consumer Advocate that the current law does not require the use of the trademarked Pay As You Save® or PAYS® program for the Hawaii SWH Financing Programs.[16]

In contrast, HREA and HSEA argue that the utilities should follow the Pay As You Save® or PAYS® program. HREA states that "the intent of Act 240 is to implement Pay As You Save® . . . as conceived and trademarked by the Energy Efficiency Institute, Colchester, Vermont."[17] Similarly, HSEA states, "[w]hile Act 240 does not require that the pilot program tariffs submitted by HECO, MECO, HELCO, and KIUC conform in every detail with Pay As You Save® prescriptive

---

[14] Consumer Advocate Statement of Position, filed on April 11, 2007, at 9 ("Consumer Advocate's SOP").

[15] Consumer Advocate's SOP at 9.

[16] See The HECO Companies' Reply Statement of Position, filed on May 2, 2007, at 11 ("The HECO Companies' Reply"); Exhibit A, at 1, attached to KIUC's Statement in Response to the Statements of Positions Filed by Division of Consumer Advocacy, Hawaii Renewable Energy Alliance and Hawaii Solar Energy Association, filed on May 2, 2007 ("KIUC's Reply").

[17] HREA's Statement of Position, filed on April 11, 2007, at 1 ("HREA's SOP").

requirements, there is evidence to indicate that this is what the legislature intended."[18]

Based upon the plain language of Act 240, the utilities are not required to use the trademarked Pay As You Save® or PAYS® program to implement their SWH Financing Programs.

B.

Approval of Tariffs

The commission first examines whether the tariffs proposed by the HECO Companies and KIUC, respectively, comply with Act 240, are reasonable, and should be approved or approved with modifications.[19]

1.

The HECO Companies' SolarSaver Pilot Program

HECO provides the following overview of its SolarSaver Pilot Program ("SolarSaver Pilot Program"):

> The SolarSaver Pilot Program . . . is a pilot program designed to overcome the barrier of up-front costs in the residential [SWH] market. Residential customers participating in the [SolarSaver] Pilot Program will incur no upfront cost and will pay for the cost of the installed [SWH] system over time through the savings in the participant's electricity bill. The focus of the [SolarSaver] Pilot Program is on "rental housing and homes in

---

[18]HSEA's Statement of Position on the HECO, HELCO, MECO, and KIUC Proposed Pays [sic] As You Save Solar Water Heating Tariff Filings, filed on April 11, 2007, at 5 ("HSEA's SOP").

[19]The Parties did not request additional procedural steps or an evidentiary hearing in this proceeding.

> need of retrofit for these important energy savings devices."[20]

The HECO Companies explain:

> The [SolarSaver] Pilot Program is intended to eliminate the participating residential customer's initial investment to purchase and install a [SWH] system. The [HECO] Companies propose to create a ratepayer funded SolarSaver Fund ("Fund") to be administered in conjunction with [the HECO Companies'] existing residential energy efficiency [Demand-Side Management ("DSM")] Programs in order to make the upfront payments for the SWH systems and their installation. The Fund will be funded by residential ratepayers through a separate mandatory SolarSaver Surcharge [or SolarSaver Adjustment] on their electric bill[s].[21]

The HECO Companies further explain:

> The participating customer benefits from energy savings resulting from the SWH system (which reduced the customer's electric bill) and pays for the system over time at zero percent interest through a SolarSaver Fee ("Fee") added to the electric bill. In order for the participant to see immediate benefits in his bill, the Fee is set at a level below the estimated bill savings so that some savings accrue to the participant monthly. The Fee is returned to the SolarSaver Fund to defray the cost of additional SWH installations and/or repay the ratepayers for funding the upfront [SolarSaver] Pilot Program costs. The Fund also pays for delinquent Fee payments, bad debts, administration, marketing, maintenance and/or maintenance insurance on SWH systems installed, and other program costs.[22]

---

[20]The HECO Companies' Reply at 2 (citation and internal ellipsis omitted); see also The HECO Companies' Solar Water Heating Pay As You Save Program (Act 240), filed on December 29, 2007, at 1-2 ("The HECO Companies' Proposal").

[21]The HECO Companies' Reply at 3.

[22]The HECO Companies' Reply at 4; see also The HECO Companies' Proposal at 3.

The Consumer Advocate, HSEA, and HREA "agree that the revised HECO Companies' [t]ariff, attached as Exhibit A [to the Stipulation], is reasonable and should be approved by the [c]ommission for implementation, effective June 30, 2007."[23] The commission approves, with the modifications described in this Decision and Order, the HECO Companies' proposed tariffs.

2.

KIUC

Currently, KIUC customers may purchase SWH systems through KIUC's rebate program or through KIUC's third-party zero-interest financing program.[24] Under KIUC's proposed SWH Financing Program, KIUC will directly fund the program costs under a tariff, without a third-party lender.[25] Under KIUC's proposed tariff, the customer's payments will be made under a payment schedule calculated such that the estimated life cycle electricity savings will exceed the payments made, unless the customer chooses a more expedited payment schedule at the

---

[23]Stipulation ¶ 2, at 3. In discussing the HECO Companies' initial proposal, HREA requested that "the [c]ommission clarify that a [SWH Financing Program] tariff based on actual measure costs would be acceptable in Hawaii if filed[.]" HREA's SOP at 11. Because HREA stipulates that the HECO Companies' tariff and Integrated Resource Planning ("IRP") Cost Recovery Provision are reasonable and should be approved, see Stipulation ¶¶ 3-4, at 3, the commission finds this request moot.

[24]See Exhibit B, at 4, attached to KIUC's Reply.

[25]See Exhibit A, at 3, attached to KIUC's Reply.

customer's sole discretion."[26] Once the SWH system is installed at the customer's location, the customer assigned to the meter will be responsible for the maintenance and repair of the system. KIUC "will retain ownership of the solar water heating system, although it may decide to dedicate the system to the customer upon completion of the payments."[27] KIUC's proposed SWH Financing Program will be available to all residential customers that are being provided residential power service under Schedule "D," but is limited to the first ten residential customers per year of each year of the pilot program.

The Consumer Advocate recommends several modifications or clarifications with respect to KIUC's newly proposed program. First, the Consumer Advocate recommends that "KIUC should <u>not</u> unnecessarily limit the number of interested participants to 10 at the present time."[28] The Consumer Advocate explains that "[t]he proposal to limit the number of participants to 10 on an annual basis, or even a monetary upper parameter does not seem consistent with the intent to increase market penetration of [SWH] systems installed in the state."[29]

KIUC states that an annual customer limitation is not inconsistent with Act 240, which requires a pilot program.[30]

---

[26] <u>See</u> Exhibit B, at 2, attached to KIUC's Reply.

[27] Exhibit A, at 7, attached to KIUC's Reply.

[28] Consumer Advocate's SOP at 12.

[29] Consumer Advocate's SOP at 12.

[30] <u>See</u> Exhibit A, at 1, attached to KIUC's Reply.

KIUC argues that "the purpose for implementing a pilot program is to ascertain whether a given program design, not yet proven in the subject area, will accomplish the target goals, . . . [and] to determine whether the program design and configuration, including program management and promotion, are such to support implementation of a full scale program."[31] In addition, KIUC states that it "is willing to increase its limitation to 25 customers per year."[32] KIUC estimates that less than 25 customers per year will be interested and qualify for participation in its SWH Financing Program.[33] Furthermore, KIUC explains that "its current internal staffing resources can only handle a maximum of 25 customers per year while at the same time allowing KIUC to continue to offer its three existing solar incentive programs and its large number of other member advantage and efficiency programs."[34] The commission finds that KIUC's proposed maximum of 25 customers per year is reasonable.

Second, the Consumer Advocate recommends that KIUC's tariff be modified, "as necessary, to reflect participating third[-]party lending institutions."[35] In response, KIUC states that "KIUC will be directly funding the pilot program under its revised tariff," and that "[n]o third[-]party lender is

---

[31]Exhibit A, at 1, attached to KIUC's Reply.

[32]Exhibit A, at 1, attached to KIUC's Reply.

[33]Exhibit A, at 1, attached to KIUC's Reply.

[34]Exhibit A, at 2, attached to KIUC's Reply.

[35]Consumer Advocate's SOP at 13.

involved."[36] Therefore, the commission finds that modifications to reflect third-party lending institutions are unnecessary under KIUC's current proposal.

Third, the Consumer Advocate states that KIUC's requirement that departing customers inform the new customers of their responsibilities to repay the remaining balance for a SWH system installed under the SWH Financing Program, or be subject to continued collection of the loan repayments, "appears to be an unreasonable requirement" that "needs to be modified to allow some flexibility."[37]

In response, KIUC recommends deleting the last three sentences of Rule 5 of its proposed Schedule "SWH" and replacing it with the following:

> Notwithstanding the above, in the event an existing customer terminates or plans to terminate service from a meter upon which a monthly payment schedule is established that is not fully repaid, the existing customer shall inform the new customer or user of his/her/its obligations under this Schedule "SWH" to the extent the new customer or user is known to the existing customer.[38]

In addition, "KIUC proposes to add a new provision within its service application form for new customers setting forth that, to the extent the applicant for new service will be connected to a meter with an outstanding remaining balance under this program, the customer agrees and is obligated to undertake the remaining

---

[36]Exhibit A, at 3, attached to KIUC's Reply.

[37]Consumer Advocate's SOP at 13-14; <u>see also</u> HREA's SOP at 5.

[38]Exhibit A, at 3, attached to KIUC's Reply.

payment obligations under the program."[39] The commission finds that both of KIUC's proposed revisions are reasonable.

Fourth, the Consumer Advocate states that KIUC's program contains the following elements that appear to be inconsistent with Act 240:

- KIUC's existing program does not calculate estimated savings from the use of the [SWH] system or perform life cycle analyses as to the payback period for the water heater system. This is inconsistent with the Act 240 requirements.
- KIUC's existing program does not allow for the billing and payment of the [SWH] system costs on the utility bill, which is inconsistent with the Act 240 requirements.
- KIUC's existing program does not currently allow for the disconnection of utility services for non-payment of the [SWH] system costs.
- KIUC's existing program does not allow for the assignment of the [SWH] system repayment responsibility to the meter.[40]

KIUC states that its revised pilot program complies with all of the requirements set forth in Act 240.[41] Upon review of KIUC's revised pilot program, the commission finds that the revised pilot program is consistent with the aforementioned Act 240 requirements.

In addition, HREA argues that "KIUC's proposed tariff does not provide a net improvement in customer cash flow in both

---

[39]Exhibit A, at 3, attached to KIUC's Reply.

[40]Consumer Advocate's SOP at 9.

[41]Exhibit B, at 1, attached to KIUC's Reply.

the near and long term because it fails to limit customers' monthly payments for SWH systems to an amount less than the estimated savings."[42] KIUC states:

> Act 240 does not require that a customer['s] monthly payments be less than the estimated savings in every given month. Instead, Act 240 requires that the "estimated life cycle electricity savings from the [SWH] system exceeds the cost of the system." Under KIUC's proposed tariff the customer's payments will be made under a payment schedule calculated such that the estimated life cycle electricity savings will exceed the payments made, unless the customer chooses a more expedited payment schedule at the customer's sole discretion.[43]

The commission agrees with KIUC that its pilot program comports with the Act 240 requirement that the "estimated life cycle electricity savings from the [SWH] system exceeds the cost of the system."[44]

HREA also argues that KIUC's proposal that "the customer assigned to the meter shall be responsible for the maintenance and repair of the system" results in "a compelling reason [for customers] to not participate in KIUC's proposed program."[45] KIUC states:

> Nothing in Act 240 requires KIUC or an electric utility to be responsible for maintenance and repairs of the system. KIUC believes it would be unduly burdensome to place such an obligation on KIUC. In addition, KIUC believes that HREA's

---

[42]HREA's SOP at 4.

[43]Exhibit B, at 2, attached to KIUC's Reply.

[44]Act 240, § 13(b)(1)(B).

[45]HREA's SOP at 4.

> concerns are at least somewhat addressed or mitigated by the warranties provided by the manufacturers of the solar water heating units[.][46]

The commission agrees with KIUC that Act 240 does not prohibit the participant from being responsible for the maintenance and repair of the system.

Finally, HREA argues that "KIUC's proposed tariff may create a conflict for customers if they have to choose between this offer and zero interest financing or a rebate."[47] KIUC states:

> KIUC disagrees that its tariff and other incentive programs will create a conflict for customers and provide a barrier to participation. Instead, what KIUC is doing is giving its customers the flexibility of choosing between various possible incentives available in purchasing a SWH system to allow customers to select the option that best suits their individual circumstances and preferences. KIUC believes that more customers will end up purchasing SWH systems through KIUC's options (i.e., rebates, third-party zero-interest financing, Act 240 tariff) collectively than if only one of these options was made available.[48]

The commission finds that Act 240 does not require that the SWH Financing Programs be offered in conjunction with other DSM programs for zero-interest financing or customer rebates. However, if the commission determines that KIUC has not achieved sufficient customer participation in the pilot program, the commission may, as an option for program modification, require

---

[46]Exhibit B, at 3, attached to KIUC's Reply.

[47]HREA's SOP at 5.

[48]Exhibit B, at 4, attached to KIUC's Reply.

that KIUC's pilot program be offered in conjunction with other DSM programs.

Upon review of the foregoing, the commission approves, with the modifications described in this Decision and Order, KIUC's proposed tariff.

C.

Appropriate Time Frame

Next, the commission examines the appropriate time frame for the SWH Financing Program.

The HECO Companies, the Consumer Advocate, HSEA, and HREA stipulate that the HECO Companies' "SolarSaver Pilot Program shall be implemented for an initial [three]-year period, from June 30, 2007 through June 30, 2010."[49] Initially, the HECO Companies had proposed that "two years is an appropriate duration for the pilot."[50] The HECO Companies explained: "[t]he two-year duration for the [SolarSaver] Pilot Program will also 'sync up' the findings of the [SolarSaver] Pilot Program with the planned January 2009 transition for the administration and implementation of energy efficiency DSM Programs to a Third[-]Party Administrator, in accordance with Decision and Order No. 23258[,] filed [on] February 13, 2007, in the

[49]Stipulation ¶ 3, at 3.

[50]The HECO Companies' Reply at 9; The HECO Companies' Proposal at 3.

Energy Efficiency Docket (Docket No. 05-0069)."[51] In contrast, the Consumer Advocate initially recommended that the SolarSaver Pilot Program be at least five years long, in order "to provide sufficient time to evaluate the effectiveness of this program" and to increase its cost-effectiveness by spreading out the fixed overhead expenses.[52]

KIUC proposes a three-year period for its pilot program.[53] KIUC states that "[a]t the end of the [three]-year period, the parties should provide a recommendation as to whether this pilot program should continue, be terminated or modified."[54] KIUC explains that "[three] years provides a sufficient amount of time to observe and obtain data in order to make this recommendation."[55]

The commission finds that a three-year program period for the utilities' pilot programs is reasonable. The commission expects that a three-year program period will provide sufficient information for the commission to determine whether to continue

---

[51]The HECO Companies' Reply at 10. In addition, HSEA initially recommended a two-year program period on the basis that "two years is a reasonable time period to test the premise, refine the concept and analyze the results presuming the programs are fully subscribed during this period." HSEA's SOP at 12.

[52]Consumer Advocate's SOP at 14-15. In recommending a minimum five-year pilot period, the Consumer Advocate considered "the potential difficulties of a longer time period, e.g., interest in the program decreasing over too long a period, the costs associated with maintaining program data over a longer period, etc." Consumer Advocate's SOP at 16.

[53]<u>See</u> Exhibit A, at 3, attached to KIUC's Reply.

[54]Exhibit A, at 3, attached to KIUC's Reply.

[55]Exhibit A, at 3, attached to KIUC's Reply.

these programs beyond their pilot stages. If more information is required, the commission has the authority to extend the pilot program period as necessary. In addition, with respect to the HECO Companies, the commission makes no determination as to whether the SolarSaver Pilot Program will transition to a non-utility third-party administrator at this time. Therefore, the HECO Companies should implement the SolarSaver Pilot Program without the expectation that it will transition to a third-party administrator.

D.

Required Information

Next, the commission examines what information, if any, the electric utilities should submit to the commission to enable the commission to evaluate the tariffs and the SWH Financing Program.

The HECO Companies and KIUC suggest or otherwise agree that the following types of information be gathered:

- The number of program participants;
- Customer information, including name, address and other contact information (confidential customer information will be provided under a protective order);
- The program costs;
- The number of customers who default on the loan;
- The number of defaults resulting in collections procedures and ultimately disconnected service;
- The number of changes of electric account holders;
- The number of owner occupants;
- The number of landlords;

- The cost and average cost of each system based on size;
- The average life cycle savings for each system at the time of enrollment. Savings would be based on normalized impact evaluations;
- The number of applicants that are rejected and the reasons for the rejection; and
- The resulting impacts of the cost-benefit analysis from the reassignments of system loan repayments (default rates).[56]

In addition, the Consumer Advocates suggests four additional types of information be reported or retained in order to determine whether the pilot program should continue. First, the Consumer Advocate recommends that for each installation, the utilities should report the number of bids that the participating customer sought from vendors that install [SWH] systems, and each of the bid prices.[57] The HECO Companies do not address this recommendation, and KIUC states that this recommendation "is acceptable to KIUC."[58] The commission finds that this information should be collected and reported.

Second, the Consumer Advocate recommends that the utilities keep clear and complete records verifying the calculated life cycle savings for each individual system for at

[56]See Stipulation ¶ 8, at 6; The HECO Companies' Reply at 30-31; Exhibit A, at 3, attached to KIUC's Reply. With respect to the "resulting impacts of the cost-benefit analysis from the reassignments of system loan repayments (default rates)," KIUC agrees to provide this information to the extent that it is available. Exhibit A, at 4, attached to KIUC's Reply.

[57]See Consumer Advocate's SOP at 17-18.

[58]Exhibit A, at 4, attached to KIUC's Reply.

least the duration of the pilot period (information to be retained, but not necessarily included in the report filed with the commission). KIUC states that "[t]his is acceptable to KIUC."[59] However, the HECO Companies state that "the Consumer Advocate's recommendation to track average life cycle savings for each individual system for the duration of the pilot period is not necessary because [t]he [HECO] Companies have already performed impact evaluation studies and can use this data to comply with the intent of the evaluation process."[60] The commission agrees with the HECO Companies and will not require the utilities to track the average life cycle savings for each individual system.

Third, the Consumer Advocate recommends that the utilities file exit surveys of participating customers (when those customers move from a meter location that is part of the proposed pilot program) to determine the level of satisfaction with the SWH system and the pilot program itself, including whether the customer would choose to install another SWH system using the program at the next residence if a system is not already in place.[61] The HECO Companies stipulate that they will:

> [W]ork with the Consumer Advocate, HSEA and HREA on the development of the survey questionnaire to be used in the program evaluation process, and that such survey instrument will include questions to obtain customer information on topics such as the

---

[59]Exhibit A, at 4, attached to KIUC's Reply.

[60]The HECO Companies' Reply at 31.

[61]See Consumer Advocate's SOP at 17-18.

usage of hot water, previous experience in obtaining a solar system price quote and reason(s) for not proceeding with its installation, and general knowledge of energy efficiency and the installation of other DSM measures.[62]

Similarly, KIUC "agrees to consider the use of exit surveys or other process evaluations in order to determine a customer's experience or overall satisfaction with the program."[63] The commission finds that the utilities should conduct exit surveys or other process evaluations in order to evaluate the effectiveness of the pilot programs and develop any necessary or desirable program modifications.

Fourth, the Consumer Advocate recommends that the utilities be required to retain information regarding the causes for disconnection for any participating customers.[64] The Consumer Advocate contends that it will be important to distinguish when a participating customer's service is disconnected for reasons other than non-payment of the system cost surcharge or fee.[65] The Consumer Advocate explains that simply indicating that a participating customer was disconnected because the bill was not paid might lead to erroneous conclusions regarding the program's effectiveness.[66] The HECO Companies "are willing to gather data regarding the causes for disconnection for

---

[62]Stipulation ¶ 7, at 5-6.

[63]Exhibit A, at 5, attached to KIUC's Reply.

[64]See Consumer Advocate's SOP at 17-18.

[65]See Consumer Advocate's SOP at 17-18.

[66]See Consumer Advocate's SOP at 17-18.

any participating customers," which they will provide annually "in the form of an annual SolarSaver status report to be included in [t]he [HECO] Companies['] [A]nnual [Program] Accomplishments and Surcharge [("A&S")] Report[s] to the [c]ommission[.]"[67] Similarly, KIUC states that "[t]his is acceptable to KIUC."[68] The commission finds that the utilities should file this information.

The HECO Companies, the Consumer Advocate, HSEA, and HREA also stipulate that "the customer application form for participation in the . . . SolarSaver Pilot Program will include a question asking if the customer has previously obtained a price quote from a solar contractor for the installation of a [SWH] system."[69] The commission finds that this information will assist in evaluating whether the pilot programs are reaching individuals who would not have otherwise installed SWH systems under existing DSM programs, and therefore, that the utilities should file this information.

Finally, the commission finds that in addition to the above-discussed information, the utilities should also provide any other information that will assist in cost-benefit analyses for the SWH Financing Programs.

---

[67]The HECO Companies' Reply at 32.

[68]Exhibit A, at 5, attached to KIUC's Reply.

[69]Stipulation ¶ 7, at 5.

E.

Capturing and Accounting for Start-Up and Implementation Costs

Next, the commission examines how each utility will capture and account for the costs incurred to start up and implement the SWH Financing Program. The Consumer Advocate recommends that the utilities "be required to maintain the specific costs associated with each [SWH Financing] [P]rogram."[70] HECO does not disagree, and KIUC stated that "[t]his is acceptable to KIUC."[71] The commission finds that start-up and implementation costs for the utilities' SWH Financing Programs should be captured and accounted for in separate accounts. This will enable the utilities, the commission, the Consumer Advocate, and any other interested parties, to analyze the cost-effectiveness of the SWH Financing Programs.

F.

Determining Costs Not Recovered
Through Bill Payments or Base Rates

Next, the commission examines how each utility will determine the start-up and implementation costs that are not recovered via participating residential customers' SWH Financing Program bill payments or existing base rates. The Consumer Advocate states that "the costs associated with the proposed program should be incremental to costs already incurred and recovered either through base rates or the IRP/DSM cost

[70]Consumer Advocate's SOP at 20.

[71]Exhibit A, at 6, attached to KIUC's Reply.

recovery mechanism."[72] The Consumer Advocate explains: "[t]he reason is because the utility companies are currently authorized to implement programs that market the installation of [SWH] systems. Thus, the utilities have personnel to deal with customer inquiries regarding these systems and have established contacts with [SWH] system vendors."[73] The HECO Companies state: "[t]he budgets illustrate strictly incremental cost elements for each company based on projected costs, including a contingency budget line item."[74] KIUC states that it "will include a pro rata share of its incremental costs to implement and administer the pilot program as part of the total cost of the [SWH] system[.]" Thus, it appears that the HECO Companies and KIUC agree that the start-up and implementation costs will be incremental to existing costs. The commission finds that the utilities shall utilize incremental costs to determine the start-up and implementation costs that are not recovered via participating residential customers' SWH Financing Program bill payments or existing base rates.

G.

Recovery Mechanism for Costs Not Recovered Through Bill Payments or Base Rates

Next, the commission examines what recovery mechanism the utilities should use to recover the incremental start-up and

[72]Consumer Advocate's SOP at 20.

[73]Consumer Advocate's SOP at 20.

[74]The HECO Companies' Reply at 7.

implementation costs that are not recovered via participating residential consumers' SWH Financing Program bill payments or existing base rates. Section 13(e) of Act 240 provides that "[t]he commission shall ensure that all reasonable costs incurred by electric utilities to start up and implement the pay as you save model system are recovered as part of the utility's revenue requirement, including necessary billing system adjustments and any costs for pay as you save model system efficiency measures that are not recovered via participating residential consumers' pay as you save model system bill payments or otherwise."

The HECO Companies, the Consumer Advocate, HSEA, and HREA stipulate that "the incremental costs to administer the . . . SolarSaver Pilot Program should be recovered from residential customers through a surcharge mechanism, the SolarSaver Adjustment, to be included as part of the [IRP] Cost Recovery Provision[.]"[75] It is further stipulated that the HECO Companies will:

(1) Collect prospectively over a 6-month period the program's estimated annual costs, in order to build a fund to help facilitate the funding of the SolarSaver Pilot Program SWH system installations;

(2) Provide documentation supporting the program's actual incremental costs in their Annual Program A&S Report[s], filed in the March timeframe, and will separately itemize charges for items such as incremental labor, evaluation, repairs, vacancies, and delinquent payments;

[75] Stipulation ¶ 4, at 3.

(3) Allow the Consumer Advocate, HSEA, and HREA the opportunity to review the reasonableness of the actual incremental costs incurred;

(4) Refund to ratepayers, with interest at the applicable rate of return on rate base, any previously recovered incremental costs subsequently disallowed by the commission in its final decision and order in this proceeding;

(5) Report the amounts of SolarSaver Fee collected from participants, which are repayments for SWH system installations; and

(6) Use, in the HECO Companies' Annual [Program] A&S Report[s], the total balance of the SolarSaver Fees collected in the prior year to reduce the SolarSaver Adjustment amount that represents the estimated costs of the SolarSaver Pilot Program for the current program year.[76]

The commission finds that these stipulations are reasonable, and authorizes the HECO Companies to implement the SolarSaver Adjustment as a component of the IRP Cost Recovery Provision, consistent with Exhibit A of the Stipulation and in accordance with this Decision and Order.

With respect to KIUC, in its revised proposal, KIUC states that it will "use [the] total cost [of the SWH system] in determining the participating customers' payment schedule."[77] KIUC explains that, "this method provides the most beneficial cost recovery mechanism, as it places the burden of the increased costs of the pilot program upon those directly benefiting from

[76]See Stipulation ¶ 4, at 3-4.

[77]Exhibit A, at 5, attached to KIUC's Reply.

the program."[78] KIUC agrees that "before it begins to include these costs in its payment schedule, it will work with the Consumer Advocate on the method of computing the pro rata share of the incremental costs to be included as part of the total program costs to be recovered from the customer."[79] The commission finds that KIUC's revised proposal is reasonable, and that KIUC may include a pro rata share of its incremental costs to implement and administer its pilot program as part of the total cost of the SWH system.

H.

Other Issues

1.

Relationship to Utility DSM Programs

The SWH Financing Programs are separate DSM programs, and will be evaluated as DSM programs. As such, the SWH Financing Programs will be analyzed from the utility cost ("UC") perspective, the rate impact measure ("RIM") perspective, the participant impact ("PI") perspective, the societal cost ("SC") perspective, and the total resource cost ("TRC") perspective.[80] As agreed by the HECO Companies, "[a]ll

---

[78]Exhibit A, at 5, attached to KIUC's Reply.

[79]Exhibit A, at 5, attached to KIUC's Reply.

[80]See A Framework for Integrated Resource Planning, revised May 22, 1992, attached to Decision and Order No. 11630, filed on May 22, 1992, in Docket No. 6617 ("IRP Framework"), which provides guidelines and requirements under which all of Hawaii's energy utilities must develop integrated resource plans.

[SolarSaver] Pilot Program budgets and operations [will] be tracked separately from other DSM programs for purposes of monitoring effectiveness and impacts of the [SolarSaver] Pilot Program."[81] The HECO Companies shall be entitled to claim the energy and demand savings achieved through the SolarSaver Pilot Program. Thus, the energy efficiency goals will be adjusted to account for the additional expected energy and demand savings. The commission recognizes that the SolarSaver Pilot Program is intended to work in conjunction with the Residential Efficient Water Heating ("REWH") Program. In order to properly apportion energy and demand savings between the REWH Program and the SolarSaver Pilot Program, the HECO Companies shall apportion the savings based on the installation cost of the SWH system. For example, if the SWH system installation costs $5,000, and is reduced by $1,000 for the REWH rebate, then 20% of the energy and demand savings will be attributed to the REWH Program and 80% of the energy and demand savings will be attributed to the SolarSaver Pilot Program. In addition, the program costs associated with the SolarSaver Pilot Program will also be included in the calculation of utility incentives. The REWH Program expenses and customer rebates will continue to be recovered through the Residential DSM Surcharge component of the IRP Clause.

[81]The HECO Companies' Reply at 32.

2.

Utility Companies as Lenders

The Consumer Advocate states that "[i]f the utility companies are required to finance the system costs, certain issues must be addressed. First, if the utility companies do become lenders, the [c]ommission should consider whether the companies should be urged, if not required, to follow certain guidelines of the Fair Credit Reporting Act."[82] In response, KIUC states that its proposed program does not result in KIUC becoming a lender for the following reasons:

> (1) The payment structure and repayment obligation will not be completed nor governed through loan documents, but rather will be recovered pursuant to KIUC's tariff. In doing so, KIUC will be creating a revolving fund that will fund the program.
>
> (2) The payment schedule and obligation will be tied to the meter and not the customer.
>
> (3) KIUC will retain ownership of the [SWH] system, although it may decide to dedicate the system to the customer upon completion of the payments.[83]

The commission makes no determination as to whether the utilities will become lenders under their approved SWH Financing Programs. However, to the extent that the utilities are lenders, they should comply with any applicable provisions of the Fair Credit Reporting Act or other applicable laws and requirements.

---

[82]Consumer Advocate's SOP at 28.

[83]Exhibit A, at 7, attached to KIUC's Reply.

3.

45-Day Refrain Period

The HECO Companies, the Consumer Advocate, HSEA, and HREA stipulate that:

> [Although] applications for program participation may be accepted by the [HECO] Companies beginning on June 30, 2007, the proposed effective date of the HECO Companies['] [t]ariff, that the [HECO] Companies shall, for a period of 45 days after that date, 1) refrain from marketing the HECO Companies['] [t]ariff to allow HSEA and HREA members an opportunity to sell [SWH] systems to multi-family (i.e., townhome) units and families who previously rejected purchasing [SWH] systems, and 2) not install any [SWH] systems under the HECO Companies['] [t]ariff to allow the tracking and accounting systems necessary to administer the HECO Companies['] [t]ariff to be put in place and tested.[84]

Refraining from marketing or installing SWH systems under the SolarSaver Pilot Program for 45 days from June 30, 2007, will directly contravene Act 240, which requires the electric utilities to "implement by tariff a pay as you save model system program for residential customers" no later than June 30, 2007.[85] Therefore, the commission does not adopt this stipulation, and the utilities are required to implement their SWH Financing Programs by tariff, as approved by this Decision and Order, no later than June 30, 2007.

---

[84]Stipulation ¶ 5, at 5.

[85]Act 240, § 13(d).

4.

Target Participants

The HECO Companies state that, "[a] key market segment of the [SolarSaver] Pilot Program is renters who are utility customers. Renters and their landlords will be targeted to participate in the [SolarSaver] Pilot Program."[86] The HECO Companies also state that the SolarSaver Pilot Program "will be open to any residential customer."[87] However, the HECO Companies propose "marketing the [SolarSaver] Pilot Program to property owners who previously requested a SWH system bid but decided not to purchase the system for any reason."[88] The commission finds that the HECO Companies and KIUC may concentrate their pilot program marketing efforts on property owners, but cautions that the HECO Companies and KIUC should target the entire market of eligible customers.[89]

---

[86]The HECO Companies' Reply at 4.

[87]The HECO Companies' Reply at 5.

[88]The HECO Companies' Reply at 5.

[89]The commission is cognizant of HSEA's position that "the goal . . . is not to add 100 new systems per year, but rather to add 100 new systems a year that would not otherwise have been purchased regardless of the availability of conventional incentives." HSEA's SOP at 9. Along similar lines, HREA offered a proposal under which 75% of pilot funds are targeted to customers who previously turned down SWH installations and 25% of pilot funds are targeted to customers who reside in non-owner occupied housing. See HREA's SOP at 8. Although the issue of free-riders has and continues to be a concern, Act 240 did not limit the SWH Financing Program to any particular customer groups. Accordingly, the commission finds that the utilities should market their SWH Financing Programs to the entire market of eligible customers.

5.

Disconnection for Nonpayment of the System Costs

The Consumer Advocate raises concerns with the Act 240 provision that allows for the disconnection of service for non-payment of the [SWH] system charges.[90] Specifically, the Consumer Advocate "questions whether implementing such a tariff provision would result in sound public policy and be consistent with similar policies in other matters pertaining to a basic service."[91] The Consumer Advocate analogizes to landline telephone services, stating that "[i]f the customer pays for the basic service, but fails to pay for the ancillary services that are subscribed, the telephone utility company is not allowed to disconnect the basic service because of the critical role that the telephone fulfills in everyday life[.]"[92] Thus, the Consumer Advocate "urges the [c]ommission to carefully consider how the provision allowing for the disconnection of electric service should be worded and implemented."[93] The Consumer Advocate also states that "the utility companies should develop literature that clearly and explicitly states that electrical service will be terminated if non-payment or default of the [SWH] system liability occurs."[94]

---

[90]Consumer Advocate's SOP at 24.

[91]Consumer Advocate's SOP at 24.

[92]Consumer Advocate's SOP at 25.

[93]Consumer Advocate's SOP at 25.

[94]Consumer Advocate's SOP at 25.

The commission finds that the utilities are required to comply with the Act 240 provision regarding the disconnection of service for non-payment of the SWH system charges.[95] Moreover, the commission finds that under the SWH Financing Programs, this tariff provision enables the utilities to encourage the payment of the Fee. The Consumer Advocate's analogy to landline telephone services is distinguishable. Under the SWH Financing Programs, the participating customers are paying for the cost of their SWH systems, not for ancillary services. Indeed, by paying for the SWH system on their utility bills, the participating customers are effectively paying for electricity because the SWH systems result in electricity savings. Therefore, the commission finds that the disconnection of service for non-payment of the SWH system charges results in sound public policy.

With respect to the wording and implementation of the provision regarding the disconnection of service for non-payment, the HECO Companies state: "If the participant fails to pay the Fee for any reason (unless the participant legally vacates the property), the utility will attempt to collect the Fee through its regular collection procedure before taking the final option of disconnecting electricity service to the participant."[96] The commission finds that this provision is appropriate and that the SWH Financing Programs should attempt to collect the SWH

[95]See Act 240, § 13(b)(3).

[96]The HECO Companies' Reply at 4 (footnote omitted).

system charges through their regular collection procedures before taking the final option of disconnecting electricity service to the participants. The HECO Companies' stipulated tariff states:

> The Fee is an element of the [p]articipant's electric service, and the [p]articipant is liable for payment of the Fee under this Rider under the same conditions as charges under the [p]articipant's regular rate schedule, including, but not limited to, the [p]articipant's service being subject to disconnection for nonpayment in accordance with the Company's rules. Bill payments made by the Participant will first be applied to the electricity use portion of the bill.[97]

The commission finds that this or similar language in the utilities' tariffs is reasonable.

6.

The HECO Companies' Proposed Budget

The Consumer Advocate states that "the budgeted costs for the HECO [C]ompanies are overstated."[98] The Consumer Advocate explains: "It appears that the HECO [C]ompanies' budget assumes that these are start-up programs with no existing support staff to implement and monitor the program . . . . [P]ersonnel, etc. currently exist for other [SWH] programs that are authorized for implementation by the [c]ommission. Thus, the need to establish new positions and hire additional people for the instant proposed program is dubious."[99] The Consumer Advocate further explains:

---

[97]Rider SSP, SolarSaver Pilot Program, at 2, attached as Exhibit A to the Stipulation.

[98]Consumer Advocate's SOP at 21.

[99]Consumer Advocate's SOP at 21-22.

"Given the increase in the [HECO Companies'] personnel as evidenced in the forecasts used to support the recent rate case filings (see e.g., Docket Nos. 04-0113 and 05-0315), coupled with the findings by the [c]ommission in Docket No. 05-0069 that responsibility for the implementation and management of energy efficiency programs should transition to the non-utility third-party administrator, commencing January 2009, the claim that insufficient personnel exists to assume the incremental responsibilities associated with the proposed programs is dubious."[100] In addition, the Consumer Advocate states that "the HECO [C]ompanies have included high levels of overhead costs, including a 10% contingency amount that is unnecessary in their proposed program budget."[101]

The HECO Companies contend that "HECO and MECO do not currently have existing staff to set-up and implement a new program for this type if approved for implementation in June 2007."[102] The HECO Companies explain:

> The Companies not only lack existing staff for the SolarSaver Pilot Program, but set-up and implementation of the [SolarSaver] Pilot Program will require a number of new tasks that are not currently performed by existing staff. These tasks include, but are not limited to[,] the evaluation and selection of a Pilot Program Administrator and Pilot Program Evaluator, developing Pilot Program Agreement between the utilities and

[100]Consumer Advocate's SOP at 22.

[101]Consumer Advocate's SOP at 22.

[102]The HECO Companies' Reply at 8. It appears that the HECO Companies may have intended to reference "HELCO and MECO" as opposed to "HECO and MECO."

homeowners and landlords/renters, setting up internal accounting and operational mechanisms to collect and transfer SolarSaver fees, and soliciting third[-]party partnerships to fund SWH systems.[103]

With respect to the contingency budget, the HECO Companies state that, "[u]ntil actual program costs are quantified, [t]he [HECO] Companies believe the contingency budget line item is necessary to allow for any unforeseen expenses encountered in the course of [SolarSaver] Pilot Program implementation."[104]

The commission finds that the HECO Companies' proposal to complete a limited number of SWH installations per year for its SolarSaver Pilot Program does not warrant the start-up and implementation costs projected by the HECO Companies. Indeed, the following chart compares the actual cost of the SWH installations against the total requested budget:[105]

HECO			
	Year 1	Year 2	2-Year Total
SolarSaver SWH Installations	$400,000	$400,000	$800,000
Total Requested Budget	$620,049	$550,046	$1,170,095
SolarSaver SWH Installations as % of Budget	64%	73%	68%

[103]The HECO Companies' Reply at 8.

[104]The HECO Companies' Reply at 7.

[105]These figures are based on the HECO Companies' submissions contained in its Reply, which are the most recent budget numbers submitted to the commission.

MECO			
	Year 1	Year 2	2-Year Total
SolarSaver SWH Installations	$250,000	$250,000	$500,000
Total Requested Budget	$408,157	$360,971	$769,128
SolarSaver SWH Installations as % of Budget	61%	69%	65%

HELCO			
	Year 1	Year 2	2-Year Total
SolarSaver SWH Installations	$250,000	$250,000	$500,000
Total Requested Budget	$452,157	$432,471	$884,628
SolarSaver SWH Installations as % of Budget	55%	58%	56%

In light of the HECO Companies' existing staff, the moderate number of planned installations, and the pilot status of this project, the commission determines that the HECO Companies' proposed budgets are overstated. In particular, the commission is concerned that the total administration costs (SolarSaver Administrator, Utility Billing Administration, Utility Incremental Labor, and SolarSaver Evaluator) for the HECO Companies equals $860,000 over a two-year period. The commission is cognizant that HRS § 269-122(a) provides that "[t]he fund administrator [appointed to operate and manage energy efficiency and demand-side management programs] shall not expend more than ten per cent of the fund in any fiscal year, or other reasonable percentage determined by the [commission], for the administration of the programs established under section 269-121." Although the commission is not required to impose a percentage limitation on the HECO Companies' administration costs, the commission finds that $860,000 is excessive, when compared against the total non-administration costs (SolarSaver SWH installations, Delinquent Payments, and Bad Debt) for the HECO Companies of $1,843,500 over a two-year period. Indeed, the HECO Companies' administration costs increase the program costs by almost 50%. Accordingly, the commission does not approve the HECO Companies' requested budget and reserves decisions regarding particular program costs, including the contingency budget line item, for the existing cost recovery process.

7.

Budget Flexibility

The HECO Companies propose that they "be granted flexibility to adjust expenditures within the budget line items to meet the budgeted number of annual installations."[106] The commission understands that the HECO Companies may need to reallocate budget line items in order to efficiently and effectively implement their SolarSaver Pilot Programs. However, because of the commission's concerns regarding the HECO Companies' budgets, discussed in section II.H.6., supra, the

[106]The HECO Companies' Reply at 6.

commission will require the HECO Companies to seek commission approval prior to implementing any budget modifications.

8.

Program Evaluation

The Consumer Advocate recommends that the utilities file annual reports of the required information discussed in section II.D., supra, and that the annual reports be filed no later than April of each year. KIUC states that "[t]his is acceptable to KIUC."[107] The HECO Companies stipulate that they "will file their annual program evaluation report within [three] months of a program year[-]end, and that such evaluation report shall be prepared by an Evaluator chosen through a competitive procurement process and will include the expanded information provided in the HECO Companies['] Reply Statement of Position, pages 30-32."[108] The commission finds that the annual report of the required information discussed in section II.D., supra, as well as any program evaluations, be filed on an annual basis within three months after the conclusion of each twelve-month period of the SWH Financing Programs.

[107]Exhibit A, at 5, attached to KIUC's Reply.

[108]Stipulation ¶ 8, at 6.

9.

Request for Suspension

In their Reply, the HECO Companies requested that the SolarSaver Pilot Program be suspended at the close of the program period.[109] The commission has not yet determined what will occur at the completion of the three-year period for the SolarSaver Pilot Program, including whether the SolarSaver Pilot Program will be transitioned to a third-party administrator. Accordingly, the commission denies the HECO Companies' request at this time.

10.

SolarSaver Fee and SolarSaver
Adjustment Upon Suspension or Termination

The HECO Companies, the Consumer Advocate, HSEA, and HREA stipulate that:

> Should it be decided that the SolarSaver [Pilot] Program would be closed to future participants, at the closure of the SolarSaver Pilot Program, SolarSaver Fees will continue to be collected and used to reduce the SolarSaver Adjustment amounts for at least 60 more months. After 60 months, the [HECO Companies] will identify the remaining balance due ratepayers and make a recommendation to the [c]ommission to continue the recovery of SolarSaver Fees or end the recovery short of full reimbursement of SWH system loans back to ratepayers. The recommendation shall take effect in 30 days unless suspended by the [c]ommission. If the recovery of SolarSaver Fees is continued, the recoveries will continue until all outstanding SWH system loans are repaid, or an order is issued by the [c]ommission

[109]See The HECO Companies' Reply at 10.

> terminating such recoveries, whichever comes first. In either situation, the [HECO Companies] will perform a reconciliation of the loans issued to program participants and recovered from such participants to identify the outstanding balances that will not be collected from the program participants.[110]

This stipulation is inconsistent with Act 240, which allows residential electricity customers to purchase SWH systems "(A) [w]ith no upfront payments; and (B) [b]y paying the cost of the system over time on the customer's electricity bill."[111] Moreover, this stipulation would discourage the election of accelerated repayment terms because a participant that maintains the minimum monthly SolarSaver Fee may benefit from program termination. Accordingly, the commission does not adopt this stipulation.

If the SWH Financing Programs are suspended or terminated, the HECO Companies and KIUC shall continue to collect the monthly fees or SWH system charges for the remaining payment period until the outstanding cost of the system is repaid. In addition, in the event of program suspension or termination, any surcharges assessed to ratepayers will be subject to suspension, termination, reduction, or modification, and any excess amounts collected shall be returned to ratepayers.

---

[110]Stipulation ¶ 4, at 4.

[111]Act 240, § 13(b)(1).

11.

Third-Party Financing

Neither the HECO Companies nor KIUC will be utilizing third-party financing for their respective SWH Financing Programs at this time.[112] The HECO Companies explain that "[i]f [t]he [HECO] Companies want to arrange financing with terms of 10-12 years in order to comply with the SolarSaver 80/80 guideline, lenders may require cost-prohibitively high interest rates to make these individual loans profitable for them."[113] Therefore, the HECO Companies "do not recommend that [third-] party financing be considered at this time as an option for the [SolarSaver] Pilot Program."[114] The HECO Companies also state that, "[d]espite the challenges identified by lenders up to this point, efforts will continue by [t]he [HECO] Companies to secure [third-]party financing for the [SolarSaver] Pilot Program SWH system costs."[115] Indeed, the HECO Companies stipulate that the Annual Program A&S Reports "will also address the HECO Companies' efforts on the solicitation of third[-] party financing for the program."[116] HSEA describes third-party financing as an "essential prerequisite."[117] The commission finds

[112]See The HECO Companies' Reply at 21-23; Exhibit A, at 3, attached to KIUC's Reply

[113]The HECO Companies' Reply at 22.

[114]The HECO Companies' Reply at 21.

[115]The HECO Companies' Reply at 23.

[116]Stipulation ¶ 8, at 6.

[117]HSEA's SOP at 10.

that the utilities shall, on a timely basis, and no later than the Annual Program A&S Reports, continue to update the commission on its efforts to secure third-party financing.

12.

Recording of Agreements

Finally, to ensure that potential or subsequent purchasers of property have notice of participation in the SWH Financing Program, in addition to requiring participants to affirmatively notify subsequent owners, the commission hereby requires and authorizes the electric utilities, as a condition to program participation, to require participants to consent and agree to the recordation of the SWH Financing Program agreements with program participants or a notice of such agreements in the appropriate land and title records in the Bureau of Conveyances of the State of Hawaii ("Bureau of Conveyances"). The electric utilities' SWH Financing Program agreements with the program participants shall be revised to include the foregoing consent and agreement as an additional condition to program participation.

III.

Orders

THE COMMISSION ORDERS:

1. The HECO Companies and KIUC are not required to use the trademarked Pay As You Save® or PAYS® program to implement their SWH Financing Programs.

2. The HECO Companies' and KIUC's proposed tariffs are approved, with modifications consistent with this Decision and Order.

3. The HECO Companies and KIUC shall utilize a three-year pilot program period, unless further ordered by the commission.

4. The HECO Companies and KIUC shall provide the required information discussed in Section II.D., supra.

5. The HECO Companies and KIUC shall capture and account for start-up and implementation costs in separate accounts.

6. The HECO Companies and KIUC shall utilize incremental costs to determine the start-up and implementation costs that are not recovered via participating residential customers' SWH Financing Program bill payments or existing base rates.

7. The HECO Companies may implement the SolarSaver Adjustment as a component of the IRP Cost Recovery Provision to recover costs that are not already recovered through bill payments or base rates, consistent with this Decision and Order.

8. KIUC may include a pro rata share of its incremental costs to implement and administer its pilot program as part of the total cost of the SWH system in determining the participating customers' payment schedule.

9. The SWH Financing Programs are separate DSM programs, and the HECO Companies shall abide by

Section II.H.1., supra, with respect to calculating its energy efficiency goals, energy and demand savings, program costs, and utility incentives.

10. To the extent that the HECO Companies and KIUC are lenders, they should comply with any applicable provisions of the Fair Credit Reporting Act or other applicable laws and requirements.

11. The HECO Companies and KIUC shall implement their SWH Financing Programs by tariff, as approved by this Decision and Order, no later than June 30, 2007.

12. The HECO Companies and KIUC may concentrate their pilot program marketing efforts on property owners, so long as they target the entire market of eligible customers.

13. The HECO Companies and KIUC should attempt to collect the SWH system charges through their regular collection procedures before taking the final option of disconnecting electricity service to the participants, and the tariffs shall properly advise the participants of the potential disconnection for nonpayment of the SWH system charges.

14. The HECO Companies' proposed budget is not approved, and decisions regarding particular program costs are deferred to the existing cost recovery process.

15. Upon receiving budget approval, the HECO Companies are required to seek commission approval prior to implementing any budget modifications.

16. The HECO Companies and KIUC shall file the annual report of the required information discussed in II.D., supra, as

well as any programs evaluations, on an annual basis within three months after the conclusion of each twelve-month period of the SWH Financing Programs.

17. The HECO Companies' request that the SolarSaver Pilot Program be suspended at the close of the program period is denied.

18. If the SWH Financing Programs are suspended or terminated, the HECO Companies and KIUC shall continue to collect the monthly fees or SWH system charges for the remaining payment period until the outstanding cost of the system is repaid. In addition, in the event of program suspension or termination, any surcharges assessed to ratepayers will be subject to suspension, termination, reduction, or modification, and any excess amounts collected shall be returned to ratepayers.

19. The HECO Companies and KIUC shall, on a timely basis, and no later than the Annual Program A&S Reports, continue to update the commission on its efforts to secure third-party financing.

20. The HECO Companies and KIUC are required and authorized, as a condition to program participation, to require participants to consent and agree to the recordation of the SWH Financing Program agreements with program participants or a notice of such agreements in the appropriate land and title records in the Bureau of Conveyances. The electric utilities' SWH Financing Program agreements with the program participants shall be revised to include the foregoing consent and agreement as an additional condition to program participation.

DONE at Honolulu, Hawaii JUN 29 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:

for Stacey Djou
Nichole K. Shimamoto
Commission Counsel

2006-0425.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23531 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

WILLIAM A. BONNETT
VICE PRESIDENT
GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, HI 96840-0001

WARREN H.W. LEE
PRESIDENT
HAWAII ELECTRIC LIGHT COMPANY, INC.
P.O. Box 1027
Hilo, HI 96721-1027

EDWARD L. REINHARDT
PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
P.O. Box 398
Kahului, HI 96733-6898

RANDALL J. HEE, P.E.
ACTING CHIEF EXECUTIVE OFFICER
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe`e Street
Lihue, HI 96766

RICHARD R. REED
PRESIDENT
HAWAII SOLAR ENERGY ASSOCIATION
c/o Inter-Island Solar Supply
761 Ahua Street
Honolulu, HI 96819

WARREN S. BOLLMEIER, II
PRESIDENT
HAWAII RENEWABLE ENERGY ALLIANCE
46-040 Konane Place, #3816
Kaneohe, HI 96744

Karen Higashi

Karen Higashi

DATED: June 29, 2007