

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 20 – Electric Utilities**

4 CSR 240-20.094 Electric Utility Demand-Side Programs

PURPOSE: This rule sets forth the definitions, requirements and procedures for filing and processing applications for approval, modification, and discontinuance of electric utility demand-side programs. This rule also sets forth requirements and procedures related to customer opt-out, tax credits, monitoring customer incentives and collaborative guidelines for demand-side programs.

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

(A) Annual demand-side savings goals means incremental annual energy savings goals and incremental annual demand savings goals established by the commission in 4 CSR 240-20.094(2) as demonstration that an electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings.

(B) Annual demand savings target means the amount of annual demand savings from a utility's approved demand-side program plan or program as established by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A).

(C) Annual energy savings target means the amount of annual energy savings from a utility's approved demand-side programs as established by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A).

(D) Customer coincident demand means a customer's coincident highest billing demand of the customer's individual accounts during a 12-month period.

(E) Customer class means major customer rate groupings such as residential, small general service, large general service and large power service. Non-residential classes may further be defined as commercial and industrial.

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

(G) 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.

(H) Demand-side program plan means all of a utility's proposed demand-side programs.

(I) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo which is subject to the jurisdiction of the commission.

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

(K) Evaluation, measurement and verification or EM&V means the performance of studies and activities intended to evaluate the process of and to estimate the energy and demand savings and other effects from demand-side programs.

(L) Preferred resource plan means the utility's resource plan that is contained in the resource acquisition strategy most recently adopted by the utility's decision makers in accordance with 4 CSR 240-22.

(M) Total resource cost test means the test that ~~measuresecompares~~ the ~~netsum of~~ avoided utility cost plus avoided probable environmental costs to the ~~netsum of all~~ incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus net utility costs to administer, deliver and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side programs for supply-side resources.

(2) The commission shall use ~~the greater of either~~ the realistic achievable energy savings and demand savings as determined through a utility market potential study or the following incremental annual demand-side savings goals as demonstration that an electric utility's demand-side programs are expected to achieve all cost-effective demand-side savings.

(A) For 2012: 0.3% of total annual kWh sales and 1.0% of total peak demand;

(B) For 2013: 0.5% of total annual kWh sales and 1.0% of total peak demand;

(C) For 2014: 0.7% of total annual kWh sales and 1.0% of total peak demand;

(D) For 2015 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: 0.9% of total annual kWh sales and 1.0% of total peak demand each year;

[mw1]

(3) Applications for approval of electric utility demand-side programs or program plans. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission for approval of demand-side programs or program plans by filing information and documentation required by 4 CSR 240-3.164(2). Demand-side program plans shall be filed by the utility no less than every three (3) years. The commission shall approve, approve with modification acceptable to the electric utility or reject such applications for approval of demand-side program plans within 120 days of the filing of an application under this section only after providing the opportunity for a hearing. In the case of a utility filing an application for approval of individual demand-side programs, the commission shall approve, approve with modification acceptable to the electric utility or reject such applications within 60 days of the filing of an application under this section only after providing the opportunity for a hearing.

(A) The commission shall approve demand-side programs or program plans, and annual demand savings targets, annual energy savings targets, EM&V plans and budgets for demand-side programs provided it finds that the demand-side programs and program plans have total resource cost test ratios greater than one (1.0) and:

1. Are consistent with a goal of achieving all cost-effective demand-side savings;
 2. Have reliable evaluation, measurement and verification plans;
 3. Are likely to result in energy or demand savings as demonstrated through a pilot program or a similar established program at a utility of like size;
 4. Are estimated to be beneficial to all customers in the customer class in which the program is proposed, regardless of whether the program is utilized by all customers;
- and

5. Are included in the electric utility's preferred plan or have been analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of the demand-side programs on the net present value of revenue requirements of the electric utility.

(B) The commission shall approve demand-side programs having a total resource cost test less than one (1.0) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the programs or campaigns are in the public interest, and meet the requirements as stated in subsection (A)2.-5.

1. If the program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the effect of the program on customer arrearages and disconnections.

(C) The commission shall approve demand-side programs which have a total resource cost test less than one (1.0), if the costs of such programs above the level determined to be cost-effective are funded by the customers participating in the programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in subsection (A)2.-5.

(D) Utility's shall file associated tariff sheets prior to implementation of approved demand-side programs.

(4) Applications for approval of modifications to electric utility demand-side programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission for modification of demand-side programs by filing information and documentation required by 4 CSR 240-3.164(5) when there is a variance of 20% in the approved demand-side program annual budget, ~~and/or~~ any program design modification which is no longer covered by the approved tariff sheets for the program and/or the electric utility seeks to introduce a new demand-side program upon majority approval by the collaborative (if applicable) in accordance with 4 CSR 240-20.094(8). The commission shall approve, approve with modification acceptable to the electric utility or reject such applications for approval of modification of demand-side programs within sixty (60) days of the filing of an application under this section, subject to the same guidelines as established in section (3)(A) through (C) of this rule, only after providing the opportunity for a hearing.

(A) For any program design modifications approved by the commission, the utility shall file for and receive approval of associated tariff sheets prior to implementation of approved modifications.

(5) Applications for approval to discontinue electric utility demand-side programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission to discontinue demand-side programs by filing information and documentation required by 4 CSR 240-3.164(4). The commission shall approve, approve with modification acceptable to the electric utility or reject such applications for discontinuation of utility demand-side programs within sixty (60) days of the filing of an application under this section only after providing an opportunity for a full hearing.

(A) Relationship to 4 CSR 240-22 Electric Utility Resource Planning. Each demand-side programs proposed by the electric utility to be discontinued shall be analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of discontinuing the demand-side programs on the net present value of the revenue requirements of the electric utility.

(6) Provisions for customers to opt-out of participation in utility demand-side programs.

(A) Any customer meeting one or more of the following criteria shall be eligible to opt-out of participation in utility offered demand-side programs:

1. The customer has one or more accounts within the service territory of the electric utility that has a demand of the individual accounts of five thousand (5,000) kW or more in the previous twelve months;

2. The customer operates an interstate pipeline pumping station, regardless of size; or

3. The customer has accounts within the service territory of the electric utility that have, in aggregate, a coincident demand across accounts of two thousand five hundred (2,500) kW or more in the previous twelve months, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

A. For utilities with automated meter reading and/or advanced metering infrastructure capability, the measure of demand is the customer coincident highest billing demand of the individual accounts during the twelve (12) months preceding the opt-out notification.

(B) Written notification of opt-out from customers meeting the criteria under section (6)(A)1-2 of this rule shall be sent to the utility serving the customer. Written notification of opt-out from customers meeting the criteria under section (6)(A)3 of this rule shall be sent to the utility serving the customer and commission staff. In instances where only the utility is provided notification of opt-out from customers meeting the criteria under section (6)(A)(3) of this rule, the utility shall forward a copy of the written notification to commission staff.

(C) Upon receipt by commission staff of written notification of opt-out from customers meeting the criteria under section (6)(A)3, staff shall make a non-case related filing in EFIS.

(D) Written notification of opt-out from customer shall include at a minimum:

1. Customer's name;
2. Identification of location(s) and utility account number(s) of accounts for which the customer is requesting to opt-out from demand-side programs benefits and costs; and

3. Demonstration that the customer qualifies for opt-out.

(E) For customers filing notification of opt-out under section 6(A)1-2 of this rule, notification of the utility's acknowledgement or plan to dispute a customer's notification to opt-out of participation in demand-side programs shall be delivered in writing to the customer and to the commission staff within thirty (30) days of when the utility received the written notification of opt-out from the customer.

(F) For customers filing notification of opt-out under section 6(A)3 of this rule, the commission staff will make the determination of whether the customer meets the criteria of section 6(A)(3) of this rule. Notification of the commission staff's acknowledgement or plan to dispute a customer's notification to opt-out of participation in demand-side programs shall be delivered to the customer and to the utility within thirty (30) days of when the commission staff received the written notification of opt-out.

(G) Timing and effect of opt-out provisions. A customer notice shall be received by the utility no sooner than October 1 and not later than November 30 to be effective for the following calendar year. For that calendar year and each such calendar year until the customer revokes the notice pursuant to subsection (F), none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.093 or by other authority and no other charges implemented in accordance section 393.1075, RSMo Supp 2009, shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer's written notification of opt-out.

(H) Dispute notices. If the utility or commission staff provides notice it disputes the opt-out due to the customer not meeting the criteria to qualify for opt-out, the customer has a right to file an appeal with the commission. The commission shall provide notice and an opportunity for a hearing to resolve any dispute.

(I) Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission not less than twelve (12) months in advance of the calendar year for which it will become eligible for the utility's demand-side programs costs and benefits.

(J) A customer who participates in demand-side programs initiated after August 1, 2009 shall be required to participate in program funding for a period of three (3) years following the last date when the customer received an incentive or a service.

(7) Tax credits and monetary incentives.

(A) Any customer of an electric utility who has received a state tax credit under sections 135.350 through 135.362, RSMo, or under sections 253.545 through 253.561, RSMo, is not eligible for participation in any demand-side program offered by a utility if such program offers the customer a monetary incentive to participate.

(B) As a condition of participation in any demand-side program offered by an electric utility under this section, when such program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (A) and acknowledge that the penalty for a customer who provides false documentation is a class A misdemeanor.

(C) The electric utility shall maintain a database of participants of all demand-side programs offered by the utility when such programs offer a monetary incentive to the customer including the following information:

1. The name of the participant;
2. The service property address; and
3. The date of and amount of the monetary incentive received.

(D) Upon request by the commission, the utility shall disclose participant information in subsection (7)(C) to the commission.

4 CSR 240-20.094 DRAFT 6/18/2010

- (8) Collaborative guidelines. Each electric utility and its stakeholders are encouraged to form an advisory collaborative for the design, implementation and review of demand-side programs as well as the design and implementation of a statewide technical reference manual. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22 and may also include statewide collaborative meetings. Collaborative meetings are encouraged to occur no less frequently than once each quarter.
- (9) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.
- (10) Rule review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.