

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

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 report means a report of information concerning a utility's demand-side programs described in 4 CSR 240-3.163(5) and filed annually with the commission by the utility.

(B) Avoided cost means the cost savings obtained by substituting demand-side resources 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 and avoided probable environmental costs. The utility shall use its most recently adopted preferred resource plan to calculate its avoided costs.

(C) 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.

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

(E) Demand-side program plan means a particular combination of demand-side programs to be delivered according to a specified implementation schedule and budget.

(F) Demand-side portfolio means all of a utility's demand-side programs at any point in time.

(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 programs investment mechanism or DSIM means a mechanism approved by the commission in a utility's general rate proceeding to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program cost based on both historical and forecast data through capitalization of investments in demand-side programs;
2. Cost recovery of demand-side program costs through a demand-side program cost tracker;
3. Recovery of the cost of approved demand-side programs between rate cases;
4. Accelerated depreciation on of demand-side investments program costs;

5. Recovery of lost revenues directly attributable to the demand-side programs between rate cases to ensure the success of its demand-side program does not cause it financial harm; and

5-6.A utility incentive or penalty based on the achieved performance level of approved demand-side programs.

(I) DSIM rate means dollar per kilowatt-hour (\$ per kWh) charge on customer's bill for the portion of DSIM revenue requirement assigned by the commission to a rate class.

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

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

(L) 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.

(M) Net shared benefits means the sum of a utility's avoided energy costs and avoided demand costs ~~measured through EM&V~~ for approved demand-side programs less the sum of the programs' costs ~~and participants' costs~~ for the approved demand-side programs.

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

(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. Supporting workpapers shall be submitted as executable versions in native format with all formulas intact.

(A) The notice provided to customers as part of the initial notification to customers of the general rate increase request describing how the proposed DSIM will work, how any proposed DSIM rate will be determined and how any DSIM rate will appear on the customer bills;

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

(C) If the utility proposed to recover demand-side program costs and/or lost revenues directly attributable to the demand-side programs between general rate proceedings, proposed DSIM rate adjustment clause tariff sheets;

(D) A complete explanation of the design and intended operation of the proposed DSIM;

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

(F) If the utility proposes to recover demand-side program costs and/or lost revenues directly attributable to the demand-side programs between general rate proceedings, a complete explanation of how the DSIM rates shall be established and adjusted to reflect over-collections or under-collections;

(G) 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;

(H) A complete explanation of the design and intended operation of any utility incentive in the proposed DSIM;

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

(J) Annual reports, if any, as required by 4 CSR 240-20.093(8).

(3) When an electric utility files a general rate proceeding following the general rate proceeding that established its DSIM as described in 4 CSR 240-20.093(2), in which it requests that its DSIM be continued or modified, the electric utility shall file with the commission and serve parties, as provided in section nine (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 (J) of this rule;

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

(C) Any additional information that may have been ordered by the commission to be provided.

(4) When an electric utility files a general rate proceeding following the general rate proceeding that established its DSIM as described in 4 CSR 240-20.093(2), in which it requests that its DSIM be discontinued, the electric utility shall file with the commission and serve parties, as provided in section nine (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 recovers demand-side program costs and/or lost revenues directly attributable to the demand-side programs between rate cases, a complete explanation of how the over-collection or under-collection of the DSIM 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 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 that may have been ordered by the commission 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, OPC and others as provided in section nine (9). The submittal to the staff may be made

through the commission's electronic filing and information system "EFIS." Annual reports will 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) 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. Demand and energy savings impacts and the techniques used to estimate those impacts;
3. The avoided costs and the techniques used to estimate those costs;
4. The estimated lost revenues attributable to the demand-side programs;
- 4.5. The estimated cost-effectiveness of the demand-side program;
- 5.6. The estimated net benefits of demand-side program;
- 6.7. For each program where one or more customers have opted out of demand-side programs pursuant to Section 393.1075.7, RSMo Supp 2009, a listing of the customer(s) who have opted out of participating in demand-side programs;
- 7.8. Copy of the EM&V report, if completed for the annual reporting period; and
- 8.9. 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 demand-side program cost recovery and/or recovery of lost revenues directly attributable to the demand-side programs between rate cases, 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, ~~5~~ 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 commission 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, analyze and provide 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, for improvement, if indicated to be completed in the utility's EM&V plan process improvements;

(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 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 to be not cost-effective, the electric utility shall identify the causes why and 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 shall not necessarily be grounds for disallowing cost recovery.

(8) [IF IT IS DETERMINED THAT ANNUAL ADJUSTMENTS OF DSIM RATES ARE UNLAWFUL, THE ENTIRE SECTION (8) WILL BE DELETED FROM THIS RULE] If an electric utility's DSIM includes demand-side program cost recovery and/or recovery of lost revenues directly attributable to the demand-side programs between general rate proceedings, when it files tariff sheets to adjust its DSIM rates as described in 4 CSR 240-20.093(4) with the commission, and serves upon parties as provided in sections nine (9) in this rule, the tariff sheets must be accompanied by supporting testimony and 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 adjustment to the current DSIM rates;

(E) Complete documentation for the proposed adjustment to the current DSIM rates;

(F) Annual report as required by 4 CSR 240-3.163(8); and

(G) Any additional information that may have been ordered by the commission to be provided in the previous general rate proceeding.

(9) Party status and providing to other parties affidavits, testimony, information, reports and workpapers in related proceedings subsequent to general rate proceeding establishing, modifying or continuing a DSIM for an approved DSIM which includes a provision to recover demand-side program costs and/or lost revenues directly attributable to the demand-side programs between rate cases.

(A) A person or entity granted intervention in a general rate 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. In any subsequent general rate 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 annual DSIM rate adjustment proceeding or general rate proceeding to modify, continue or discontinue the same DSIM shall be served on or submitted to all parties from the prior related general rate proceeding and on all parties from any subsequent related periodic rate adjustment proceeding or general rate case to modify, continue or discontinue the same DSIM, concurrently with filing the same with the commission or submitting the same the manager of the energy resource analysis section of the commission and OPC.

(B) A person or entity not a party to the general rate 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 general rate case to modify, continue or discontinue the same DSIM. If no party to a subsequent periodic rate adjustment proceeding objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless within the above-referenced ten (10)-day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

(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 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.