BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC. For Approval of Amendments to the Commercial and Industrial Direct Load Control Program and Recovery of Program Costs.	DOCKET NO. 03-0415

DECISION AND ORDER NO. 23605

Filed August 15, 2007

At 12 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

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In the Matter of the Application of)) HAWAIIAN ELECTRIC COMPANY, INC.)) For Approval of Amendments to the) Commercial and Industrial Direct) Load Control Program and Recovery) of Program Costs.))	Docket No. 03-0415 Decision and Order No. 23605

DECISION AND ORDER

By this Decision and Order, the commission: (1) approves HAWAIIAN ELECTRIC COMPANY, INC.'s ("HECO") proposed amendments to the Commercial and Industrial Direct Load Control ("CIDLC") Program, which includes the addition of two new program elements; (2) approves HECO's revised budget for the remaining 2007-2009 program period and instructs HECO to utilize its existing cost recovery mechanism; (3) approves HECO's request to allow Rider M, Rider T, and Schedule U customers to participate in the Direct Load Control ("DLC") program element, as long as additional loads can be verifiably curtailed above and beyond the customers' current requirements under their current Rider or Schedule; and (4) denies HECO's requests for program flexibility.

I.

Background

By Decision and Order No. 21421, filed on October 19, 2004, the commission approved HECO's requests for: (1) approval

of the CIDLC Program; (2) recovery of its program costs for the first five years of the program, estimated to be approximately $5,481,460 (and associated revenue taxes, if applicable), using HECO's Integrated Resource Planning ("IRP") Cost Recovery Provision and incorporated into rates as a result of the next rate case if Demand-Side Management ("DSM") costs are not recovered through the IRP Cost Recovery Provision after the next rate case; (3) approval of its standard CIDLC Program Contract for use with participating customers; and (4) program flexibility as described within the application filed in this docket.

By Decision and Order No. 21726, filed on April 8, 2005, the commission approved HECO's request to amend its CIDLC Program Contract to include two inadvertently omitted provisions.

By Decision and Order No. 22587, filed on June 30, 2006, the commission approved HECO's requests to: (1) increase the equipment budget for 2006 by $148,400; and (2) amend the liability and indemnification provision for its CIDLC Program Contract.

On December 29, 2006, HECO filed its Amendments to Application ("Amendments to Application") requesting that the commission: (1) approve HECO's proposed amendments to the CIDLC Program, which includes the addition of two new program elements in order to ensure the original goal can be met, plus increasing the total controlled load to a total of 24 megawatts ("MW") by 2009; (2) approve recovery of HECO's additional program costs for the three years 2007-2009, which are estimated to be approximately $6.1 million (and associated revenue taxes, if

applicable), through a combination of base rates and HECO's IRP Cost Recovery Provision; (3) approve HECO's request to allow Rider M, Rider T, and Schedule U customers to participate in the DLC program element, as long as additional loads can be verifiably curtailed above and beyond the customers' current requirements under their current Rider or Schedule; (4) approve HECO's request for program flexibility; and (5) grant HECO such other and further relief as may be just and equitable.

HECO submitted its Amendments to Application pursuant to Paragraphs II.B.7., III.F. and V. of the Commission's Framework for Integrated Resource Planning (revised May 22, 1992) ("IRP Framework"), attached to Decision and Order No. 11630, filed on May 22, 1992, in Docket No. 6617. Initially, HECO requested that the commission issue a decision and order with respect to its Amendments to Application on or before June 1, 2007, in order to prepare for the August through October demand peak. Subsequently, on or about July 11, 2007, HECO advised the commission that in order to prepare for the upcoming demand peak, it is requesting a decision and order in this docket on or before August 1, 2007.

In Docket No. 05-0069, by Order No. 23258, filed on February 13, 2007, as clarified by Order No. 23448, filed on May 21, 2007, the commission denied HECO's flexibility requests with respect to its DSM programs, but stated that HECO may seek modifications to its DSM programs by letter request, pending the opening of a new docket.

As the commission had not received a statement of position from DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"),[1] in an effort to meet HECO's requested deadline of August 1, 2007, on July 13, 2007, the commission directed the Consumer Advocate to file any statement of position it wished to file in this docket by July 18, 2007. The commission did not receive a statement of position from the Consumer Advocate.

II.

Discussion

A.

Proposed Amendments

HECO states that "[t]he purpose of these modifications is to achieve levels of customer enrollment in the CIDLC Program that were envisioned when the original CIDLC [P]rogram application was approved in 2004 and to increase system reliability during HECO's reserve capacity shortfall conditions."[2] HECO explains, "[s]ince its inception in late 2004, the existing CIDLC [P]rogram, now in its second full year of implementation, has experienced considerable customer objections and customer obstacles to participation."[3] HECO

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[1]The Consumer Advocate is an ex officio party to this docket, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

[2]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 3.

[3]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 3.

states that "[o]ut of over 100 large commercial and industrial companies solicited to enroll in the program, only 6 have elected to join the program as currently designed, providing less than 5 MW of controllable load."[4] HECO states that "[t]his level of program participation is significantly below the level HECO expected to achieve."[5]

HECO proposes to modify the CIDLC Program to consist of three program elements, two of which are new:

> 1. Direct Load Control, which modifies the existing CIDLC Program by adding customer enrollment options and increasing incentive levels that will significantly increase customer participation.[6] Specifically, the program element modifications include reduced controllable/interruptible load requirements, increased incentives, a customer equipment installation allowance, an option for shorter contract duration, under-frequency relay ("UFR") as an option rather than a requirement, allowing aggregation of controlled loads and/or sub-loads from separate customer sites and/or dispersed customer equipment within the same site, if such aggregated loads are under the ownership of the same company, allowing metering of sub-loads and/or aggregated sub-loads as an alternative to adhering to a firm service level, and other related modifications to program mechanics and contract terms.[7]

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[4]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 3.

[5]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 3.

[6]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 6.

[7]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 12; see also id. at 20-31, 52.

2. Voluntary Load Control ("VLC"), which is a new program element whereby HECO informs the customer of a curtailment event and the customer has the option of reducing load in exchange for a performance payment.[8] HECO states that "[m]any customers have expressed interest in this type of program as an alternative to mandatory participation," that "participation in similar programs on the mainland has proved to significantly contribute to the total controllable loads available during emergency system conditions, and that "[i]t is also an effective way to introduce and familiarize customers with load control programs in order to gain their confidence in such programs, with the goal of enrolling such customers in the more beneficial DLC program."[9]

3. Small Business Direct Load Control ("SBDLC"), which is a new program element that offers fixed incentives for participants who allow HECO to connect a UFR-enabled auxiliary load switch to specific HECO-approved equipment such as central air conditioner, electric hot water heater, or other approved equipment.[10] HECO states that "[t]he addition of this program [element] expands the number of businesses able to participate in load control programs to include a large segment of Oahu's business community."[11] HECO envisions that the SBDLC element will be modeled after its Residential Direct Load Control ("RDLC") Program, and will be

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[8]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 6; see also id. at 31-41, 52.

[9]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 6.

[10]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 3; see also id. at 41-50, 52.

[11]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 6.

> implemented by a third-party selected through a Request for Proposal ("RFP") process.[12]

HECO states that "[t]hese modifications do not affect the original purpose of the CIDLC Program or its underlying principles."[13] HECO explains that the proposed modifications will:

> (1) address the customer feedback received;
>
> (2) incorporate HECO's two years of CIDLC implementation experience, thereby facilitating an increase in customer participation and achieve[ment of] the controlled peak demand objectives of the program,
>
> (3) strengthen the CIDLC Program as a reliable, immediate, and cost-effective resource for meeting capacity requirements;
>
> (4) better serve customers by offering greater value and flexibility; and
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> (5) provide a larger share of customers with the opportunity to participate in the CIDLC Program.[14]

HECO "requests the right to contract with a [third-]party aggregator for any of the proposed programs to assist with marketing, sales, implementation, and aggregation of loads."[15]

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[12]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 6.

[13]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 7.

[14]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 7.

[15]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 8.

HECO assesses the cost-effectiveness of the Load Management [("LM")] DSM programs by comparing the capacity costs avoided as a result of program implementation against the program implementation costs.[16] To calculate avoided costs for DSM programs, HECO always uses the Differential Revenue Requirement ("DRR") method.[17] Under the DRR method, the utility's revenue requirements for its base resource plan are compared to the utility's revenue requirements (on a discounted present value basis) for an alternate resource plan in which another resource is allowed to defer or replace the utility's deferrable supply-side resources.[18] HECO explains:

> The avoided capacity costs were estimated by calculating the difference in costs (capacity and energy) between a "Future LM DSM" (or "base") resource plan, which included . . . HECO's portfolio of [LM] DSM programs[] (the portfolio includes the RDLC and CIDLC Programs) and a "No Future LM DSM" (or "alternate") resource plan, which excluded the [LM] DSM programs. The Energy Efficiency [("EE")] DSM programs were include[d] in both the base and alternate resource plans in order to isolate the costs avoided by the [LM] DSM Programs.[19]

HECO did not include the anticipated impacts (i.e., capacity deferral benefits) from the VLC and Non-UFR DLC options in the

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[16]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 62.

[17]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 64.

[18]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 63.

[19]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 62.

cost-effectiveness calculations.[20] HECO estimates that the present value of the avoided costs is $216 million for the 2006-2025 twenty-year planning period.[21]

HECO calculates that the present value of the program implementation costs, including administration, equipment, engineering contractor support, and participant incentives, are an estimated $41.8 million for the 2006-2025 twenty-year planning period.[22] In calculating the program implementation costs, HECO included all CIDLC Program costs, including the costs to recruit, retain, and provide incentives to participants in the VLC and Non-UFR options.[23]

The IRP Framework requires that the cost-effectiveness of DSM programs be analyzed from varying perspectives: 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.[24] The UC perspective considers "the cost to the utility (including ratepayers), excluding costs incurred by

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[20]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 8, 65. Nonetheless, HECO states that the VLC and Non-UFR DLC options serve to increase system reliability. Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 8-9, 65 and n.24, 66.

[21]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 66.

[22]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 66.

[23]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 9; see also id. at 65.

[24]See IRP Framework, section IV, part H, at 22.

participants in a [DSM] program."[25] The RIM perspective considers "the impact on ratepayers in terms of the utility rates that ratepayers must pay."[26] The PI perspective considers "the impact on participants in a [DSM] program in terms of the costs borne and the direct, economic benefits received by the participation."[27] The SC perspective considers the "total direct and indirect costs to society as a whole. Society includes the utility and, in a [DSM] program, the participants."[28] The TRC perspective considers the "total cost of a [DSM] program, including both the utility and participants' costs."[29]

HECO calculates the cost/benefit ratios for the modified CIDLC Program as follows:[30]

Benefit/Cost Test	**Program Benefits (A)**	**Program Costs (B)**	**Benefit/Cost Ratio (A/B)**
UC	$216 million	$41.75 million	5.18
TRC	$216 million	$6.74 million	32.05
PI	$35 million	$0.38 million	92.49
RIM	$216 million	$41.75 million	5.18

[25]IRP Framework, section I, at 3 (defining "Utility cost").

[26]IRP Framework, section I, at 3 (defining "Ratepayer impact").

[27]IRP Framework, section I, at 2 (defining "Participant impact").

[28]IRP Framework, section I, at 3 (defining "Societal cost").

[29]IRP Framework, section I, at 3 (defining "Total resource cost").

[30]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 67.

Based on an estimated $216 million in program benefits and an estimated $41.75 million in program costs, the benefit-cost ratio from the UC and RIM perspectives is 5.18. In calculating the benefit-cost ratio from the TRC perspective, HECO excluded the customer incentives from the program costs because they are pass-through costs,[31] resulting in program costs of $6.7 million and a benefit-cost ratio of 32.05. For the PI benefit-cost ratio, HECO estimated $35 million in program benefits and $0.38 million in program costs, for a benefit-cost ratio of 92.49. Thus, the benefit-cost ratios for the CIDLC Program, as modified by the proposed program amendments, are above one for each of the benefit-cost perspectives. Accordingly, the commission finds that there is sufficient evidence to conclude that HECO's CIDLC Program, with HECO's proposed modifications, appears to be cost-effective.

HECO states that a program evaluation "will be undertaken within [twelve (12)] months after implementation of the modified CIDLC Program."[32] HECO explains, "[t]he purpose of the evaluation will be to examine HECO's organization of the program, program implementation procedures, communications, service delivery, and participant satisfaction with the objective of identifying changes that can positively affect the performance

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[31]See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 66.

[32]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 67.

of the program."[33] HECO states that the program evaluation will include surveys and/or interviews with the following groups:

- Participants in each of the three program elements
- Contractors conducting site assessments and/or installing control equipment
- HECO program staff, including staff directly assigned to the CIDLC Program as well as Account Managers, engineering staff conducting site assessments/ installations, system planners, marketing staff, and [third-]party contractors.[34]

The commission also finds that the CIDLC Program, as modified, is necessary to provide HECO with additional load management capabilities to help address its current reserve capacity shortfall. The commission's finding is based on HECO's most recent Adequacy of Supply ("AOS") report, dated February 27, 2007, which projects a reserve capacity shortfall of 70 MW for the 2007-2008 period.[35] HECO concluded in its February 27, 2007 AOS report that, among other things, "[u]ntil sufficient generating capacity can be added to the system, HECO will

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[33]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 67.

[34]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 67.

[35]See Hawaiian Electric Company, Inc., Adequacy of Supply, dated February 27, 2007, at 1. HECO defines "reserve capacity shortfall" as "the amount of additional firm generating capacity or equivalent reductions in load from [LM and EE DSM] programs and/or combined heat and power ("CHP") installations needed to restore the generating system reliability above HECO's reliability guideline." Id. at 1 n.2.

experience a higher risk of generation-related customer outages, and more frequent, longer duration reserve capacity shortfalls."[36]

Based on the foregoing, there is sufficient evidence to approve HECO's proposed amendments to the CIDLC Program, and the commission approves HECO's proposed amendments, including the addition of two new program elements. In approving HECO's proposed modifications to the CIDLC Program, the commission expressly states that it is not approving any particular program cost, and reserves such decisions for the existing cost recovery process.

B.

Cost Recovery

HECO seeks commission approval to recover approximately $6.1 million of additional program costs (and associated revenue taxes, if applicable) for the 2007-2009 three-year period, through a combination of base rates and HECO's IRP Cost Recovery Provision.[37] HECO's proposed modifications would increase the approved CIDLC Program budget from $4,085,214 to $10,185,441 for the remaining

[36]Hawaiian Electric Company, Inc., Adequacy of Supply, dated February 27, 2007, at 36.

[37]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 1.

three-year period (2007-2009).[38] In addition, HECO is proposing an average budget of $4.3 million per year for the calendar years 2010 through 2014. HECO explains that the increased budget is primarily to cover proposed incentive increases for the existing program, plus new incentives for a non-UFR option to the DLC program element, the new VLC program element, and the SBDLC program element.[39] In addition, HECO explains that additional funding is also required to sustain the expanded program elements to pay for more site evaluations, marketing and promotional support, third-party labor for some program components, additional equipment, and tracking and evaluation for all program elements.[40] The commission finds that HECO's revised budget, in the context of its benefit-cost ratios, appear to be reasonable. Accordingly, the commission approves HECO's revised budget, except that actual cost recovery will be subject to the existing cost recovery process.

HECO is also requesting that the commission approve its proposal to recover program costs through a combination of base rates and HECO's IRP Cost Recovery Provision. HECO appears to request commission approval to recover all labor, tracking,

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[38] See Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 8; see also id. at 61. Although HECO references "$4,085,214 million" and "$10,185,441 million," the original program budget and proposed program budget appear to be "$4,085,214" and "$10,185,441."

[39] Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 8.

[40] Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 8.

evaluation, advertising, and administrative/miscellaneous costs in base rates, and customer incentive, equipment and engineering studies costs through the DSM surcharge. HECO does not describe its rationale for the request, or provide any details for how the combination recovery mechanism will be implemented. Nonetheless, HECO appears to be requesting commission approval to recover particular program costs in base rates outside of a rate case. Although it is not clear whether HECO intends to (a) defer the base rate portion of the recovery until the next rate case, (b) recover all costs via DSM surcharge until the next rate case, (c) forego recovery of the base rate portion altogether, or (d) take some other course of action, HECO's proposal is tantamount to single-issue ratemaking. Accordingly, the commission denies HECO's request to the extent that it seeks approval to recover any particular program costs in base rates, which are not already being recovered in base rates. Rather, the commission instructs HECO to utilize the existing cost recovery mechanism, under which the approved excess labor costs may be recovered as incremental labor costs, and tracking, evaluation, advertising, and administrative/miscellaneous costs are also recoverable. To the extent that the commission approves recovery of any of these costs in base rates in the next or any future rate case, the recovery of these costs under the DSM surcharge shall be discontinued.

C.

Customer Participation

HECO seeks commission approval "to allow Rider M, [Rider] T, and Schedule U customers to participate in the DLC program element, as long as additional loads can be verifiably curtailed above and beyond the customer[s'] current requirements under their current Rider or Schedule."[41] Specifically, HECO "seeks to modify the eligibility requirements of the CIDLC Program to permit loads in excess of loads served under load management Rider M, [Rider] T[,] and Schedule U to be eligible for nomination as Controlled Loads under the DLC Program element."[42] HECO states that its "Rider M, [Rider] T, and Schedule U customers have already demonstrated an ability to defer load during the highest demand periods of the day."[43] HECO explains, "[s]ince these customers have experience in managing load deferrals, and since some may have their own generator capacity, they are ideally positioned to take on the requirements of participation in the DLC Program."[44] HECO further explains, "[t]he proposed inclusion of Rider M, [Rider] T, and Schedule U

[41]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 14.

[42]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 14.

[43]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 15.

[44]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 15.

customers in the [DLC program element] will provide greater opportunity for customer participation and a potential increase in the amount of available interruptible loads."[45]

Upon review of the foregoing, the commission approves HECO's request to allow Rider M, Rider T, and Schedule U customers to participate in the DLC program element, as long as additional loads can be verifiably curtailed above and beyond the customers' current requirements under their current Rider or Schedule.

D.

Program Flexibility

HECO requests program flexibility during the five-year program implementation period:

> 1. A flexible customer contract with predefined sections that . . . address the critical contract issues that will be included in each customer contract, in lieu of a "standard" contract. The standard sections are: Eligibility Requirements, Controlled Load (for DLC and SBDLC), Participating Load (for VLC), Load Curtailment, Verification of Curtailment, Customer Incentives, Contract Duration and Termination, and Contract Terms and Conditions (The section on the Application and Approval Process is not to be included in the standard contract). These critical elements embody the substance of the program elements and will not change. Other contract terms and conditions may change to reflect customer needs and HECO will not be requesting [c]ommission

[45]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 15.

approval for these changes. However, HECO will provide progress updates and any information necessary about the modified program contracts in its annual [Monitoring and Evaluation ("M&E")] Report.

2. The ability to carry unspent program funds forward into future program years. This will allow HECO to pursue the programs' goals through the five-year implementation period if customers are slow to accept the concept of interruptible loads and participation in a [LM] DSM program.

3. The ability to exceed a yearly program budget, by not more than twenty-five percent. This ability would allow HECO to take advantage of opportunities that might otherwise be lost due to rapid changes in the number of customers wanting to participate in the program. If the rate of participation[,] and HECO's related ability to install equipment, results in a faster rate of program implementation than initially forecasted, HECO requests this flexibility in order to not have to stop program implementation during the program year and then resume implementation of the program at the beginning of the following year.[46]

HECO states that "[t]he M&E Report, filed with the [c]ommission in November of the program year, will disclose any modifications that will be put into effect for the coming program year."[47] In addition, HECO states that "[f]or program modifications made during the course of the program year, HECO will inform the

[46]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 68-69.

[47]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 69.

[c]ommission by letter of the program modifications, and also detail the changes in the M&E Report."[48]

With respect to HECO's request to implement a flexible customer contract with predefined sections, in lieu of a "standard" contract, the commission determines that such program flexibility will facilitate HECO's ability to respond to specific customer circumstances and needs, thereby enhancing customer participation in the CIDLC Program. Accordingly, HECO's request to implement a flexible customer contract with predefined sections is approved.

With respect to HECO's requests to be able to carry unspent program funds forward into future program years, and to be able to exceed a yearly program budget by not more than twenty-five percent, the commission denies the same based on the commission's prior rulings in Docket No. 05-0069. In Docket No. 05-0069, HECO requested that the commission approve various DSM program budget flexibility provisions that would allow HECO to do the following without prior commission approval:

> (1) Carry over funds not spent in prior years;
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> (2) Move the customer incentive funds among [EE] programs and among [LM] programs to address new technologies and to adjust to changes in energy codes and other external events that might impact HECO's ability to meet the energy and demand goals of the programs;

[48]Amendments to Application, filed on December 29, 2005, in Docket No. 03-0415, at 69.

(3) Increase or decrease individual measure incentive levels to respond to changes in participation levels and markets;

(4) Add new measures, and establish corresponding incentive levels to address market opportunities; and

(5) Increase the total program budget by 25% without [c]ommission approval.[49]

By Decision and Order No. 23258, filed on February 13, 2007, in Docket No. 05-0069, the commission denied HECO's flexibility requests, but granted HECO the ability to file requests for modifications to its DSM programs in a newly established docket.

In its Motion for Clarification and/or Partial Reconsideration of Decision and Order No. 23258 ("Motion for Reconsideration"), filed on March 8, 2007, in Docket No. 05-0069, HECO requested:

(1) [R]econsideration of the rejection of HECO's flexibility request;[50]

(2) [T]hat the commission permit limited energy efficiency DSM program budget flexibility without commission approval.[51] Specifically, HECO requested (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 [twenty-five percent (25%)] without

[49]The HECO Companies' Opening Brief, filed on October 25, 2006, in Docket No. 05-0069, at 66.

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

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

> commission approval,[52] and (b) flexibility to shift or distribute its residential program budgets among residential [EE DSM] programs . . . and its commercial and industrial program budgets among commercial and industrial [EE DSM] programs . . . without commission approval.[53]
>
> (3) [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.[54]

By Order No. 23448, filed on May 21, 2007, in Docket No. 05-0069, the commission affirmed its decision to reject HECO's flexibility requests but granted HECO the ability to request program modifications by letter request, subject to commission approval, pending the opening of the new docket.[55]

Accordingly, the commission denies HECO's requests to be able to carry unspent program funds forward into future program years, and to be able to exceed a yearly program budget by not more than twenty-five percent, based on the commission's prior rulings in Docket No. 05-0069.

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

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

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

[55]The commission recognizes that Decision and Order No. 23258 and Order No. 23448 were filed subsequent to HECO filing its Amendments to Application.

III.

Orders

THE COMMISSION ORDERS:

1. HECO's proposed amendments to the CIDLC Program, which include the addition of two new program elements in order to ensure the original goal can be met, plus an increase to the total controlled load to a total of 24 MW by 2009, are approved.

2. HECO's revised budget for the remaining 2007-2009 program period is approved; HECO's request to utilize a combination of base rates and HECO's IRP Cost Recovery Provision, to the extent that it departs from HECO's existing cost recovery mechanism, is denied.

3. HECO's request to allow Rider M, Rider T, and Schedule U customers to participate in the DLC program element, as long as additional loads can be verifiably curtailed above and beyond the customers' current requirements under their current Rider or Schedule, is approved.

4. HECO's request to implement a flexible customer contract with predefined sections, in lieu of a "standard" contract, is approved; HECO's requests to be able to carry unspent program funds forward into future program years, and to be able to exceed a yearly program budget by not more than twenty-five percent is denied.

DONE at Honolulu, Hawaii AUG 15 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
John E. Cole, Commissioner

By _____
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

_____
Nichole K. Shimamoto
Commission Counsel

03-0415.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23605 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: AUG 15 2007