

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements**

PROPOSED RULE

4 CSR 240-3.163 Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission Requirements

PURPOSE: This rule sets forth the information that an electric utility must provide when it seeks to establish, continue, modify, or discontinue a Demand-Side Programs Investment Mechanism (DSIM). This rule also sets forth the requirements for submission of information related to DSIM rate adjustment filings and for submission of annual reports as required for electric utilities that have a DSIM.

(1) As used in this rule, the following terms mean:

(A) Annual net shared benefits means the utility's avoided costs measured and documented through EM&V reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies and technical resource manual on an annual basis.

(B) Annual report means a report of information concerning a utility's demand-side programs having the content described in section (5).

(C) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from energy cost savings and demand cost savings associated with generation, transmission and distribution facilities. The utility shall use the same methodology used in its most recently adopted preferred resource plan to calculate its avoided costs.

(D) Demand means the rate of electric power use measured over an hour in kilowatts (kW).

(E) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load.

(F) Demand-side programs investment mechanism or DSIM means a mechanism approved by the commission in a utility's filing for demand-side program approval to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;
2. Cost recovery of demand-side program costs through a demand-side program cost tracker;
3. Accelerated depreciation on demand-side investments;
4. Recovery of lost revenues; and
5. Utility incentive based on the achieved performance level of approved demand-side programs.

(G) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding or a semi-annual DSIM rate adjustment case.

(H) DSIM rate means the charge on customer's bill for the portion of the DSIM revenue requirement assigned by the Commission to a rate class.

(I) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement and the DSIM utility incentive revenue requirement, if allowed by the Commission in the utility's last filing for demand-side program approval.

(J) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding to provide the utility with a portion of annual net shared benefits based on the achieved performance level of approved demand-side programs demonstrated through energy and demand savings measured and documented through EM&V reports compared to energy and demand savings targets.

(K) DSIM utility lost revenue requirement means the component of the utility's revenue requirement explicitly approved (if any) by the commission in a utility's filing for demand-side program approval proceeding to address the recovery of lost revenue.

(L) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo.

(M) Energy means the total amount of electric power that is used over a specified interval of time measured in kilowatt-hours (kWh).

(N) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use.

(O) Evaluation, measurement and verification or EM&V means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness and other effects from demand-side programs.

(P) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occur when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net retail KWh delivered to jurisdiction customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V.

(Q) Probable environmental cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes or other requirements that, in the judgment of the utility decision-makers, may be imposed at some point within the planning horizon which would result in compliance costs that could have a significant impact on utility rates. The utility shall use the same methodology used in its most recently adopted preferred resource plan to calculate its probable environmental costs.

(R) Staff means all commission employees, except the secretary of the commission, general counsel, technical advisory staff as defined by section 386.135 RSMo, hearing officer, or regulatory judge.

(S) Total resource cost test or TRC means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs plus avoided probable environmental cost to the

sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply-side resources.

(2) When an electric utility files to establish a DSIM as described in 4 CSR 240-20.093(2), the electric utility shall file the following supporting information as part of, or in addition to, its direct testimony for the demand-side program filing. Supporting workpapers shall be submitted as executable versions in native format with all formulas intact.

(A) The notice provided to customers describing how the proposed DSIM will work, how any proposed DSIM rate will be determined and how any DSIM rate will appear on customer bills;

(B) An example customer bill showing how the proposed DSIM shall be separately identified on affected customers' bills;

(C) A complete description and explanation of the design, rationale, and intended operation of the proposed DSIM;

(D) Estimates of the effect of the DSIM on customer rates and average bills for each of the next three (3) years for each rate class;

(E) Estimates of the effect of the utility incentive component of DSIM on utility earnings and key credit metrics for each of the next three (3) years which shows the level of earnings and credit metrics expected to occur for each of the next three (3) years with and without the utility incentive component of DSIM;

(F) A complete explanation of all the costs that shall be considered for recovery under the proposed DSIM and the specific account used for each cost item on the electric utility's books and records;

(G) A complete explanation of any change in business risk to the electric utility resulting from implementation of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility;

(H) A proposal for how the commission can determine if any DSIM utility incentives are aligned with helping customers use energy more efficiently;

(I) Annual reports, if any, required by 4 CSR 240-20.093(8);

(J) If the utility proposes to adjust its DSIM rates between general rate proceedings, proposed DSIM rate adjustment clause tariff sheets; and

(K) If the utility proposes to adjust the DSIM cost recovery revenue requirement between general rate proceedings, a complete explanation of how the DSIM rates shall be established and adjusted to reflect over-collections or under-collections as well as the impact on the DSIM cost recovery revenue requirement as a result of approved new, modified or discontinued demand-side programs;

(3) If an electric utility files to modify its approved DSIM, the electric utility shall file with the commission and serve parties, as provided in section (9), the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact.

(A) Information as required by section (2)(A) through (K);

(B) Explanation of any proposed modification to the DSIM and why the proposed modification is being requested;

(C) A complete explanation of any change in business risk to the electric utility resulting from modification of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility; and

(D) Any additional information the commission ordered to be provided.

(4) If an electric utility files to discontinue its approved DSIM, the electric utility shall file with the commission and serve parties, as provided in section (9), the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact.

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.093(3)(D);

(B) If the utility's DSIM allows adjustments of the DSIM rates between general rate proceedings, a complete explanation of how the over-collection or under-collection of the DSIM revenue requirement that the electric utility is proposing to discontinue shall be handled;

(C) A complete explanation of why the DSIM is no longer necessary to provide the electric utility a sufficient opportunity to recover demand-side programs costs, lost revenues, and/or to receive a utility incentive;

(D) A complete explanation of any change in business risk to the electric utility resulting from discontinuation of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility; and

(E) Any additional information the commission ordered to be provided.

(5) Each electric utility with approved demand-side programs shall submit, with an affidavit attesting to the veracity of the information, annual reports as required in 4 CSR 240-20.093(8) to the manager of the energy resource analysis section of the staff, Public Counsel and others as provided in section (9). The submittal to the staff may be made through the commission's electronic filing and information system (EFIS). Annual reports shall include at a minimum the following information and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) A list of all approved demand-side programs and the following information for each approved demand-side program:

1. Actual amounts expended by year, including customer incentive payments;

2. Peak demand and energy savings impacts and the techniques used to estimate those impacts;

3. A comparison of the estimated actual annual peak demand and energy savings impacts to the level of annual peak demand and energy savings impacts that were projected when the program was approved;

4. For market transformation programs, a quantitative and qualitative assessment of the progress being made in transforming the market;

5. A comparison of actual and budgeted program costs, including an explanation of any increase or decrease of more than ten (10) percent in the cost of a program;

6. The avoided costs and the techniques used to estimate those costs;
 7. The estimated cost-effectiveness of the demand-side program and a comparison to the estimates made by the utility at the time the program was approved;
 8. The estimated net economic benefits of the demand-side program;
 9. For each program where one or more customers have opted out of demand-side programs pursuant to Section 393.1075.7, RSMo, a listing of the customer(s) who have opted out of participating in demand-side programs;
 10. A copy of the EM&V report for the most recent annual reporting period; and
 11. Demonstration of relationship of the demand-side program to demand-side resources in latest filed 4 CSR 240-22 compliance filing.
- (B) If the utility's DSIM includes adjustments of the DSIM rates between general rate proceedings, the actual revenues billed under the DSIM.

(6) If the electric utility is not submitting a Surveillance Monitoring Report as required in 4 CSR 240-3.161(6) Electric Utility Fuel and Purchased Power Cost Mechanisms Filing and Submission Requirements, then it shall submit a Surveillance Monitoring Report in the form and content required in 4 CSR 240-3.161(6). In addition to the requirements under 4 CSR 240-3.161(6), each electric utility with a DSIM shall submit as page six of the Surveillance Monitoring Report a quarterly progress report in a format determined by the staff, and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(7) EM&V reports shall document, include analysis and present any applicable recommendations for at least the following, and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) Process evaluation and recommendations, if any; and

(B) Impact evaluation:

1. The lifetime and annual gross and net demand savings and energy savings achieved under each program, and the techniques used to estimate annual demand savings and energy savings; and

2. A demonstration of the cost-effectiveness of the program, to include at a minimum the TRC of each program.

A. If a program is determined not to be cost-effective, the electric utility shall identify the causes why and present appropriate program modifications, if any, to make the program cost-effective. If there are no modifications to make the program cost-effective, the utility shall describe how it intends to end the program and how it intends to achieve the energy and demand savings initially estimated for the discontinued program.

B. The fact that a program proves not to be cost effective is not by itself sufficient grounds for disallowing cost recovery.

(8) If an electric utility's DSIM includes adjustments of the DSIM rates between general rate proceedings, when it files with the commission tariff sheets to adjust its DSIM rates as described in 4 CSR 240-20.093(4), and serves parties as provided in section (9) in this rule, the tariff sheets shall be accompanied by supporting testimony and contain at least the following supporting information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

- (A) Amount of revenue that it has over-collected or under-collected through the most recent recovery period by rate class;
- (B) Proposed adjustments or refunds by rate class;
- (C) Electric utility's short-term borrowing rate;
- (D) Proposed adjustments to the current DSIM rates;
- (E) Complete documentation for the proposed adjustments to the current DSIM rates;
- (F) Annual report as required by 4 CSR 240-20.093(8); and
- (G) Any additional information the commission ordered to be provided.

(9). Party status and providing to other parties affidavits, testimony, information, reports and workpapers in related proceedings subsequent to the demand-side program approval proceeding establishing, modifying or continuing a DSIM.

(A) A person or entity granted intervention in a demand-side program approval proceeding in which a DSIM is approved by the commission, shall be a party to any subsequent related periodic rate adjustment proceeding without the necessity of applying to the commission for intervention; however, such person or entity shall file a notice of intention to participate within the intervention period. In any subsequent demand-side program approval proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that proceeding. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related semi-annual DSIM rate adjustment proceeding or demand-side program approval proceeding to modify, continue or discontinue the same DSIM shall be served on or submitted to all parties from the prior related demand-side program approval proceeding and on all parties from any subsequent related periodic rate adjustment proceeding or demand-side program approval proceeding to modify, continue or discontinue the same DSIM, concurrently with filing the same with the commission or submitting the same to the manager of the energy resource analysis section of the staff and Public Counsel.

(B) A person or entity not a party to the demand-side program approval proceeding in which a DSIM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic rate adjustment proceeding, or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent demand-side program approval proceeding to modify, continue or discontinue the same DSIM.

(10) Right to discovery unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

(11) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(12) Rule review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

AUTHORITY: section 393.1075.11 RSMo Supp. 2009. Original rule filed [date], effective [date].

Comment [mw1]: Placeholder: Dates will need to be inserted.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities **more than \$500 annually for the life of the rule.***

Comment [mw2]: Placeholder: Will need to insert cost listed in fiscal note.

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, P. O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication of this notice in the Missouri Register and should include a reference to Commission Case No. EX-2010-0368. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for **____, 2010, at 0:00 a.m., in Room 000** of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.*

Comment [mw3]: Placeholder: Will need to insert public hearing information.